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2021 Update on Illegal Robocall Mitigation Efforts

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Today's Agenda

- I. Overview of FCC Activity in 2020**
- II. Overview of Key FCC Orders Adopted in 2020**
- III. How to Approach Robocall Mitigation Plans**
- IV. Working With the Industry Traceback Group**
- V. Robocall Enforcement**
- VI. Questions and Answers**

Overview of FCC Activity in 2020

High Level Takeaways from FCC Robocall Activities



- Since passage of the TRACED Act in late 2019, the FCC has been ***rapidly implementing*** the statute's provisions throughout 2020;
- Recent actions by the FCC include ***several mandates for voice service providers;***
- Voice service providers subject to any STIR/SHAKEN extension ***must implement a robocall mitigation program by June 30, 2021;***
- Robocalls will remain a priority issue for the FCC – regardless of who is in charge.

An Additional High Level Takeaway

The Communications Act and '96 Act Created Narrow Regulatory Categories:

- ILECs/CLECs
- Cable Providers
- Wireless Providers
- Interconnected VoIP
- Non-Interconnected VoIP
- Information Services

- **The TRACED Act Wipes Away Those Distinctions:**
 - Providers of “voice service.”

37. For purposes of our rules, we also adopt a definition of “voice service” that aligns with the TRACED Act. The TRACED Act employs a broad definition of “voice service” that includes “without limitation, any service that enables real-time, two-way voice communications, including any service that requires [I]nternet [P]rotocol-compatible customer premises equipment . . . and permits out-bound calling, whether or not the service is one-way or two-way voice over [I]nternet [P]rotocol.”¹⁴¹ The TRACED Act definition is limited, however, to service “that is interconnected with the public switched telephone network and that furnishes voice communications *to an end user*.”¹⁴² Thus, the rules we adopt today apply to originating and terminating voice service providers and exclude intermediate providers.

Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 17-97, 20-67, FCC 20-42, March 31, 2020.

A Busy, Busy Year for the FCC.

2020

Mar., 2020

1st Report and Order:
STIR/SHAKEN mandate;
outlines STIR/SHAKEN
obligations.

Apr., 2020:

FCC initiates one-ring
scam NPRM.

Traceback Consortium NPRM.

Feb., 2020: FCC
proposes rules for
selection of traceback
consortium.

Traceback Consortium Report and Order.

Mar., 2020: FCC
adopts rules for
selection process.

Jul., 2020

3rd Report and Order:
Two additional safe
harbors; redress
mechanisms.

Traceback Consortium Application PN.

Apr., 2020: EB solicits
applications.

Traceback Consortium Designation.

July, 2020: ITG selected.

Oct., 2020

2nd Report and Order:
Extensions; Exemptions;
Robocall Mitigation Plans;
Registration Database.

Oct., 2020:

DOJ/FCC Report to Congress
on Interagency WG.

Oct., 2020:

FCC issues one-ring scam
order.

Dec., 2020

4th Report and Order:
Affirmative obligations for
VSPs; safe harbor for
network-based blocking;
redress mechanisms.

Dec., 2020:

Hospital Robocall Protection
Group Issues Best Practices.

Dec., 2020:

Online portal database
NPRM.

Dec., 2020:

Annual Traceback Report to
Congress; Report on status of
STIR/SHAKEN deployment.

Overview of Key FCC Orders

Key Components of Recent FCC Activity

March 31, 2020 First Report and Order (FCC 20-42)

- Mandates deployment of caller ID authentication framework; STIR/SHAKEN.
- Requires a voice service provider (“VSP”):
 - (i) that originates a call that exclusively transits its own network must authenticate and verify the caller ID information consistent with STIR/SHAKEN authentication framework;
 - (ii) originating a call it will exchange with another VSP or intermediate provider must authenticate the caller ID information in accordance with the STIR/SHAKEN authentication framework and, to the extent technically feasible, transmit that caller ID information with authentication to the next VSP in the call path; and
 - (iii) terminating a call with authenticated caller ID information it receives from another VSP must verify that caller ID information in accordance with the STIR/SHAKEN authentication framework.

