



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).¹ Section 3 of the TRACED Act amended the Telephone Consumer Protection Act (TCPA) and the Truth in Caller ID Act in several respects.² 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 (2017-2021), and Commission enforcement actions during the preceding calendar year (2021). We also provide additional informal consumer complaint data and information about Commission enforcement actions through November 30, 2022.

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), (e), including unsolicited calls using an artificial or prerecorded voice message, often referred to as “robocalls.”³ For sections 11 and 13, this report covers the period from December 1, 2021 through November 30, 2022.

¹ 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.

² 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, as amended, 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).

³ *See* 47 U.S.C. § 227(b), (e).

II. TELEPHONE CONSUMER PROTECTION ACT

Section 227(b) restricts calls using an automatic telephone dialing system or an artificial or prerecorded voice.⁴ It prohibits calls to residential phones if the call uses an artificial or prerecorded voice message, unless the called party consents, 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.⁵ 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, the call is for an emergency purpose, or falls within any other enumerated exception (including an exemption adopted by the Commission).⁶ 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.”⁷

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.⁸

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.⁹ 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.¹⁰

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

⁴ 47 U.S.C. § 227(b)(1).

⁵ *Id.* § 227(b)(1)(B).

⁶ *Id.* 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*).

⁷ *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.

⁸ *Id.* § 227(c)(1) and (5).

⁹ *Id.* § 227(d)(1).

¹⁰ *Id.* § 227(d)(3).

¹¹ *Id.* § 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 (continued...)”

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).¹² 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.”¹³ 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.¹⁴ 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.¹⁵ 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 section 227(b) and (e) of the Communications Act.¹⁶

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

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

From January 1, 2017 through November 30, 2022, the Commission has received 366,461 informal consumer complaints alleging a violation of section 227(b); 647,313 informal consumer complaints alleging a violation of section 227(c); 226,832 informal consumer complaints alleging a violation of section 227(d); and 284,052 informal consumer complaints alleging a violation of section 227(e).

The chart below provides, by calendar year, from January 1, 2017 through November 30, 2022, the number of informal consumer complaints that the Commission received alleging violations of section 227(b)-(e). It is important to note that one complaint may contain several violations covered by section 227 (b)-(e) and may be counted multiple times. For example, complaints alleging spoofed caller ID prohibited under section 227(e) may also allege robocall violations under section 227(b) or Do Not Call violations under section 227(c), and thus might be listed up to three times in the following chart.

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), (e)(7).

¹² *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) of the Communications Act inapplicable to violations of section 227(b)).

¹³ TRACED Act § 3(a)(1), 133 Stat. at 3274 (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).

¹⁴ TRACED Act § 3(a)(1), 133 Stat. at 3275 (adding 47 U.S.C. § 227(b)(4)(E)(ii)); *see* 47 CFR § 1.80(c)(4).

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

¹⁶ *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).

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

¹⁸ *See* 47 U.S.C. § 227(h)(2).

Year	227(b) Restrictions on use of automated telephone equipment	227(c) Restrictions on sales calls made to residential telephone numbers	227(d) Restrictions on communications made using facsimile machines	227(e) Prohibition on provision of misleading or inaccurate caller identification information
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	46,189	97,677	28,744	57,075
2022*	37,736	67,320	18,682	37,752

*2022 informal consumer complaint numbers through November 30, 2022.

B. Citations to Enforce Section 227(d)

The Commission did not issue any citations to enforce section 227(d) during the preceding calendar year (2021).¹⁹

C. Notices of Apparent Liability for Forfeiture

The Commission issued one Notice of Apparent Liability for Forfeiture during the preceding calendar year (2021) to enforce section 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.²⁰ 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.

The Commission issued two Notices of Apparent Liability for Forfeiture between January 1, 2022 and November 30, 2022, to enforce section 227(b)-(e).

1. *Gregory Robbins, Interstate Brokers of America LLC, and National Health Agents LLC*—On February 22, 2022 the Commission issued a Notice of Apparent Liability for Forfeiture proposing a \$45,000,000 fine against Gregory Robbins, Interstate Brokers of America LLC, and National Health Agents LLC for apparently making unlawful robocalls to consumers in violation of the TCPA and the Commission's rules.²¹ The recorded messages claimed that,

¹⁹ 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)).

²⁰ 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).

²¹ *Gregory Robbins; Interstate Brokers of America LLC; National Health Agents LLC*, Notice of Apparent Liability for Forfeiture, FCC 22-16, at 4, para. 8 (2022).

due to the coronavirus pandemic, the annual health insurance marketplace enrollment period had been reopened, and the messages also solicited consumers to purchase health insurance products.²²

2. *Thomas Dorsher; ChariTel Inc; OnTel Inc; and ScammerBlaster Inc.*—On July 14, 2022, the Commission issued a Notice of Apparent Liability for Forfeiture proposing a \$116,156,250 fine against Thomas Dorsher and his companies, ChariTel Inc, Ontel Inc, and ScammerBlaster Inc. for placing nearly 10 million prerecorded voice message calls to toll-free numbers without consent in violation of the TCPA.²³ These calls were apparently part of a traffic pumping scheme. Dorsher apparently used the revenue from his toll-free traffic pumping robocalls to fund Telephone Denial of Service (TDoS) attacks against what Dorsher described as “verified scammers.”²⁴

D. Forfeiture Orders

The Commission issued two forfeiture orders during the preceding calendar year (2021) for violations of section 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 2018.²⁵ 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 its 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.²⁶

²² *Id.* at 5.

