



**REPORT TO CONGRESS**

**ON**

**ROBOCALLS AND TRANSMISSION OF MISLEADING OR INACCURATE  
CALLER IDENTIFICATION INFORMATION**

**Prepared by the:**

**Enforcement Bureau, Consumer and Governmental Affairs Bureau, and  
Wireline Competition Bureau**

**Submitted pursuant to Sections 3, 11, and 13 of the Pallone-Thune Telephone Robocall  
Abuse Criminal Enforcement and Deterrence Act**

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### I. INTRODUCTION

The Federal Communications Commission (FCC or Commission) files this report pursuant to Sections 3, 11, and 13 of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act).<sup>1</sup> Section 3 of the TRACED Act amended the Telephone Consumer Protection Act (TCPA) and the Truth in Caller ID Act in several respects.<sup>2</sup> This report provides the information that section 3 requires, including data regarding informal consumer complaints that the Commission received during the preceding five full calendar years (2016-2020), and Commission enforcement actions during the preceding calendar year (2020). We also provide additional informal consumer complaint data and information about Commission enforcement actions through November 30, 2021.

Sections 11 and 13 address certain Commission and private industry actions with respect to illegal robocalls as defined in 47 U.S.C. §§ 227(b) and (e), including unsolicited calls using an artificial or prerecorded voice message, often referred to as “robocalls.”<sup>3</sup> For Sections 11 and 13, this report covers the period from December 1, 2020 through November 30, 2021.

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<sup>1</sup> Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Pub. L. No. 116-105, 133 Stat. 3274 (2019) (TRACED Act). The Commission consulted with the Federal Trade Commission on this report, as provided in section 3 of the TRACED Act.

<sup>2</sup> Pub. L. No. 102-243, 105 Stat. 2394 (1991); Pub. L. No. 111-331, 124 Stat. 3572 (2010). These two statutes are codified in section 227 of the Communications Act of 1934 and are designed to protect consumers from unsolicited, unlawful calls and facsimiles by restricting autodialed or pre-recorded message calls and unsolicited facsimiles, and by minimizing transmission of misleading or inaccurate caller ID information. *See* 47 U.S.C. §§ 227(b)-(e).

<sup>3</sup> *See* 47 U.S.C. §§ 227(b) and (e).

## II. TELEPHONE CONSUMER PROTECTION ACT

Section 227(b) restricts calls using an automatic telephone dialing system or an artificial or prerecorded voice.<sup>4</sup> It prohibits calls to residential phones if the call uses an artificial or prerecorded voice message, unless the called party consents or the call is for an emergency purpose or falls within any other enumerated exception, including any exemption adopted by a rule or order of the Commission.<sup>5</sup> Section 227(b) also prohibits calls made using an automatic telephone dialing system or an artificial or prerecorded voice to other types of phone lines, including calls to mobile telephone numbers, unless the called party consents or the call is for an emergency purpose or falls within any other enumerated exception (including an exemption adopted by the Commission).<sup>6</sup> Absent coverage by a relevant exception, such calls are illegal robocalls. The provision also places restrictions on unsolicited advertisements to facsimile machines, known as “junk faxes.”<sup>7</sup>

Section 227(c) directs the Commission to initiate a rulemaking proceeding to protect residential telephone subscribers’ privacy rights to avoid receiving telephone solicitations to which they object. The section also provides a private right of action to persons who receive more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the Commission’s regulations implementing the TCPA.<sup>8</sup>

Section 227(d) prohibits using a telephone facsimile machine, or automatic telephone dialing system, that does not comply with the technical and procedural standards outlined in the Commission’s regulations implementing the TCPA. This section prohibits the use of a computer or other electronic device to send any message via a telephone facsimile machine unless the sender clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it is sent, an identification of the entity sending the message, and the telephone number of the sending machine or the entity.<sup>9</sup> This section also requires that all artificial or prerecorded telephone messages shall clearly state at the beginning of the call the identity of the entity initiating the call, and during or after the call the telephone number or address of the entity.<sup>10</sup>

## III. TRUTH IN CALLER ID ACT

Section 227(e), also known as the Truth in Caller ID Act, prohibits “caus[ing] any caller identification service” in connection with any IP-enabled voice service or telecommunications service to

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<sup>4</sup> 47 U.S.C. § 227(b)(1)(A).

<sup>5</sup> 47 U.S.C. § 227(b)(1)(B).

<sup>6</sup> 47 U.S.C. § 227(b)(1)(A). The Commission has held that “calls” to mobile phones include both voice calls and text messages. *See Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014, 14115, para. 165 (2003) (*2003 TCPA Order*).

<sup>7</sup> *See* 47 U.S.C. § 227(b)(1)(C). Under this provision unsolicited advertisements to facsimile machines are prohibited unless the party receiving the facsimile has a preexisting business relationship with the sender, has consented to receive the facsimile, or has agreed to make available its facsimile number for public distribution. However, there are limitations to these exceptions.

<sup>8</sup> 47 U.S.C. § 227(c)(1) and (5).

<sup>9</sup> 47 U.S.C. § 227(d)(1).

<sup>10</sup> 47 U.S.C. § 227(d)(3).

“knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value[.]”<sup>11</sup> Such practices are known as illegal “spoofing.”

#### **IV. SECTION 3 OF THE TRACED ACT**

Section 3 of the TRACED Act amends the TCPA and the Truth in Caller ID Act in several respects that affect Commission enforcement. First, section 3 removes the requirement that the Commission issue a citation, or warning, pursuant to section 503(b)(5) of the Communications Act before the Commission may propose a monetary forfeiture under section 227(b).<sup>12</sup> Second, section 3 prescribes an additional potential monetary penalty for violations of section 227(b) if the Commission determines that the person acted “with the intent to cause such violation.”<sup>13</sup> Third, section 3 sets a four-year statute of limitations period in which the Commission may take enforcement action against intentional violations of section 227(b); previously the statute of limitations was one year.<sup>14</sup> Fourth, section 3 sets a four-year statute of limitations period in which the Commission may take enforcement action against violations of section 227(e); previously the statute of limitations was two years.<sup>15</sup> On May 1, 2020, the Commission released an order amending section 1.80 of its rules in accordance with the amendments that section 3 made to sections 227(b) and 227(e) of the Communications Act.<sup>16</sup>

Section 3 also adds new subsection 227(h) of the Communications Act, which requires the Commission to submit an annual report to Congress, following consultation with the Federal Trade Commission.<sup>17</sup> The information required by section 227(h) is provided below:<sup>18</sup>

##### **A. The Number of Consumer Complaints Alleging a Violation of 227(b)-(e)**

From January 1, 2016 through November 30, 2021, the Commission has received 365,867 informal consumer complaints alleging a violation of 227(b), 652,955 informal consumer complaints alleging a violation of 227(c), 253,489 informal consumer complaints alleging a violation of 227(d) and 254,714 informal consumer complaints alleging a violation of 227(e).