Key Components of Recent FCC Activity

Oct. 1, 2020 Second Report and Order

- Establishes caller ID authentication ***obligations*** in non-IP networks;
- Establishes frameworks for ***exemptions*** from and ***extensions*** of the June 30, 2021 STIR/SHAKEN mandate deadline;
- Requires a ***robocall mitigation program*** for any voice service provider subject to a STIR/SHAKEN deadline extension;
- Mandates robocall mitigation database ***registration and certification framework*** for all voice providers; and
- Prohibits intermediate and terminating providers from ***accepting traffic from providers that are not in database.***

Extension Recipients Must Implement Mitigation Plans

Small/Rural Voice Providers

- 100,000 or fewer voice subscriber lines
- Two-year extension - June 30, 2023

Inability to Obtain STIR/SHAKEN Tokens

- Cannot obtain certificates necessary to participate in STIR/SHAKEN
- Indefinite extension
- Note recent action by STIR/SHAKEN GA

Pending 214 Applicants

- Must be subject to a pending Section 214 discontinuance application
- One year from date of filing (no later than June 30, 2021)

Networks Incompatible with SIP

- Networks reliant on technology that cannot initiate, maintain, and terminate SIP calls
- Indefinite extension (until a solution is “reasonably available”)

Key Components of Recent FCC Activity

July 17, 2020 Third Report and Order

- Creates ***two additional safe harbors***:
 - Consumer opt-out blocking based on reasonable analytics;
 - Blocking of bad-actor providers.
- Protections against erroneous blocking;
 - designate a single point of contact for callers, as well as other voice service providers, to report blocking errors;
 - publish contact information clearly and conspicuously on their public-facing websites;
 - providers must investigate and resolve these blocking disputes in a reasonable amount of time and at no cost to the caller, so long as the complaint is made in good faith

Key Components of Recent FCC Activity

Dec. 30, 2020 Fourth Report and Order

- Places ***affirmative*** robocall mitigation obligations on ***all voice service providers***, including
 - Responding to traceback requests;
 - Taking steps to “effectively mitigate” illegal traffic when notified by the FCC; and
 - Preventing new and renewing customers from originating illegal robocalls.
- Expands safe harbor based on reasonable analytics to network-based blocking;
- Establishes enhanced transparency and redress requirements

Date	Event
Oct. 1, 2020	<i>Second Report and Order released</i>
Nov. 9, 2020	Exemptions PN issued
Nov. 20, 2020	Provider-specific extension requests due (can seek waiver of deadline after this date)
Dec. 1, 2020	Deadline for initial exemption certifications and filings
Dec. 22, 2020	Caller ID Authentication Best Practices released
Dec. 30, 2020	<i>Fourth Report and Order released</i>
Mar. 30, 2021	<i>Earliest date the Bureau may release the Database PN</i>
	Deadline for Bureau decisions to grant extensions
Jun. 30, 2021	S-S implementation deadline
	<i>Robocall mitigation program implementation deadline</i> (for providers with extensions)
	Earliest date the Bureau may establish the database certification deadline
TBD	Second exemption certifications will be due after June 30, 2021
	Prohibition on accepting non-database traffic (90 days from database certification deadline, which can be no sooner than Sept. 28, 2020)

How to Approach Robocall Mitigation Plans

Mitigation Plans: FCC Guidance and Requirements

- Voice service providers subject to an extension must implement an appropriate robocall mitigation program to prevent unlawful robocalls from **originating** on their network.
- FCC generally takes a “***non-prescriptive*** approach.”
- Robocall mitigation programs will be deemed sufficient if the voice service provider:
 - (1) ***includes detailed practices*** that can ***reasonably be expected*** to significantly reduce the ***origination of illegal robocalls***,
 - (2) ***complies with*** the practices it describes, and
 - (3) ***participates in*** industry traceback efforts.
- Voice service provider must “document and publicly certify how they are complying.”
- FCC’s Enforcement Bureau to impose on a voice service provider more prescriptive measures where its robocall mitigation program is deemed insufficient.

Building Blocks to a Successful Mitigation Plan

Implement FCC Requirements

- Several FCC orders have identified certain requirements (e.g., participating in traceback).

Integrate Existing Procedures

- Must be expected to “**significantly reduce** the origination of illegal robocalls.”

Incorporate Additional Tools & Measures

- **Not** a filing exercise: plans must be implemented.
- Companies must commit to outlined measures.

Avoid Costly Obligations

- FCC can “impose **more prescriptive** obligations.”
- Providers could be subject to **FCC enforcement**.
- Removal from FCC database – traffic shut down.