²³ *Thomas Dorsher, ChariTel Inc., OnTel Inc., ScammerBlaster Inc.*, Notice of Apparent Liability for Forfeiture, FCC-22-57 (2022). In large-scale robocalling and spoofing cases, the Commission typically verifies a subset of the total number of calls that appear to be related to the unlawful activity, and bases the forfeiture on those verified calls.

²⁴ *Id.* at 4. According to news reports, on December 2, Dorsher was arrested by the FBI and charged in federal court with crimes related to the TDoS attacks. See, e.g., <https://www.newsdakota.com/2022/12/02/oakes-man-facing-federal-fraud-charges/>

²⁵ 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).

²⁶ 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). In large-scale robocalling and spoofing (continued...)

The Commission issued no forfeiture orders between January 1, 2022 and November 30, 2022, for violations of section 227(b)-(e).

E. Forfeiture penalties and criminal fines collected

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

The Commission refers failures to pay forfeitures to the U.S. Department of Justice (DOJ) for further enforcement action. We have referred to DOJ forfeiture orders for violations of section 227 by the following:

- *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc. (Abramovich)*;
- *Philip Roesel, dba Wilmington Insurance Quotes, and Best Insurance Contracts, Inc. (Roesel)*; and
- *Affordable Enterprises of Arizona, LLC, and Scott Rhodes a.k.a. Scott David Rhodes, Scott D. Rhodes, Scott Platek, Scott P. Platek (Rhodes)*.²⁷

During calendar year 2022, 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 additional knowledge about DOJ's collections beyond these cases.²⁸

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 section 227(b)-(e), with a focus on giving consumers and carriers the tools necessary to block unwanted robocalls. Below, we highlight actions the Commission has taken between January 1, 2022 and November 30, 2022.

1. Protecting Consumers from Foreign-Originated Robocalls.

Foreign-originated calls are a significant portion, if not the majority, of illegal robocalls, and gateway providers, as the first U.S.-based providers receiving a foreign-originated call, serve as a critical choke-point for reducing the number of illegal robocalls received by American consumers.²⁹

Building on the Commission's prior efforts, the Commission's May 2022 *Gateway Provider Order* adopted new rules requiring gateway providers to respond to traceback requests in 24 hours, block calls where it is clear they are conduits for illegal traffic, and implement "know your upstream provider" obligations.³⁰ The Commission will also require gateway providers to file a certification in the Robocall

cases, the Commission typically verifies a subset of the total number of calls that appear to be related to the unlawful activity, and bases the forfeiture on those verified calls.

²⁷ *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); *Affordable Enterprises of Arizona, LLC*, Forfeiture Order, 35 FCC Rcd 12142 12170 (2020) (Affordable Enterprise Forfeiture Order); *Scott Rhodes a.k.a. Scott David Rhodes, Scott D. Rhodes, Scott Platek, Scott P. Platek (Rhodes)*, Forfeiture Order, 36 FCC Rcd 705, 729 (2021) (Rhodes Forfeiture Order).

²⁸ On October 20, 2021, DOJ filed a complaint against Scott Rhodes in the U.S. District Court for the District of Columbia. See Press Release, U.S. Dep't of Justice, *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/department-justice-files-suit-recover-forfeiture-penalty-nearly-5000-illegally-spoofed#:~:text=Wednesday%2C%20the%20Department%20of%20Justice,and%20malicious%20%E2%80%9Cspoofed%E2%80%9D%20robocalls>.

²⁹ See *Gateway Provider Order and Further Notice of Proposed Rulemaking* at paras. 23-24.

Mitigation Database certifying the status of their implementation of STIR/SHAKEN and including a robocall mitigation plan, and to take reasonable steps to avoid carrying or processing illegal robocall traffic, and prohibit downstream providers from accepting any traffic from a gateway provider not listed in the Robocall Mitigation Database.³¹

In a Further Notice of Proposed Rulemaking accompanying the *Gateway Provider Order*, the Commission proposed and sought comment on further steps to expand its rules to cover other providers in the call path, along with additional steps to protect American consumers from illegal calls, whether they originate domestically or abroad. These included proposals to require that: (1) *all* U.S. intermediate providers authenticate caller ID information consistent with STIR/SHAKEN for Session Initiation Protocol (SIP) calls that are carrying a U.S. number in the caller ID field, irrespective of their response to traceback requests; (2) all providers mitigate traffic and submit a robocall mitigation plan to the Robocall Mitigation Database regardless of their STIR/SHAKEN implementation status; and (3) all providers comply with the most recent version of the STIR/SHAKEN standards as they are released.³²

2. *Enforcing Obligations to Stop Illegal Robocalls and Text Messages.*

On March 10, 2022, after the Office of Management and Budget's review, the Commission's rule establishing an affirmative obligation that voice service providers take steps to effectively mitigate illegal traffic when notified of such traffic by the Commission's Enforcement Bureau became effective.³³ This rule requires that voice service providers receiving notice from the Commission promptly investigate the identified traffic and report back the results of their investigation and the steps taken to effectively mitigate the identified traffic or an explanation why the traffic was not illegal.³⁴

