

Before The
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Numbering Policies for Modern Communications)	WC Docket No. 13-97
)	
IP-Enabled Services)	WC Docket No. 04-36
)	
Telephone Number Requirements for IP-Enabled Services Providers)	WC Docket No. 07-243
)	
Telephone Number Portability)	CC Docket No. 95-116
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Connect America Fund)	WC Docket No. 10-90
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Petition of Vonage Holdings Corp. for Limited Waiver of Section 52.15(g)(2)(i))	

COMMENTS OF COMPTTEL

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COMPTTEL respectfully submits these comments in response to the Commission’s recent *Numbering NPRM*, in which it proposes “to promote innovation and efficiency by allowing interconnected Voice over Internet Protocol (VoIP) providers to obtain telephone numbers directly from the North American Numbering Plan Administrator (NANPA) and the Pooling Administrator (PA), subject to certain requirements.”¹

¹ Notice of Proposed Rulemaking, Order, and Notice of Inquiry, *Numbering Policies for Modern Communications et al*, FCC 13-51, WC Docket No. 13-97 *et al*, ¶ 1 (2013)(“Numbering NPRM” or “NPRM”).

Introduction and Summary

As an initial matter, COMPTTEL has a number of interconnected VoIP providers as members, but does not agree that changing the existing numbering rules (to accommodate the small number of interconnected VoIP providers without direct access to numbers) will provide a meaningful catalyst to achieving the innovation and efficiency that Internet Protocol (“IP”) technology has to offer consumers and the industry. As COMPTTEL addresses in its comments filed in response to the Transition Task Force’s Public Notice regarding proposed transition trials,² which we hereby incorporate by reference,³ VoIP interconnection⁴ is the instrumental missing factor in bringing about these objectives. Given the limited resources of the Commission, and the priorities of promoting innovation and the IP transition, COMPTTEL believes the Commission should prioritize facilitating VoIP interconnection by completing its review of the *USF/ICC Transformation FNPRM*⁵ and confirm that Sections 251/252 apply to the interconnection and exchange of managed VoIP traffic.

COMPTTEL does not oppose, as a general matter, interconnected VoIP providers having direct access to numbering resources. Indeed, as discussed below, most interconnected VoIP

² *Technology Transitions Policy Task Force Seeks Comment on Potential Trials*, GN Docket No. 13-5, Public Notice, DA 13-1016 (Technology Transitions Policy Task Force, May 10, 2013) (*Transition Trials Notice*).

³ Comments of COMPTTEL, *In the Matter of Technology Transition Policy Task Force*, GN Docket No. 13-5, filed July 8, 2013 (“COMPTTEL Transitions Trials Comments”).

⁴ We are referring here to the exchange of all voice traffic between managed network arrangements intended to preserve voice quality comparable to the existing PSTN, and differentiate such interconnection from the “best efforts” arrangements that characterize the Internet.

⁵ Report and Order and Further Notice of Proposed Rulemaking, *Connect America Fund et al*, FCC 11-161, WC Docket No. 10-90 *et al* (2011)(“USF/ICC Transformation Order and FNPRM”).

providers already have such access. The Commission, however, must ensure that all providers obtaining direct access to the numbering resources are subject to all the same statutory and regulatory requirements with respect to the use and the cost of administering such numbers, as well as ensure that the critical competitive and consumer protection provisions of the statute are preserved once the industry transitions to an all-IP network. In order to accomplish these objectives, the Commission must confirm, at least with regard to facilities-based “managed” VoIP providers, that these interconnected VoIP providers are telecommunications carriers. To the extent the Commission fails to classify *other forms* of interconnected VoIP providers as telecommunications carriers, such as over-the-top providers (OTT), the Commission must take action to exercise its ancillary authority⁶ to extend any remaining protections/obligations to these other forms of interconnected VoIP providers prior to modifying its numbering rules.⁷

Moreover, providers that are permitted access to the numbering resources (and presumably signaling databases) must continue to be subject to a certification process. The numbers themselves are a scarce and valuable national resource, and the security of the databases must be maintained. To the extent state commissions are unable to fulfill this role, the Commission must establish an alternative means.⁸ The Commission should also seek additional comment after the Vonage *et al* numbering trials are completed,⁹ prior to allowing OTT providers access to numbering resources. By appropriately sequencing its trial and its

⁶ In some cases, the Commission may have alternative authority.

