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September 14, 2023

VIA ECFS

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: WC Docket No. 13-97 – Numbering Policies for Modern Communications

WC Docket No. 07-243 - Telephone Number Requirements for IP-Enabled Service Providers

WC Docket No. 20-67 - Implementation of TRACED Act Section 6(a) —Knowledge of Customers by Entities with Access to Numbering Resources

IB Docket No. 16-155 - Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership

Dear Ms. Dortch:

On September 13, 2023, Paula Boyd and Gunnar Halley of Microsoft, and the undersigned, on behalf of the Voice on the Net Coalition (VON), spoke by phone/video conference with Heather Hendrickson, Jodie May, Terri Natoli and Mason Shefa of the Wireline Competition Bureau, and on September 14, 2023, Ms. Boyd and the undersigned spoke by phone/video conference with Elizabeth Cuttner, legal advisor to Chairwoman Rosenworcel, regarding the draft order released on August 31, 2023 in the above-referenced dockets. In particular, VON recommended changes to the draft order and rules regarding the certifications from new applicants for numbering resources pertaining to the required disclosure of investigations and compliance with state regulations.

With respect to the certification regarding investigations, VON suggested that the disclosure should be limited to those concerning unlawful robocalls or unlawful spoofing, not any investigation, which would be unduly burdensome for any large corporation, including those that operate globally with significant numbers of products. This result would be consistent with Footnote 50, which emphasizes concerns about granting numbering applications from companies suspected of facilitating unlawful robocalls or unlawful spoofing. To that end, VON recommended the deletion of “including the Commission’s Rules” in proposed Section 52.15(g)(3)(ii)(k), with the resultant new language below:

(K) A certification that the applicant possesses the financial, managerial, and technical expertise to provide reliable service. This certification must include the name of applicant’s key management and technical personnel, such as the Chief Operating Officer and the Chief Technology Officer, or equivalent, and state that neither the applicant nor any of the identified personnel are being or have been investigated by the Federal Communications Commission, law enforcement, or any regulatory agency for failure to comply with any law, rule, or order applicable to unlawful robocalls or unlawful spoofing;

With respect to the certification regarding compliance with state regulations, VON is concerned that the language in the draft order and the rules could be interpreted to expand the scope of state regulation of interconnected VoIP. VON explained that the 2004 Vonage Order¹ has been instrumental in the evolution and expansion of VoIP, bringing into the market thousands of new voice providers providing enormous benefits to consumers. The Commission has permitted state regulation on a limited basis, related to universal service and 911 fees. The language in the draft order obligating VoIP providers to comply with state regulations could embolden state regulators to expand traditional telephone regulations to VoIP, in conflict with the Vonage Order. To address this concern, VON recommended the addition of the following two sentence at the end of paragraph 49 of the draft order:

“We make it clear in the rule that state oversight of interconnected VoIP numbering must remain consistent with federal law. The requirement for consistency with federal law is intended to emphasize that the Commission is not herein expanding the exceptions for state regulation of interconnected VoIP service reflected in the Vonage decision and longstanding Commission policy.”

¹ *Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, Memorandum Opinion and Order, 19 FCC Rcd 22404 (2004) (*Vonage Order*).

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In addition, VON recommended that Section 52.15(g)(3)(ii)(k), be modified to add "consistent with Federal law" as follows:

(B) An acknowledgment that the authorization granted under this paragraph is subject to compliance with applicable Commission numbering rules; numbering authority delegated to the states, and the state laws, regulations, and registration requirements applicable to businesses operating in each state where the applicant seeks numbering resources, consistent with federal law, and industry guidelines and practices regarding numbering as applicable to telecommunications carriers;

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

By: _____ /s/
Glenn S. Richards
Counsel for VON

CC (via email):

Elizabeth Cuttner
Heather Hendrickson
Jodie May
Terri Natoli
Mason Shefa