On July 7, 2022, the Enforcement Bureau issued a Public Notice alerting all U.S.-based voice service providers to a substantial number of apparently unlawful auto warranty telemarketing calls originating from a robocalling enterprise led by Roy Cox, Jr., Aaron Michael Jones, their individual associates, and associated entities (the Cox/Jones Enterprise) and authorizing them to cease carrying any traffic originating from the Cox/Jones Enterprise consistent with FCC regulations.³⁵ Also on July 7, 2022, the Enforcement Bureau issued eight letters urging addressed originating providers to: (1) within 48 hours, effectively mitigate apparently illegal robocall traffic connected with an auto warranty robocalling campaign by the Cox/Jones Enterprise and inform the Commission and the Traceback Consortium of steps taken to mitigate the identified apparent illegal traffic; and (2) within 14 days, inform the Commission and the Traceback Consortium of the steps taken to implement effective measures to prevent customers from originating illegal robocalls.³⁶ The letters notified the originating providers that,

³⁰ *Gateway Provider Order and Further Notice of Proposed Rulemaking* at paras. 2, 65, 76, 96; *see also* 47 CFR § 64.1200(n)(1)(ii), (n)(4), (n)(5), (o). Gateway providers are already required to comply with the new requirements in section 64.1200(n)(1)(ii) and (n)(5). Compliance with section 64.1200(n)(4) commences on January 16, 2023. *See* 47 CFR § 64.1200(n)(4). Compliance with section 64.1200(o) commences on December 19, 2022. *See* 47 CFR § 64.1200(o).

³¹ *Gateway Provider Order and Further Notice of Proposed Rulemaking* at paras. 44-45, 102-03.

³² *Id.* at paras. 160, 175.

³³ Consumer and Governmental Affairs Bureau Announces Effective Date for New Rule Provisions – 47 CFR Sections 64.1200(n)(2), 64.1200(k)(10); CG Docket No. 17-59; DA 22-147 (CGB Feb. 11, 2022).

³⁴ 47 CFR § 64.1200(n)(2).

³⁵ *See FCC Enforcement Bureau Notifies All U.S.-Based Telecommunications Providers They May Block Auto Warranty Robocalls Originating From Certain Providers*, Public Notice, DA 22-727 (EB-TCD-21-00031913) (July 7, 2022), <https://www.fcc.gov/document/robocall-enforcement-notice-all-us-based-voice-service-providers>. B

absent such actions, downstream voice service providers would be authorized to block all of the originating providers' traffic. The letters also warned the originating providers that if they continued to originate illegal robocall traffic, the Commission may remove their certifications from the Robocall Mitigation Database, thereby requiring downstream providers to cease accepting any traffic from the originating providers.

On July 21, 2022, the Enforcement Bureau issued an order directing *all* U.S.-based voice service providers to take immediate steps to mitigate suspected illegal robocall traffic made by or on behalf of the Cox/Jones Enterprise.³⁷ Industry reports indicate that auto warranty robocalls dropped precipitously soon after.³⁸

The Enforcement Bureau also took action to mitigate the impact of robocalls associated with student loan debt scams. On November 3, 2022, the Commission issued a Consumer Alert warning consumers about a potential uptick in scam calls relating to federal student loan debt relief and providing consumers with information on how to identify these scam calls.³⁹ Further, on the same day, the Commission issued an Enforcement Advisory reminding voice service providers to remain vigilant in combatting illegal robocalls aggressively, especially for student loan robocalls.⁴⁰ On November 10, 2022, the Enforcement Bureau issued a cease-and-desist letter to Urth Access, LLC ordering the provider to: (1) effectively mitigate the apparently illegal robocall traffic; and (2) report its measures to the Traceback Consortium.⁴¹ Also on November 10, 2022, the Enforcement Bureau issued a public notice advising *all*

³⁶ Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Jon Luke, CEO, Call Pipe LLC (July 7, 2022); Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to James Ryan, Fugle Telecom LLC (July 7, 2022); Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Adam Radimiri, CEO, Geist Telecom LLC (July 7, 2022); Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Catherine McCormick, CEO, Global Lynks LLC (July 7, 2022); Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Davinder Singh, President, Mobi Telecom LLC (July 7, 2022); Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Curt Ammon, South Dakota Telecom LLC (July 7, 2022); Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Dave Dimnick, CEO, SipKconnect LLC (July 7, 2022); Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Maria Alejandra Gonzalez, Virtual Telecom Inc., and Andrea Horvath, CEO, Virtual Telecom kft (July 7, 2022). These letters are available on the Commission's website at <https://www.fcc.gov/robocall-facilitators-must-cease-and-desist>. 70

³⁷ *FCC Enforcement Bureau Warns All U.S.-Based Voice Service Providers to Avoid or Cease Carriage of Auto Warranty Robocall Traffic from Cox/Jones/Sumco Panama Operation*, EB Docket No. 21-31913, Report and Order, DA 22-784 (EB July 21, 2022).