The chart below provides the total number of informal consumer complaints received by the Commission by calendar year alleging violations of 227(b) through 227(e) from January 1, 2016 through November 30, 2021. It is important to note that one complaint may contain several violations covered by

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<sup>11</sup> 47 U.S.C. § 227(e)(1); *see also* 47 CFR § 64.1604. The prohibition does not apply to “[l]awfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States; or [to a]ctivity engaged in pursuant to a court order that specifically authorizes the use of caller identification manipulation.” 47 CFR § 64.1604(b); *see also* 47 U.S.C. § 227(e)(3)(B)(ii); 47 U.S.C. § 227(e)(7).

<sup>12</sup> *See* TRACED Act § 3(a)(1), 133 Stat. at 3274 (adding 47 U.S.C. § 227(b)(4)(A), which makes section 503(b)(5) inapplicable to violations of section 227(b)).

<sup>13</sup> *Id.* (adding 47 U.S.C. § 227(b)(4)(B)). Such amounts are recoverable under section 504(a) of the Communications Act. *See* 47 U.S.C. § 504(a).

<sup>14</sup> *Id.*, 133 Stat. at 3275 (adding 47 U.S.C. § 227(b)(4)(E)(ii)); *see* 47 CFR § 1.80(c)(4).

<sup>15</sup> *Id.* § 3(a)(2), 133 Stat. at 3275 (amending 47 U.S.C. § 227(e)(5)(A)(iv)); *see* 47 CFR § 1.80(c)(3).

<sup>16</sup> *See Amendment of Section 1.80 of the Commission’s Rules; Implementing Section 3 of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, Order, 35 FCC Rcd 4476, para. 6 (EB 2020).

<sup>17</sup> TRACED Act § 3(a)(3), 133 Stat. at 3275-76 (adding 47 U.S.C. § 227(h)).

<sup>18</sup> *See* 47 U.S.C. § 227(h)(2).

227 (b)-(e) and may be counted multiple times. For example, complaints alleging spoofed caller ID prohibited under 227(e) may also be robocall violations under 227(b) or Do Not Call violations under 227(c) and thus might be listed up to three times in the following chart.

<b>Year</b>	<b>227(b)</b> Restrictions on use of automated telephone equipment	<b>227(c)</b> Restrictions on sales calls made to residential telephone numbers	<b>227(d)</b> Restrictions on communications made using facsimile machines	<b>227(e)</b> Prohibition on provision of misleading or inaccurate caller identification information
2016	40,694	79,015	47,081	12,169
2017	84,978	136,845	68,562	26,199
2018	100,104	146,730	47,915	38,397
2019	58,797	106,698	34,992	70,866
2020	38,657	92,043	27,937	53,763
2021*	42,637	91,624	27,002	53,320

\*2021 informal consumer complaint numbers through November 30, 2021.

**B. Citations to enforce § 227(d)**

The Commission did not issue any citations to enforce § 227(d) during the preceding calendar year (2020).<sup>19</sup>

**C. Notices of Apparent Liability for Forfeiture**

The Commission issued two notices of apparent liability during the preceding calendar year (2020) to enforce §§ 227(b)-(e).

1. *Scott Rhodes*.—On January 31, 2020, the Commission proposed a forfeiture of \$12,910,000 for apparent violations of the Truth in Caller ID Act. Scott Rhodes (Rhodes) apparently made more than 6,000 unlawful spoofed robocalls between May 2018 and December 2018.<sup>20</sup> Rhodes apparently altered his caller ID information to appear as local numbers as part of his campaign to send provocative prerecorded voice message calls. The Commission identified six distinct calling campaigns, each of which targeted voters in districts during political campaigns or residents in communities that had experienced major news events relating to or involving white nationalism, immigration, or other public controversies.
2. *John C. Spiller; Jakob A. Mears; Rising Eagle Capital Group LLC; JSquared Telecom LLC; Only Web Leads LLC; Rising Phoenix Group; Rising Phoenix Holdings; RPG Leads; and Rising*

<sup>19</sup> Section 3 of the TRACED Act removed the requirement that the Commission issue a citation, or warning, pursuant to section 503(b)(5) of the Communications Act before the Commission may propose a monetary forfeiture under section 227(b). See TRACED Act § 3(a)(1), 133 Stat. at 3274 (adding 47 U.S.C. § 227(b)(4)(A)).

<sup>20</sup> See *Scott Rhodes a.k.a. Scott David Rhodes, Scott D. Rhodes, Scott Platek, Scott P. Platek*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 882, 882 (2020).

*Eagle Capital Group – Cayman.*—On June 10, 2020, the Commission proposed the largest fine in FCC history: \$225,000,000. John C. Spiller and Jakob A. Mears, doing business under the names Rising Eagle Capital Group LLC, JSquared Telecom LLC, Only Web Leads LLC, Rising Phoenix Group, Rising Phoenix Holdings, RPG Leads, and Rising Eagle Capital Group – Cayman (collectively, Rising Eagle), made approximately one billion spoofed robocalls in the first four-and-a-half months of 2019 with the apparent intent to defraud, cause harm, and wrongfully obtain something of value in apparent violation of the Truth in Caller ID Act.<sup>21</sup>

The Commission issued one notice of apparent liability between January 1, 2021 and November 30, 2021 to enforce §§ 227(b)-(e).

1. *John M. Burkman, Jacob Alexander Wohl, and J.M. Burkman & Associates LLC*— On August 24, 2021, the Commission issued a Notice of Apparent Liability for Forfeiture proposing a \$5,134,500 fine against John M. Burkman, Jacob Alexander Wohl, and J.M. Burkman & Associates LLC for apparently making 1,141 unlawful robocalls to wireless phones without prior express consent in violation of the TCPA.<sup>22</sup> This was the first case in which the Commission used the TRACED Act’s authorization to issue a Notice of Apparent Liability for Forfeiture for apparent TCPA violations without first issuing a citation.

#### **D. Forfeiture Orders**

The Commission issued two forfeiture orders during the preceding calendar year (2020) for violations of §§ 227(b)-(e).