⁷ See *e.g.*, *infra*, p. 16. The Commission should ensure the all interconnected VoIP providers are subject to the Commission’s slamming rules.

⁸ *Infra*, n. 35.

⁹ NPRM at ¶¶ 92-108 (“Vonage *et al* Numbering Trials”).

rulemaking efforts, the parties would be able to provide more informed comments, and the Commission would be able to make a more informed determination of what specific rule changes are necessary.

I. Existing numbering rules do not pose the primary barrier (if at all) to innovation.

The Commission asks if “allowing interconnected VoIP providers direct access to numbers will spur the introduction of innovative new technologies and services, increase efficiency, and facilitate increased choices for American consumers[.]”¹⁰ Indeed, the Commission anticipates “that allowing interconnected VoIP providers to have direct access to numbers will help speed the delivery of innovative services to consumers and business...”¹¹

Facilities-based or “managed” interconnected VoIP providers (*i.e.*, those that are not offering over-the-top VoIP services),¹² which constitute the *vast majority* of interconnected VoIP subscriptions,¹³ as a general matter already have direct access to numbers today, either as a certified local exchange carrier (“LEC”) or an affiliate of a certified LEC. Yet, despite the vast majority of interconnected VoIP providers already having direct access to numbers, consumers

¹⁰ NPRM at ¶ 17.

¹¹ NPRM at ¶ 1.

¹² *See* NPRM, n. 9

¹³ The FCC reported 37 million interconnected VoIP subscriptions at the end of 2011, *see* Local Telephone Competition, Status as of December 31, 2011, Industry Analysis and Technology Division, Wireline Competition Bureau, January 2013, p. 1 (“FCC 2013 Local Competition Report”), and USTELECOM estimates there to be a mere 3.5 million of OTT VoIP lines, *see* USTELECOM, “Evidence of Voice Competition and ILEC Non-Dominance Mounts,” April 2, 2013, at 8 (“*UST Brief*”). Available at: <http://www.ustelecom.org/news/research-briefs/ustelecom-research-brief-april-4-2013>. COMPTTEL does not endorse the USTELECOM analysis (which generally understates ILEC dominance).

are still being denied the full benefits of IP technology. This is because these VoIP providers must convert their VoIP traffic to TDM format in order to interconnect with the major ILECs (*i.e.*, the RBOCs), which serve the largest share of PSTN subscribers¹⁴ and, therefore, are the largest traffic exchange partners for competitive carriers. Given these facts, it is unclear how allowing the remaining providers, which serve only 10% of interconnected VoIP subscribers,¹⁵ access to numbering resources will make any significant difference.

It is the inability to get agreements with these major ILECs, in accordance with the Act, for VoIP interconnection— not the inability to obtain numbers from NANPA and PA — that is preventing consumers from experiencing the innovation of IP technology.¹⁶ Thus, the Commission should first focus on ensuring the competitors’ ability to obtain direct IP Interconnection with the incumbent local exchange carrier (“ILEC”) for all voice traffic over the PSTN (“VoIP Interconnection”)¹⁷ pursuant to the Sections 251 and 252 of the

¹⁴ The FCC’s most recent local competition report indicates that the PSTN (defined here as retail switched access lines and VoIP subscriptions) consists of just over 141 million retail local telephone connections (as of June 2012). Source: Local Telephone Competition, Status as of June, 2012, Industry Analysis Division, Figure 1, page 2. Of this, AT&T, Verizon and CenturyLink (the ILECs that coincidentally seek to escape their interconnection obligations) serve 51% of the total connections. Sources: AT&T 10Q 2Q2012 at 18; Verizon 10Q 2Q2012 at 30; and CenturyLink 10Q2012 at 30. If the “PSTN” is defined to include mobile subscriptions, AT&T and Verizon (including their mobile affiliates), as well as CenturyLink, serve 61% of the total connections. Sources: AT&T 10Q 2Q2012 at 18; Verizon 10Q 2Q2012 at 27; and CenturyLink 10Q2012 at 30.

