Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Numbering Policies for Modern Communications	)	WC Docket No. 13-97
	)	
Telephone Number Requirements for IP-Enabled Service Providers	)	WC Docket No. 07-243
	)	
Implementation of TRACED Act Section 6(a) — Knowledge of Customers by Entities with Access to Numbering Resources	)	WC Docket No. 20-67
	)	
Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership	)	IB Docket No. 16-155

COMMENTS OF THE VOICE ON THE NET COALITION

The Voice on the Net Coalition (VON)[1] submits these comments in response to the Commission's Further Notice of Proposed Rulemaking regarding proposed updates to the Commission's rules regarding direct access to telephone numbers from the Numbering Administrator by interconnected Voice over Internet Protocol (VoIP) providers.[2] The Further Notice seeks comment on a number of proposed changes and clarifications to the current regulatory framework that are purported to reduce access to numbers by potential perpetrators of illegal robocalls. Fortunately, the Commission today has the regulatory tools needed to deter bad

[1] The VON Coalition works to advance regulatory policies that enable Americans to take advantage of the promise and potential of IP-enabled communications. For more information, see www.von.org.
[2] *In the Matter of Numbering Policies for Modern Communications*, Further Notice of Proposed Rulemaking, Docket Nos. 13-97, 07-243, 20-67 and 16-155 6 (August 6, 2021) ("Further Notice"); see also, 86 Fed. Reg 175 at 51081 (September 14, 2021) (establishing a comment deadline of October 14, 2021).

actors and protect against illegal robocalls, including the requirement that voice service providers implement STIR/SHAKEN and cooperate with the Industry Traceback Group, and need not enact the proposed, anti-competitive requirements.

Indeed, adopting these new requirements would not protect against illegal robocalls. More problematic, the proposed rules would be anticompetitive in that they would impose burdens on interconnected VoIP providers not applied to other direct access recipients without any record that the new rules would prevent robocalls or enhance network security.

Moreover, customers of VoIP providers, similar to customers of telecommunication service providers, should be able to use provisioned telephone numbers for any lawful purpose. There is no reason to treat interconnected VoIP differently. Any limitation or restriction on the use of telephone numbers would run afoul of the original intended purpose of providing direct access, specifically to reflect ongoing changes in technology, and would likely be impossible to enforce or administer.

I. The Additional Application and Post-Authorization Reporting Requirements Would be Redundant, Burdensome and Unlikely to Prevent Illegal Robocalls

The Further Notice suggests that the current VoIP provider direct access to numbers application process "has significant omissions," and the Commission now proposes to require applicants to provide certifications regarding compliance with legal obligations; technical information that the applicant provides interconnected, not one-way VoIP, and detailed

ownership information.[3] The Commission provides no evidence or support that collecting this additional information is likely to result in a reduction in the number of illegal robocalls or will prevent bad actors from accessing telephone numbers.[4] Indeed, certifications that simply state that applicants comply or will comply with existing laws are redundant as the Commission has the authority to enforce those laws with or without the inclusion of such certification.[5] Moreover, as the Commission notes, it has reviewed nearly 150 VoIP direct access to number applications in the past six years,[6] and can cite to just four instances when applicants were asked to provide additional ownership information.[7]

What's more problematic is that the Commission proposes rules for interconnected VoIP providers that are not imposed on telecommunications carriers (some of whom also are interconnected VoIP providers). Proposed restrictions on eligibility for, and use of, telephone

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[3] Further Notice, at para. 10.

[4] VON notes that in almost all cases the bad actors are the calling parties, not the telecom or VoIP service providers. In those rare instances when the FCC ascertains that a VoIP service or gateway provider has openly facilitated, is complicit in, or has ignored or encouraged the use of its network for illegal robocalling, the FCC can take (and has taken) enforcement action to stop that illegal activity. See e.g., Press release, FCC, FCC, FTC Demand Robocall-enabling Service Providers Cut Off COVID-19-related International Scammers (May 20, 2020), https://docs.fcc.gov/public/attachments/DOC-364482A1.pdf.

