

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

In the Matter of)
One Eye LLC) EB-TCD-20-00031678
) EB Docket No. 22-174
)

INITIAL DETERMINATION ORDER

Adopted: April 3, 2023

Released: April 3, 2023

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this Initial Determination Order, the Enforcement Bureau (Bureau) apparently finds that One Eye LLC (One Eye or Company) has not complied with the Federal Communications Commission’s (Commission or FCC) call blocking rules for gateway providers. Pursuant to section 64.1200(n)(5)(i)(A) of the Commission rules, One Eye has 14 days to respond to this order (Initial Determination Order) with a final response to our apparent finding and to demonstrate compliance with our rules. If One Eye fails to respond to this Initial Determination Order, thereby failing to provide an adequate response, or the Company continues to transmit substantially similar unlawful traffic, the Bureau will issue a Final Determination Order.1 Any provider immediately downstream from One Eye will then be required to block and cease accepting all traffic received from One Eye beginning 30 days after release of the Final Determination Order.2

II. BACKGROUND

A. Legal Framework for Gateway Provider Mandatory Blocking Rules

2. Protecting consumers in the United States from the dangers and risks of unwanted and illegal robocalls is the Commission’s top consumer protection priority.3 Many of these calls originate overseas. Gateway providers are U.S.-based intermediate providers that receive calls directly from a foreign originating provider or foreign intermediate provider at its U.S.-based facilities before transmitting the call downstream to another U.S.-based provider. Such providers serve as critical choke points for reducing the number of illegal calls reaching consumers in the United States.4 In recognition of this fact, the Commission adopted the Gateway Provider Order on May 19, 2022, increasing the

1 See 47 CFR § 64.1200(n)(5)(iii).

2 Id. § 64.1200(n)(6).

3 “Unwanted calls – including illegal and spoofed robocalls - are the FCC's top consumer complaint and our top consumer protection priority.” FCC, Consumer Guide: Stop Unwanted Robocalls and Texts, https://www.fcc.gov/consumers/guides/stop-unwanted-robocalls-and-texts (last visited Jan. 24, 2023).

4 Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor, CG Docket No. 17-59, WC Docket No. 17-97, Sixth Report and Order in CG Docket No. 17-59, Fifth Report and Order in WC Docket No. 17-97, Order on Reconsideration in WC Docket No. 17-97, Order, Seventh Further Notice of Proposed Rulemaking in CG Docket No. 17-59, and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 17-97, FCC 22-37, paras. 24-25 (2022) (Gateway Provider Order).

obligations of gateway providers to police their own networks and imposing consequences on gateway providers that fail to do so.⁵

3. The *Gateway Provider Order* built upon the Commission's call blocking rules to require gateway providers to block illegal traffic when notified of such traffic by the Commission.⁶ Pursuant to section 64.1200(n)(5)(i)(A) of the Commission's rules, once a gateway provider receives a notification of suspected illegal traffic from the Bureau, the provider has a minimum of 14 days to comply with the notice by investigating and reporting the results of the investigation to the Bureau.⁷ The provider must also block the traffic if its investigation determines that it served as the gateway provider for the traffic.⁸ If the gateway provider did not block the traffic, it must explain to the Bureau why the identified traffic was not illegal.⁹

4. The Bureau may initiate a process to direct any provider immediately downstream from the gateway provider to block the notified gateway provider's traffic if the gateway provider fails to respond to the notice of suspected illegal traffic or continues to transmit substantially similar traffic.¹⁰ The Bureau will then issue an Initial Determination Order with its apparent findings and provide the gateway provider with an opportunity to respond.¹¹ If the Bureau determines that the gateway provider's response to the Initial Determination Order is inadequate (including instances where the gateway provider fails to respond), or if it continues to transmit substantially similar traffic, the Bureau will release a Final Determination Order.¹² All immediate downstream providers must block and cease accepting all traffic that they receive from the provider starting 30 days from release of the Final Determination Order.¹³

B. One Eye's Transmission of Suspected Illegal Robocalls as a Gateway Provider

5. On February 15, 2023, the Bureau issued a Notice of Suspected Illegal Robocall Traffic (Notice) to One Eye for transmitting apparently illegal traffic as a gateway provider.¹⁴ These calls pertained to bank impersonation and claims of "preauthorized orders" placed "on your name."¹⁵ Between

⁵ *Id.* at paras. 1-4.