¹⁵ *Supra*, n. 13.

¹⁶ The other critical element the Commission needs to address is last-mile access.

¹⁷ We are referring here to the exchange of all voice traffic between managed network arrangements intended to preserve voice quality comparable to the existing PSTN, and differentiate such interconnection from the “best efforts” arrangements that characterize the Internet. Examples of managed architectures include AT&T’s UVerse, Verizon’s FiOS, the networks of cable providers, and many of COMPTTEL member companies.

Telecommunications Act of 1996 (“the Act”), before devoting any significant resources to tangential issues such as those presented here.

Nevertheless, the Commission “expect(s) that granting VoIP providers direct access to numbers would facilitate several types of VoIP interconnection, including interconnection between over-the-top VoIP providers and cable providers, interconnection between two over-the-top VoIP providers, and interconnection between cable providers.”¹⁸ Vonage also “contends that having direct access to numbers will remove this barrier to IP interconnection and facilitate IP exchange of Vonage traffic.”¹⁹ There is nothing in the record to indicate interconnection between two cable companies is being hindered by the Commission’s numbering rules. Even if a change in the numbering rules would facilitate VoIP interconnection between two OTT providers,²⁰ given that such providers serve less than 3% of the PSTN subscriber base,²¹ such interconnection would do little in furthering the Commission’s objectives (particularly in comparison to the potential gains from IP interconnection with the large ILECs).

As we have previously explained, the expected cost savings from VoIP interconnection is based on well-defined, quantifiable and justifiable traffic volumes (which, by definition, include

¹⁸ NPRM at ¶ 54.

¹⁹ NPRM at ¶ 14.

²⁰ It is unclear from the record why two OTT providers cannot currently interconnect with each other.

²¹ Source: USTelecom estimates there are 3.7 million residential OTT VoIP subscriptions. (See USTelecom Research Brief, Evidence of Voice Competition and ILEC Non-Dominance Mounts, April 3, 2013 at 8.) In COMPTTEL’s experience, there are few businesses relying on OTT VOIP. Consequently, as percentage of total (residential and business) switched access lines and VoIP subscriptions (*see* Table 1, Local Competition as of December 2011, Industry Analysis and Technology Division, Wireline Competition Bureau, January 2013) OTT subscriptions comprise only 2.6% of the market.

traffic exchanged with the ILEC).²² In other words, the primary driver to investing in IP interconnection capabilities is the ability to spread capital and operational costs over the largest possible traffic volumes, which are unquestionably found on the interconnection facilities with the ILECs and, in particular, the largest ILECs (the RBOCs). VoIP interconnection can immediately and dramatically reduce service provider capital and operating costs, by as much as 90%.²³ But these savings are only fully realized when VoIP interconnection is used to reach all of the ILEC's end-users (*i.e.*, those served via TDM or IP).²⁴

In other words, confirmation of the interconnection obligations/protections under the Act would spur all forms of VoIP interconnection and facilitate the transition of the industry as a whole to IP.

II. The vast majority (if not all) of interconnected VoIP providers are telecommunication carriers and therefore already subject to relevant existing Commission regulations and statutory provisions.

Throughout the *Numbering NPRM*, the Commission seeks comment on the application of various existing Commission regulations and statutory provisions. As discussed above the vast majority of interconnected VoIP providers are facilities-based (“managed”) VoIP providers. As COMPTTEL and others have addressed in multiple Commission proceedings, these facilities-

²² See e.g., *COMPTTEL Transitions Trials Comments*, Attachment B, p. 4 [“Within the core of the service provider networks a limited set of common technologies is deployed using network design strategies meant to take advantage of scale economies.”]

