

of Caller ID information may be a by-product of purchasing or using telephone equipment that lacks Caller ID transmission functionality.⁵⁰⁸

In concluding that required transmission of Caller ID information is technically feasible and not costly for telemarketers, the Commission was persuaded in part by the example provided by DialAmerica. In its written comments and at the June 2002 Forum, DialAmerica explained how it transmits Caller ID information to the consumers it calls.⁵⁰⁹ DialAmerica's carrier assigns a telephone number to each of DialAmerica's call centers. When a sales representative from a particular call center calls a consumer, that call center's assigned telephone number is transmitted to the consumer's Caller ID service. SBC, a large provider of common carriage services, provided support for the availability of DialAmerica's model.⁵¹⁰ DialAmerica stated at the June 2002 Forum that it does not pay its carrier any extra amount to transmit this assigned telephone number to consumers.⁵¹¹

The Commission believes the argument by telemarketers that required transmission of Caller ID information would be impossible or prohibitively expensive is based substantially on an erroneous supposition that telemarketers would be required to transmit the specific telephone number from which a sales representative placed a given call. The Commission's citation to DialAmerica's approach should make it clear that the Commission is not requiring this level of specificity. Under the amended Rule's Caller ID provision, telemarketers

may transmit any number associated with the telemarketer that allows the called consumer to identify the caller. This includes a number assigned to the telemarketer by its carrier, the specific number from which a sales representative placed a call, or a number used by the telemarketer's carrier to bill the telemarketer for a given call. In the alternative, a telemarketer may transmit the seller's customer service number or the charitable organization's donor service number, provided that this number is answered during regular business hours.

Not every telemarketer will need to follow DialAmerica's approach for transmission of Caller ID information. The record reflects various options in calling equipment used by telemarketers.⁵¹² A telemarketer's choice of calling equipment is determined in part by the telemarketer's size. The smallest telemarketers, most likely placing calls from home, may contact consumers using a "plain old telephone service" ("POTS") line. A telemarketer calling consumers with a POTS line will have no difficulty transmitting Caller ID information.⁵¹³ This is also true if, to call consumers, the telemarketer uses Integrated Services Digital Network-Basic Rate Interface ("ISDN-BRI") technology, which, like POTS lines, is likely to be utilized only by the smallest telemarketers.⁵¹⁴

Larger telemarketers commonly use a "private branch exchange" switch ("PBX"), which enables them to place large volumes of calls more efficiently.⁵¹⁵ For telemarketers using a PBX, the primary determinant in transmitting Caller ID information is the telemarketer's connection to its telephone company. A telemarketer using a PBX connects to its telephone

company through a "trunk."⁵¹⁶ The more modern type of trunk used in telemarketing is an "Integrated Services Digital Network-Primary Rate Interface" ("ISDN-PRI") trunk.⁵¹⁷ It is clear from the record that a telemarketer using such an "ISDN-PRI" trunk has no difficulty in transmitting Caller ID information to a consumer.⁵¹⁸

The older kind of trunk used in telemarketing is a "T-1" trunk.⁵¹⁹ Telemarketers using a "T-1" trunk are perhaps most likely to follow DialAmerica's model by having their carriers assign a telephone number to the trunk for transmission to consumers' Caller ID services. This is true because, in contrast to "ISDN-PRI" trunks, "T-1" trunks do not routinely transmit the caller's telephone number to Caller ID devices.⁵²⁰ Some telemarketers stated that it may be technically feasible (but costly) for them to upgrade, reconfigure, or replace their PBX switches or their "T-1" trunks in order to transmit a specific sales representative's telephone number.⁵²¹ However, the Commission's approach does not require this level of precision. Consequently, telemarketers will not have to absorb the expense associated with achievement of this level of precision.

Regardless of telemarketers' calling systems and carriers' ability to assign a telephone number to a telemarketer's call center, there are occasions in which Caller ID information does not reach the called consumer even when telemarketers arrange for the transmission of that information.⁵²² Two situations would seem to be outside the control of the telemarketer. First, the route traveled by a call could pass through a switch that lacks Caller ID functionality, essentially dropping

⁵⁰⁸ EPIC-NPRM at 11; TRA-NPRM at 11. As is discussed below, non-transmission may also result from errors in telephone companies' equipment.