⁶ *Id.* at para. 72; 47 CFR § 64.1200(n)(5).

⁷ 47 CFR § 64.1200(n)(5)(i)(A); *see also* Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Kaushal Bhavsar, CEO, One Eye LLC (Feb. 15, 2023) (Notice) (requiring gateway provider to respond within 14 days).

⁸ 47 CFR § 64.1200(n)(5)(i)(A). If the provider served as the gateway for the traffic, its report to the Bureau must include a certification that it is blocking the identified traffic and will continue to do so, as well as a description of the plan to identify and block substantially similar traffic on an ongoing basis. *Id.* § 64.1200(n)(5)(i)(A)(1)-(A)(2).

⁹ *Id.* § 64.1200(n)(5)(i)(B). If the gateway provider concludes that it did not serve as the gateway for the traffic, then it must provide an explanation and identify the upstream provider(s) from which it received the identified traffic. *Id.*

¹⁰ *Id.* § 64.1200(n)(5)(ii)-(iii), (n)(6).

¹¹ *Id.* § 64.1200(n)(5)(ii).

¹² *Id.* § 64.1200(n)(5)(iii).

¹³ *Id.* § 64.1200(n)(5)-(6). A Final Determination Order may be adopted up to one year after release of the Initial Determination Order. *See id.* § 64.1200(n)(5)(iii).

¹⁴ On February 15, 2023, the Commission issued a cease-and-desist letter to One Eye's business address listed in the Robocall Mitigation Database. The Commission published the letter on its website and also sent the letter via certified mail. *See* Notice, *supra* note 7. The Notice is part of the Bureau's cease-and-desist letter initiative, which places obligations on notified providers to investigate and mitigate identified traffic. The Notice and past cease-and-desist letters are available on the Commission's website at <https://www.fcc.gov/robocall-facilitators-must-cease-and-desist>.

¹⁵ ITG Subpoena Response on file at EB-TCD-20-00030805 (Nov. 22, 2022) (ITG Subpoena Response). The call script did not state what the order was for nor how the order was placed. *See id.*

September 14, 2022, and November 1, 2022, USTelecom’s Industry Traceback Group (ITG)¹⁶ investigated prerecorded voice message calls that Bank of America and Verizon had flagged as illegal spoofed robocalls or calls made without consent.¹⁷ The ITG conducted tracebacks and determined that the calls originated overseas and that One Eye acted as the gateway provider for the calls.¹⁸ The ITG previously notified One Eye of these calls and provided it access to supporting data identifying each call.¹⁹ One Eye did not respond to these tracebacks.²⁰

6. The Notice required One Eye to investigate and block the traffic and report the results of the investigation to the Bureau by March 2, 2023.²¹ The Notice warned One Eye that a failure to comply with those obligations would result in the Bureau requiring all immediate downstream providers to block its traffic pursuant to section 64.1200(n)(5) and (6).²² One Eye has not responded to the letter or filed any report.²³

7. The Notice also determined that One Eye was associated with a previous recipient of a Bureau cease-and-desist letter, PZ/Illum Telecommunications.²⁴ The CEO of PZ/Illum Telecommunications, Prince Anand, apparently created One Eye following the Bureau’s enforcement efforts directed at that entity for transmitting suspected illegal calls.²⁵

III. DISCUSSION

8. The Commission’s rules require One Eye to investigate and block traffic identified by the Bureau after receiving a notification of suspected illegal traffic.²⁶ The rules also require One Eye to report the results of its investigation to the Bureau.²⁷ The rules direct the Bureau to provide at least 14 days for One Eye to comply with the Notice.²⁸ The Bureau issued the Notice on February 15, 2023.²⁹ The Notice required One Eye to take the following actions: 1) promptly investigate the transmissions identified in the Notice; 2) if One Eye’s investigation determines that One Eye served as the gateway provider for the identified transmissions, block all of the identified traffic within 14 days of the Notice and continue to block the identified traffic as well as substantially similar traffic on an ongoing basis; and

¹⁶ The ITG is the registered industry consortium selected pursuant to the TRACED Act to conduct tracebacks. *See Implementing Section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, EB Docket No. 20-22, Report and Order, DA 22-870, para. 40 (EB 2022); *see also* Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Pub. L. No. 116-105, 133 Stat. 3274, Sec. 13(d) (2019) (TRACED Act).