²³ *Id.*, Attachment B at 3, *citing* Comments of COMPTTEL, *In the Matter of Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications, Framework for Next Generation 911 Deployment*, PS Docket Nos. 11-153, 10-255, Attachment, “IP INTERCONNECTION FOR MANAGED VOIP” April, 2011, at 21-22 (filed Dec. 12, 2011) (“*COMPTTEL Interconnection Cost Analysis*”).

²⁴ *COMPTTEL Transitions Trials Comments*, Attachment B at 3-4.

based or “managed” VoIP providers are telecommunication carriers. Therefore, the regulations and statutory provisions the Commission seeks comment on in this proceeding are already applicable to these providers, though the Commission should confirm this classification. To the extent the Commission determines that *other forms* of interconnected VoIP providers are not telecommunications carriers (or fails to classify other forms of interconnected VoIP providers), such as OTT providers, the Commission would need to ensure the existence of, and take action to exercise, its ancillary jurisdiction to impose the same obligations on those providers, including funding for numbering administration and number portability.²⁵

It is important for the Commission to recognize that its ability to invoke Title I ancillary authority, with regard to a number of critical regulations, is based on the Commission’s direct authority to regulate telecommunications carriers/services.²⁶ Therefore, as the PSTN continues to transition to an all IP network, and traditional (TDM) services are phased out, it is important for the Commission to confirm that managed VoIP is a telecommunication service -- not only so that the Commission maintains its direct authority to impose critical statutory provision with regard to those providers, but also to ensure its ancillary authority over certain interconnected VoIP providers that it may not classify as telecommunication carriers, such as OTT providers. In other words, if there are no telecommunication carriers/services over which the Commission has

²⁵ 47 U.S.C. §251(e)(2)[“The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission’”]. The Commission should not grant numbers to any entity until it ensures that that entity is sharing in the costs so as not to burden some carriers’ customers over others and create an uneven playing field that disadvantages some providers over others.

²⁶ In some cases it is its authority to regulate local exchange carriers. 47 U.S.C. 251(b).

direct authority, the Commission risks that there will be no basis for the Commission to exercise Title I ancillary jurisdiction.

The Commission has thus far avoided the regulatory classification of virtually all interconnected VoIP providers/services. Instead, the Commission has, in a number of cases, generally relied upon Title I ancillary authority to impose critical obligations on those providers based on its authority over telecommunications services.²⁷ This approach, however, will eventually disappear once the industry completely transitions to an all-IP network without Commission action on the classification issue. While, to date, the lack of clear interconnection rights/obligations under the Act has substantially delayed the transition to an all-IP network, continuing with this circular solution will further prolong consumers (and the industry as a whole) being able to reap the full benefits of IP technology.

III. The Commission needs to address certain issues before it allows over-the-top interconnected VoIP providers direct access to numbering resources.

As a general matter, COMPTTEL welcomes competition and the innovation competitors bring to the market. Our concerns stem, however, from the Commission providing OTT providers numbers without extending the same rules and administrative safeguards that apply to

²⁷ See e.g., Report and Order and Further Notice of Proposed Rulemaking, *Implementation of the Telecommunications Act of 1996 et al*, CC Docket No. 96-115 and WC Docket No. 04-36, FCC 07-22, ¶ 57 (2007) [“We therefore find that the extension of the CPNI privacy requirements to providers of interconnected VoIP service is reasonably ancillary to the effective performance of the Commission’s duty to protect the CPNI of all telecommunications customers under Title II.”] See also, Report and Order, *IP-Enabled Services*, WC Docket No. 04-36, FCC 09-40, ¶ 5 (2009) [“In 2007, the Commission extended the customer privacy requirements of section 222 to interconnected VoIP providers using Title I authority. Also in 2007, the Commission used its Title I authority to extend the section 255 disability access obligations to providers of interconnected VoIP services and to manufacturers of specially designed equipment used to provide these services.”] Sections 222 and 255 of the Act apply to telecommunications carriers/services.

existing competitive providers. As discussed below, the Commission needs to establish a certification process (to the extent an interconnected VoIP provider is unable to obtain certification from the state commission) in order to ensure the security of numbering databases and effective administration of numbering resources and processes.