⁵⁰⁹ DialAmerica-Supp., Att. A at 1-2. See also June 2002 Tr. II at 81-83. According to one of DialAmerica's written comments: "Caller ID information can be delivered over T-1's today. We have been doing it for over two years. If the Commission does not mandate the delivery of Caller ID information, those who would want the Commission to believe that it cannot be done will have been successful." DialAmerica-Supp. at 10. See also DialAmerica-NPRM at 25 ("The conclusion stated in the NPRM . . . that trunk or T-1 lines will only display a term like 'unavailable' is not correct.") and NAAG-NPRM at 45 ("We have been advised that all trunk lines . . . should be capable of supporting Caller ID.")

⁵¹⁰ See SBC-Supp. at 8-10; June 2002 Tr. II at 80-83. See also Cox-NPRM at 37; DMA-NPRM at 49; Green Mountain-NPRM at 28; Associations-Supp. at 7.

⁵¹¹ June 2002 Tr. II at 83 (DialAmerica). Moreover, other moderate-sized telemarketers reported that they currently transmit Caller ID information. Because they are not compelled to do this, the Commission believes that doing so is not cost-prohibitive. See Aegis-NPRM at 5; Lenox-NPRM at 6. See also ANA-NPRM at 6; ARDA-NPRM at 6. But see ATA-Supp. at 18.

⁵¹² See, e.g., Nextel-NPRM at 25 (proprietary dialers); DialAmerica-Supp., Att. A at 1 (regular trunk groups provisioned by carrier); Fiber Clean-NPRM at 1 (telemarketers working from home).

⁵¹³ SBC-Supp. at 8.

⁵¹⁴ <http://www.bell-labs.com/technology/access/ISDN-BRI.html>. ISDN-BRI essentially uses a caller's existing wiring to transmit calls digitally. As such, its capability to transmit Caller ID information is akin to a POTS line's capability.

⁵¹⁵ SBC-Supp. at 8-9. This is also true of telemarketers using predictive dialers. Predictive dialers used by many telemarketers contain features similar to a PBX, and the capacity of such a predictive dialer to transmit Caller ID information is essentially the same as the capacity of a PBX to do so. See, e.g., Sytel-NPRM at 8 (arguing that telemarketers using predictive dialers should transmit Caller ID information. This comment suggests that predictive dialers are capable of transmitting Caller ID information). See also <http://www.pbinfo.com/portal/modules.php?op=modload&name=Sections&file=index&req=viewarticle&artid=8>.

⁵¹⁶ SBC-Supp. at 8-9. An alternative to PBX available to telemarketers (but not widely used) is called "Centrex." Telemarketers using Centrex connect to their telephone company using a telephone line; telemarketers using a PBX connect to their telephone company using a trunk. Because Centrex users use a line rather than a trunk, telemarketers using Centrex (like telemarketers using a POTS line or ISDN-BRI) should not find it difficult to transmit Caller ID information. See http://www.granitestatetelephone.com/sfb_centrex.html.

⁵¹⁷ June 2002 Tr. II at 76-77 (SBC).

⁵¹⁸ EPIC-NPRM at 12; SBC-Supp. at 8-9; June 2002 Tr. II at 80-81 (SBC).

⁵¹⁹ Some telemarketers may use a "T3" or "DS3" trunk. This kind of trunk is essentially a collection of "T-1" trunks; as such, it operates in a manner similar to a T-1 for purposes of Caller ID functionality. See <http://www.hal-pc.org/~ascend/MaxTNT/hwinst/tnt3.htm>.

⁵²⁰ SBC-Supp. at 8-9.

⁵²¹ Synergy Solutions-NPRM at 4; TeleDirect-NPRM at 3. But see EPIC-NPRM at 11-12.

⁵²² See, e.g., ABA-NPRM at 9; Chicago ADM-NPRM at 1; IMC-NPRM at 9; Lenox-NPRM at 6; Teledirect-NPRM at 3; Associations-Supp. at 7; ATA-Supp. at 17.