1. *Affordable Enterprises of Arizona, LLC.*—On October 28, 2020, the Commission issued an order imposing a \$37,525,000 forfeiture on Affordable Enterprises of Arizona, LLC (Affordable) for making unlawfully spoofed telemarketing calls to consumers throughout Arizona—many of whom had placed their numbers on the National Do Not Call Registry to avoid unwanted telemarketing calls—in violation of the Truth in Caller ID Act.<sup>23</sup> When making the calls, Affordable did not transmit the actual originating phone number.<sup>24</sup> Instead, Affordable displayed the caller ID information of: (1) numbers that were assigned to prepaid wireless phones, for which the subscriber information was not available; (2) numbers that were unassigned (i.e., not in use by any consumer); or (3) numbers that were assigned to consumers who had no affiliation or relationship with Affordable.<sup>25</sup> Over a 14-month period spanning 2016 and 2017, Affordable made 2,341,125 unlawful spoofed telemarketing calls.<sup>26</sup> Calls were made by spoofing numbers that were, at the time of the calls, either unassigned or assigned to innocent consumers—leaving such individuals vulnerable to scores of angry callbacks from other consumers whom Affordable

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<sup>21</sup> See *John C. Spiller; Jakob A. Mears; Rising Eagle Capital Group LLC; JSquared Telecom LLC; Only Web Leads LLC; Rising Phoenix Group; Rising Phoenix Holdings; RPG Leads; and Rising Eagle Capital Group – Cayman*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 5948, 5948 (2020).

<sup>22</sup> See *John M. Burkman, Jacob Alexander Wohl, and J.M. Burkman & Associates LLC*, Notice of Apparent Liability for Forfeiture, FCC 21-97 (Aug. 24, 2021).

<sup>23</sup> See *Affordable Enterprises of Arizona, LLC*, Forfeiture Order, 35 FCC Rcd 12142, 12143 (2020).

<sup>24</sup> See *id.*

<sup>25</sup> See *id.*

<sup>26</sup> See *id.*

had targeted with unwanted marketing messages while effectively shielding itself from their complaints.<sup>27</sup>

2. *Kenneth Moser dba Marketing Support Systems*.—On November 19, 2020, the Commission issued an order imposing a \$9,997,750 forfeiture on Kenneth Moser (Moser), doing business as Marketing Support Systems, for violating section 227(e) of the Communications Act of 1934, as amended,<sup>28</sup> and section 64.1604 of the Commission’s rules.<sup>29</sup> Moser admitted to intentionally spoofing a phone number assigned to HomeyTel Network (HomeyTel), a long-time business rival.<sup>30</sup> Moser used HomeyTel’s number to transmit 47,610 unlawful prerecorded voice calls (i.e., robocalls) to communicate accusations regarding a candidate for an open California State Assembly seat, Mr. Philip Graham (Graham). Moser was not authorized to use HomeyTel’s phone number. Moser has had a long and contentious relationship with HomeyTel and that company’s founder and current manager, Conrad Braun (Braun). As a result of the spoofed robocalls, Braun and HomeyTel received a multitude of complaints from call recipients as well as a cease-and-desist letter from Graham that threatened “imminent litigation.”<sup>31</sup>

The Commission issued two forfeiture orders between January 1, 2021 and November 30, 2021 for violations of §§ 227(b)-(e).

1. *Scott Rhodes*.—On January 14, 2021, the Commission issued a forfeiture of \$9,918,000 for violations of the Truth in Caller ID Act. Scott Rhodes (Rhodes) made 4,959 unlawful spoofed robocalls between May 2018 and December 2018.<sup>32</sup> Rhodes altered his caller ID information to appear as local numbers as part of his campaign to send provocative prerecorded voice message calls. The Commission found that Rhodes made unlawfully spoofed robocalls in five out of six distinct calling campaigns, each of which targeted voters in districts during political campaigns or residents in communities that had experienced major news events relating to or involving white nationalism, immigration, or other public controversies.
2. *John C. Spiller; Jakob A. Mears; Rising Eagle Capital Group LLC; JSquared Telecom LLC; Only Web Leads LLC; Rising Phoenix Group; Rising Phoenix Holdings; RPG Leads; and Rising Eagle Capital Group – Cayman*.—On March 18, 2021, the Commission issued the largest forfeiture in FCC history: \$225,000,000. John C. Spiller and Jakob A. Mears, doing business under the names Rising Eagle Capital Group LLC, JSquared Telecom LLC, Only Web Leads LLC, Rising Phoenix Group, Rising Phoenix Holdings, RPG Leads, and Rising Eagle Capital Group – Cayman (collectively, Rising Eagle), made approximately one billion spoofed robocalls in the first four-and-a-half months of 2019 with the intent to defraud, cause harm, and wrongfully obtain something of value in violation of the Truth in Caller ID Act.<sup>33</sup>

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<sup>27</sup> See *id.*

<sup>28</sup> 47 U.S.C. § 227(e).

<sup>29</sup> 47 CFR § 64.1604.

<sup>30</sup> See *Kenneth Moser dba Marketing Support Systems*, Forfeiture Order, 35 FCC Rcd 13415, 13416 (2020).

<sup>31</sup> See *id.*

<sup>32</sup> See *Scott Rhodes a.k.a. Scott David Rhodes, Scott D. Rhodes, Scott Platek, Scott P. Platek*, Forfeiture Order, 36 FCC Rcd 705, 705 (2021).

<sup>33</sup> See *John C. Spiller; Jakob A. Mears; Rising Eagle Capital Group LLC; JSquared Telecom LLC; Only Web Leads LLC; Rising Phoenix Group; Rising Phoenix Holdings; RPG Leads; and Rising Eagle Capital Group – Cayman*, Forfeiture Order, 36 FCC Rcd 6225, 6225-26 (2021).

## **E. Forfeiture penalties and criminal fines collected**

The Commission does not collect criminal fines for violations of section 227.

If a party fails to pay a forfeiture, we refer the matter to the U.S. Department of Justice for further enforcement action. We have referred to the Department of Justice forfeiture orders involving violations of section 227 by *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc. (Abramovich)*, *Philip Roesel, dba Wilmington Insurance Quotes, and Best Insurance Contracts, Inc. (Roesel)*, *Affordable Enterprises of Arizona, LLC*, and *Scott Rhodes a.k.a. Scott David Rhodes, Scott D. Rhodes, Scott Platek, Scott P. Platek (Rhodes)*.<sup>34</sup> During calendar year 2020, the Attorney General did not collect any forfeiture penalties or criminal fines for violations of section 227 cases that the Commission has referred. We lack knowledge about the U.S. Department of Justice's collections beyond those cases.<sup>35</sup>

## **F. Proposals for reducing the number of unlawful calls**

The Commission has proposed and implemented a broad range of actions to combat illegal and unwanted robocalls made in violation of §§ 227(b)-(e), with a focus on giving consumers and carriers the tools necessary to block unwanted robocalls. Below, we highlight the actions the Commission has taken on this between January 1, 2021 and November 30, 2021.