[5] Similarly, the proposed requirement that applicants certify and provide documentation that the applicant is compliant with 911 and CALEA requirements is far afield from any connection to illegal robocalling, and the Commission has specific enforcement authority if the applicant is not in compliance. See Further Notice, at para. 16. In any event, it's unclear what documentation the Commission would accept, in particular since most VoIP rely on third party service providers to comply with 911 and CALEA obligations. Would contracts with those third party service providers meet the obligation, or would the Commission then be compelled to confirm those third parties are also in compliance?

[6] Further Notice, at para. 10.

[7] In three of those cases the applications were withdrawn; one remains pending. Id. at para. 23, n. 72. In another case, the Commission notes that commenters have raised issues unrelated to robocalling ("intercarrier compensation" "call routing or call blocking") but that suggests that the existing process –which allows for public comment -- is working, and without the need for additional information or post-authorization reporting from applicants. Further Notice, at para. 10

numbers disserve the interest in combatting illegal robocalls. Direct access to phone numbers will facilitate traceback efforts which, in turn, can help to quickly identify and stop illegal robocalling and other forms of calling fraud. The Commission's numbering rules should be designed to encourage – not discourage – direct access to telephone numbers by all voice service providers regardless of their regulatory classification.

Even today (without adoption of any new requirements) telecommunications carriers seeking direct access to phone numbers provide far less information and face a less vigorous review process when requesting telephone numbers. In particular those carriers request numbers from the numbering administrator (are not required to apply with the Commission) and are only required to provide information limited to company name, address, OCN, primary type of business numbers will be used, and evidence that that numbers will be used in the area requested.[8] There is also no opportunity for public comment on those requests, as there is for VoIP provider applications.

Further, VON does not support any expansion of state law compliance beyond the number authority the FCC has previously delegated to the states. Such numbering authority has been rightly limited to area code relief, number reclamation, and thousands-block pooling.[9] The

[8] See 47 C.F.R. § 52.15(g)(1) and g(2).

[9] Further Notice, at para. 33.

Further Notice includes the unsupported statement that "there has been some confusion" (by whom?) as to whether that requirement should be expanded to include "other applicable requirements for businesses operating in the state."[10] As the Commission is aware, VoIP services are nomadic in nature, and it is generally impossible for VoIP providers to determine intrastate revenues. Given this inherent impossibility, the proposed clarification would contradict the Commission's previous preemption of state regulation of interconnected VoIP.[11] It is an unnecessary and detrimental change.

Not only would numbering restrictions hamper efforts to combat robocalls, but there is no basis in the record to single out VoIP providers for disparate regulatory treatment. For example, the idea that, for the first time, all VoIP numbering applications with reportable direct or indirect foreign ownership of 10 percent or greater will be referred to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector,[12] will add unnecessary time[13] and expense to the review process without any obvious clear purpose or

[10] Id.

[11] Id., at para 5, fn. 16, citing *Petition of Vonage Holdings Corporation for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 04-267, Memorandum Opinion and Order, 19 FCC Rcd 22404 (2004), *aff'd sub nom. Minnesota Pub. Utils. Comm'n v. FCC*, 483 F.3d 570 (8th Cir. 2007).

[12] Id. at para. 26.

[13] Even with the recently adopted Executive Order imposing time requirements on the Committee review process, it could take as long as seven months for the process to complete. Executive Order No. 13913 of April 4, 2020, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, 85 Fed. Reg. 19643, 19645 (Apr. 8, 2020) (allowing 120 days for initial review, plus an additional 90 days for a secondary assessment, if needed).

anticipated reduction in the number of illegal robocalls.[14] If this one-time review is deemed to be a necessary component of numbering review – and VON strongly believes that it should not - then it should be applied to all similarly situated voice service providers – including non-VoIP telecommunications carriers.

