



PUBLIC NOTICE

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ENFORCEMENT BUREAU REQUESTS LETTERS OF INTENT FOR TRACEBACK CONSORTIUM

The Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) was signed into law on December 30, 2019.¹ Congress required the Federal Communications Commission, not later than 90 days after that date, to “issue rules to establish a registration process for the registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls.”² The Commission adopted rules to require any consortium that seeks to be selected as the single registered consortium to file a Letter of Intent to conduct private traceback efforts and directed the Enforcement Bureau to issue a public notice to that effect no later than April 28th each year.³

By this Public Notice, the Enforcement Bureau hereby requires interested consortia to provide Letters of Intent in accordance with the Commission’s updated rules and the discussion of the statutory requirements and registration process found in the *Order*.

Background. Unlawful prerecorded or artificial voice message calls—robocalls—plague the American public. In many instances, unlawful robocalls include inaccurate or misleading caller identification information, known as spoofed caller ID. The spoofed caller ID makes it more difficult to identify the source of the call. In order to enforce the laws prohibiting illegal robocalls, government and industry work together to trace unlawful spoofed robocalls to their origination—a process known as “traceback.” Congress acknowledged the beneficial collaboration between the Commission and the private sector on traceback issues and, in section 13(d) of the TRACED Act, required the Commission to register a single consortium to conduct private-led traceback efforts.

The Commission has directed the Enforcement Bureau to select a single entity to serve as the registered consortium and to ensure that the registered consortium complies with the statutory requirements.⁴ The Commission’s experience suggests that the traceback process is likely to evolve in response to new unlawful robocalling schemes, new technologies, and the needs of interested parties, such as the Commission, the Department of Justice, state Attorneys General, and other agencies.⁵ The Commission wishes to encourage a responsive, dynamic traceback process.⁶ The Commission therefore set forth a set

¹ Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Pub. L. No. 116-105, 133 Stat. 3274 (2019) (TRACED Act).

² TRACED Act § 13(d)(1).

³ *Implementing Section 13(d) of the Pallone-Thune Robocall Abuse Criminal Enforcement and Deterrence Act*, EB Docket 20-22, Report and Order and Further Notice of Proposed Rulemaking, FCC 20-34, 2020 WL 1536466 (Mar. 27, 2020) (*Order*).

⁴ *Order* at *4, para. 15.

⁵ *Id.*

⁶ *Id.*

of principles for the Bureau to use in selecting the registered consortium to ensure that it satisfies the statutory requirements.⁷ The Bureau will follow those principles in selecting the registered consortium.

Letter of Intent Requirements. The Enforcement Bureau requires interested consortia to provide Letters of Intent in accordance with the Commission's updated rules and the discussion of the statutory requirements and registration process found in the *Order*. The Letter of Intent must demonstrate that it satisfies the statutory requirements necessary to serve as the single registered consortium.

Any consortium must: (1) demonstrate that it is a neutral third party; (2) demonstrate that it is competent to manage the private-led traceback efforts; (3) include its written best practices, and an explanation thereof, regarding management of its traceback efforts and regarding providers of voice services' participation in the consortium's traceback efforts; (4) certify that, consistent with section 222(d)(2) of the Communications Act, the consortium's efforts will focus on fraudulent, abusive, or unlawful traffic; and (5) certify that the consortium has notified the Commission that it intends to conduct traceback efforts in advance of registration as the single consortium. The Letter of Intent must also include a certification that, if selected to be the registered consortium, the consortium will remain in compliance with the statutory requirements; conduct an annual review for compliance; and promptly notify the Commission of any changes that reasonably bear on its certification.

Continued Applicability. The Commission will not require the incumbent registered consortium to submit a Letter of Intent after its initial selection as the registered consortium. Instead, the certifications contained in the registered consortium's initial Letter of Intent will continue in effect for each subsequent year unless the incumbent consortium notifies the Commission otherwise in writing on or before the date for the filing of such letters set forth in the annual public notice.

Registration Process. Letters of Intent must be submitted electronically via ECFS (<http://apps.fcc.gov/ecfs/>) in EB Docket No. 20-22. If consortia wish to include confidential information as part of their Letters of Intent, they must submit (1) a redacted, public version via ECFS; and (2) a non-redacted, confidential version electronically to the Enforcement Bureau. Filing consortia should contact Kristi Thompson by phone (at 202-418-1318) or e-mail (kristi.thompson@fcc.gov) to arrange electronic submission of the non-redacted version. Confidential material must be marked as such and requests for confidential treatment must conform to the requirements of section 0.459 of the Commission's rules.⁸

Deadline to Submit Letters of Intent: May 21, 2020.

For the purposes of the initial registration only, the Bureau grants an opportunity for public comment on any Letter of Intent filed in response to this Public Notice.⁹

Deadline to Submit Comments on Letters of Intent: June 5, 2020.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).¹⁰

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties may choose to file by paper; such filers must file an original and one copy of each filing.

⁷ *Id.*

⁸ 47 CFR § 0.459.

⁹ *Order* at *3, para 14.

¹⁰ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701, U.S.
- Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.
- **Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.**¹¹

Additional Information. For further information, contact Kristi Thompson, Chief, Telecommunications Consumers Division, Enforcement Bureau, at 202-418-1318 or kristi.thompson@fcc.gov.

¹¹ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304, 2020 WL 1434417 (Mar. 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.