1. *Protecting Consumers and Callers from Misdirected Robocalls to Reassigned Numbers.*—On November 1, 2021, the Commission launched the Reassigned Numbers Database (RND or Database) to protect consumers against unwanted robocalls.<sup>36</sup> Callers and caller agents can now subscribe to and query the RND to determine whether a telephone number has been reassigned from the consumer they intend to reach, thus allowing them to avoid calling consumers who received reassigned numbers and who may not wish to receive the call – a problem that consumers and responsible callers have complained about for years.<sup>37</sup> Callers who establish that they consulted the Database prior to making a call may qualify for a safe harbor from TCPA liability.<sup>38</sup> This Database protects both consumers from receiving unwanted calls and legitimate callers from inadvertently placing calls to the wrong consumer.
2. *Combating Illegal Spoofing.*—Caller ID authentication technology, such as STIR/SHAKEN, helps Americans identify scams and verify who is calling. The benefits of caller ID authentication are substantial: voice service providers and their subscribers can know that callers are who they say they are, thereby reducing the risk of fraud and ensuring that callers can be held accountable for their calls. Its widespread implementation reduces the effectiveness of illegal spoofing,

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<sup>34</sup> *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4668, (2017) (Abramovich Forfeiture Order); *Best Insurance Contracts, Inc., and Philip Roesel, dba Wilmington Insurance Quotes*, Forfeiture Order, 33 FCC Rcd 9204, 9218-19, (2018) (Roesel Forfeiture Order).

<sup>35</sup> On October 20, 2021, the Department of Justice filed a complaint against Scott Rhodes in D.C. District Court. See Press Release, DOJ, Department of Justice Files Suit to Recover Forfeiture Penalty for Nearly 5,000 Illegally Spoofed Robocalls (Oct. 21, 2021), <https://www.justice.gov/opa/pr/departments-justice-files-suit-recover-forfeiture-penalty-nearly-5000-illegally-spoofed>.

<sup>36</sup> Press Release, FCC, FCC announces launch of reassigned numbers database on November 1, 2021 to reduce unwanted calls (November 1, 2021), <https://docs.fcc.gov/public/attachments/DOC-376867A1.pdf>.

<sup>37</sup> The RND is located at [www.reassigned.us](http://www.reassigned.us).

<sup>38</sup> *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Second Report and Order, 33 FCC Rcd 12024, 12043, para. 55 (2018) (*Reassigned Numbers Order*).



allowing law enforcement to identify bad actors more easily, and helps voice service providers identify calls with illegally spoofed caller ID information before those calls reach their subscribers.

The Commission rules adopted pursuant to the TRACED Act required voice service providers to implement STIR/SHAKEN on the internet protocol (IP) portions of their networks by June 30, 2021,<sup>39</sup> with additional implementation time for certain categories of voice service providers that face undue hardship.<sup>40</sup> The Commission also required voice service providers with non-IP technology to either upgrade their non-IP networks to IP and implement STIR/SHAKEN, or work to develop a non-IP caller ID authentication solution.<sup>41</sup> And intermediate providers must pass through any caller ID authentication information without alteration (with two narrow exceptions), and must either implement STIR/SHAKEN and authenticate caller ID information for unauthenticated calls that they receive or respond fully and in a timely manner to all traceback requests they receive from the Commission, law enforcement, and the industry traceback consortium regarding calls for which they act as an intermediate provider.<sup>42</sup> Voice service providers that received additional implementation time and have not implemented STIR/SHAKEN on their entire network must have in place a robocall mitigation program until they implement the caller ID authentication technology.<sup>43</sup>

All voice service providers were required to file certifications in the publicly-accessible Robocall Mitigation Database by June 30, 2021, certifying either that they have fully implemented STIR/SHAKEN or that they are entitled to additional implementation time and have implemented a robocall mitigation program.<sup>44</sup> Parties implementing a robocall mitigation program were required to provide a detailed description of their mitigation practices in their certifications.<sup>45</sup> Starting September 28, 2021, intermediate providers and terminating voice service providers were prohibited from accepting traffic directly from voice service providers not listed in the Robocall Mitigation Database.<sup>46</sup>

Recent actions advance the Commission's ongoing work to protect Americans from illegal robocalls with caller ID authentication. On December 9, 2021, the Commission adopted a *Fourth Report and Order* shortening the STIR/SHAKEN implementation extension for a subset of small voice service providers the Commission determined are the most likely to be the source of illegal

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<sup>39</sup> 47 CFR § 64.6301.

<sup>40</sup> 47 CFR § 64.6304. The Commission granted categorical extensions to small voice service providers (defined as those with less than 100,000 voice service subscriber lines), voice service providers that cannot obtain an SPC token necessary to participate in STIR/SHAKEN, for services scheduled for section 214 discontinuance, and for those portions of a voice service provider's network that rely on non-IP technology that cannot initiate, maintain, and terminate a SIP call. *Id.*

<sup>41</sup> 47 CFR § 64.6303.

<sup>42</sup> 47 CFR § 64.6302.

<sup>43</sup> 47 CFR § 64.6305(a)(1).

<sup>44</sup> 47 CFR § 64.6305(b).

<sup>45</sup> 47 CFR § 64.6305(b)(2).

<sup>46</sup> 47 CFR § 64.6305(c).

robocalls.<sup>47</sup> On August 5, 2021, the Commission adopted a *Third Report and Order* that established an appeals process for voice service providers aggrieved by a decision of the private STIR/SHAKEN Governance Authority that would have the effect of placing them out of compliance with the Commission’s STIR/SHAKEN rules.<sup>48</sup>

On September 30, 2021, the Commission adopted a *Fourth Further Notice of Proposed Rulemaking* proposing to require gateway providers—i.e., the first U.S.-based providers in the call path for calls that originate abroad—to apply STIR/SHAKEN to, and perform robocall mitigation on, foreign-originated calls with U.S. numbers.<sup>49</sup> This proposal would subject foreign-originated calls, once they enter the U.S., to requirements similar to those of domestic-originated calls.<sup>50</sup> *The Fourth Further Notice of Proposed Rulemaking* also proposed requiring mandatory call blocking for gateway providers that receive notice from the Commission’s Enforcement Bureau.<sup>51</sup>

We recommend continuing to advance the implementation of STIR/SHAKEN caller ID authentication technology across the voice network and explore new ways to leverage this technology to protect Americans from unlawful calls, and especially calls with unlawfully spoofed caller ID information.

3. *Imposing Obligations on Providers to Stop Illegal Robocalls and Text Messages.*—On June 29, 2021, the Commission released its second annual report on robocall blocking tools.<sup>52</sup> The report found that many voice service providers and third-party analytics companies offer improved call blocking services to their customers to protect them from illegal and unwanted calls but that robocalls remain a substantial consumer problem. Thus, the Commission has taken further steps to improve upon its past work in protecting consumers from illegal and unwanted robocalls.

Illegal robocalls that originate abroad, and the difficulties of reaching foreign-based robocallers, present one of the most vexing challenges facing the Commission. On September 30, 2021, the Commission adopted a *Further Notice of Proposed Rulemaking* that would require gateway providers that are the point of entry for foreign calls into the United States to take part in the fight against illegal robocalls originating abroad.<sup>53</sup> Specifically, the proposals in the *Further Notice* would, among other things, implement mandatory blocking requirements

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<sup>47</sup> See *Call Authentication Trust Anchor*, WC Docket No. 17-97, *Third Further Notice of Proposed Rulemaking*, 36 FCC Rcd 8827 (2021).

<sup>48</sup> *Call Authentication Trust Anchor; Appeals of the STIR/SHAKEN Governance Authority Token Revocation Decisions*, WC Docket Nos. 17-97 and 21-291, *Third Report and Order*, FCC 21-93 (Aug. 6, 2021).

<sup>49</sup> *Advanced Methods to Target and Eliminate Unlawful Robocalls; Call Authentication Trust Anchor*, CG Docket No. 17-59 and WC Docket No. 17-97, *Fifth Further Notice of Proposed Rulemaking* in CG Docket No 17-59 and *Fourth Further Notice of Proposed Rulemaking* in WC Docket No. 17-97, FCC 21-105, at 2, para. 2 (Oct. 1, 2021) (“Advanced Methods to Target and Eliminate Unlawful Robocalls”).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.* at 22, para 57.

<sup>52</sup> Press Release, FCC, *FCC Releases Second Annual Report On Robocall Blocking Tools* (Jun. 29, 2021), <https://www.fcc.gov/document/fcc-releases-second-annual-report-robocall-blocking-tools>.

<sup>53</sup> See *Further Notice of Proposed Rulemaking, Targeting Gateway Providers to Combat Illegal Robocalls* (Oct. 1, 2021), <https://www.fcc.gov/document/fcc-proposes-rules-stop-illegal-robocalls-entering-us>.

for both gateway providers and the U.S.-based provider that receives the call from the gateway provider, require gateway providers to respond to traceback requests within 24 hours, and require that gateway providers confirm that a foreign call originator that uses a U.S. telephone number is authorized to use that number.<sup>54</sup> These proposals are an important new step as the Commission considers how to improve its aggressive and multi-pronged approach to combatting illegal robocalls.

Robocallers, however, are increasingly moving away from voice calls and toward other technologies in their attempts to defraud consumers. In 2020 alone, the Commission received approximately 14,000 consumer complaints about unwanted text messages, representing an almost 146% increase from the number of complaints the year before. Thus far in 2021, the Commission has received over 9,800 consumer complaints about unwanted texts. On October 18, 2021, then Acting Chairwoman Rosenworcel circulated a proposal that would require mobile wireless providers to block text messages if the provider determines that a text is highly likely to be illegal based on reasonable analytics, building on the agency's ongoing work to stop illegal and unwanted robocalls.

4. *Protecting Critical Facilities from Illegal Robocalls* –Public Safety Answering Points (PSAPs) and hospitals are essential to public safety. In order to protect the communication lines of these facilities, the Commission has adopted proposals to protect them from illegal robocalls.

Robocalls to hospitals are significant contributors to the illegal robocall problem. Illegal robocalls that flood hospital networks are disruptive and often seek to perpetrate fraud, but they also pose a grave challenge to public health and safety.<sup>55</sup> Unlawful robocalls undermine the ability of hospitals to perform critical patient care by impairing the full operational capacity and availability of the voice services that health care professionals rely on to perform their life-saving functions. Therefore, on June 11, 2021, the Consumer and Governmental Affairs Bureau, pursuant to section 14 of the TRACED Act, concluded its assessment of how voluntary adoption by hospitals and other stakeholders of the best practices issued by the Hospital Robocall Protection Group (HRPG) can be facilitated to protect hospitals and other institutions from unlawful robocalls.<sup>56</sup>

Robocalls to PSAPs pose another serious threat to public safety. Such calls can tie up public safety lines, divert critical first responder resources from emergency services, and impede the public's access to emergency lines. As a result, the Commission took steps in 2021 to protect PSAPs from illegal robocalls. Specifically, the Commission on September 30, 2021, adopted a Further Notice of Proposed Rulemaking that proposes to require that voice service providers block autodialed calls made to PSAP telephone numbers included on the PSAP Do-Not-Call

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<sup>54</sup> *Id.* at 21-30, paras. 52-86.

<sup>55</sup> See *Legislating to Stop the Onslaught of Annoying Robocalls: Hearing Before the Subcommittee on Communications and Technology of the H. Comm. On Energy and Commerce*, 116th Cong. 12 (2019), <https://www.govinfo.gov/content/pkg/CHRG-116hhrg39858/pdf/CHRG-116hhrg39858.pdf> (statement of Dave Summitt, Chief Information Security Officer, H. Lee Moffitt Cancer Center & Research Institute).

<sup>56</sup> See *FCC Concludes Assessment of Best Practices to Combat Unlawful Robocalls to Hospitals* Public Notice, 36 FCC Rcd 9479, 9515 (CGB 2021), <https://www.fcc.gov/document/fcc-assesses-best-practices-combat-unlawful-robocalls-hospitals>.

registry.<sup>57</sup> This proposal would protect PSAPs from illegal robocalls while resolving security issues related to the current structure of the PSAP Do-Not-Call registry. The Commission is currently reviewing the record in response to this proposal.

**G. Analysis and Recommendations Regarding the Contribution of Voice over Internet Protocol Service Providers that Discount High Volume, Unlawful, Short Duration Calls**

The Commission’s experience tracing back the origins of unlawful call traffic indicates that a disproportionately large number of calls originate from Voice over Internet Protocol (VoIP) providers, particularly non-interconnected VoIP providers.<sup>58</sup> Moreover, the Industry Traceback Group has found that high-volume, rapid-fire calling is a cost-effective way to find susceptible targets, although it does not collect data about which robocall originators are VoIP providers.<sup>59</sup>

Declining call costs over the past few decades have eliminated financial barriers to entry for would-be robocallers. Fifty years ago, domestic call rates were 25 to 50 cents per minute, and international calls cost a dollar or more per minute, with providers rounding up to the nearest minute to calculate costs.<sup>60</sup> Today, wholesale rates to U.S. mobile phones are less than a penny per minute and are accessible virtually worldwide.<sup>61</sup> Short-duration calls became popular after providers introduced six-second billing as an alternative to rounding up, as a way to become more competitive with other providers.<sup>62</sup> This approach made short duration calls much less expensive, leading to a cottage industry of VoIP providers specializing in “dialer traffic.”<sup>63</sup> These providers compete with each other on thin margins, often with minimal staff, rented servers, online sign-ups, and virtual offices, to generate high

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<sup>57</sup> *Implementation of the Middle Class Tax Relief and Job Creation Act of 2012; Establishment of a Public Safety Answering Point Do-Not-Call Registry; Enhancing Security of Public Safety Answering Point Communications*, Notice of Proposed Rulemaking, FCC 21-108 (Oct. 1, 2021), <https://www.fcc.gov/document/fcc-moves-shield-911-call-centers-robocalls-0>.

<sup>58</sup> Voice over Internet Protocol (VOIP) refers to the technology that allows people to make voice calls over IP networks in real time. Interconnected VOIP and non-interconnected VoIP services enable real-time two-way voice communications that originate from or terminate to the user’s location using internet protocol, but typically only interconnected VoIP services originate and/or terminate using the public switched telephone network. See 47 U.S.C. § 153(25) and (36); 47 CFR § 9.3.

<sup>59</sup> Affidavit of Joshua M. Bercu, Vice President of Policy and Advocacy for USTelecom – The Broadband Association at 1 (Dec. 2, 2020) (Bercu Aff.).

<sup>60</sup> Calls to and from developing nations were even more expensive. The first minute often cost more, and all calls were rounded up to the next minute.

<sup>61</sup> Bercu Aff. at 1.

<sup>62</sup> Bercu Aff. at 1.

<sup>63</sup> The Commission has found that access stimulation or “traffic pumping” occurs when a local exchange carrier with high switched access rates enters into an arrangement with a provider of high call volume operations, such as chat lines, adult entertainment calls, and “free” conference calls, in order to stimulate the local exchange carriers’ terminating access minutes. The local exchange carrier will typically share the inflated revenues with the high volume provider. See, e.g., *Updating the Inter-carrier Compensation Regime to Eliminate Access Arbitrage*, 33 FCC Rcd 5466, 5467, para 2 (2018), <https://docs.fcc.gov/public/attachments/DOC-359493A1.pdf>.

volumes of calls.<sup>64</sup> In contrast, intermediate providers discourage short-duration calling because it consumes network resources (thereby potentially interfering with more lucrative traffic) and is not a significant source of revenue.<sup>65</sup>

Foreign and domestic robocallers route calls through foreign VoIP providers, which makes it harder for U.S. law enforcement to conduct tracebacks. However, even in these instances the Commission has successfully pushed back on VoIP providers. For example, in 2021, the Commission released letters to VoIP providers that were transmitting fraudulent robocalls involving government impersonators, credit card interest reduction scams, and auto warranty related scams that originated overseas.<sup>66</sup> Those particular calling campaigns stopped or significantly decreased after we sent the letters.

Pursuant to section 6(a) of the TRACED Act, on August 5, 2021, the Commission adopted a *Further Notice of Proposed Rulemaking* proposing to update the rules governing access to numbers by VoIP providers in order to strengthen safeguards against bad actors.<sup>67</sup> Specifically, in order to “help curb illegal robocalls and improve the ability of Commission staff to safeguard the public interest and operate efficiently when reviewing VoIP direct access to number applications,” the Commission proposed to “require additional certifications as part of the direct access application process and clarify existing requirements.”<sup>68</sup> The proposed new obligations include a certification that the provider will not assist and facilitate illegal robocalling, illegal spoofing, or fraud, and that it will take reasonable steps to cease origination, termination, and/or transmission of illegal robocall traffic once discovered.<sup>69</sup> The proposals also include a requirement that the provider seeking direct access certify that its traffic is signed with STIR/SHAKEN or is subject to a robocall mitigation program in order to file in the Robocall Mitigation Database.<sup>70</sup>

These letters to providers and the Commission’s proposed rulemaking send a strong message to VoIP providers that they may be subject to enforcement proceedings if they allow high volumes of unlawful robocalls onto their network.

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<sup>64</sup> See *Combatting Robocall Fraud: Using Telecom Advances and Law Enforcement to Stop Scammers and Protect Seniors: Hearing Before the S. Special Committee on Aging*, 116th Cong. 3 (2019) (statement of David Frankel, CEO, ZipDX LLC), [https://www.aging.senate.gov/imo/media/doc/SCA\\_Frankel\\_7\\_17\\_19.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Frankel_7_17_19.pdf) (describing “small operations – a few dozen people or perhaps just one or two” that “[b]lend in robocall traffic with their other business” to supplement their bottom line).

<sup>65</sup> Bercu Aff. at 1.

<sup>66</sup> See Letter from Kristi Thompson, Division Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Kurt Butler, CEO, VaultTel Solutions, (May 18, 2021) <https://docs.fcc.gov/public/attachments/DOC-372308A1.pdf>. See generally Press Release, FCC, FCC Demands Two More Companies Immediately Stop Facilitating Illegal Robocall Campaigns (May 18, 2021), <https://docs.fcc.gov/public/attachments/DOC-372543A1.pdf>. See Letter from Kristi Thompson, Division Chief, Telecommunications Consumers Division, FCC Enforcement Bureau to Mohammed Mashadi, CEO, Primo Dialler LLC, (Oct. 21, 2021) <https://docs.fcc.gov/public/attachments/DOC-376789A1.pdf>. See generally Press Release, FCC, FCC Demands Three More Companies Immediately Stop Facilitating Illegal Robocall Campaigns (Oct 21, 2021), <https://docs.fcc.gov/public/attachments/DOC-376789A1.pdf>.

<sup>67</sup> *Numbering Policies for Modern Communications et al.*, WC Docket No. 13-97 et al., Further Notice of Proposed Rulemaking, FCC 21-94 (Aug. 6, 2021) (*Access to Numbers Further Notice*); TRACED Act § 6(a)(1).

<sup>68</sup> *Access to Numbers Further Notice*, at 7, para. 12.

<sup>69</sup> *Id.* at 7, para. 13.

<sup>70</sup> *Id.* at 8, para. 14.

## V. SECTION 11 OF THE TRACED ACT

Section 11(a) of the TRACED Act requires the Commission to provide evidence that suggests a willful, knowing, and repeated robocall violation with an intent to defraud, cause harm, or wrongfully obtain anything of value to the Attorney General, and section 11(b) requires the Commission to submit an annual report to Congress about such evidence. We have not identified any such cases during this reporting period. However, we refer unpaid forfeitures for spoofing violations to the Department of Justice for further action.

In addition, we coordinate regularly with Department of Justice staff and other governmental enforcement authorities to share information about calling activities that appear to violate federal laws or rules, collaborate on possible responses, and coordinate enforcement action. In addition, the Commission maintains its practice of referring unpaid forfeitures, including for robocall and spoofing violations, to the Department of Justice. As a result of our collaborative efforts we have been able to accomplish the following during the reporting period: the Enforcement Bureau coordinated closely with the Federal Trade Commission and the Department of Justice regarding robocalls involving government imposters, credit card reduction scams, and auto warranty scams.<sup>71</sup> The Commission sent warning letters to the service providers that were carrying the offending traffic, and the providers responded immediately by committing to stop transmitting the scam calls.

Additionally, Enforcement Bureau staff coordinated with the Ohio State Attorney General, resulting in the Commission's August 24, 2021 Notice of Apparent Liability against John M. Burkman, Jacob Alexander Wohl, and J.M. Burkman & Associates LLC, for apparently making 1,141 unlawful robocalls to wireless phones without prior express consent, in violation of the TCPA.<sup>72</sup>

We continue to meet with representatives from the FTC, DOJ, FBI, Consumer Financial Protection Bureau, Social Security Administration, Treasury Department, Postal Inspection Service, and Homeland Security on a regular basis to coordinate efforts to stop illegal robocalls.

## VI. SECTION 13 OF THE TRACED ACT

Section 13(a) of the TRACED Act requires the Commission to submit an annual report to Congress on the status of private-led efforts to trace back the origin of suspected unlawful robocalls.<sup>73</sup>

### A. Private-Led Traceback Efforts

The Commission issued rules, in accordance with section 13(d) of the TRACED Act, to “establish a registration process for the registration of a single consortium that conducts private-led efforts

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<sup>71</sup> See Letter from Kristi Thompson, Division Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Kurt Butler, CEO, VaultTel Solutions, (May 18, 2021) <https://docs.fcc.gov/public/attachments/DOC-372308A1.pdf>. See generally Press Release, FCC, FCC Demands Two More Companies Immediately Stop Facilitating Illegal Robocall Campaigns (May 18, 2021), <https://docs.fcc.gov/public/attachments/DOC-372543A1.pdf>. See Letter from Kristi Thompson, Division Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Mohammed Mashadi, CEO, Primo Dialler LLC, (Oct. 21, 2021) <https://docs.fcc.gov/public/attachments/DOC-376789A1.pdf>. See generally Press Release, FCC, FCC Demands Three More Companies Immediately Stop Facilitating Illegal Robocall Campaigns (Oct. 21, 2021), <https://docs.fcc.gov/public/attachments/DOC-376789A1.pdf>.

<sup>72</sup> *John M. Burkman, Jacob Alexander Wohl, and J.M. Burkman & Associates LLC*, Notice of Apparent Liability for Forfeiture, FCC 21-97 (Aug. 24, 2021).

<sup>73</sup> TRACED Act § 13(a).

to trace back to the origin of suspected unlawful robocalls.”<sup>74</sup> On August 25, 2021, the Enforcement Bureau selected the USTelecom Industry Traceback Group to continue as the single registered consortium to conduct private-led traceback efforts.<sup>75</sup> The Industry Traceback Group is a collaborative group comprised of providers across wireline, wireless, Voice over Internet Protocol, and cable services.<sup>76</sup>

The Industry Traceback Group is guided by established principles that introduce reasonable due diligence, integrity and transparency into the traceback process.<sup>77</sup> These principles dictate that tracebacks will be conducted only if:

- 1) A credible and verifiable source is providing information regarding the traceback candidate;
- 2) The nature of the traffic associated with the traceback candidate is deemed by Industry Traceback Group staff to be fraudulent, abusive, or unlawful; and
- 3) Initiation of the traceback warrants use of the Industry Traceback Group’s valuable resources.<sup>78</sup>

Traceback candidates are initiated generally through the following resources, although the Industry Traceback Group may also independently initiate tracebacks that satisfy the above referenced criteria.<sup>79</sup>

- **Industry Traceback Group Steering Committee Member Referrals.** Designated ITG Steering Committee Members<sup>80</sup> may identify traceback candidates. Any Steering Committee Member identifying such traceback candidates shall use good faith efforts to ensure that the

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<sup>74</sup> TRACED Act § 13(d)(1).

<sup>75</sup> *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 21-1047, at 1, para. 1 (EB Aug. 25, 2021) (“In this Order, the Enforcement Bureau (Bureau) selects the incumbent, USTelecom’s Industry Traceback Group (Traceback Group), to continue as the registered consortium.”) (*Order selecting incumbent Traceback Group*).

<sup>76</sup> *Id.* at 2, para. 4.

<sup>77</sup> See Industry Traceback Group, Policies and Procedures at 10. These Policies & Procedures were approved by the FCC. 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 21-1047, at 8, para. 20 (EB Aug. 25, 2021) (reiterating that “when the Bureau originally reviewed the Traceback Group Policies and Procedures, submitted in 2020, the Bureau found that the Policies and Procedures fulfilled the requirement to present fair and reasonable best practices”).

<sup>78</sup> Industry Traceback Group, Policies and Procedures at 10.

<sup>79</sup> See *id.* at 10-11.

<sup>80</sup> Steering Committee Members implement the Policies and Procedures governing the operational aspects of the ITG and industry tracebacks. Steering Committee Members must: (1) be Cooperative Voice Service Providers that show a continuous commitment to the traceback process, including support for traceback investigations through the use of the secure traceback portal and participation in regularly scheduled ITG Member calls; (2) fully comply with the Industry Traceback Group Policies and Procedures; (3) sign a statement of intent to adopt and follow the Best Practices listed in the ITG Policies and Procedures; and (4) agree to adhere to the principles contained in the State Attorneys General Anti-Robocall Principles, <https://www.ustelecom.org/wp-content/uploads/2019/08/State-AGs-Providers-AntiRobocall-Principles-With-Signatories.pdf>; and (5) ensure that the Industry Traceback Group Member and all of its Affiliates adhere to the State AG Anti-Robocall Principles.

traceback candidate satisfies the requirements of 47 U.S.C. § 222(d)(2) (e.g., calls to a Steering Committee Member's subscribers have been identified as suspected fraud).

- **Analytics Providers.** Many analytic providers (e.g., Nomorobo, YouMail) use scoring algorithms to identify suspected fraudulent traffic to their subscribers. The Industry Traceback Group may partner with such analytics providers to help identify traceback candidates.<sup>81</sup> For example, YouMail allows customers to flag voicemail messages left by robocallers. YouMail then delivers the call information and copies of the voicemails to the Industry Traceback Group for investigation.
- **Enforcement Authorities.** The Industry Traceback Group seeks to cooperate with enforcement authorities at the local, state and federal level with the goal of providing such agencies with actionable leads on active suspicious traffic campaigns. This cooperation may also include traceback candidates identified by appropriate enforcement authorities for whom the Industry Traceback Group may initiate a traceback.
- **Organizations Subject to Abusive Calling and Scams.** Public and private organizations, including businesses whose brands are being illegally used in robocall campaigns without authorization by the business (including, but not limited to, healthcare providers, financial institutions, utilities, technology companies), may request that the Industry Traceback Group initiate a traceback on their behalf, subject to conditions and limitations on the use of the traceback results as established by the Industry Traceback Group Policies and Procedures.<sup>82</sup> The Industry Traceback Group may require a fee for such tracebacks.

The Industry Traceback Group uses a secure, proprietary portal to determine the source of the traffic.<sup>83</sup> The Industry Traceback Group notifies the terminating voice service provider whose customer received the suspicious traffic, which then investigates the identity of the upstream voice service provider from whom it received the suspicious traffic and enters the information into the portal.<sup>84</sup> In turn, each voice service provider in the call path determines the identity of the upstream voice service provider from whom it received the suspicious traffic and enters the information into the portal.<sup>85</sup> The process continues until the originating voice service provider is identified or a dead end is reached.<sup>86</sup> After the Industry Traceback Group completes a traceback, it may refer the case to federal and state agencies that have relevant law or regulatory enforcement responsibilities, such as the Commission, the Federal Trade Commission, the Department of Justice, and state Attorneys General. The referrals provide detailed information regarding the callers responsible for suspected illegal robocalls, as well as those voice service providers that actively facilitate the completion of suspected illegal calls.<sup>87</sup> The Industry Traceback Group also holds a monthly call with staff from these offices and agencies.

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<sup>81</sup> See Industry Traceback Group, Policies and Procedures at 10.

<sup>82</sup> See *id.* at 9.

<sup>83</sup> The Secure Traceback Portal is an online portal managed by the Industry Traceback Group to facilitate tracebacks and identification of illegal robocall originators. See *id.* at 5.

<sup>84</sup> See *id.* at 8.

<sup>85</sup> See *id.*

<sup>86</sup> See *id.*

<sup>87</sup> See *id.* at 12.



## **B. Industry Traceback Group Coordination with the Commission**

Commission staff and the Industry Traceback Group have worked to develop an effective traceback process that assists the Commission in the continuation and evolution of the traceback process. Collaboration with private-led traceback efforts is important to unmask the identities of those entities making the illegal robocalls.

The Industry Traceback Group's tracebacks have accelerated the investigation process. A single telephone call may pass through multiple providers from the point of origin to the destination. Until very recently, each link in the chain required a separate subpoena from the FCC, FTC, or other agency to the handling provider. The length of time it takes to find the suspected violator depends on how quickly investigators can get to the origin point of the calls. The more links in the chain, the longer the investigation time. The Industry Traceback Group's efforts reduce the number of subpoenas agencies must issue to do the same work.

The Industry Traceback Group is working with providers to incorporate STIR/SHAKEN into the traceback process. This requires developing technology to ensure that STIR/SHAKEN data are accessible to providers that respond to tracebacks. The Industry Traceback Group expects that STIR/SHAKEN will supplement, but not replace, the traceback process. For example, tracebacks showing an entire call path can identify wholesale relationships between intermediate providers, which may be useful for investigations.

Additionally, the FCC, FTC, and other agencies analyze the data that the Industry Traceback Group provides to identify potential enforcement targets, consider the need for new rules, declaratory rulings, or other policy actions to close loopholes and clarify obligations and restrictions.

The Commission provides the attached materials for this report: 1) a spreadsheet from the Industry Traceback Group listing providers and details regarding their participation in traceback efforts;<sup>88</sup> 2) a letter<sup>89</sup> from the Industry Traceback Group providing a description of private-led traceback efforts, which was filed with the Commission on November 15, 2021;<sup>90</sup> 3) a copy of the Industry Traceback

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<sup>88</sup> In accordance with the requirements of TRACED Act §§ 13(b)(2), (3), and (4), the attached spreadsheet contains the following: a list of voice service providers identified by the consortium that participated in trace back efforts, a list of each voice service provider that received a request to participate in the private led trace back efforts and refused, and the reason each voice service provider that did not participate provided. Service providers might participate in some trace back efforts and refuse to participate in others. The third tab on the spreadsheet provides more granular data for service providers that received a request in 2021 to participate in trace back efforts and declined to do so; it shows the total number of requests and the number of such requests declined.

<sup>89</sup> Letter from Joshua Bercu, Vice President, Policy and Advocacy, US Telecom to Marlene Dortch, Secretary, Federal Communications Commission, (Nov. 15, 2021) <https://ecfsapi.fcc.gov/file/111572802120/USTelecom%20Letter%20re%20Status%20of%20Private-Led%20Traceback%20Efforts%202021.pdf>.

<sup>90</sup> In accordance with the requirements of TRACED Act §§ 13(b)(1) and (5), the letter provides a description of private-led efforts to trace back the origin of suspected unlawful robocalls by the registered consortium and consortium coordination with the FCC, and a description of how the FCC may use information provided by voice service providers or the registered consortium as part of private-led trace back efforts in the FCC's enforcement.

Group's policies and procedures;<sup>91</sup> and 4) a copy of the Industry Traceback Group's application<sup>92</sup> to the Commission. Attachments 3 and 4, which describe the Industry Traceback Group's methodology, are referenced in the letter describing private-led traceback efforts.

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<sup>91</sup> USTelecom's Industry Traceback Group, Policies and Procedures (Jul. 2021), [https://www.ustelecom.org/wp-content/uploads/2021/01/ITG\\_Policies-and-Procedures\\_2021.pdf](https://www.ustelecom.org/wp-content/uploads/2021/01/ITG_Policies-and-Procedures_2021.pdf).

<sup>92</sup> Application of USTelecom, EB Docket No. 20-22 (rec. May 21, 2020), <https://ecfsapi.fcc.gov/file/105210376506982/USTelecom-Consortium-Application.pdf>.