³⁸ *July Enforcement Achieve Success in Escalating the War on Robocalls*, YouMail Blog (July 20, 2022), <https://blog.youmail.com/2022/07/july-enforcement-achieve-success-in-escalating-the-war-on-robocalls/> (“There are still warranty robocalls out there but they are relatively minor in terms of overall volume . . . We have gone from nearly 30 million warranty calls per day that were defeating network filtering down to under 1 million warranty calls per day now apparently being received by consumers.”); *see also* Karl Bode, *FCC, State Action Nets an Amazing 80% Reduction in Auto Warranty Scam Robocalls*, TechDirt, (Aug. 25, 2022, 5:28 AM), <https://www.techdirt.com/2022/08/25/fcc-state-action-nets-an-amazing-80-reduction-in-auto-warranty-scam-robocalls/>; *Car Warranty Robocalls Plummeted in Late 2022: Here's Why*, Robokiller, (Nov. 16, 2022), <https://www.robokiller.com/blog/2022-car-warranty-call-trends> (“The steep decline in car warranty robocalls can be traced back to July 7, 2022. That day, the Federal Communications Commission (FCC) announced a series of actions designed to mitigate these scams.”).

³⁹ Consumer Alert, Enforcement Bureau, Media Relations, Consumer and Governmental Affairs Bureau, *Consumer Alert: Be Wary Of Student Loan Debt Scam Robocalls* (Nov. 3, 2022), <https://www.fcc.gov/document/fcc-issues-consumer-alert-student-loan-debt-scam-robocalls>.

⁴⁰ *Providers Must Aggressively Police Unlawful Robocalls Regarding Student Loans*, FCC Enforcement Advisory, DA 22-1145 (EB Nov. 3, 2022), <https://www.fcc.gov/document/fcc-reminds-providers-combat-unlawful-student-loan-robocalls>.

U.S.-based voice service providers that they may block robocalls originating from Urth Access and associated entities.⁴² The Enforcement Bureau subsequently issued an order directing all U.S.-based voice service providers to take immediate steps to effectively mitigate suspected unlawful traffic from those entities.⁴³

The Enforcement Bureau also took action against companies that have failed to identify the specific steps they are taking to avoid serving as the origination point of illegal robocall traffic. On October 3, 2022, the Enforcement Bureau issued orders to seven companies requiring them to show cause as to why the Enforcement Bureau should not remove them from the Robocall Mitigation Database for their failure to identify these steps.⁴⁴ One of those providers, Global UC, failed to correct its filing or to provide sufficient information to the Enforcement Bureau as to why it should not be removed.⁴⁵ As a result, on November 22, 2022, the Enforcement Bureau issued a Removal Order, removing Global UC's certification from the Robocall Mitigation Database and requiring all downstream providers to cease carrying Global UC's traffic within two business days of the release date of the Order.⁴⁶

3. *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, 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, 2021,⁴⁷ with additional implementation time for certain categories of voice service providers that face undue hardship.⁴⁸ With limited exceptions, all voice service providers will be required to implement

⁴¹ See Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Fawaz Saleem, CEO, Urth Access, LLC (Nov. 10, 2022), <https://www.fcc.gov/document/fcc-issues-robocall-cease-and-desist-letter-urth-access>.

⁴² See *FCC Enforcement Bureau Notifies All U.S.-Based Providers They May Block Robocalls Originating From Certain Providers*, Public Notice, DA 22-1182 (EB-TCD-22-00034232) (Nov. 10, 2022), <https://www.fcc.gov/document/robocall-enforcement-notice-all-us-based-voice-service-providers>

⁴³ See *Urth Access, LLC*, EB Docket No. 22-334232, Order, DA 22-1271, (EB Dec. 8, 2022), <https://docs.fcc.gov/public/attachments/DA-22-1271A1.pdf>.

⁴⁴ Press Release, Federal Comm'n Comm'n, FCC Plans to Remove Companies from Key Database for Non-Compliance with Anti-Robocall Rules (Oct. 3, 2022), <https://www.fcc.gov/document/fcc-remove-companies-robocall-database-non-compliance>.

⁴⁵ *Global UC Removal Order* at 1, para. 1.

⁴⁶ *Id.* at 4, para. 10.

⁴⁷ 47 CFR § 64.6301.

⁴⁸ *Id.* § 64.6304. The Commission granted categorial 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.* The extension for services scheduled for section 214 discontinuance ended on June 30, 2022, as did the extension for a subset of small voice service providers—known as “non-facilities-based” small (continued...)

STIR/SHAKEN technology for SIP calls by June 30, 2023.⁴⁹ 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.⁵⁰ 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.⁵¹ 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.⁵²

Voice service providers are required to file certifications in the publicly accessible Robocall Mitigation Database, 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.⁵³ Parties implementing a robocall mitigation program are required to provide a detailed description of their mitigation practices in their certifications.⁵⁴ Intermediate providers and terminating voice service providers are prohibited from accepting traffic directly from domestic voice service providers not listed in the Robocall Mitigation Database.⁵⁵

On October 3, 2022, the Enforcement Bureau issued orders to seven companies requiring them to show cause as to why the Enforcement Bureau should not remove them from the Robocall Mitigation Database despite failures to meet filing obligations.⁵⁶ Subsequently, on November 22, 2022, the

providers—that the Commission found likely to be the source of illegal robocalls. *See Wireline Competition Bureau Seeks Comment On Two Periodic Traced Act Obligations Regarding Caller Id Authentication*, WC Docket No. 17-97, Public Notice, DA 22-831 at 2-3 (WCB Aug. 5, 2022). The extension for facilities-based small voice service providers will lapse on June 30, 2023. *See Wireline Competition Bureau Performs Required Evaluation Pursuant to Section 64.6305(f) of the Commission’s Rules*, WC Docket No. 17-97, Public Notice, DA 22-1342, at 1 (WCB Dec. 16, 2022) (*Second Reevaluation of STIR/SHAKEN Extensions Public Notice*).

