



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**

December 27, 2023

TABLE OF CONTENTS

Heading	Page #
INTRODUCTION	1
TELEPHONE CONSUMER PROTECTION ACT.....	1
TRUTH IN CALLER ID ACT	2
SECTION 3 OF THE TRACED ACT.....	2
A. The Number of Consumer Complaints Alleging a Violation of Section 227(b)-(e).....	3
B. Citations to Enforce Section 227(d).....	4
C. Notices of Apparent Liability for Forfeiture.....	4
D. Forfeiture Orders.....	5
E. Forfeiture Penalties and Criminal Fines Collected	6
F. Proposals for Reducing the Number of Unlawful Calls	7
G. Analysis and Recommendations Regarding the Contribution of VoIP Service Providers that Discount High Volume, Unlawful, Short Duration Calls	15
SECTION 11 OF THE TRACED ACT	18
SECTION 13 OF THE TRACED ACT	20
A. Private-Led Traceback Efforts.....	20
B. Industry Traceback Group Coordination with the Commission	22

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 requires the Commission to provide a report that includes data regarding certain complaints that the Commission received during the preceding five full calendar years (2018-2022), Commission enforcement actions during the preceding calendar year (2022), proposals for reducing unlawful calls, and analysis and recommendations concerning Voice over Internet Protocol (VoIP) service providers' contributions to unlawful calls.²

Sections 11 and 13 require the Commission to provide a report addressing certain Commission and private industry actions with respect to illegal robocalls as defined in 47 U.S.C. § 227(b) and (e), which prohibit unsolicited calls using an artificial or prerecorded voice message as well as calls made using misleading or inaccurate caller identification information for an improper purpose, often referred to as “robocalls.”³

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

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 *See id.* § 3(a)(3).

³ *See id.* §§ 11(b), 13; *see* 47 U.S.C. § 227(b), (e).

⁴ *See* 47 U.S.C. § 227(b)(1).

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 Telephone Consumer Protection Act of 1991 (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

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 internet protocol (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.”

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 of

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).

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 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).

1934, as amended (Communications Act or 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 section 227(h) requires in the report is provided below.¹⁸

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

From January 1, 2018 through November 30, 2023, the Commission has received 312,221 informal consumer complaints alleging a violation of section 227(b); 567,626 informal consumer complaints alleging a violation of section 227(c); 172,727 informal consumer complaints alleging a violation of section 227(d); and 289,061 informal consumer complaints alleging a violation of section 227(e).

The chart below provides, by calendar year, from January 1, 2018 through November 30, 2023, 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 counted up to three times in the following chart.

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 *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).

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, 4477, 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
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	39,436	70,753	19,532	39,744
2023*	29,038	53,725	13,607	29,216

*2023 informal consumer complaint numbers through November 30, 2023.

B. Citations to Enforce Section 227(d)

The Commission did not issue any citations to enforce section 227(d) during the preceding calendar year (2022).¹⁹

The Commission did not issue any citations to enforce section 227(d) between January 1, 2023 and November 30, 2023.

C. Notices of Apparent Liability for Forfeiture

The Commission issued three Notices of Apparent Liability for Forfeiture during the preceding calendar year (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 section 227(b) of the Act and the Commission’s rules.²⁰ The recorded messages claimed that, 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.²¹

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 apparently placing 20,650 verified prerecorded voice message calls to toll-free numbers without consent in willful, repeated, and intentional violation of section 227(b) of the Act and the Commission’s rules.²²

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 *Gregory Robbins; Interstate Brokers of America LLC; National Health Agents LLC*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 2591, 2591-92, 2608, paras. 1, 46 (2022).

²¹ *Id.* at 2591, para. 1.

²² *Thomas Dorsher, ChariTel Inc., OnTel Inc., ScammerBlaster Inc.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 8988, 8988-89, 8996, 9004, paras. 1, 18, 36 (2022). In large-scale robocalling and spoofing cases, the

Dorsher apparently used the revenue earned from his toll-free robocalls to fund Telephone Denial of Service (TDoS) attacks against what Dorsher described as “verified scammers.”²³

3. *Sumco Panama SA, Sumco Panama USA, Virtual Telecom kft, Virtual Telecom Inc., Davis Telecom Inc., Geist Telecom LLC, Fugle Telecom LLC, Tech Direct LLC, Mobi Telecom LLC, and Posting Express Inc.*—On December 23, 2022, the Commission issued a Notice of Apparent Liability for Forfeiture proposing a \$299,997,000 fine against an auto warranty scam robocall operation run by Roy Cox, Jr., Aaron Michael Jones, and Stacy Yim via their Sumco Panama enterprise.²⁴ The proposed forfeiture was based on 33,333 verified calls that apparently willfully and repeatedly violated sections 227(b) and 227(e) of the Act and the Commission’s rules.²⁵

The Commission did not issue any Notices of Apparent Liability for Forfeiture between January 1, 2023 and November 30, 2023, to enforce section 227(b)-(e).

D. Forfeiture Orders

The Commission did not issue any forfeiture orders during the preceding calendar year (2022) for violations of section 227(b)-(e).

The Commission issued three forfeiture orders between January 1, 2023 and November 30, 2023, for violations of section 227(b)-(e).²⁶

1. *John M. Burkman, Jacob Alexander Wohl, and J.M. Burkman & Associates LLC*—On June 6, 2023, the Commission issued a Forfeiture Order imposing a \$5,134,500 fine against John M. Burkman, Jacob Alexander Wohl, and J.M. Burkman & Associates LLC for making 1,141 unlawful robocalls to wireless phones without prior express consent in violation of section 227(b) of the Act and the Commission’s rules.²⁷ 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 violations of section 227(b) without first issuing a citation.

2. *Sumco Panama SA, Sumco Panama USA, Virtual Telecom kft, Virtual Telecom Inc., Davis Telecom Inc., Geist Telecom LLC, Fugle Telecom LLC, Tech Direct LLC, Mobi Telecom LLC, and Posting Express Inc.*—On August 3, 2023, the Commission issued a Forfeiture Order imposing a \$299,997,000 fine against an auto warranty scam robocall operation run by Roy Cox, Jr., Aaron Michael

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.

²³ *Id.* at 8991, para. 7.

²⁴ *Sumco Panama SA, Sumco Panama USA, Virtual Telecom kft, Virtual Telecom Inc., Davis Telecom Inc., Geist Telecom LLC, Fugle Telecom LLC, Tech Direct LLC, Mobi Telecom LLC, and Posting Express Inc.*, Notice of Apparent Liability for Forfeiture, FCC 22-99, 2022 WL 17958841, at *2, paras. 1-2 (Dec. 23, 2022).

²⁵ *See id.* at *21, *28, paras. 72, 97.

²⁶ The Commission also issued a Memorandum Opinion and Order denying a Petition for Reconsideration of a 2021 forfeiture order. *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*, Memorandum and Order, FCC-23-46, 2023 WL 3932244, at *1 (June 7, 2023).

²⁷ *See John M. Burkman, Jacob Alexander Wohl, and J.M. Burkman & Associates LLC*, Forfeiture Order, FCC 23-44, 2023 WL 3883743, at *1, para. 1 (June 6, 2023).

