

FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Interconnected VoIP Numbering) WC Docket No. 19-99
Authorization Application Filed)
By NumberBarn, LLC)
Pursuant to Section 52.15(g)(3))
of the Commission's Rules)

Reply Comments of

National Consumer Law Center
On behalf of its low-income consumers,
Electronic Privacy Information Center

and

Consumer Action
National Consumers League
Public Knowledge

Reply Comments

I. Introduction.

These Reply Comments are filed by the **National Consumer Law Center (NCLC)** on behalf of NCLC's low-income clients, the **Electronic Privacy Information Center (EPIC)**, **Consumer Action**, the **National Consumers League**, and **Public Knowledge**, regarding the application by NumberBarn¹ for authorization to obtain numbering resources, for which the Wireline Competition Bureau has requested reply comments.²

We comment to highlight the very serious concerns articulated by other commenters, including multiple state utility commissions, and to emphasize that allowing NumberBarn's use and abuse of its access to numbering resources circumvents the goals of the TRACED Act, as well as the efforts of the FCC and voice service providers to block illegal calls. We also renew our previous requests to the Commission to unequivocally outlaw the sale or rental of outward-bound telephone numbers.

II. The comments from the state utility commissions identify numerous problematic practices engaged in by NumberBarn.

The multiple comments filed by state governmental entities responsible for regulating utilities and protecting consumers in their jurisdiction describe numerous problems with NumberBarn's practices and its application. All of these state commissions are unanimous in their

¹ Application of for Authorization to Obtain Numbering Resources, WC Docket No. 19-99, (Apr. 10, 2019), <https://www.fcc.gov/ecfs/filing/104100332210384> (Application); Supplement to NumberBarn Application, WC Docket No. 19-99 (filed Aug. 5, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/10805139498500> (Supplement 1); Supplement to NumberBarn Application and Declaration of Matthew Veling, CEO of NumberBarn, LLC, WC Docket No. 19-99 (filed Jul. 11, 2024), <https://www.fcc.gov/ecfs/search/search-filings/filing/10711733719281> (Supplement 2); Supplement to NumberBarn Application and Declaration of Matthew Veling, CEO of NumberBarn, LLC, WC Docket No. 19-99 (filed Aug. 14, 2024), <https://www.fcc.gov/ecfs/search/search-filings/filing/10814956029230> (Supplement 3); see also 47 CFR § 52.15(g)(3).

² Interconnected VoIP Numbering Authorization Application Filed by NumberBarn, LLC, WC Docket No. 19-99, Public Notice, DA 24-984 (WCB September 24, 2024), <https://www.fcc.gov/ecfs/search/search-filings/filing/10924005061749> (originally establishing the public comment deadline as October 9, 2024); Notice of Interconnected VoIP Numbering Authorization Application Extension of Reply Comment Period (Rel. Nov. 19, 2024), <https://docs.fcc.gov/public/attachments/DA-24-1157A1.pdf> (extending deadline to December 6, 2024).

request that NumberBarn’s application be rejected because it is not in the public interest.³ The requests for rejection are based on multiple problems either specifically identified or suspected, including:

- A coalition of utility commissions from California, Maine, New Hampshire, Washington, West Virginia, and the District of Columbia (Joint Commissions) noted that “in direct contravention of industry guidelines, which state that ‘the Numbering Resources cannot be sold, brokered, bartered, or leased by the Assignee for a fee or other consideration’ on November 5, 2024 NumberBarn had 72,694,186 numbers available in the United States and Canada. . . . Some of the numbers appear to have a one-time fee, while others appear to have an upfront fee plus a recurring monthly charge.”⁴
- The Joint Commissions noted that NumberBarn may not even have the authority to list the numbers it is offering, raising serious questions about the propriety of offering those numbers.⁵ “[I]f NumberBarn does not have exclusive access to all the numbers that it is selling on its website, how does NumberBarn have the authority to list these numbers? . . . For numbers that are not exclusively listed on NumberBarn.com, what processes, if any, has the company utilized to guarantee that these phone numbers are not still being utilized by customers who may be unaware that their telephone numbers are being actively marketed?”⁶
- NumberBarn is offering number parking services while selling the same numbers on its website, which will increase number exhaustion.⁷ Number parking allows customers to save their phone number without paying for telephone service for that number.⁸