⁴⁹ After June 30, 2023, all voice service providers with control over the network infrastructure necessary to implement STIR/SHAKEN will be required to do so unless they are one of the limited number of providers unable to obtain an SPC token. *See Second Reevaluation of STIR/SHAKEN Extensions Public Notice* at 1. Providers that lack control over the facilities necessary to implement STIR/SHAKEN do not have an implementation obligation. *See First Caller ID Authentication Report and Order*, 35 FCC Rcd at 3260, para. 40. Further, pursuant to section 4(b)(5)(B) of the TRACED Act, voice service providers have an ongoing extension for the parts their networks that rely on technology that cannot initiate, maintain, and terminate SIP calls. *See TRACED Act* § 4(b)(5)(B); *see also Second Caller ID Authentication Report and Order*, 36 FCC Rcd at 1892-96, paras. 66-70; 47 CFR § 64.6304(d).

⁵⁰ 47 CFR § 64.6303.

⁵¹ 47 CFR § 64.6302.

⁵² *Id.* § 64.6305(a)(1).

⁵³ *Id.* § 64.6305(c).

⁵⁴ *Id.* § 64.6305(c)(2).

⁵⁵ *Id.* § 64.6305(e).

⁵⁶ Press Release, Federal Comm’n Comm’n, FCC Plans to Remove Companies from Key Database for Non-Compliance with Anti-Robocall Rules (Oct. 3, 2022), <https://www.fcc.gov/document/fcc-remove-companies-robocall-database-non-compliance>.

Enforcement Bureau issued a Removal Order, removing one provider’s certification from the Robocall Mitigation Database.⁵⁷

Over the past year, the Commission has also taken significant steps to advance its ongoing work to protect Americans from foreign-originated illegal robocalls with caller ID authentication. In order to address this threat, on May 20, 2022, the Commission released a Report and Order requiring gateway providers, not later than June 30, 2023, to apply STIR/SHAKEN caller ID authentication to all unauthenticated foreign-originated (SIP) calls with U.S. North American Numbering Plan (NANP) numbers.⁵⁸

Finally, because STIR/SHAKEN only works on IP networks, non-IP technology in the network creates a gap in the caller ID authentication scheme that decreases the efficacy of the technology and can be exploited by bad actors. In response, the Commission sought comment on whether to require all providers to adopt a non-IP caller ID authentication solution.⁵⁹ And, on October 28, 2022, the Commission released a Notice of Inquiry to consider ways to combat illegally spoofed robocalls that pass through non-IP networks.⁶⁰ The Notice seeks comment on the prevalence of non-IP technology in the country’s phone networks, potential standards for caller ID authentication on non-IP networks, and the connection between non-IP caller ID authentication and the IP transition.

4. *Protecting Consumers from Unwanted Robocalls and Robotexts.*

The Commission’s Reassigned Numbers Database (Database) protects both consumers from receiving unwanted calls and legitimate callers from inadvertently placing calls to the wrong consumer. On April 8, 2022, the Commission approved new usage pricing that gives users more pricing options, lowers prices for most subscribers, and provides discounts for caller agents subscribing to the highest tiers.⁶¹ These changes have made the Database more affordable and valuable for callers as a resource to reduce the number of unwanted phone calls Americans receive.

Building off of a proceeding initiated last year, the Commission also sought comment on possible changes to our numbering rules to prevent the misuse of numbering resources to originate illegal robocalls—particularly calls originating abroad—including whether to adopt restrictions on the use of domestic numbering resources for calls that originate outside of the United States for termination in the United States.⁶²

⁵⁷ *Global UC Inc.*, EB Docket No. 22-34406, Order, DA 22-1219, at 4, para. 10 (EB Nov. 22, 2022) (*Global UC Removal Order*).

⁵⁸ *Gateway Provider Order and Further Notice of Proposed Rulemaking* at paras. 51-54, 59; *see also* 47 CFR § 64.6302(c).

⁵⁹ *Gateway Provider Order and Further Notice of Proposed Rulemaking* at para. 173.

⁶⁰ *Call Authentication Trust Anchor*, WC Docket No. 17-97, Notice of Inquiry, FCC 22-81 (Oct. 28, 2022).

⁶¹ Press Release, Federal Commc’n Comm’n, FCC Announces Pricing Changes for Reassigned Numbers Database to Reduce Unwanted Robocalls (Apr. 8, 2022), <https://www.fcc.gov/document/fcc-lowers-caller-rates-use-reassigned-numbers-database>.

⁶² *See 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, et al., FCC 22-37 at paras. 218-23 (May 20, 2022) (*Gateway Provider Order and Further Notice of Proposed Rulemaking*); *Numbering Policies for Modern Communications et al.*, WC Docket No. 13-97 et al., Further Notice of Proposed Rulemaking, FCC 21-94, 9-10, para. 17 (2021).

Additionally, on November 14, 2022, the Commission adopted a Declaratory Ruling and Order that confirmed ringless voicemails are calls using artificial or prerecorded voices and, thus, are covered by the Telephone Consumer Protection Act.⁶³

Bad actors are also increasingly using other technologies, such as text messaging, in their attempts to defraud consumers. In 2021, the Commission received approximately 15,000 consumer complaints about unwanted text messages. The Commission took several actions in 2022 to combat the rise of robotexting. On July 28, 2022, the Commission issued a Consumer Alert advising consumers of the rising threat of robotext scams.⁶⁴ This alert provided useful information to consumers on protecting themselves from such scams and on how to report them to the Commission. On August 30, 2022, the Commission's Consumer Advisory Committee issued a "Report on the State of Text Messaging," which reported on the scope of the illegal texting problem and its negative effect on consumers, as well as providing recommendations for industry and the Commission to address the issue.⁶⁵ Finally, on September 27, 2022, the Commission released a Notice of Proposed Rulemaking that proposes requiring mobile wireless providers to block text messages that purport to be from invalid, unallocated, or unused numbers, and numbers on a Do-Not-Originate (DNO) list.⁶⁶ The item also proposes and seeks comment on applying caller ID authentication standards to text messaging.

5. *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.⁶⁷ 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.⁶⁸

⁶³ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Petition for Declaratory Ruling of All About the Message, LLC*, CG Docket No. 02-278, Declaratory Ruling and Order, FCC 22-85, at 1, para. 1 (Nov. 21, 2022) (*AATM Declaratory Ruling*).

⁶⁴ Consumer Alert, Enforcement Bureau, Media Relations, Consumer and Governmental Affairs Bureau, Alert: Scam Robotexts Are Rising Threat (July 28, 2022), <https://www.fcc.gov/document/fcc-warns-consumers-rising-threat-scam-robotexts>.

⁶⁵ Consumer Advisory Committee, Report on the State of Text Messaging (Aug. 30, 2022), <https://www.fcc.gov/consumer-advisory-committee>.

⁶⁶ *Targeting and Eliminating Unlawful Text Messages*, CG Docket No. 21-402, Notice of Proposed Rulemaking, FCC 22-72, para. 2 (2022).

⁶⁷ 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).

⁶⁸ 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>.

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 registry.⁶⁹ 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.⁷⁰ 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.⁷¹

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.⁷² Today, wholesale rates to U.S. mobile phones are less than a penny per minute and are accessible virtually worldwide.⁷³ 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.⁷⁴ This approach made short duration calls much less expensive, leading to a cottage industry of VoIP providers specializing in "dialer traffic."⁷⁵ These providers compete with each other on thin margins, often with minimal staff, rented servers, online sign-ups, and virtual offices, to generate high

⁶⁹ *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>.

⁷⁰ 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); see also 47 CFR § 9.3.

⁷¹ Affidavit of Joshua M. Bercu, Vice President of Policy and Advocacy for USTelecom – The Broadband Association at 1 (Dec. 2, 2020) (on file in EBATS) (Bercu Aff.).

⁷² 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.

⁷³ Bercu Aff. at 1.

⁷⁴ *Id.*

⁷⁵ 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 Intercarrier 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.⁷⁶ 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.⁷⁷

In order to address illegal robocalls facilitated by VoIP providers, in the *Direct Access Further Notice*, the Commission sought comment on adopting certifications focused on combating illegal robocalls for its direct access application process.⁷⁸ Likewise, based on evidence showing that certain small voice service providers, including VoIP providers, were originating a large and disproportionate amount of robocalls,⁷⁹ the Commission accelerated the STIR/SHAKEN implementation deadline for “non-facilities-based” small voice service providers by one year to June 30, 2022.⁸⁰

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 2022, the Enforcement Bureau sent letters to 13 VoIP providers that were transmitting apparently unlawful robocalls involving government impersonators, credit card alert scams, and auto warranty related scams.⁸¹ Those particular calling campaigns stopped or significantly decreased after the Commission issued the letters.

As noted above, the Commission has taken action in 2022 to: (1) alert voice service providers (including VoIP providers) that they are carrying substantial amounts of apparently unlawful traffic; and (2) alert all U.S. voice service providers that they may—or in some instances must—stop carrying the traffic of identified voice service providers (including VoIP providers) if they do not take prompt action to effectively mitigate apparently unlawful calls.⁸² These letters to providers send a strong message to

⁷⁶ 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 (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).

⁷⁷ Bercu Aff. at 1.

⁷⁸ *Direct Access Further Notice* at 9-10, paras. 13-15. Comments in response to the *Direct Access Further Notice* were due on November 15, 2021, and the Commission is considering the record in this proceeding.

⁷⁹ See *Call Authentication Trust Anchor*, WC Docket No. 17-97, Fourth Report and Order, FCC 21-122, at 7-10, paras. 15-20 (2021).

⁸⁰ *Id.* at 5, para. 9. The Commission also required small voice service providers suspected of originating illegal robocalls to implement STIR/SHAKEN on an accelerated timeline. *Id.*

⁸¹ See Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Dominic Bohnett, CEO, Telecom Carrier Access, Inc., (Feb. 10, 2022) <https://www.fcc.gov/document/fcc-issues-robocall-cease-and-desist-letter-tca-voip>; Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Mikel Quinn, CEO, Great Choice Telecom LLC (Feb. 10, 2022) <https://www.fcc.gov/document/fcc-issues-robocall-cease-and-desist-letter-great-choice-telecom>; see also Press Release, Federal Comm’n Comm’n, FCC Warns Robocall Facilitators to Remove Illegal Robocall Traffic from Their Networks or be Disconnected From Downstream Networks (Mar. 22, 2022), <https://www.fcc.gov/document/fcc-warns-robocall-facilitators-remove-illegal-traffic>; Press Release, Federal Comm’n Comm’n, FCC Takes Action Against Auto Warranty Scam Robocall Campaign (July 7, 2022), <https://www.fcc.gov/document/fcc-takes-actions-against-auto-warranty-scam-robocall-campaign>.