Jones, and Stacy Yim via their Sumco Panama enterprise.²⁸ The network made 33,333 calls in violation of sections 227(b) and 227(e) of the Act and the Commission’s rules.²⁹

3. *Thomas Dorsher, ChariTel Inc., OnTel Inc., and ScammerBlaster Inc.*—On September 22, 2023, the Commission issued a Forfeiture Order imposing a \$116,156,250 fine against Thomas Dorsher and his companies, ChariTel Inc, Ontel Inc, and ScammerBlaster Inc. for placing 20,650 prerecorded voice message calls to toll-free numbers without consent in violation of section 227(b) of the Act and the Commission’s rules.³⁰ Dorsher used the revenue from his toll-free traffic pumping robocalls to fund TDoS attacks against what Dorsher described as “scammers.”³¹ Independently, while not legally relevant to the forfeiture order, on November 11, 2022, a federal grand jury sitting in the District of Utah charged Dorsher and others with multiple federal criminal counts for conduct related to the Dorsher Enterprise’s robocalling scheme.³²

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. The Commission has referred forfeiture orders against the following parties for violations of section 227:

- *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.;*
- *Philip Roesel, dba Wilmington Insurance Quotes, and Best Insurance Contracts, Inc.;*
- *Affordable Enterprises of Arizona, LLC;*
- *Scott Rhodes a.k.a. Scott David Rhodes, Scott D. Rhodes, Scott Platek, Scott P. Platek;*
- *Kenneth Moser dba Marketing Support Systems;*
- *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;*
- *John M. Burkman, Jacob Alexander Wohl, J.M. Burkman & Associates LLC (Burkman);*
- *Sumco Panama SA, Sumco Panama USA, Virtual Telecom kft, Virtual Telecom Inc., Davis Telecom Inc., Geist Telecom LLC, Fugle Telecom LLC, Tech Direct LLC, Mobi Telecom LLC, and Posting Express Inc. (Sumco Panama); and*
- *Thomas Dorsher; ChariTel Inc; OnTel Inc; ScammerBlaster Inc.*³³

²⁸ *Sumco Panama SA, Sumco Panama USA, Virtual Telecom kft, Virtual Telecom Inc., Davis Telecom Inc., Geist Telecom LLC, Fugle Telecom LLC, Tech Direct LLC, Mobi Telecom LLC, and Posting Express Inc.*, Forfeiture Order, FCC 23-64, 2023 WL 5013646, at *1, paras. 1-2 (Aug. 3, 2023).

²⁹ *Id.* at *15, para. 57.

³⁰ *Thomas Dorsher, ChariTel Inc., OnTel Inc., ScammerBlaster Inc.*, Forfeiture Order, FCC 23-77, 2023 WL 6260773, at *4, para. 11 (Sept. 23, 2023).

³¹ *Id.* at *8, para. 25.

³² Indictment, *United States v. Thomas William Dorsher, et al.*, No. 2:22-cr-00463-CW (D. Utah 2022).

³³ *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663 (2017); *Best Insurance Contracts, Inc., and Philip Roesel, dba Wilmington Insurance Quotes*, Forfeiture Order, 33 FCC Rcd 9204 (2018); *Affordable Enterprises of Arizona, LLC*, Forfeiture Order, 35 FCC Rcd 12142 (2020); *Scott Rhodes a.k.a. Scott David Rhodes, Scott D. Rhodes, Scott Platek, Scott P. Platek*, Forfeiture Order, 36 FCC Rcd 705 (2021); *Kenneth Moser dba Marketing Support Systems*, Forfeiture Order, 35 FCC Rcd 13415 (2020); *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 (2021); *John M. Burkman, Jacob Alexander Wohl, J.M. Burkman & Assocs. LLC*, Forfeiture Order, FCC 23-44, 2023 WL 3883743 (June 5, 2023); *Sumco Panama SA, Sumco Panama USA*,

During calendar year 2022 and the period of January 1, 2023 to November 30, 2023, the DOJ did not collect any forfeiture penalties or criminal fines for violations of section 227 in cases that the Commission has referred. We lack additional knowledge about DOJ’s collections beyond these cases.³⁴

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 and robotexts. Below, we highlight actions the Commission has taken between December 1, 2022 and November 30, 2023.

1. Enlisting Service Providers in the Fight Against Illegal and Unwanted Robocalls.

In recent years, Commission policy has focused on enlisting service providers, who are often the first line of defense against illegal or unwanted robocalls and robotexts. Specifically, the Commission has worked to close gaps in its caller ID authentication framework, enhance and expand its robocall mitigation requirements, establish additional enforcement measures for violations of our caller ID authentication and robocall mitigation rules, and require providers of interconnected VoIP seeking direct access to North American Numbering Plan numbering resources to certify compliance with the Commission’s requirements targeting illegal robocalls.

Increasing Traceback Requirements and Analyzing Anti-Robocall Tools. In May 2023, the Commission adopted a *Report and Order* that extended our 24-hour traceback requirement to cover all voice service providers.³⁵ Once these new rules take effect on January 8, 2024, providers will be required to respond to traceback requests within this timeframe to support FCC and industry efforts to trace illegal robocalls across various networks and back to their originating sources.³⁶ The new rules will also require originating providers to promptly investigate suspected illegal traffic when notified by the Commission and, if the traffic is illegal, to block that traffic and all substantially similar traffic.³⁷ Also effective January 8, 2024, the FCC will require all voice service providers to take reasonable and effective steps to ensure that any immediate upstream provider from which they accept call traffic is not using it to carry or process a high volume of illegal traffic.³⁸

The Commission also adopted a *Further Notice of Proposed Rulemaking* that sought public comment on a variety of anti-robocall tools and strategies including requiring terminating providers to offer analytics-based blocking of calls that are highly likely to be illegal on an opt-out basis without charge, requiring all providers to block based on do-not-originate lists, requiring providers that display caller ID authentication status to also display caller name information in certain cases, and setting a base

Virtual Telecom kft, Virtual Telecom Inc., Davis Telecom Inc., Geist Telecom LLC, Fugle Telecom LLC, Tech Direct LLC, Mobi Telecom LLC, and Posting Express Inc., Forfeiture Order, FCC 23-64, 2023 WL 5013646 (Aug. 3, 2023).

³⁴ As noted in last year’s annual report, 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/departments-justice-files-suit-recover-forfeiture-penalty-nearly-5000-illegally-spoofed#:~:text=Wednesday%20the%20Department%20of%20Justice,and%20malicious%20%E2%80%9Cspoofed%E2%80%9D%20robocalls.>

³⁵ *Advanced Methods to Target and Eliminate Unlawful Robocalls; Call Authentication Trust Anchor*, CG Docket No. 17-59; WC Docket No. 17-97, Seventh Report and Order, Further Notice of Proposed Rulemaking and Notice of Inquiry, FCC 23-37, 2023 WL 3686042, at *6-7, paras. 20-21 (May 19, 2023) (*May 2023 Robocall Blocking Order*).

³⁶ See *id.* at *7, para. 21.

³⁷ See *id.* at *12-14, paras. 39-46.

³⁸ See *id.* at *15, para. 49.

forfeiture for voice service providers that fail to take effective measures to prevent new and renewing customers from using their networks to originate illegal calls.³⁹

Further, the Commission adopted a *Notice of Inquiry* that sought input on the tools voice service providers use to combat illegal calls, including an industry tool known as a “honeypot,”⁴⁰ and call labeling.⁴¹ The *Notice of Inquiry* requested information on the extent of the use and accuracy of call labeling.⁴²

Closing Gaps in the STIR/SHAKEN Framework. The benefits of the STIR/SHAKEN caller ID authentication framework are substantial: its widespread implementation reduces the effectiveness of illegal spoofing, allows 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. Pursuant to the TRACED Act, the Commission required voice service providers to implement STIR/SHAKEN on the IP portions of their networks by June 30, 2021,⁴³ with additional implementation time for certain categories of voice service providers that face undue hardship.⁴⁴ With limited exceptions, as of June 30, 2023, all voice service providers are now required to implement STIR/SHAKEN technology for session internet protocol (SIP) calls.⁴⁵ Under rules adopted by the Commission in 2022, gateway providers—U.S.-based intermediate providers that receive calls directly

³⁹ See *id.* at *21-31, paras. 70-105.

⁴⁰ The term “honeypot” refers to phone lines created for the purpose of identifying and monitoring illegal traffic. See *Verizon Works with Wireless Carriers in US to Combat Robocalls*, Verizon News Center, <https://www.verizon.com/about/news/verizon-carriers-combat-robocalls> (last visited Oct. 18, 2023).

⁴¹ See *May 2023 Robocall Blocking Order*, *supra* note 35, at *31-33, paras. 106-12.

⁴² See *id.* at *32-33, paras. 110-12.

⁴³ 47 CFR § 64.6301.