³ See Comments of Public Service Commission of the District of the Columbia, California Public Utilities Commission, Maine Public Utilities Commission, New Hampshire Department of Energy, Washington Utilities and Transportation Commission, Public Service Commission of West Virginia, WC 19-99 at 9 (Nov. 7, 2024), <https://www.fcc.gov/ecfs/search/search-filings/filing/1107056348833> [hereinafter “Joint PSCs Comment”]; Comments of Arizona Corporation Commission at 9 (Nov. 9, 2024), <https://www.fcc.gov/ecfs/search/search-filings/filing/11080718306940> [hereinafter “Arizona”]; Comments of Michigan Attorney General at 5 (Nov. 8, 2024), <https://www.fcc.gov/ecfs/search/search-filings/filing/1108165108539> [hereinafter “Michigan”].

⁴ Joint PSCs Comment at 2-3.

⁵ Joint PSCs Comment at 4.

⁶ Id.

⁷ See Joint PSCs Comment at 5.

⁸ See “Transfer, park & keep your phone number”, <https://www.numberbarn.com/number-parking> (last visited Dec. 6, 2024).

- The Arizona Corporation Commission (ACC) “investigated some of the phone numbers listed for sale on NumberBarn’s website and found that some of the phone numbers are associated with possible pre-recorded ‘free gift card’ or promotional scams. The fact that the numbers listed on NumberBarn’s website appear to be numbers currently used in possible scams or numbers still in use by legitimate businesses leads the ACC to believe that NumberBarn has inaccurately certified that it is not facilitating illegal robocalling.”⁹ This problem was also noted by the Joint Commissions,¹⁰ and the Michigan Commission.¹¹
- “[E]vidence . . . suggests that NumberBarn has assisted in the pilfering of scarce Arizona numbering resources by out of state entities, has failed to follow State, federal, and industry guidelines, and has failed to investigate whether phone numbers are actually available for new customers or whether still active numbers offered on NumberBarn’s website are participating in gift card scams.”¹² This point was also made by the other state utility commissions.¹³ Also the Commission regulations explicitly require this compliance with state rules.¹⁴
- The Michigan Public Service Commission identified NumberBarn’s practice of selling “vanity numbers” for between \$5,000 and \$7,000 each which “seems to be contrary to the Alliance for Telecommunications Industry Solutions’ (ATIS) industry best practices.”¹⁵ The ACC noted that “phone numbers are being sold on NumberBarn’s

⁹ Arizona at 4.

¹⁰ See Joint PSCs Comment at 4.

¹¹ See Michigan at 3 (an investigation of “50 random telephone numbers listed on NumberBarn’s website on October 8, 2024” by the Michigan Public Service Commission “revealed that 35 of the 50 phone numbers called led to gift card offerings, insurance quotes, and rebates if the caller pressed 1 to provide additional information.”).

¹² Arizona at 1-2.

¹³ See *id.* at 3, 5-6; Joint PSCs Comment at 7-8; Michigan at 4-5; Maine PUC Reply Comments, WC Docket No. 20-67 at 2 (Dec. 28, 2023), <https://www.fcc.gov/ecfs/search/search-filings/filing/1228119567049>; Comments of the Nebraska Public Service Commission, WC Docket No. 20-67 (Oct. 14, 2021), <https://www.fcc.gov/ecfs/search/search-filings/filing/1014824521010>.

¹⁴ See, e.g., In the Matter of Numbering Policies for Modern Communications, Second Report and Order and Second Notice of Proposed Rulemaking, FCC 23-75 at ¶ 48 (rel. Sept. 22, 2023), <https://www.fcc.gov/ecfs/search/search-filings/filing/10922214001005> (“Rather, the purpose is to make plain that direct access applicants must acknowledge that their authorization is contingent on complying not only with state requirements issued under delegated numbering authority, but also with other independently applicable state obligations, such as registration requirements, that would apply to them as businesses operating in the state.”).