⁸² See 47 CFR § 64.1200(k)(4) (Pursuant to section 64.1200(k)(4), the Commission may release a Notice *allowing* downstream providers to block traffic from an originating or intermediate provider that fails to effectively mitigate illegal traffic when notified by the Commission); see also 47 CFR § 64.1200(n)(2) (Pursuant to section 64.1200(n)(2), the Commission may release an Order *requiring* downstream providers to block traffic from an originating or intermediate provider that fails to effectively mitigate illegal traffic when notified by the Commission. (continued...))

providers that they may be subject to enforcement proceedings if they allow high volumes of unlawful robocalls onto their network.

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 robocall and spoofing violations to the DOJ for further action.

We coordinate regularly with DOJ 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. As a result of our collaborative efforts, during the reporting period (December 1, 2021 through November 30, 2022) the Enforcement Bureau coordinated closely with the FTC and DOJ regarding robocalls involving government imposters, credit card alert scams, and auto warranty scams.⁸³

The Commission has entered into Memoranda of Understanding (MOUs) with 43 states, 2 territories, and several foreign regulators that allow the Commission to share information about suspected unlawful calls.⁸⁴ These information-sharing agreements have proved productive. In 2022, the Enforcement Bureau coordinated with the Ohio State Attorney General in the investigation of apparently unlawful robocalls generated by the Cox/Jones Enterprise.⁸⁵ The Enforcement Bureau issued a Public Notice authorizing all U.S.-based voice service providers to cease carrying any traffic originating from this operation and a series of letters warning VoIP service providers to stop carrying suspicious robocall traffic.⁸⁶

We meet on a regular basis with representatives from the FTC, DOJ, the Federal Bureau of Investigation, the Consumer Financial Protection Bureau, the Social Security Administration, the

Voice service providers who fail to comply with the Order may be deemed to have knowingly and willfully engaged in transmitting unlawful robocalls.)

⁸³ See Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Dominic Bohnett, CEO, Telecom Carrier Access, Inc., (Feb. 10, 2022) <https://www.fcc.gov/document/fcc-issues-robocall-cease-and-desist-letter-tca-voip>; Letter from Loyaan A. Egal, Acting Chief, FCC Enforcement Bureau, to Mikel Quinn, CEO, Great Choice Telecom LLC (Feb. 10, 2022), <https://www.fcc.gov/document/fcc-issues-robocall-cease-and-desist-letter-great-choice-telecom>; see also Press Release, Federal Commc'n Comm'n, FCC Warns Robocall Facilitators to Remove Illegal Robocall Traffic from Their Networks or be Disconnected From Downstream Networks (Mar. 22, 2022) <https://www.fcc.gov/document/fcc-warns-robocall-facilitators-remove-illegal-traffic>; Press Release, Federal Commc'n Comm'n, FCC Takes Action Against Auto Warranty Scam Robocall Campaign (July 7, 2022), <https://www.fcc.gov/document/fcc-takes-actions-against-auto-warranty-scam-robocall-campaign>.

⁸⁴ See e.g. *FCC-State Robocall Investigation Partnerships*, Federal Commc'n Comm'n, <https://www.fcc.gov/fcc-state-robocall-investigation-partnerships>, (last updated Sept. 30, 2022); Press Release, Federal Commc'n Comm'n, *FCC Renews and Expands Partnership with European Counterparts*, (Sept. 12, 2022), <https://www.fcc.gov/document/fcc-renews-and-expands-partnership-european-counterparts>; Press Release, Federal Commc'n Comm'n, *FCC Signs Robocall Enforcement MOU with Australian Partners*, (June 3, 2021), <https://www.fcc.gov/document/fcc-signs-robocall-enforcement-mou-australian-partners>.

⁸⁵ Press Release, Federal Commc'n Comm'n, *FCC Authorizes Phone Companies to Cut Off Likely Auto Warranty Scam Robocall Campaign* (July 7, 2022), <https://www.fcc.gov/document/fcc-takes-actions-against-auto-warranty-scam-robocall-campaign>.

⁸⁶ *Id.*

Department of the Treasury, the Postal Inspection Service, and the Department of Homeland Security 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.⁸⁷

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 to trace back to the origin of suspected unlawful robocalls.”⁸⁸ On August 22, 2022, the Enforcement Bureau selected the USTelecom Industry Traceback Group to continue as the single registered consortium to conduct private-led traceback efforts.⁸⁹ The Industry Traceback Group is a collaborative group comprised of providers across wireline, wireless, Voice over Internet Protocol, and cable services.⁹⁰

The Industry Traceback Group is guided by established principles that introduce reasonable due diligence, integrity, and transparency into the traceback process.⁹¹ 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.⁹²

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.⁹³

⁸⁷ TRACED Act § 13(a).

⁸⁸ *Id.* § 13(d)(1).

⁸⁹ *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, para. 1 (EB Aug. 22, 2022) (“In this Order, the Enforcement Bureau (Bureau) selects the incumbent, USTelecom’s Industry Traceback Group (Traceback Group), to continue as the registered consortium for private-led traceback efforts.”).

⁹⁰ *Id.* at 3, para. 4 n.15.