¹⁷ *See* ITG Subpoena Response.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *See id.*

²¹ Notice, *supra* note 7, at 3.

²² *Id.* at 3-4.

²³ The Notice also directed One Eye to investigate and mitigate the identified traffic within 48 hours, consistent with section 64.1200(k)(4). *Id.*; *see* 47 CFR § 64.1200(k)(4). One Eye did not meet that deadline either.

²⁴ Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Prince Anand, CEO, PZ/Illum Telecommunication (Oct. 21, 2022).

²⁵ *See* Notice, *supra* note 7, at 2.

²⁶ 47 CFR § 64.1200(n)(5).

²⁷ *Id.*

²⁸ *Id.*

²⁹ Notice, *supra* note 7, at 1.

3) within 14 days of the date of the Notice, report the results of One Eye's investigation to the Bureau.³⁰ The Notice required One Eye to respond by March 2, 2023.³¹ One Eye has not filed any response with the Bureau.

9. Accordingly, we direct One Eye to reply with a final response to this Initial Determination Order. The reply should provide an explanation as to why the Bureau should not issue a Final Determination Order that would result in all downstream providers being required to block *all* of One Eye's traffic.³² One Eye shall file its response with Bureau within 14 calendar days of the date of this Initial Determination Order. Failure to respond to this Initial Determination Order or submit a response providing a reasonable basis for why the identified traffic, or continued transmission of substantially similar traffic, is legal will result in the Bureau issuing a Final Determination Order.³³ The Final Determination Order will be published in EB Docket No. 22-174 and serve to notify all immediate downstream providers that they must block and cease accepting all traffic received directly from One Eye beginning 30 days after release of the Final Determination Order.³⁴

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i), 4(j), 227(b), 251(e), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i), 4(j), 227(b), 251(e), 403, and sections 0.111, 0.311, 1.1, 1.102(b)(1), and 64.1200 of the Commission's rules, 47 CFR §§ 0.111, 0.311, 1.1, 1.102(b)(1), 64.1200, and the *Gateway Provider Order*,³⁵ One Eye **SHALL FILE** a written final response to this Order **within 14 calendar days** from the release date of this Initial Determination Order.³⁶

11. The response must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, ATTN: Enforcement Bureau – Telecommunications Consumers Division. The response must also be e-mailed to Kristi Thompson, Division Chief, Telecommunications Consumers Division, at kristi.thompson@fcc.gov, and Daniel Stepanicich, Acting Assistant Division Chief, Telecommunications Consumers Division, at daniel.stepanicich@fcc.gov.

³⁰ *Id.* at 3. Section 64.1200(n)(5)(i)(A) states that the report should include a certification that the provider is blocking the traffic identified in the Notice and will continue to do so, as well as provide a description of the provider's plan to identify and block substantially similar traffic on an ongoing basis. 47 CFR § 64.1200(n)(5)(i)(A). Section 64.1200(n)(5)(i)(B) states that if the provider's investigation determined that the identified traffic is not illegal, the report must provide an explanation as to why the provider reasonably concluded that the identified traffic is not illegal and what steps it took to reach that conclusion. If the provider determined that it did not serve as the gateway provider for the identified traffic, the report must provide an explanation as to how the provider reached that conclusion and identify the upstream provider(s) from which the provider received the identified traffic. *Id.* § 64.1200(n)(5)(i)(B).

³¹ Notice, *supra* note 7, at 3.

³² See 47 CFR § 64.1200(n)(5)(ii)-(iii), (n)(6).

³³ *Id.* § 64.1200(n)(5)(iii).

³⁴ *Id.* § 64.1200(n)(6).

³⁵ *Gateway Provider Order*, *supra* note 4, at FCC 22-37, para. 72.

³⁶ 47 CFR § 64.1200(n)(5)(ii).

12. **IT IS FURTHER ORDERED** that copies of this Initial Determination Order shall be filed in EB Docket No. 22-174 and sent by email and registered mail, return receipt requested, to: Kaushal Bhavsar, CEO, One Eye LLC, 500 Delaware Ave., Suite #1-1960, Wilmington, DE 19899.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau