

**Before the  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580**

In the Matter of )  
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Advance Notice of Proposed Rulemaking ) Matter P104405  
Concerning Caller Identification )  
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**COMMENTS OF VERIZON AND VERIZON WIRELESS**

Caller ID is a valuable service that gives consumers the ability to decide whether to answer a call based on the telephone number and/or caller name displayed. As providers of Caller ID services, Verizon and Verizon Wireless (“Verizon”) have supported government efforts to prohibit calling parties from defrauding the called party by causing false or misleading Caller ID information to be transmitted (a practice known as “spoofing”). For example, Verizon supported enactment of The Truth in Caller ID Act of 2009, which bans spoofing and was signed into law last month.<sup>1</sup> Along the same lines, Verizon applauds the FTC’s efforts to enforce its existing rules that require telemarketers to transmit appropriate Caller ID information and encourages the FTC to continue to pursue wrongdoers who do not follow existing law.

Nonetheless, to the extent the FTC is now contemplating enacting additional rules, it must take into account the limited role that telecommunications and VoIP providers play in providing the Caller ID information that is displayed and the variety of new, innovative services that allow customers to select the Caller ID information that is

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<sup>1</sup> See 111 P.L. 331; 124 Stat. 3572.

conveyed. In addition, the FTC should narrowly tailor any rules so that consumers can readily identify the source of the telemarketing call, but at the same time, allow telemarketers to retain the flexibility to choose which particular information to convey via Caller ID.<sup>2</sup>

## DISCUSSION

*First*, the FTC should ensure that any new rules do not put requirements on providers of Caller ID services to ensure the accuracy of information that is outside of the providers' control. Providers have little or no control over many of the technical, service, and other issues that affect the transmission of calling party number and calling party name information in connection with particular calls. In many instances, a provider simply passes on caller identification information received from another carrier (including those located outside the United States that are not subject to the FTC's – or the FCC's – jurisdiction) or from an enterprise or government customer that maintains its own switch, even if such information is garbled, incorrect, or not present. Providers have no ability to determine whether the information they receive is accurate, misleading to the called party, or meets any legal requirements imposed on the calling party. Thus, providers cannot serve as gatekeepers to block offending calls.

In addition, providers have recently introduced innovative services related to Caller ID for use by wholesale, enterprise, and retail customers that benefit both the callers and the call recipients. Yet these services could be inappropriately viewed as providing misleading information about the source of the call. For instance, pick-your-

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<sup>2</sup> In light of the common-carrier exemption in the FTC Act, *see* 15 U.S.C. § 45(a)(2), Verizon respectfully reserves the right to contest FTC jurisdiction to impose any regulation or enforcement action where the agency is statutorily barred from doing so.

own-area-code services allow customers to select phone numbers that are not geographically associated with their location. Other services permit customers to select which account information is displayed in connection with call identification service. For example, where a caller's city and state associated with the account is displayed, such information may not accurately reflect the location information when a wireless or VoIP call is placed from outside that city.

Congress recognized the various issues facing providers of Caller ID services and sought to distinguish providers from persons that spoof Caller ID information when it passed The Truth in Caller ID Act of 2009. The House Legislative Report states:

The Committee intends that the Commission's authority to promulgate rules under subsection (e)(3) includes the authority to specify exemptions from the prohibition where the requisite intent of the statute is not met, for example where the carrier or provider is merely transmitting the information it receives from another carrier, provider, or customer. Furthermore, the prohibition is not intended to stifle innovative new services such as pick your own area code, location, or call back number services.<sup>3</sup>

The FTC should take a similar approach here.

Specifically, the FTC should not impose on providers any obligation to police Caller ID information or to block calls. And the FTC should avoid any action that could stifle providers' incentives to develop new services that affect the Caller ID information transmitted. Finally, further regulation of providers is unnecessary due to the provisions in The Truth and Caller ID Act of 2009 and the FTC's existing rules that prohibit providers from assisting a telemarketer when the provider knows or consciously avoids knowing that the telemarketer is engaged in an act that violates the telemarketing rules.<sup>4</sup>

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<sup>3</sup> 111 H. Rpt. 461.

<sup>4</sup> See 16 C.F.R. § 310.3(b).

*Second*, the FTC should carefully consider whether additional regulation with respect to the use of Caller ID by telemarketers is needed. The *Notice* indicates that the FTC and the Department of Justice have vigorously enforced the existing Caller ID requirements against telemarketers in recent years.<sup>5</sup> Increased enforcement of existing requirements may be more effective at protecting consumers from illegal telemarketing than new regulations that bad actors would likely ignore. To the extent the FTC decides to proceed with additional rules, the FTC should establish rules that provide consumers with the most meaningful information about who is calling them, while at the same time allowing providers the flexibility to determine which particular information is conveyed.

For instance, trade names, product names, abbreviations, and acronyms are usually helpful to consumers to identify the caller and should be permitted so long as they are not used to mislead or defraud consumers. For example, a Caller ID display with the calling party identified as “Verizon Wireless” is much more meaningful to the consumer than one with the legal name “Cellco Partnership.”

Businesses that utilize third parties for telemarketing should also have the flexibility to determine whether they wish to include their name in the Caller ID information or the name of the third party. In either case, the consumer benefits of Caller ID ascribed in the *Notice* would be met. The Caller ID name would inform the consumer that the call was from a company – i.e., not a personal call and potentially marketing – that the consumer could screen.<sup>6</sup> Moreover, a record would be established in the Caller

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<sup>5</sup> FTC, *Advance Notice of Proposed Rulemaking; Request for Public Comments*, 75 FR 78179, 78182 n.38 (“*Notice*”).

<sup>6</sup> *Id.* at 78181.

ID system that would allow the consumer (or law enforcement) to identify companies that call in violation of the do-not-call rules.<sup>7</sup>

For the same reasons, businesses should be permitted to determine the telephone number that they include with the Caller ID. The telephone number should not be required to be one found in directories or advertising associated with the business. Publicly available directories of wireless numbers do not exist, and large companies may use a number of different telephone numbers in their ads. Furthermore, rules requiring certain area codes or prefixes associated with a physical location make no sense given the widespread locations of large enterprises and the services available, such as pick-your-own-area-code, that are described above.

Finally, businesses should be allowed to choose how to answer the telephone number transmitted by the Caller ID – i.e., by an automated service *or* a live representative that would identify the seller or telemarketer. While many businesses would choose to have live representatives answer inbound calls from consumers so that they can market to those consumers, it would be unduly burdensome to require sellers to employ a live representative 24 hours a day, seven days a week to answer a call from a consumer seeking to investigate the identity of the caller on his or her Caller ID.

## **CONCLUSION**

For the reasons described above, the FTC should refrain from pursuing Caller ID rules related to telemarketing that would burden telecommunications and VoIP providers and hold back the development of new services. To the extent increased enforcement of the existing rules would not adequately protect consumers, the FTC should narrowly

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<sup>7</sup> *Id.*

tailor any rules so that consumers can readily identify the source of the telemarketing call, but at the same time, allow telemarketers to retain the flexibility to choose which particular information to convey via Caller ID.

Respectfully submitted,

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