



PUBLIC NOTICE

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ENFORCEMENT BUREAU REQUESTS LETTERS OF INTENT TO BECOME THE REGISTERED INDUSTRY CONSORTIUM FOR TRACEBACKS

EB Docket No. 20-22

Letters of Intent Date: May 24, 2023.

Comment Date: June 8, 2023.

Reply Comments Date: June 15, 2023.

The Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) requires the Federal Communications Commission (Commission) 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.”¹ Commission rules require any new consortium that seeks to be selected as the single registered consortium to file a Letter of Intent to conduct private-led traceback efforts.² The incumbent is not required to file a Letter of Intent.³ The Commission’s rules require the Enforcement Bureau (Bureau) to issue a public notice, no later than April 28th of each year, seeking such registrations.⁴

By this Public Notice, the Bureau requests interested consortia to provide Letters of Intent in accordance with the Commission’s rules and the *Consortium Registration Order*. We also invite comment on those Letters of Intent.

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 efforts to trace back suspected unlawful robocalls.

¹ Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act), Pub. L. No. 116-105, § 13(d)(1), 133 Stat. 3274, 3287 (2019).

² 47 CFR § 64.1203(b).

³ *Id.* § 64.1203(c); see also *Implementing Section 13(d) of the Pallone-Thune Robocall Abuse Criminal Enforcement and Deterrence Act*, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 3113, 3116, para. 12 (2020) (*Consortium Registration Order*).

⁴ 47 CFR § 64.1203(a); see also *Consortium Registration Order*, 35 FCC Rcd at 3115, para. 9.

The Commission set forth a set of principles for the Bureau to use in selecting the registered consortium and to ensure that the registered consortium complies with the statutory requirements.⁵ The current registered consortium is USTelecom – The Broadband Association’s Industry Traceback Group (ITG).⁶

Letter of Intent Requirements. The TRACED Act requires that the Commission seek registrations for the traceback consortium on an annual basis.⁷ The Bureau requests interested consortia, other than the incumbent registered consortium, to provide Letters of Intent in accordance with the Commission’s rules and the *Consortium Registration Order*.⁸ The Letter of Intent must demonstrate that the interested consortium satisfies the statutory and regulatory 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 the participation of voice services providers 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 registered consortium.⁹ The Letter of Intent must also include a certification that, if selected to be the single 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.¹⁰ The Bureau will select

⁵ *Consortium Registration Order*, 35 FCC Rcd at 3117-22, paras. 15-29 (discussing the Commission’s interpretation of section 13(d) of the TRACED Act).

⁶ In 2020, ITG was the only applicant to file a Letter of Intent for the role of consortium. See Letter of Intent from Patrick Halley, Senior Vice President of Policy & Advocacy, USTelecom, and Jessica Thompson, Manager of Policy & Advocacy, USTelecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, EB Docket No. 20-22 (filed May 21, 2020) (USTelecom Letter of Intent). On July 27, 2020, the Bureau selected ITG as the registered consortium. 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, 35 FC Rcd 7886, 7886-87, para. 3 (EB 2020) (*2020 Consortium Selection Order*). In response to the Commission’s Annual Public Notice of 2021, ZipDX LLC (ZipDX) submitted a Letter of Intent to be designated as the registered consortium. See Letter of Intent from David Frankel, CEO, ZipDX LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, EB Docket No. 20-22 (filed May 27, 2021) (ZipDX 2021 Letter of Intent). On August 21, 2021, after thorough consideration, the Bureau retained the ITG as the registered consortium. 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, 36 FCC Rcd 12782, 12782 para. 1 (EB 2021) (*2021 Consortium Selection Order*). In response to the Commission’s Annual Public Notice of 2022, ZipDX submitted a Letter of Intent to be designated as the registered consortium. See Letter of Intent from David Frankel, CEO, ZipDX LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, EB Docket No. 20-22 (filed May 20, 2022) (*ZipDX 2022 Letter of Intent*). ZipDX withdrew its 2022 Letter of Intent on July 25, 2022. See Letter from David Frankel, CEO, ZipDX LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, EB Docket No. 20-22 (filed July 25, 2022) (ZipDX Withdrawal Letter). On August 22, 2022, after consideration of all the statutory requirements and commenters’ input, the Bureau selected the incumbent ITG as the registered consortium. 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 at 1 (EB 2022) (*2022 Consortium Selection Order*).

⁷ See TRACED Act § 13(d)(2).

⁸ See 47 CFR § 64.1203(b); *Consortium Registration Order*, 35 FCC Rcd at 3115, paras. 10-11.

⁹ See 47 CFR § 64.1203(b)(1)-(4); *Consortium Registration Order*, 35 FCC Rcd at 3115, para. 11.

¹⁰ See 47 CFR § 64.1203(b)(5); see also *Consortium Registration Order*, 35 FCC Rcd at 3116, para. 13.

as the single registered consortium, the entity that best meets these requirements and the principles the Commission identified in the *Consortium Registration Order*.¹¹

The incumbent registered consortium does not need to file a new Letter of Intent.¹² 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 May 24, 2023.¹³ If any entity files a Letter of Intent, the Bureau seeks comment on each of the applicants, including the incumbent (see instructions below). The Bureau will select the single registered consortium by August 22, 2023.

Registration Process. Letters of Intent must be submitted electronically via ECFS (<https://www.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 at 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.¹⁴

Deadline to Submit Letters of Intent. May 24, 2023.

Ex Parte Rules. The proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules.¹⁵ Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in their prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the Commission's rules, or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.¹⁶

Request for Comments and Reply Comments on Selection of Traceback Consortium. The Bureau invites interested parties to comment on the submission of Letters on Intent filed by interested consortia,

¹¹ See *Consortium Registration Order*, 35 FCC Rcd at 3117-21, paras. 15-28.

¹² See 47 CFR § 64.1203(c).

¹³ *Id.*

¹⁴ *Id.* § 0.459.

¹⁵ *Id.* §§ 1.1200 et seq.

¹⁶ *Id.* § 1.49(f).

as well as on the continuation of USTelecom ITG as the single registered consortium. Interested parties may file comments on or before June 8, 2023, and reply comments on or before June 15, 2023.

Submission Process. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).¹⁷

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- 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 45 L Street, NE, 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-19.¹⁸

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Deadline to Submit Comments. June 8, 2023.

Deadline to Submit Reply Comments. June 15, 2023.

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

¹⁷ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (May 1, 1998).

¹⁸ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>; see also FCC, *How to File Paper Documents with the FCC*, (June 1, 2021), <https://www.fcc.gov/reports-research/guides/how-file-paper-documents-fcc> (“Once our COVID restrictions are lifted we will ONLY accept hand deliveries at our Annapolis Junction address.”).