⁴⁴ *Id.* § 64.6304. The Commission granted categorical extensions based on undue hardship to (1) small voice service providers (defined as those with less than 100,000 voice service subscriber lines), (2) voice service providers that cannot obtain a service provider code (SPC) token necessary to participate in STIR/SHAKEN, and (3) services scheduled for section 214 discontinuance. 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 providers—that the Commission found likely to be the source of illegal robocalls. See *id.* § 64.6304(a)(1)(i), (c). The extension for facilities-based small voice service providers lapsed on June 30, 2023. See *id.* § 64.6304(a)(1); *Wireline Competition Bureau Seeks Comment on Previously Granted STIR/SHAKEN Implementation Extensions Pursuant to Section 64.6304(f) of the Commission’s Rules*, WC Docket No. 17-97, Public Notice, DA 23-910, 2023 WL 6372809 at *1 (WCB Sept. 28, 2023) (*Third Reevaluation of STIR/SHAKEN Extensions Public Notice*).

⁴⁵ All voice service providers with control over the network infrastructure necessary to implement STIR/SHAKEN are required to do so unless they are one of the limited number of providers unable to obtain an SPC token, or are a small voice service provider originating calls using North American Numbering Plan numbers via satellite. See 47 CFR § 64.6304(a)(1)(iii), (b); *Third Reevaluation of STIR/SHAKEN Extensions Public Notice*, 2023 WL 6372809 at *2. Providers that lack control over the facilities necessary to implement STIR/SHAKEN do not have an implementation obligation. See *Call Authentication Trust Anchor, Implementation of TRACED Section 6(a) — Knowledge of Customers by Entities with Access to Numbering Resources*, WC Docket Nos. 17-97, 20-67, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 3241, 3260, para. 40 (2020). 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); 47 CFR § 64.6304(d); see also *Call Authentication Trust Anchor*, WC Docket No. 17-97, Second Report and Order, 36 FCC Rcd 1859, 1892-96, paras. 66-70 (2020) (*Caller ID Second Authentication Report and Order*).

from a foreign originating provider or foreign intermediate provider—were also required to implement STIR/SHAKEN by June 30, 2023.⁴⁶

In March 2023, the Commission adopted the *Caller ID Authentication Sixth Report and Order*, which further expanded service provider obligations to implement STIR/SHAKEN.⁴⁷ Specifically, the *Order* required intermediate providers that receive unauthenticated calls directly from a domestic originating provider to authenticate those calls with STIR/SHAKEN by December 31, 2023.⁴⁸ Other domestic intermediate providers remain subject to the obligation adopted in the *Caller ID Authentication Second Report and Order* to pass through any caller ID authentication information without alteration (with two narrow exceptions).⁴⁹

Enhancing Robocall Mitigation Requirements. The *Caller ID Authentication Sixth Report and Order* also enhanced and expanded robocall mitigation requirements. Under these rules, all providers, including those that have already implemented STIR/SHAKEN, and those without the facilities necessary to implement STIR/SHAKEN must now take “reasonable steps” to mitigate illegal robocalls.⁵⁰ Similarly, these rules will require all providers, including non-gateway intermediate providers, to submit a certification and detailed description of their mitigation practices to the FCC’s Robocall Mitigation Database, and prohibit providers from accepting traffic from non-gateway intermediate providers that have not affirmatively filed or were removed from the Robocall Mitigation Database pursuant to an enforcement action.⁵¹ New and existing filers will also be required to submit additional information and certifications to the Robocall Mitigation Database.⁵²

Additional Enforcement Measures. In the *Caller ID Authentication Sixth Report and Order*, the Commission also adopted new enforcement tools to penalize bad actors, remove them from the Robocall

⁴⁶ See 47 CFR § 64.6302(c); *Wireline Competition Bureau Reminds Facilities-Based Small Voice Service Providers and Gateway Providers of Stir/Shaken Implementation Deadlines*, WC Docket No. 17-97, Public Notice, DA 23-458, 2023 WL 3749684, at *1 (May 30, 2023); *Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Sixth Report and Order in CG Docket No. 17-59, Fifth Report and Order in WC Docket No. 17-97, Order on Reconsideration in WC Docket No. 17-97, Order, Seventh Further Notice of Proposed Rulemaking in CG Docket No. 17-59, and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 17-97, 37 FCC Rcd 6865, 6886-93, paras. 51-60 (2022) (*Gateway Provider Order and Further Notice of Proposed Rulemaking*).

⁴⁷ *Call Authentication Trust Anchor*, WC Docket No 17-97, Sixth Report and Order and Further Notice of Proposed Rulemaking, FCC 23-18, 2023 WL 2582652, at *13, para. 28 (Mar. 17, 2023) (*Caller ID Authentication Sixth Report and Order*).

⁴⁸ See *id.* at *9, paras. 15-27.

⁴⁹ See 47 CFR § 64.6302(a); *Caller ID Authentication Second Report and Order*, 36 FCC Rcd at 1923-26, paras. 133-139.

⁵⁰ See 47 CFR § 64.6305(a)(1), (b)(1), (c)(1); *Caller ID Authentication Sixth Report and Order*, at *10-14, paras. 28-35. This requirement previously applied only to voice service providers that had not fully implemented STIR/SHAKEN and to gateway providers. The *Caller ID Authentication Sixth Report and Order* required all voice service providers, as well as non-gateway intermediate providers, to implement a mitigation plan by August 21, 2023. *Id.* at *10-12, 40, paras. 29-35, 125 (setting effective date for certain rules, including the new mitigation obligation, 60 days following Federal Register publication of the Order); *Call Authentication Trust Anchor*, Final Rule, 88 Fed Reg 40096 (June 21, 2023) (setting August 21, 2023 as the effective date).

⁵¹ *Caller ID Authentication Sixth Report and Order*, *supra* note 47, at *12-18, paras. 36-51. Previously, only voice service providers and gateway providers were required to file in the Robocall Mitigation Database. *Id.* at *12, para. 36. Certain rules related to the Robocall Mitigation Database contain information collection requirements that required approval by the Office of Management and Budget under the Paperwork Reduction Act. The Commission directed the Wireline Competition Bureau to announce effective dates for these rules by subsequent Public Notice. See *id.* at *40, para. 125.

⁵² *Id.* at *14-17, paras. 42-49.

Mitigation Database, and prevent them from continuing to operate in the U.S. communications marketplace.⁵³ These measures include: (1) establishing a per-call maximum forfeiture of over \$23,000 for violations of the robocall blocking rules; (2) providing the Enforcement Bureau authority to remove non-gateway intermediate providers from the Robocall Mitigation Database; and (3) establishing an expedited removal process for providers’ “facially deficient” Robocall Mitigation Database filings. The Commission also strengthened its existing protections to guard against continued violations of its robocall rules by reinforcing its authority to revoke section 214 operating authority and other types of Commission authorizations or certifications of entities that engage in continued violations of its robocall mitigation rules.⁵⁴

Updated Direct Access Requirements. In the *Direct Access Second Report and Order*, discussed in greater detail below,⁵⁵ the Commission adopted several important guardrails to reduce access to phone numbers by potential perpetrators of illegal robocalls, while safeguarding the nation’s finite numbering resources and protecting national security and public safety.⁵⁶ VoIP technology can facilitate spoofed robocall campaigns by bad actors. These new rules will ensure that the Commission receives sufficient detail from interconnected VoIP applicants to make informed, public-interest-driven decisions about their direct access applications and thereby protect the public from bad actors.

Further Notice of Proposed Rulemaking. In the Further Notice of Proposed Rulemaking accompanying the *Caller ID Authentication Sixth Report and Order*, the Commission sought comment on (1) the use of third-party STIR/SHAKEN authentication solutions and whether rule changes should be made to permit, prohibit or limit their use and (2) the elimination of the STIR/SHAKEN implementation exemption for providers unable to obtain SPC token.⁵⁷ Comments were due on June 5, 2023, with replies due July 5, 2023.

2. Combatting the Rising Problem of Scam Texting

Text message scams are an increasingly pervasive consumer threat, with a more than 500 percent increase in complaints in recent years.⁵⁸ From 2015 to 2022, robotext complaints rose from around 3,300 to 18,900 per year.⁵⁹ Robotexts pose a unique threat to consumers: unlike robocalls, scam text messages are hard to ignore or hang-up on and are nearly always read by the recipient – often immediately. In addition, robotexts can promote links to phishing websites or websites that can install malware on a consumer’s phone.