¹⁵ Michigan at 2.

website – either exclusively or in part by the Company – at prices as high as \$1,000,000.”¹⁶

III. NumberBarn’s sale and rental of telephone numbers allow illegal callers to provide false caller-ID and circumvent STIR/SHAKEN requirements.

An overarching problem that is raised by this proceeding is the *abuse* of numbering resources in a way that undermines the goal of the TRACED Act to ensure that the caller-ID disclosures that accompany telephone calls are reliable.¹⁷ As the Arizona Corporation Commission said: “Arizonans should be confident that when they are receiving a business call from a phone number with an Arizona area code, that it is from an Arizona-based business.”¹⁸

We urge the Commission to examine the question of who is buying these tens of thousands of numbers from NumberBarn.¹⁹ We believe that a primary reason that illegal callers want access to many numbers is to allow them to rotate their outbound numbers to circumvent the caller ID authentication protections of STIR/SHAKEN. The callers use each of the numbers to originate only a few calls to avoid having the numbers identified as the source of illegal calls by downstream providers seeking to block or identify calls as scam, telemarketing, or spam calls. In many cases the STIR/SHAKEN authentication process allows an “A” level attestation to be applied to these calls that use temporary numbers, regardless of the fact that the number is in use only for a few calls and the caller ID disclosure provides no meaningful information to the called party. The caller IDs for these calls do not actually identify the callers and they rarely provide the recipients with a number that they can call back to request that calls stop.

The practice we are highlighting has these characteristics:

¹⁶ Arizona at 3.

¹⁷ See “TRACED Act Implementation”, <https://www.fcc.gov/TRACEDAct> (“Caller ID authentication allows voice service providers to verify that the caller ID information transmitted with a particular call matches the caller’s real number, which in turn helps to determine whether the call should be blocked or labeled. Widespread deployment of caller ID authentication will reduce the effectiveness of illegal [spoofed caller ID](#), allow law enforcement to identify bad actors more easily, and better enable phone companies to block illegal calls before those calls reach consumers.”).

¹⁸ Arizona at 7.

¹⁹ See, e.g., Notice of *Ex Parte* Presentation, WC Dkt. No. 13-97, 07-243, 20-67 at 7-8 (Mar. 25, 2024), <https://www.fcc.gov/ecfs/document/10325387525062/1> [hereinafter “EPIC NCLC ex parte”] (citing to North American Numbering Council, Report and Recommendation on the Feasibility of Individual Telephone Number (ITN) Pooling Trials and Alternative Means for Conserving Numbering Resources, 31 (Jan. 31, 2023), <https://www.fcc.gov/files/finalnaowgnancitnapprovedreport02282023>).

- A single caller making calls for the same campaign deliberately rotates through many different numbers for calls within the campaign;
- The numbers displayed on the caller ID are chosen to deceive the call recipients into believing that the caller is located in the same area as the recipient; and
- The called party is not able to reach the caller through the displayed number.

We have been unable to discern a single legitimate purpose for callers to cycle through a list of rotating numbers in this way. Instead, we are positing that the entire purpose of using number rotation in this way is only to evade the goals of the TRACED Act, as well as several specific FCC regulations. The NumberBarn’s sale of thousands of numbers is the enabling factor for this practice.

A primary goal of the TRACED Act²⁰ was to facilitate the identification of callers so that illegal and unwanted calls can be identified and blocked by either subscribers or downstream providers.²¹ Yet, the practice of renting outward dialing numbers on a short-term basis undermines the effectiveness of even the most robustly enforced caller ID authentication methodologies. The identity and the real telephone number of the caller are functionally obscured when a caller’s caller-ID is based on a disposable number that is rented for a short period of time and is not even related to the actual location of the caller. That obfuscation of the true identity and location of the caller is designed to evade the TRACED Act’s goals of ensuring the truthful identity of the caller in the caller ID displayed on each call. A fraudulent or scam caller that rents telephone numbers on a temporary basis for the purpose of displaying a deceptive caller ID additionally would seem to violate 47 U.S.C. § 227(e)(1)’s prohibition against using a misleading caller ID.