The Commission must also ensure that all its rules and policies apply equitably to all competitive providers, and sufficiently address any unique situations that may arise with OTT providers (for example OTT providers use/non-use of a carrier partner for routing purposes). COMPTTEL believes the Commission's limited, six month trial of direct access to numbers, as currently granted to Vonage and others (*Vonage et al Numbering Trials*), may yield useful information as to the requirements and implications of providing OTT interconnected VoIP providers direct access to numbering resources, as well as determining whether they need to maintain carrier partners in order to properly route calls. The Commission should require full and complete reporting and documentation of all operational support processes and practices (and the efficacy of each) used by Vonage and its interconnected or partnering providers. Once collected, this information should be made available for comment.

Although COMPTTEL believes it is premature to conduct this rulemaking before the trials provide the information needed to fully understand the impact, COMPTTEL will attempt to address some of the issues raised in the *NPRM*.

Databases, Call Routing and Termination

As we discuss in response to the *Transitions Trials PN*, with regard to facilities-based/managed interconnected VoIP providers, the technical feasibility and necessary elements for VoIP interconnection and transport are well established.²⁸ Nevertheless, whereas facilities-

²⁸ *COMPTTEL Transitions Trials Comments*, Attachment A.

based VoIP providers are normally certificated carriers (or have carrier affiliates) which have full access to industry databases and signaling systems, OTT providers are not. As discussed below the Commission may be able to develop a process for certifying these providers (and other interconnected VoIP providers to the extent necessary). However, because these systems have evolved over decades with an underlying requirement that the users of such systems are telecommunications carriers, the operational and security implications of providing access to industry databases and signaling systems to OTT providers is simply unknown.

The *Vonage el Numbering Trials* being conducted should yield useful information and insights as to the requirements and implications of these new processes and practices related to OTT providers. As such, we believe the next step should be for the Commission to require that OTT providers comply with the requirements to create, modify and delete the affected records within the industry databases in order to ensure that they accurately reflect information used by other carriers for routing and billing purposes;²⁹ require documentation and public disclosure of all operational support processes and practices (and the efficacy of each) used by Vonage and the other trial participants and their interconnected (or partnering) providers;³⁰ and, seek further comment subsequent to the receipt and review of collected information. It is

²⁹ Certain vendor procedural changes would be required in order for OTT providers to access, modify, delete and create records within these databases.

³⁰ The marketplace solutions referenced by the Commission in the *NPRM* are not documented in any standardized format and are, therefore, ambiguous at best. As such, it is impossible to determine the adequacy of the processes and practices subsumed by these undefined marketplace solutions to address call routing issues as they pertain to OTT VoIP providers. Such solutions are made available only as defined by the provider of the solution, according to the market opportunities it sees fit to pursue. Further, the functionality of the solution is not static and may change as the provider's business model warrants. In either event, more information must be developed to fully understand the implications before moving to a system of expanded access to numbers.

appropriate not only that the processes and practices for publishing directory numbers associated with an OTT presence within a market area be developed, but that these processes should also be documented and made available to other providers through a VoIP Interconnection agreement pursuant to the statute. In this way, efficiency can be maximized not only by establishing the processes, but by making them broadly available to other providers.³¹

As COMPTTEL explained in its comments in response to the *Transitions Trial PN*, no structural changes to database schemas would be needed to accommodate a full transition of all currently exchanged PSTN traffic from TDM to IP.³² As COMPTTEL has previously stated, there are many ways in which databases will eventually change to support the future IPSTN.³³ Addressing such re-engineering at this point, however, is premature. Signaling system and database evolution are complex subjects, and expand well beyond the scope of the numbering issues contemplated in this proceeding. The design and migration process to next generation databases will be time-consuming, and has not yet been fully studied. These steps should not be taken before we evaluate the needs of the IPSTN of the future.³⁴

³¹ Moreover, as discussed above, the Commission needs to extend the statutory and regulatory provisions related to competitive carriers to OTT providers, including that their interconnection agreements with an ILEC be publicly available for opt-in.