To combat this rising problem, the Commission adopted a *Report and Order* in March 2023 that will require blocking of text messages that appear to come from phone numbers on a reasonable do-not-

⁵³ *Id.* at *18-26, paras. 53-73.

⁵⁴ *Id.* at *23-24, paras. 66-70. The Commission also made clear that it may consider “whether it is in the public interest for individual company owners, directors, officers, and principals of entities for which we have revoked an authority or a certification, or for other entities with which those individuals are affiliated, to obtain future Commission authorizations, licenses, or certifications at the time that they apply for them.” *Id.* at *23, para. 65.

⁵⁵ *See infra* Section III.G.

⁵⁶ *Numbering Policies for Modern Communications*, WC Docket No. 13-97, Second Report and Order and Second Further Notice of Proposed Rulemaking, FCC 23-75, 2023 WL 6263858 (Sept. 22, 2023) (*Direct Access Second Report and Order*).

⁵⁷ *Caller ID Authentication Sixth Report and Order*, *supra* note 47, at *32-37, paras. 97-110.

⁵⁸ *Targeting and Eliminating Unlawful Text Messages; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket Nos. 21-402; 02-278, Report and Order and Further Notice of Proposed Rulemaking, FCC 23-21, 2023 WL 2582658, at *2, para. 6, n.8 (Mar. 15, 2023).

⁵⁹ *Id.*

originate list, which are highly likely to be illegal.⁶⁰ Such numbers include invalid, unallocated, or unused numbers, and numbers that the subscriber to the number has self-identified as never sending text messages.⁶¹ A second rule, which is already in effect, requires each mobile wireless provider to establish a point of contact for text senders, or ensure its aggregator partner or blocking contractor establish such a point of contact, which senders can use to inquire about blocked texts and to resolve complaints about erroneous blocking.⁶²

The Commission also adopted a *Further Notice of Proposed Rulemaking* seeking public comment on further proposals to protect consumers from illegal robocalls.⁶³ The *Further Notice* proposed requiring providers to investigate and potentially block texts from a sender after they receive notice from the Commission that the sender is transmitting suspected illegal texts.⁶⁴ It also proposed to clarify that Do Not Call Registry protections apply to text messaging and to close the lead generator loophole, which allows companies to use a single consumer consent to deliver robocalls and text messages from multiple – perhaps thousands – of marketers on subjects that may not be what the consumer had in mind.⁶⁵ The Commission also sought public comment on text authentication measures and other proposals to continue to fight illegal scam robocalls.⁶⁶

3. Enforcing Obligations to Stop Illegal Robocalls and Text Messages.

The Commission’s rules place an affirmative obligation on voice service providers to take steps to effectively mitigate illegal traffic when notified of such traffic by the Commission’s Enforcement Bureau.⁶⁷ Voice service providers receiving notice from the Commission must 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.⁶⁸

On January 11, 2023, the Commission issued letters to SIPphony LLC (SIPphony) and Vultik Inc. (Vultik) for apparently transmitting illegal robocall traffic.⁶⁹ The letters required the respective providers to take specific steps to prevent their networks from continuing to serve as a source of apparently unlawful traffic.⁷⁰ The letters notified SIPphony and Vultik that if, after 48 hours, they continued to originate unlawful traffic from the customer entities identified in the letter, downstream

⁶⁰ *Id.* at *6, para. 16. This new rule contains information collection requirements that must be approved by the Office of Management and Budget under the Paperwork Reduction Act. The Commission directed the Consumer and Governmental Affairs Bureau to announce the compliance date for the new rule by subsequent Public Notice. *See id.* at *21, para. 78.

⁶¹ *Id.* at *5, para. 13.

⁶² *Id.* at *9, paras. 27-31.

⁶³ *See id.* at *14-17, paras. 48-62.

⁶⁴ *Id.* at *14-15, paras. 50-53.

⁶⁵ *Id.* at *16-17, paras. 55-62.

⁶⁶ *See id.* at *15, para. 54.

⁶⁷ 47 CFR § 64.1200(n)(2).

⁶⁸ *Id.*

⁶⁹ Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Brittany Reed, President, SIPphony LLC, 2023 WL 173621, at *1 (January 11, 2023), <https://docs.fcc.gov/public/attachments/DOC-390625A1.pdf> (SIPphony Letter); Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Corey Seaman, CEO, Vultik Inc., 2023 WL 173627, at *1 (January 11, 2023), <https://docs.fcc.gov/public/attachments/DOC-390625A1.pdf> (Vultik Letter).

⁷⁰ SIPphony Letter, 2023 WL 173621 at *1; Vultik Letter, 2023 WL 173627 at *1.

U.S.-based voice service providers would be permitted to block the recipient providers' traffic after providing a notification and justification to the Commission.⁷¹

On January 24, 2023, the Commission issued a Public Notice to all U.S.-based voice service providers warning them about substantial amounts of apparently unlawful telephone solicitation calls to phone numbers on the National Do Not Call Registry from PhoneBurner Inc. (PhoneBurner) and MV Realty PBC, LLC (MV Realty).⁷² The calls apparently targeted financially-distressed homeowners and offered deceptive contracts, which gave MV Realty an exclusive right to list the homeowner's property for sale.⁷³ Concurrently, the Commission issued a cease and desist letter to Twilio Inc. (Twilio) for apparently transmitting the unlawful prerecorded calls on behalf of PhoneBurner and MV Realty.⁷⁴ As a result of the Commission's actions Twilio stopped transmitting calls from PhoneBurner and MV Realty.

On June 7, 2023, in an effort to combat unlawful health insurance spam and scam robocall traffic, the Enforcement Bureau also issued a letter to Michael D. Lansky, LLC d/b/a Avid Telecom (Avid), requiring Avid to: (1) within 48 hours, effectively mitigate the identified apparently illegal robocall traffic and inform the Commission and the Traceback Consortium of steps taken to mitigate the identified apparently 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.⁷⁵ The letter notified Avid that, absent such actions, downstream voice service providers would be authorized to block all of Avid's traffic.⁷⁶ The letter also warned Avid that if it continued to originate illegal robocall traffic, the Commission may remove its certifications from the Robocall Mitigation Database, thereby requiring downstream providers to cease accepting any traffic from Avid.⁷⁷

The Enforcement Bureau also took action to mitigate the effect of scam robocalls and robotexts associated with student loan debt. On June 30, 2023, the Commission, in conjunction with four state attorneys general, 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.⁷⁸

The Commission has also taken steps to combat the scourge of illegal robocalls originating overseas. In accordance with the rules adopted in May 2022 to require gateway providers to block illegal traffic when notified of such traffic,⁷⁹ the Enforcement Bureau took action, including issuing the first ever

⁷¹ SIPphony Letter, at *2; Vultik Letter, at *2.

⁷² See *Robocall Enforcement Notice to All U.S.-Based Voice Service Providers: FCC Enforcement Bureau Notifies All U.S.-Based Providers of Apparently Illegal Traffic from PhoneBurner Inc. and MV Realty PBC, LLC*, Public Notice, DA 23-65, 2023 WL 1067998 (EB Jan. 24, 2023) (PhoneBurner and MV Realty Public Notice).

⁷³ See *id.*

⁷⁴ See Press Release, Federal Commc'ns Comm'n, FCC Takes on Mortgage Scam Robocall Campaign Targeting Homeowners, (Jan. 24, 2023), <https://docs.fcc.gov/public/attachments/DOC-390813A1.pdf>; see also Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Jeff Lawson, CEO, Twilio Inc., 2023 WL 1068019 (Jan. 24, 2023), <https://docs.fcc.gov/public/attachments/DOC-390811A1.pdf> (Twilio Letter).

⁷⁵ Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Michael Lansky, CEO, Avid Telecom LLC, 2023 WL 3932233, at *3 (June 7, 2023), <https://docs.fcc.gov/public/attachments/DOC-394134A1.pdf> (Avid Telecom Letter).