⁹¹ *See* Industry Traceback Group, Policies and Procedures at 10-11. These Policies & Procedures were approved by the FCC’s Enforcement Bureau. *Implementing Section 13(d) of the Pallone-Thune Robocall Abuse Criminal Enforcement and Deterrence Act*, Report and Order, 35 FCC Rcd 7886, paras. 20-28 (2020). *See also* *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 12, para. 32 (EB Aug. 22, 2022) (“The Bureau previously determined that the Traceback Group’s policies and procedures, submitted in 2020, fulfilled the requirement to present fair and reasonable best practices.”).

⁹² Industry Traceback Group, Policies and Procedures at 10-11.

⁹³ *See id.*

- **Industry Traceback Group Steering Committee Member Referrals.** Designated ITG Steering Committee Members⁹⁴ may identify traceback candidates. Any Steering Committee Member identifying such traceback candidates shall use good faith efforts to ensure that the 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.⁹⁵ 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.⁹⁶ 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.⁹⁷ 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. 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.⁹⁸ The process continues until the originating voice service provider is identified or a dead end is reached.⁹⁹ After the Industry

⁹⁴ 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; (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.

⁹⁵ See Industry Traceback Group, Policies and Procedures at 10-11.

⁹⁶ See *id.* at 9.

⁹⁷ 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.

⁹⁸ See *id.*

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 FTC, DOJ, 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.¹⁰⁰ The Industry Traceback Group also holds a monthly call with staff from these offices and agencies.

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. Early in the traceback process, each link in the chain required a separate subpoena from the FCC, FTC, or other agency to the handling provider. However, our process has become much more efficient and effective, as (1) our traceback skills evolved, and (2) the Commission updated its regulations— such as the May 2021 rule requiring voice service providers to respond to traceback requests in a timely manner.¹⁰¹ 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 greatly improve the ability of the FCC and other law enforcement entities to pursue investigations quickly.

During the past three years, the Industry Traceback Groups has continued to grow, with the total amount of conducted tracebacks surpassing 10,000.¹⁰² Specifically, between January 1, 2022 and November 21, 2022, the Industry Traceback Group initiated over 2,600 tracebacks, a traceback initiation rate which is 10% higher than in 2021 and 20% higher than in 2020.¹⁰³ The Industry Traceback Group also played a key role in combating the scourge of illegal robocalling campaigns from foreign-based providers. In addition to identifying 146 U.S.-based providers suspected of originating apparently illegal robocalls, the Industry Traceback Group also identified 82 foreign-based originating providers and 145 U.S. gateway providers.¹⁰⁴

The Industry Traceback Group continues to expand its impact through the implementation of new innovations and collection efforts. In response to a Public Notice that the Bureau issued pursuant to section 13 of the TRACED Act,¹⁰⁵ one commenter, ZipDX, recommended specific changes to the ITG's procedures to identify providers that fail to comply with Robocall Mitigation Database or traceback requirements, and urged the ITG to collect information to identify the call path and gather information

⁹⁹ *See id.*

¹⁰⁰ *See id.* at 12.

¹⁰¹ 47 CFR § 64.1200(n)(1).

¹⁰² Letter from Joshua Bercu, Vice President, Policy and Advocacy, US Telecom to Marlene Dortch, Secretary, Federal Communications Commission, 1 (Nov. 21, 2022).

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 4.

¹⁰⁵ *Enforcement Bureau Requests Information on the Status of Private-Led Traceback Efforts of Suspected Unlawful Robocalls*, Public Notice, DA 22-1201 (EB Nov. 16, 2022) (*Private-Led Traceback Public Notice*).

about unsigned calls.¹⁰⁶ ZipDX also recommended that the ITG disclose the information “as promptly as possible” but at least on a “rolling monthly basis.”¹⁰⁷

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;¹⁰⁸ (2) a letter¹⁰⁹ from the Industry Traceback Group providing a description of private-led traceback efforts, which was filed with the Commission on November 21, 2022;¹¹⁰ (3) a copy of the Industry Traceback Group’s policies and procedures;¹¹¹ and (4) a copy of the Industry Traceback Group’s application¹¹² to the Commission.

¹⁰⁶ Letter from David Frankel, CEO, ZipDX LLC to Marlene Dortch, Secretary, Federal Communication Commission (Dec. 6, 2022).

¹⁰⁷ *Id.* at 2.

¹⁰⁸ In accordance with the requirements of TRACED Act § 13(b)(2), (3), and (4), the attached spreadsheet contains the following: (1) a list of voice service providers identified by the consortium that participated in trace back efforts; (2) a list of each voice service provider that received a request to participate in the private-led trace back efforts and refused; and (3) 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 2022 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.

¹⁰⁹ Letter from Joshua Bercu, Vice President, Policy and Advocacy, US Telecom to Marlene Dortch, Secretary, Federal Communications Commission, (Nov. 21, 2022), <https://www.fcc.gov/ecfs/document/1121207032417/1>.

¹¹⁰ 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.

¹¹¹ USTelecom’s Industry Traceback Group, Policies and Procedures (Apr. 2022), <https://tracebacks.org/wp-content/uploads/2022/04/ITG-Policies-and-Procedures-Updated-Apr-2022.pdf>.

¹¹² Application of USTelecom, EB Docket No. 20-22 (rec. May 21, 2020), <https://ecfsapi.fcc.gov/file/105210376506982/USTelecom-Consortium-Application.pdf>.