³² Current PSTN signaling systems and databases such as BIRRDs, LERG, NPAC, LIDB & CNAM offer functionality that are more than sufficient to handle the PSTN transition to IP (IPSTN), with minimal modifications to current operating practices. For example, field definitions and the data used to populate certain fields of these databases may require slight accommodations for IP POIs and Session Border Controller identification. As we stated above, OTT providers must be obligated to comply with the requirements to create, modify and delete the affected records within the industry databases in order to ensure that they accurately reflect information used by other carriers for routing and billing purposes.

³³ See COMPTTEL Comments in GN Docket No. 13-5 (July 8, 2013), Attachment B, pages 6-9.

³⁴ If we fail to sufficiently consider the needs of future advanced voice services before designing, sizing and building signaling networks and databases for the IPSTN, we may be forced to re-

Some parties have raised the fact that these databases cannot identify Session Initiation Protocol (SIP) endpoints. This information is only relevant if the intention is to limit VoIP interconnection to SIP end points. As we have explained previously, however, to fully realize the benefits of VoIP interconnection and transport, these arrangement should encompass the exchange of all traffic between interconnected parties, not simply traffic originated or terminated to a SIP endpoint. By including all traffic, the need for endpoint type determination and subsequent alternative routing supervision is avoided.

Conversely a narrow implementation of VoIP interconnection – for example, by artificially limiting its use to only that traffic that originates/terminates at an ILEC’s VoIP end user – would unnecessarily defer benefits and delay the transition, including any benefit that might occur for OTT providers, wholly aside from any waiver (or rule change) used to gain access to numbering resources. Thus, in addition to Commission confirmation of interconnection protections/obligations, ensuring that VoIP interconnection with a particular carrier can be used for *all* PSTN traffic exchanged with that carrier, regardless of endpoint technology, would accelerate the transition to IP.

Documentation Requirements

The Commission needs to maintain the certification requirement of section 52.15(g)(2)(i). To the extent the Commission finds state commissions are unable to fulfill the role of issuing the necessary certifications,³⁵ the Commission needs to adopt a process whereby it provides the

engineer them again. Moreover, by implementing newly-designed signaling systems and databases (and their operational support systems), rather than relying on existing systems during the critical transition of the PSTN to IP, we risk a systemic failure of the emerging IPSTN as we transfer existing volumes of traffic.

³⁵ While some states may be precluded from regulating VoIP services under state law, including issuing certificates of public convenience and necessity, NPRM, n. 65, the Commission has

requisite certification. For purposes of granting certification, *at a minimum*, the Commission must establish a process whereby the provider must demonstrate the financial, managerial, and technical capabilities to provide service and certify compliance with numbering administrative rules. The Commission seeks comment on whether FCC Form 477 provides sufficient documentation, and the answer is a resounding “no.” Providers do not demonstrate their financial, managerial and technical capabilities to provide service and certify compliance with numbering regulations in the FCC Form 477. These safeguards are critical for protecting this limited resource, as well as the consumers who rely on the numbers, and the integrity of the databases. Moreover, the Commission could use the certification process to obtain commitments that reaffirm its forfeiture authority over the provider,³⁶ as well as the provider’s obligation to share in the costs associated with numbering administration.