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Consumer Advisory, Fed. Commc'ns Comm'n, *FCC & State Attorneys General Warn Consumers of Increased Risk of Student Loan Debt Scam Robocalls and Robotexts* (June 30, 2023), <https://www.fcc.gov/document/fcc-state-ags-warn-student-loan-debt-scam-robocalls-robotexts> (Student Loan Robocall Advisory).

⁷⁹ See 47 CFR § 64.1200(n)(5); *Gateway Provider Order and Further Notice of Proposed Rulemaking*, *supra* note 46, at 6898, para. 75.

RoboBlocking Order,⁸⁰ against One Eye LLC (One Eye), which served as a gateway provider for unlawful scam traffic entering the U.S. network.⁸¹ On February 15, 2023, the Enforcement Bureau issued a Notification of Suspected Illegal Traffic to One Eye for the transmission of apparently illegal traffic.⁸² The apparently illegal traffic related to bank impersonation and fraudulent order authorization calls.⁸³ Also on February 15, 2023, the Enforcement Bureau issued a Public Notice, notifying all U.S. voice service providers that they may block or cease to accept traffic from One Eye if One Eye failed to mitigate the apparently unlawful traffic identified in the Notification.⁸⁴ One Eye did not respond to the Notification or file a report in accordance with the Notification.⁸⁵ As a result of One Eye's failure to respond, on April 3, 2023, the Enforcement Bureau issued an Initial Determination Order to One Eye, ordering One Eye to provide a final response explaining why the Enforcement Bureau should not issue a Final Determination Order, which would direct U.S.-based downstream providers to block all traffic from One Eye.⁸⁶ One Eye did not respond to the Enforcement Bureau's Initial Determination Order.⁸⁷ Subsequently, the Enforcement Bureau issued a Final Determination Order, dubbed a RoboBlocking Order, against One Eye.⁸⁸ Consistent with the rules the Commission adopted in May 2022, the Final Determination Order required U.S. voice service providers immediately downstream of One Eye to cease accepting and block traffic from One Eye.⁸⁹

The Enforcement Bureau subsequently also took action against an entity apparently linked to One Eye. On August 1, 2023, the Enforcement Bureau issued a Notification of Suspected Illegal Traffic to One Owl Telecom Inc. (One Owl) identifying apparently illegal traffic transmitted by One Owl and ordering One Owl to investigate the identified traffic, block such traffic if necessary, and provide a report to the Enforcement Bureau.⁹⁰ Also on August 1, 2023, the Enforcement Bureau issued a Public Notice, notifying all U.S. voice service providers that they may block or cease to accept traffic from One Owl if One Owl failed to mitigate the apparently unlawful traffic identified in the Notification.⁹¹ Following One

⁸⁰ Press Release, Fed. Commc'ns Comm'n, FCC Orders Blocking of Calls From Gateway Facilitator of Illegal Robocalls from Overseas (May 11, 2023), <https://docs.fcc.gov/public/attachments/DOC-393325A1.pdf>; see *One Eye LLC*, Final Determination Order, DA 23-389, 2023 WL 3530737 (EB May 11, 2023) (*One Eye Final Determination Order*).

⁸¹ See *One Eye Final Determination Order*, 2023 WL 3530737, at *2, para. 5.

⁸² Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Kaushal Bhavsar, CEO, One Eye LLC, 2023 WL 2070119 (Feb. 15, 2023), <https://www.fcc.gov/document/fcc-issues-robocall-cease-and-desist-letter-one-eye> (One Eye Letter).

⁸³ *Id.* at *1.

⁸⁴ *Robocall Enforcement Notice to All U.S.-Based Voice Service Providers: FCC Enforcement Bureau Notifies All U.S.-Based Providers of Rules Permitting Them to Block Robocalls Transmitting from One Eye LLC*, Public Notice, DA 23-128, 2023 WL 2070107, at *1 (EB Feb. 15, 2023).

⁸⁵ *One Eye LLC*, Initial Determination Order, DA-23-279, 2023 WL 2806073, at *3, para. 6 (EB Apr. 3, 2023).

⁸⁶ *Id.* at *1, paras. 1, 10.

⁸⁷ *One Eye Final Determination Order*, *supra* note 80, at *3, para. 8.

⁸⁸ *Id.*; see also Press Release, Fed. Commc'ns Comm'n, *FCC Orders Blocking of Calls From Gateway Facilitator of Illegal Robocalls from Overseas* (May 11, 2023), <https://www.fcc.gov/document/fcc-issues-first-ever-roboblocking-order-against-one-eye>.

⁸⁹ 47 CFR § 64.1200(n)(6); *One Eye Final Determination Order*, *supra* note 80, at *1, para.1.

⁹⁰ Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Aashay Khandelwal, CEO, One Owl Telecom Inc., 2023 WL 4931051, at *5-6 (Aug. 1, 2023), <https://docs.fcc.gov/public/attachments/DOC-395607A1.pdf> (One Owl Letter).

⁹¹ *Robocall Enforcement Notice to All U.S.-Based Voice Service Providers: FCC Enforcement Bureau Notifies All U.S.-Based Providers of Rules Permitting Them to Block Robocalls Transmitting from One Owl Telecom Inc.*, Public Notice, DA 23-652, at 1, 2023 WL 4930844, at *1 (EB Aug. 1, 2023).

Owl's failure to respond to the Notification, the Enforcement Bureau issued an Initial Determination Order on September 19, 2023.⁹²

The Enforcement Bureau additionally took action against companies that have failed to identify the specific steps they are taking to avoid serving as the originator or gateway for illegal robocall traffic. On October 16, 2023, the Enforcement Bureau issued orders to twenty companies requiring them to show cause as to why the Enforcement Bureau should not remove them from the Robocall Mitigation Database for uploading and certifying facially deficient robocall mitigation plans.⁹³

On October 16, 2023, the Enforcement Bureau issued an order announcing that it has entered into a compliance plan with Global UC Inc. (Global UC).⁹⁴ The order resolved Global UC's deficient Robocall Mitigation Database certification and reinstated Global UC to the Robocall Mitigation Database, subject to Global UC's adherence to the terms of a compliance plan, which will remain in place for three years.⁹⁵

4. Protecting Consumers from Unwanted Robocalls and Robotexts.

The TCPA continues to serve as a critical safeguard against unwanted robocalls and robotexts. Thus, the Commission continues to focus on TCPA-related policies.

In March 2023, the Commission announced that it is improving its Reassigned Numbers Database by making it easier for callers to check large volumes of numbers before calling them to ensure they have not been reassigned.⁹⁶ To do so, the FCC reduced prices at higher query volumes and now offers an annual subscription at a further discounted price.⁹⁷ The Reassigned Numbers Database allows subscribers to use the database to determine whether a telephone number may have been reassigned so they can avoid calling consumers who do not want to receive the calls. The database is a first-of-its-kind resource to help callers reach their intended recipients while avoiding potentially costly liability for violations of the TCPA.

In June 2023, the Commission sought comment on proposals to clarify and strengthen the ability of consumers to revoke consent to receive both robocalls and robotexts in accordance with the TCPA.⁹⁸ The Commission proposed to amend our rules to strengthen the ability of consumers to decide which robocalls and robotexts they wish to receive by exercising their right to grant and revoke consent to individual callers.⁹⁹

In the *Caller ID Authentication Sixth Report and Order* and *Direct Access Second Report and Order*, the Commission directed the Wireline Competition Bureau to refer to the North American

⁹² *One Owl Telecom Inc.*, Initial Determination Order, DA 23-866, at 1, 2023 WL 6194044, at *1 (EB Sept. 19, 2023).

⁹³ Press Release, Fed. Comm'n's Comm'n, FCC Seeks to Remove Companies from Key Database for Non-Compliance with Anti-Robocall Rules (Oct. 16, 2023), <https://docs.fcc.gov/public/attachments/DOC-397737A1.pdf>; see, e.g., 2054235 Alberta Ltd. dba Teleclub, Order, DA 23-960 (EB Oct. 16, 2023); Claude ICT Poland, Order, DA 23-961 (EB Oct. 16, 2023).