In an *ex parte* letter submitted after a meeting between consumer and privacy advocates and the FCC’s Wireline’s Competition Bureau on March 25, 2024, we described several major enforcement actions brought by state attorneys general that illustrated how number rotation is used by illegal callers to evade detection and rule enforcement.²² We also provided illustrations of how some VOIP providers routinely advertise the availability of numbers to facilitate hiding the true location and identity of the caller.²³

²⁰ Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act, Pub. L. No. 116-105, § 4(b), 133 Stat. 3274 (2019) [hereinafter “TRACED Act”].

²¹ TRACED Act at § 7(b)(2).

²² See EPIC NCLC *ex parte* at 4-6.

²³ See *id.* at 1-4.

There are several existing FCC regulations that seem to prohibit the practice of using the rotation of numbers to mislead consumers about who is calling them, or to assist the callers in evading blocking or labeling calls by downstream providers:

- **Caller ID is required for all telemarketing calls.** In the telemarketing context, 47 CFR § 64.1601(e) requires that telemarketers provide a caller ID. As the regulation explicitly states that the provided number must permit the individual to make a do-not-call request during regular business hours, the use of a temporary number that does not support inward dialing and is not available for the called party to reach the caller does not satisfy the requirement to provide a caller ID in telemarketing calls.²⁴
- **Caller ID cannot be used to mislead call recipients.** Under 47 CFR § 64.1604, every person is prohibited from causing “any caller identification service to transmit or display *misleading* or *inaccurate* caller identification” (emphasis added) with intent to defraud, cause harm, or wrongfully obtain anything of value. Deliberate use of number rotation using local numbers is misleading and inaccurate. The requirement that the caller’s purpose must be to defraud, etc., may make this regulation inapplicable to some uses, but it is clearly applicable to scam calls, and certainly to telemarketing calls that use misleading tactics to promote sales.²⁵
- **Voice service providers are *required* to use due diligence to ensure that their callers are not originating illegal traffic.** When the number reseller is a voice service provider—as appears to be often the case—47 CFR § 64.1200(n)(4)²⁶ is applicable. That section requires providers to take “affirmative, effective measures” to prevent the use of their network to originate illegal calls, including “know your customer” requirements. Further, as terminating providers are explicitly encouraged to block calls based on “reasonable analytics”²⁷ that include “consideration of caller ID authentication

²⁴ 47 CFR § 64.1601(e)(1). *See also* Letter of National Association of State Utility Consumer Advocates at 5 (Jan. 25, 2024), <https://www.fcc.gov/ecfs/document/10125269227222/1> (noting that a telemarketer using a misleading caller ID conflicts with this provision of the CFR) [hereinafter “NASUCA Letter”].

²⁵ *See* In re Numbering Policies for Modern Communications, Telephone Number Requirements for IP-Enabled Service Providers, Implementation of TRACED Act Section 6(a)- Knowledge of Customers by Entities with Access to Numbering Resources, Reply Comments of NCLC, Consumer Action, Consumer Federation of America, EPIC, National Association of Consumer Advocates, National Consumers League, and U.S. PIRG, on Second Further Notice of Proposed Rulemaking in WC Dkt. Nos. 13-97, 07-243, 20-67 at 7 (filed Dec. 22, 2023), available at <https://www.fcc.gov/ecfs/search/search-filings/filing/122235773414> [hereinafter “Joint Consumer Advocate Reply Comments”]; NASUCA Letter at 5 (noting that using a misleading caller ID seems to violate 47 USC § 227(e)(1)).

²⁶ Joint Consumer Advocate Reply Comments mistakenly referred to this as section (n)(3).

²⁷ 47 CFR § 64.1200(k)(3)(i).

information,²⁸ allowing callers to evade these blocking efforts by rotating numbers undermines the Commission's multiple efforts to eliminate unwanted calls.

IV. Conclusion.

We urge the FCC to reject NumberBarn's application for access to numbering resources. Additionally, the FCC should explicitly say that providers are prohibited from offering any service that obfuscates the real caller's name, location, and telephone number, including but not limited to rotating through numbers for this purpose. Allowing the caller ID to display the name and telephone number of the seller rather than the telemarketer, as expressly permitted by 47 CFR § 1601(e)(1), should continue to be permitted.

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²⁸ 47 CFR § 64.1200(k)(3)(ii).