The Commission also should not change the requirement set forth in section 52.15(g)(2)(ii) that, prior to obtaining numbers, the provider must demonstrate “facilities readiness” through an interconnection agreement approved by a state commission or, as allowed for SBCIS, evidence that it has ordered interconnection service pursuant to a tariff that is generally available to other providers of IP-enabled services. Interconnection is key to ensuring consumers’ calls will be interconnected with the PSTN and terminated appropriately. As the Commission is fully aware from the rural call completion proceeding, consumers expect that

authority to delegate to the states portions of the *federal* jurisdiction it has with regard to numbering administration. 47 U.S.C. 251(e)(1). Therefore, it could provide the states with delegated authority to implement a certification process (that may resemble the CPCN process) for purposes of certifying providers seeking access to numbering resources.

³⁶ Since these providers meet the definition of common carriers under the Act, 47 U.S.C. §153(10), they are subject to the statute’s forfeiture penalties accordingly. 47 U.S.C. §503(b)(2)(B).

their calls will go through. Interconnection also enables consumers to have a choice in providers.

Rule Changes

The question that the Commission should be asking is not whether a particular rule should be extended to an OTT provider (as a general matter, that should be the default), but rather what modifications are necessary to ensure equitable treatment among all competitive providers. To the extent a particular rule that is applicable to all providers has outlived its usefulness (an example of this may be geographic limitations) the Commission should evaluate and revisit the application of that provision to all carriers, not just OTT providers.

It is in this context that the Commission should establish its approach concerning intercarrier compensation (“ICC”) rules and the geographical limits concerning number assignment. It is possible that, as geographic distinctions play a declining role in ICC, that geographic limitations on number assignment should similarly be relaxed. But that policy should apply to *all* providers, and not just OTT providers. The existing rules should apply to OTT providers until the Commission considers this issue as part of its *Notice of Inquiry*.³⁷

Moreover, we are concerned that the Commission’s ICC rules do not clearly (and unambiguously) apply to OTT providers, such that COMPTEL members will obtain the necessary information to correctly apply ICC charges, and likewise that OTT providers will have the regulatory obligation to pay. We are concerned that there are hidden, unexpected gaps in the Commission’s rules that must be closed before the Commission grants additional numbering resources (particularly if a carrier partner relationship is maintained with OTT providers). It is hard to fully address this issue without understanding of the processes and practices OTT

³⁷ NPRM at ¶¶ 115-132 (“Notice of Inquiry”).

providers plan to implement. Hopefully the trials will shed some light in this regard. This is another reason why COMPTTEL believes that a full comment process after the trials is necessary before rules are changed.

As an example of a “gap” in the Commission’s decision-making, we draw attention to a recent order out of the Consumer and Governmental Affairs Bureau that concluded that the Commission’s anti-slamming rules do not apply to VoIP.³⁸ We do not agree with the outcome of that order since relevant statutory provisions and rules relate to telecommunications carriers,³⁹ and Verizon FiOS Digital Voice Service meets the statutory definition of a telecommunication service. Nevertheless, the Commission has failed to specifically address VoIP services in the context of slamming. It is because of gaps such as this that COMPTTEL recommends caution in this rulemaking.⁴⁰ If such a basic consumer protection as the Commission’s anti-slamming rules could have been overlooked, what other (more subtle) rules are in jeopardy that ensure a level competitive playing field and/or consumer protection. It is because of this that we recommend that the Commission proceed cautiously with this rulemaking, fully considering the information from the trials, including seeking comments on the results of those trials, prior to considering additional rule changes in this proceeding.

Conclusion

The Commission must first address the application of the statutory interconnection protections and obligation to VoIP interconnection, as well as seek comments after the

³⁸ Order, *Verizon Complaint Regarding Unauthorized Change of Subscriber’s Telecommunications Carrier*, IC Docket No. S3251566, DA 13-1294 (rel. May 31, 2013).

³⁹ 47 U.S.C. § 258(a); 47 C.F.R. 64.1120-64.1170.

⁴⁰ This also further demonstrates the harm caused by the Commission’s failure to confirm facilities-based VoIP providers classification as telecommunications carriers.

completion of the *Vonage et al Numbering Trials*, prior to completing its rulemaking opening up direct access to numbering resources to additional providers. The issues presented here are impacted by the outcome of those proceedings.

Respectfully submitted,

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