⁹⁴ *Global UC Inc.*, Order, DA 23-956, at 1-2 (EB Oct. 16, 2023), <https://docs.fcc.gov/public/attachments/DA-23-956A1.pdf>.

⁹⁵ *Id.* at 2 and attached Compliance Program.

⁹⁶ Press Release, Fed. Comm'n's Comm'n, FCC Announces Reduced, Streamlined Pricing for Reassigned Numbers Database (Mar. 15, 2023), <https://docs.fcc.gov/public/attachments/DOC-391762A1.pdf>.

⁹⁷ See *id.*

⁹⁸ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Notice of Proposed Rulemaking, CG Docket No. 02-278, FCC 23-49, 2023 WL 3946686, at *1, para. 1 (June 9, 2023) (*2023 TCPA Proposed Rulemaking*).

⁹⁹ *Id.* at *1, para. 2.

Numbering Council issues regarding possible differential treatment of international cellular roaming traffic for purposes of STIR/SHAKEN caller ID authentication and possible changes to our numbering rules to prevent the misuse of numbering resources to originate illegal robocalls.¹⁰⁰

G. Analysis and Recommendations Regarding the Contribution of VoIP 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 VoIP providers.¹⁰¹ The Commission recently reiterated that there is continuing evidence of this.¹⁰² Moreover, the USTelecom Industry Traceback Group (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.¹⁰³

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.¹⁰⁴ Today, wholesale rates to U.S. mobile phones are less than a penny per minute and are accessible virtually worldwide.¹⁰⁵ Short-duration calls became popular after providers introduced six-second billing as an alternative to rounding up, to become more competitive with other providers.¹⁰⁶ This approach made short duration calls much less expensive, leading to a cottage industry of VoIP providers specializing in so-called “dialer traffic.”¹⁰⁷ Foreign and domestic robocallers route calls through foreign VoIP providers, which makes it harder for U.S. law enforcement to conduct tracebacks. These providers compete on thin margins, often with minimal staff, rented servers, online sign-ups, and virtual offices, to generate high volumes of calls.¹⁰⁸ In contrast, intermediate providers discourage short-duration calling

¹⁰⁰ See *Caller ID Authentication Sixth Report and Order*, *supra* note 47, at *29, paras. 83-85; *Direct Access Second Report and Order*, *supra* note 56, at *23-26, paras. 68-73; Letter from Trent Harkrader, Chief, Wireline Competition Bureau, to the Hon. Karen Charles, Chairwoman, North American Numbering Council, Call Authentication Trust Anchor Working Group (Aug. 14, 2023), https://www.fcc.gov/sites/default/files/CATA_WG_Referral_Letter_8_14_23_PDF.pdf.

¹⁰¹ 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 only interconnected VoIP service permits users generally to receive calls that originate on the public switched telephone network and terminate calls to the public switched telephone network. See 47 U.S.C. § 153(25) and (36); 47 CFR § 9.3.

¹⁰² See *Direct Access Second Report and Order*, *supra* note 56, at *5-20, para. 16; *Caller ID Authentication Sixth Report and Order*, *supra* note 47, at *12, para. 34.

¹⁰³ Affidavit of Joshua M. Bercu, Vice President of Policy and Advocacy for USTelecom – The Broadband Association at 1 (filed Dec. 2, 2020) (Bercu Aff.).

¹⁰⁴ *Id.* at 1.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* 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, 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*, Notice of Proposed Rulemaking, 33 FCC Rcd 5466, 5467, para. 2 (2018).

¹⁰⁸ Bercu Aff. at 1; see also *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

because it consumes network resources (thereby potentially interfering with more lucrative traffic) and is not a significant source of revenue.¹⁰⁹

The TCPA is more than three decades old yet we must apply its language to calls and messages from modern mobile devices.¹¹⁰ We must also regulate an increasing number of VoIP providers. The ITG informed the Bureau that it has identified 132 new U.S.-based providers and new foreign-based providers compared to prior years.¹¹¹ This increase in new providers may be due to the ease with which entities can create new VoIP providers or VoIP resellers, in contrast to the financial and regulatory barriers to entry associated with establishing a new facilities-based provider.¹¹² For years illegal robocallers invaded the phone network from anywhere in the world and capitalized on technology and regulatory changes that made it cheaper and easier to make calls to anyone in the world from anywhere in the world.¹¹³ Collaborative work between the government and the industry has led to a decline in the number of robocalls.¹¹⁴ Illegal robocallers evolve, however, and there are new concerning trends such as voice phishing attacks that use AI-powered robocalls that mimic a real conversation.¹¹⁵ Also, bad actors are making illegal calls using purchased numbers rather than manipulated caller ID.¹¹⁶ There is also an increasing trend of highly targeted multichannel attacks that combine a call with an e or text.¹¹⁷ These illegal robocallers often attempt to evade blocking and labeling by using VoIP services such as number rotation,¹¹⁸ and by ceasing operations once they become the subject of a law enforcement investigation, only to form another company and resume illegal robocalling.¹¹⁹

The practices of illegal robocallers are negatively affecting legitimate callers.¹²⁰ Provider blocking can be an effective tool to prevent many illegal robocalls from reaching consumers; however, it can also result in false positives and false negatives.¹²¹ For example, because many illegal and unwanted

dozen people or perhaps just one or two” that “[b]lend in robocall traffic with their other business” to supplement their bottom line).

¹⁰⁹ Bercu Aff., *supra* note 103, at 1.

¹¹⁰ 2023 TCPA Proposed Rulemaking, *supra* note 98, Statement of Chairwoman Jessica Rosenworcel (*Rosenworcel Statement*).

¹¹¹ See E-mail from Joshua Bercu, Vice President of Policy and Advocacy, Industry Traceback Group, to Jessica Manuel, Attorney Advisor, Telecommunications Consumers Division, Federal Communication Commission (Nov. 1, 2023).

¹¹² See *id.*

¹¹³ Joshua Bercu, “The State of Industry Traceback – May 2023,” *Industry Traceback Group*, <https://tracebacks.org/state-of-industry-traceback-march-2023/> (last visited Oct. 11, 2023).

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ See *Rosenworcel Statement*, *supra* note 110.

¹¹⁸ See Comments of USTelecom—The Broadband Association, CG Docket No. 17-59, WC Docket No. 17-97, at 13 (Aug. 9, 2023) (*USTelecom Gateway Order Comments*) (referring to the misuse of DID rotation in *Sumco Panama*).

¹¹⁹ See, e.g., *One Eye Final Determination Order*, *supra* note 80, at *2, para. 6.

¹²⁰ See *USTelecom Gateway Order Comments* at 13.

¹²¹ *Id.*

telemarketing calls utilize number rotation,¹²² provider analytics are initially more likely to filter calls from legitimate providers who begin using new numbers, and label them as spam.¹²³

The Commission has continued to successfully push back on VoIP providers. The Commission has issued forfeiture orders and blocking orders against providers that have continuously failed to abide by our robocall mitigation requirements.¹²⁴ One notable example is auto warranty calls. The Commission's action in the case of *Sumco Panama* led to a 99 percent decrease in auto warranty robocalls.¹²⁵ In another notable case, the Commission issued a cease and desist letter to Twilio for apparently transmitting unlawful prerecorded calls from PhoneBurner and MV Realty.¹²⁶ These calls targeted financially-distressed homeowners by offering deceptive contracts giving MV Realty an exclusive right to list the homeowner's property for sale.¹²⁷ As a result of the Commission's actions, Twilio stopped transmitting these calls and MV Realty filed for bankruptcy later in the year.