With SHAKEN now operational in U.S. networks, TDM networks are potentially more susceptible to originating robocalls than VoIP systems. That is because the FCC already has instituted heightened network-based protections for authentication of telephone number usage by U.S.-based VoIP services that are not in place for TDM providers. If the Commission is sincerely concerned that VoIP applicants may originate illegal robocalls, it can simply check the Robocall Mitigation Database (without the applicant certifying to such compliance) to confirm that a VoIP provider applicant is taking all necessary steps to prevent the origination of illegal robocalls on its network, without the need for additional application questions or post-authorization reporting.[15] That should more than suffice.[16]

[14] The Commission cites to a single instance of a foreign VoIP provider facilitating fraudulent robocalls targeting US customers. Further Notice, at para. 26, n. 80. The VoIP provider in that case was based in India and did not have direct access to US phone numbers, and these new requirements would not have prevented this illegal scheme.
[15] 47 CFR § 64.6301; 47 CFR § 64.6305(b). As of September 28, 2021, 4798 companies had filed in the robocall mitigation database. See *Phone companies must now block carriers that didn't meet FCC robocall deadline,* ars Technica (September 29, 2021) found at https://arstechnica.com/tech-policy/2021/09/expanded-robocall-blocking-has-begun-but-there-are-still-too-many-loopholes/ (last visited October 7, 2021).
[16] Similarly, the Commission can easily confirm whether a VoIP provider has filed required FCC Forms 499 and Form 477, Further Notice at para, 18, without the applicant having to provide evidence of compliance.

II. The Commission Should Not Enact Anti-Competitive Rules that Discriminate Based on Technology

The Further Notice proposes requiring direct access applicants to "provide sufficient technical documentation and information that clearly demonstrates that it will provide interconnected VoIP services, as opposed to one-way or non-interconnected VoIP services."[17] The presumed limitation on the use of telephone numbers obtained by interconnected VoIP providers is anti-competitive, not technology neutral, and inconsistent with the Commission's original decision authorizing VoIP providers to have direct access. Eight years ago the Commission found that providing direct access was about "engag[ing] in a broad-ranging effort to modernize [the Commission's] rules in light of significant ongoing technology transitions in the delivery of voice services, with the goal of promoting innovation, investment, and competition for the ultimate benefit of consumers and businesses."[18] That original NPRM was clearly about modernizing service and encouraging innovation, including the statement that the Commission "anticipate[d] that these proposed rule changes will encourage providers to develop and deploy innovative new technologies and services that benefit consumers."[19] The Commission now seeks to limit investment and innovation and enact rules that favor local

[17] Further Notice, at para. 19.

[18] *In the Matter of Numbering Policies for Modern Communications*, Notice of Proposed Rulemaking, Order and Notice of Inquiry, WC Docket No. 13-97, at 1-2 (April 18, 2013).

[19] Id. at 12.

exchange carriers over VoIP providers. Indeed, as a matter of policy, the direct access to numbers by all voice providers for all uses should be encouraged, rather than discouraged.

Further, restricting interconnected VoIP providers use of their directly-obtained numbers would be inconsistent with the current regulatory scheme, and would impose unfair, unnecessary and unwarranted limitations on VoIP providers (and their customers) as compared to other voice service providers, who have unlimited discretion to use telephone numbers in any lawful manner. Use cases for telephone numbers are evolving, including with the explosion of the Internet of Things and other applications (e.g., voice-based multi-factor authentication for enhanced security emergency notifications; use by delivery drivers and their customers to mask actual telephone numbers to maintain privacy, etc.). Restricting VoIP providers from offering these and other innovative use cases would harm customers and negatively impact competition for these services.

Any such limitation would also be difficult (if not impossible) to enforce. For example, a customer may port a telecommunications carrier number to an interconnected VoIP provider, and vice versa, yet there could be no viable use restriction that follows the porting of the number. Some interconnected VoIP providers may also have CLEC affiliates; and it would be unduly restrictive if they could not port numbers between affiliates based on some artificial restriction.

Finally, and most relevant to this proceeding, there is no evidence that such limitations will reduce illegal robocalls.

CONCLUSION

The Commission should act in accordance with the recommendations herein

Respectfully submitted,

VOICE ON THE NET COALITION

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