Additionally, in the September 2023 *Direct Access Second Report and Order*, the Commission adopted rules to strengthen and modernize the Commission's requirements for VoIP providers to obtain direct access to telephone numbers. Specifically, the order will require direct access applicants to (1) make robocall-related certifications to help ensure compliance with the Commission's rules to combat illegal robocalls; (2) disclose and keep current information about their ownership, including foreign ownership, to mitigate the risk of providing bad actors abroad with access to U.S. numbering resources; (3) certify to their compliance with other Commission rules applicable to interconnected VoIP providers; and (4) comply with state laws and registration requirements applicable to businesses in each state where numbers are requested.¹²⁸ The *Direct Access Second Report and Order* also codified the Commission's direct access review, application rejection and revocation processes, and directed the Wireline Competition Bureau to request that the North American Numbering Council study number use, resale and reclamation to inform future potential Commission action.¹²⁹ In an accompanying *Second Further Notice*, the Commission sought comment on proposals to further increase Commission oversight of entities with access to numbers, including those gaining access indirectly.¹³⁰

We continue to work with our state and federal partners and with the industry to identify, investigate, and combat illegal robocalls and protect consumers. In June 2023, the Commission teamed with the Attorneys General of Illinois, Massachusetts, Michigan, and New Hampshire to warn consumers of a potential increase in student loan related robocall scams in the wake of the recent Supreme Court decision in *Biden v. Nebraska*.¹³¹ We have noticed that scam callers and texters often use broadly

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *See, e.g.,* One Eye Letter, *supra* note 82, at *1, para. 1; *One Eye Final Determination Order*, *supra* note 80, at *2, para. 8; One Owl Letter, *supra* note 90, at *1, para. 1.

¹²⁵ Robokiller, *Car Warranty Robocalls Plummeted in Late 2022: Here's Why* (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.”).

¹²⁶ *See* Twilio Letter, *supra* note 74, at *1.

¹²⁷ *Id.* at 1-2.

¹²⁸ *See Direct Access Second Report and Order*, *supra* note 56 at *5-20, paras. 12-58.

¹²⁹ *See id.* at *20-25, paras. 58-73.

¹³⁰ *See id.* at *28-33, paras. 79-95.

¹³¹ Student Loan Robocall Advisory, *supra* note 78; *Biden v. Nebraska*, 143 S. Ct. 2355, 2358 (2023) (“the HEROES Act provides no authorization for the Secretary’s plan [of mass student loan debt cancellation] when examined using the ordinary tools of statutory interpretation—let alone “clear congressional authorization” for such a program.”).

publicized current events to add legitimacy to their fraudulent schemes. The Commission issued a press release warning consumers about these student loan scams and providing guidance on how to identify and report suspected student loan scams.¹³²

SECTION 11 OF THE TRACED ACT

Section 11(a) of the TRACED Act requires the Chief of the Enforcement Bureau 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.¹³³ Section 11(b) requires the Commission to annually publish on its website and submit to Congress a report that provides (1) the number of instances during the preceding year in which the Commission has provided such evidence to the Attorney General; and (2) a general summary of the types of violations to which such evidence relates.¹³⁴

Pursuant to the obligations mandated under the TRACED Act, the Commission submits the following information to Congress:

1. Between December 1, 2022 and November 30, 2023, the Enforcement Bureau provided evidence of willful, knowing, and repeated robocall violations made with an intent to defraud, cause harm, or wrongfully obtain anything of value to the DOJ in five instances.
2. The evidence submitted by the Enforcement Bureau related to the following types of robocall violations:
 - a. Violations of section 227(b)(1)(A)(iii) and (b)(1)(B) of the Communications Act¹³⁵ and section 64.1200(a)(2) and (a)(3) of the Commission's Rules¹³⁶ for making prerecorded or artificial voice message calls introducing an advertisement or constituting telemarketing of auto warranties to wireless and residential numbers without prior express written consent or an emergency purpose or other exception under the Act and the Commission's rules. In addition, violations of section 227(e)(1) of the Communications Act¹³⁷ and section 64.1604(a) of the Commission's rules¹³⁸ for knowingly causing a caller identification service to transmit or display misleading or inaccurate caller identification information, on calls pertaining to auto warranties, with the intent to defraud, cause harm, or wrongfully obtain anything of value;
 - b. Violations of section 227(b)(1)(A)(iii) of the Communications Act¹³⁹ and section 64.1200(a)(1)(iii) of the Commission's rules¹⁴⁰ for making prerecorded voice message calls to toll free numbers without prior express consent or an emergency purpose or other exception under the Act and the Commission's rules;

¹³² Student Loan Robocall Advisory, *supra* note 78.

¹³³ TRACED Act § 11(a) (codified at 47 U.S.C. § 227b-2(a)).

¹³⁴ *Id.* §11(b).

¹³⁵ 47 U.S.C. § 227(b)(1)(A)(iii), (b)(1)(B).

¹³⁶ 47 CFR § 64.1200(a)(2), (a)(3).

¹³⁷ 47 U.S.C. § 227(e)(1).

¹³⁸ 47 CFR § 64.1604(a).

¹³⁹ 47 U.S.C. § 227(b)(1)(A)(iii).

¹⁴⁰ 47 CFR § 64.1200(a)(1)(iii).

c. Violations of section 227(b)(1)(A)(iii) of the Communications Act¹⁴¹ and section 64.1200(a)(1)(iii) of the Commission’s rules¹⁴² for making prerecorded voice message calls related to an election to wireless numbers without prior express consent or an emergency purpose or other exception under the Act and the Commission’s rules;

d. Violations of section 227(e)(1) of the Communications Act¹⁴³ and section 64.1604(a) of the Commission’s rules¹⁴⁴ for knowingly causing a caller identification service to transmit or display misleading or inaccurate caller identification information, on calls pertaining to health insurance, with the intent to defraud, cause harm, or wrongfully obtain anything of value.

e. Violations of section 227(e) of the Communications Act¹⁴⁵ and section 64.1604(a)(1)(iii) of the Commission’s Rules¹⁴⁶ for making prerecorded or artificial voice message calls using spoofed caller ID in connection with a state election.

The Commission and Enforcement Bureau coordinate regularly with DOJ 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 these collaborative efforts, during the reporting period (December 1, 2022 through November 30, 2023) the Enforcement Bureau coordinated closely with the FTC and DOJ regarding robocalls involving government imposters, health insurance telemarketing spam, and student loan scams.¹⁴⁷

The Commission has entered into MOUs with 48 states, the District of Columbia, Guam, and several foreign regulators that allow the Commission to share information about suspected unlawful calls.¹⁴⁸ These information-sharing agreements have proved productive. In 2023, the Enforcement Bureau coordinated with the Florida State Attorney General in the investigation of apparently unlawful telephone solicitation calls to phone numbers on the National Do Not Call Registry generated by Phone Burner and MV Realty.¹⁴⁹ The Enforcement Bureau issued a Public Notice requiring all U.S.-based voice

¹⁴¹ 47 U.S.C. § 227(b)(1)(A)(iii).

¹⁴² 47 CFR § 64.1200(a)(1)(iii).

¹⁴³ 47 U.S.C. § 227(e)(1).

¹⁴⁴ 47 CFR § 64.1604(a).

¹⁴⁵ 47 U.S.C. § 227(e)(1)

¹⁴⁶ 47 CFR § 64.1200(a)(1)(iii).

¹⁴⁷ See, e.g., Press Release, Fed. Trade Comm’n, FTC, Law Enforcers Nationwide Announce Enforcement Sweep to Stem the Tide of Illegal Telemarketing Calls to U.S. Consumers (July 18, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/07/ftc-law-enforcers-nationwide-announce-enforcement-sweep-stem-tide-illegal-telemarketing-calls-us> (“Contributing law enforcers include the Department of Justice, which has announced several civil and criminal actions related to this initiative, as well as the Federal Communications Commission . . .”).

¹⁴⁸ See, e.g., FCC-State Robocall Investigation Partnerships, Fed. Commc’ns Comm’n, <https://www.fcc.gov/fcc-state-robocall-investigation-partnerships> (last updated Sept. 19, 2023); Press Release, Fed. Commc’ns Comm’n, FCC Renews Robocall and Data Protection International Enforcement Partnership (Sept. 21, 2023), <https://docs.fcc.gov/public/attachments/DOC-397116A1.pdf>; Press Release, Fed. Commc’ns Comm’n, Infocomm Media Development Authority (IMDA) of Singapore and the United States Federal Communications Commission Signed Memorandum of Understanding (MOU) to Enforce Cross-Border Efforts to Combat Scams (Oct. 12, 2023), <https://docs.fcc.gov/public/attachments/DOC-397603A1.pdf>.

¹⁴⁹ PhoneBurner and MV Realty Public Notice, *supra* note 72.

service providers to effectively mitigate, by means including call blocking, the apparently illegal traffic originating from PhoneBurner and MV Realty.¹⁵⁰

The Enforcement Bureau also meets 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 Department of the Treasury, the Postal Inspection Service, the Department of Education, and the Department of Homeland Security to coordinate efforts to stop illegal robocalls.

SECTION 13 OF THE TRACED ACT

Section 13(a) of the TRACED Act requires the Commission to annually publish on its website and submit to Congress a report on the status of private-led efforts to trace back the origin of suspected unlawful robocalls.¹⁵¹ On July 26, 2023, the Enforcement Bureau issued a Public Notice pursuant to section 13 of the TRACED Act, seeking “comment on private-led efforts to trace back the source of suspected unlawful robocalls and to issue an annual report on the status of such efforts and the participation of voice service providers in such efforts.”¹⁵² On November 13, 2023, the Industry Traceback Group filed a letter on the status of Private-led Tracebacks. Also on November 13, 2023, VaultCom filed an express comment describing its efforts.¹⁵³

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 the origin of suspected unlawful robocalls.”¹⁵⁴ On August 18, 2023, the Enforcement Bureau selected the Industry Traceback Group to continue as the single don’t registered consortium to conduct private-led traceback efforts.¹⁵⁵ The Industry Traceback Group is a collaborative group comprised of providers across wireline, wireless, VoIP, and cable services.¹⁵⁶

The Industry Traceback Group is guided by established principles that introduce reasonable due diligence, integrity, and transparency into the traceback process.¹⁵⁷ These principles dictate that tracebacks will be conducted only if:

¹⁵⁰ *Id.* at *1.

¹⁵¹ TRACED Act § 13(a).

¹⁵² *Enforcement Bureau Requests Information on the Status of Private-Led Traceback Efforts of Suspected Unlawful Robocalls*, EB Docket No. 20-195, Public Notice, DA 22-1201, 2023 WL 5090844, at *1, para. 1 (EB July 26, 2023).

¹⁵³ VaultCom, Express Comment, EB Docket 20-195 (filed Nov. 13, 2023) (explaining VaultCom’s practices of not accepting robocalls on its network, prohibiting “calls generated through press 1 or avatar type campaigns,” and only permitting calls made by live agents or operators”).

¹⁵⁴ TRACED Act § 13(d)(1).

¹⁵⁵ *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 23-719, 2023 WL 5358422, at *1, para. 1 (EB Aug. 18, 2023) (*2023 Consortium Selection Order*) (“In this Order, the Enforcement Bureau (Bureau) selects the incumbent, the Industry Traceback Group established by USTelecom – The Broadband Association (collectively, USTelecom or Traceback Group), to continue as the registered consortium for private-led traceback efforts.”).

¹⁵⁶ *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, 37 FCC Rcd 9509, 9511, para. 4, n.15 (EB 2022).

¹⁵⁷ See Industry Traceback Group, Policies and Procedures at 10 (Apr. 2022), <https://tracebacks.org/wp-content/uploads/2022/04/ITG-Policies-and-Procedures-Updated-Apr-2022.pdf> (*Industry Traceback Group Policies and Procedures*); see also *2023 Consortium Selection Order*, at *16, para. 42.

- 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.¹⁵⁸

The following parties generally initiate traceback requests, although the Industry Traceback Group may also independently initiate tracebacks that satisfy the above referenced criteria:¹⁵⁹

- **Industry Traceback Group Steering Committee Member Referrals.** Designated ITG Steering Committee Members¹⁶⁰ 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.¹⁶¹ 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*

¹⁵⁸ *Industry Traceback Group Policies and Procedures* at 10.

¹⁵⁹ *See id.* at 10-11.

¹⁶⁰ Steering Committee Members implement the *Industry Traceback Group Policies and Procedures* governing the operational aspects of 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. *See Industry Traceback Group Policies and Procedures* at 6.

¹⁶¹ *See Industry Traceback Group Policies and Procedures* at 10.

*Group Policies and Procedures.*¹⁶² 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.¹⁶³ 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.¹⁶⁴ The process continues until the originating voice service provider is identified or a dead end is reached.¹⁶⁵ 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 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.¹⁶⁶ The Industry Traceback Group also holds a monthly call with representatives from these offices and agencies.

B. Industry Traceback Group Coordination with the Commission

The Commission 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 Commission, FTC, or other agency to the handling provider. However, the process has become much more efficient and effective, as (1) our traceback skills evolved, and (2) the Commission updated its regulations—such as the rule that took effect in May 2021, requiring voice service providers to respond to traceback requests in a timely manner.¹⁶⁷ 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 Commission and other law enforcement entities to pursue investigations quickly.

During the past four years, the Industry Traceback Group has continued to grow. Between November 1, 2022 and November 13, 2023, the Industry Traceback Group initiated over 3,500 tracebacks.¹⁶⁸ This amounts to an average of approximately 300 tracebacks per month,¹⁶⁹ an increase of 30 tracebacks per month from the prior report period's monthly average.¹⁷⁰ Also between November 1,

¹⁶² *See id.* at 9.

¹⁶³ 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.

¹⁶⁴ *See id.* at 8.

¹⁶⁵ *See id.*

¹⁶⁶ *See id.* at 12.

¹⁶⁷ 47 CFR § 64.1200(n)(1).

¹⁶⁸ Letter from Joshua Bercu, Vice President, Policy and Advocacy, US Telecom to Marlene Dortch, Secretary, Federal Commc'ns Comm'n, 1 (Nov. 13, 2023) (USTelecom 2023 Letter).

¹⁶⁹ *Id.*

¹⁷⁰ *Compare id.*, with Letter from Joshua Bercu, Vice President, Policy and Advocacy, US Telecom to Marlene Dortch, Secretary, Fed. Commc'ns Comm'n, 1 (Nov. 21, 2022).

2022 and November 13, 2023, the Industry Traceback Group identified approximately 1,400 U.S.-based and foreign originators in tracebacks¹⁷¹ and determined that “[n]early 85 percent of tracebacks resulted in the originating provider warning or terminating their customer.”¹⁷²

The Industry Traceback Group has also incorporated STIR/SHAKEN data into the traceback process. During the Current Reporting Period, the Industry Traceback Group found that “less than half of the calls traced back . . . that were identified as having a U.S.-based originating provider were signed by that provider”¹⁷³ and that “[o]f the remainder, nearly 40 percent were signed by a downstream provider and approximately 16 percent had no STIR/SHAKEN information whatsoever.”¹⁷⁴ Additionally, the Industry Traceback Group determined that since June 30, 2023, when rules requiring gateway providers to sign unsigned traffic took effect, “only 25 percent of foreign-originated calls traced back by the ITG were not signed by the gateway provider, or another provider further upstream.”¹⁷⁵

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;¹⁷⁶ (2) a letter¹⁷⁷ from the Industry Traceback Group providing a description of private-led traceback efforts, which was filed with the Commission on November 13, 2023;¹⁷⁸ (3) a copy of the Industry Traceback Group’s policies and procedures;¹⁷⁹ and (4) a copy of the Industry Traceback Group’s application¹⁸⁰ to the Commission.

¹⁷¹ USTelecom 2023 Letter at 2.

¹⁷² *Id.*

¹⁷³ *Id.* at 3.

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ In accordance with the requirements of TRACED Act § 13(b)(2), (3), and (4), the attached spreadsheet contains the following information for the date range of November 1, 2022 to October 31, 2023: (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 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.

¹⁷⁷ USTelecom 2023 Letter, *supra* note 168.

¹⁷⁸ 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.

¹⁷⁹ *Industry Traceback Group Policies and Procedures.*

¹⁸⁰ Application of USTelecom, EB Docket No. 20-22 (rec. May 21, 2020), <https://www.fcc.gov/ecfs/document/105210376506982/1>.