Resources to Develop Robocall Mitigation Plans

- State Attorneys General Principles
- ATIS Best Practices Document – FCC Release
- Know Your Customer Protocols

Working With the FCC's Traceback Consortium:

The Industry Traceback Group

The Industry Traceback Group

- Collaborative industry effort of wireline, wireless, VoIP and cable providers that actively trace back and identify the source of illegal robocalls.
- In 2020, over 350 providers participated in ITG tracebacks of suspected illegal robocalls.
- Established in 2015; designated by FCC as official “Traceback Consortium” in July, 2020 in accordance with the TRACED Act.
- Works with federal and state law enforcement agencies to identify and target illegal robocallers.
- Ability to identify “within hours” the provider responsible for initiating suspicious traffic and how that robocall entered the U.S. communications network



INDUSTRY
TRACEBACK <<<<
GROUP

Recent Statistics from the Industry Traceback Group

In 2020 the Industry Traceback Group:

- Received **75 subpoenas/civil investigative demands** — up **275%** from 2019
- Conducted approximately **215 tracebacks per month** — up **115%** from 2019 and **975%** in 2018.
- Initiated more than **2,500 tracebacks**, representing **hundreds of millions of calls**.
- Supported nearly **one dozen enforcement actions** involving **nine distinct federal and state enforcement agencies**, targeting nearly **50 individuals and entities**.



Things to Know About the ITG



- **Is the ITG a law enforcement agency?** No it is not, but:
 - The ITG was selected in July, 2020, by the FCC as the official Traceback Consortium under the TRACED Act; and
 - The ITG works (very) closely with federal and state law enforcement agencies.
- **How do I register with the ITG?** You don't. The ITG will receive your contact information from any upstream carrier in a traceback request, or the forthcoming robocall mitigation database. Also keep in mind that:
 - **All** company staff should be aware of the need to respond timely to any ITG traceback requests; and
 - Voice Service Providers are **required by FCC rule** to respond to ITG inquiries within 24 hours. 47 CFR § 64.1200(n)(1).

Things to Know About the ITG

- **What governs the ITG's operations?** The ITG's operations are governed by its Policies and Procedures. Also note that:
 - The Policies and Procedures are publicly available on the ITG's website: <https://www.ustelecom.org/the-industry-traceback-group-itg/>; and
 - The FCC approved the ITG's Policies and Procedures when it selected the ITG as the official Traceback Consortium.
- **Do I have to 'join' the ITG to participate in a traceback?** No you do not – but you are certainly free to do so! Details are available on the website referenced above.
- **Am I in trouble if I receive a traceback request from the ITG?** No you are not. But remember:
 - You ***could*** be in trouble if you fail to respond in a timely manner, and/or if you are a ***repeated source of origination of illegal robocalls*** – if the latter, you need to improve your robocall mitigation efforts.

Robocall Enforcement

Robocall Enforcement – Key Takeaways

- There is currently a ***coordinated enforcement effort*** involving the DOJ, the FCC and the FTC.
- The FTC has ***expanded its enforcement jurisdiction*** to include VoIP providers (despite common carrier exemption).
- There is increased interest in the role of ***gateway providers***.
- Bad actors are finding it ***increasingly difficult to hide***.

Robocall Enforcement – Key Actions

- ***FTC/Ohio AG – Globex (Dec. 2019)***
 - FTC’s first-ever enforcement action against a VoIP provider
- ***DOJ – TollFreeDeals and Global Voicecom (Jan. 2020)***
 - Civil enforcement actions against two Gateway providers.
- ***FTC – VoIP Enforcement Bureau Letters (Jan. 2020)***
 - Letters were sent to nineteen unidentified VoIP providers.
- ***FCC – VoIP Enforcement Bureau Letters (Feb. 2020)***
 - Enforcement Bureau letters to several identified VoIP providers (including Globex)

Feds Initiate Major Enforcement Activities

FTC/Ohio AG – Globex

- **July, 2019: FTC Targets Educare**
 - Defendants were engaged in alleged fraudulent activities relating to debt reduction services.
- **December, 2019: FTC Adds Globex**
 - Alleges that Globex was involved in the alleged fraud, by providing access to the PSTN.
- **Globex Receivership/Contempt**
 - Globex and its affiliates are currently in receivership.

Why It Is Significant:

- First-ever FTC action against interconnected VoIP provider
- Common carrier exemption.
- FTC has broad jurisdiction under the TSR.
 - “assisting and facilitating”

DOJ – TollFree Deals and Global Voicecom

- **January, 2020**
 - Separate civil complaints against both companies (EDNY).
 - Focused on broad range of scams.
 - Wire Fraud and conspiracy to commit wire fraud.
- **Similar allegations against both companies:**
 - Ignored repeated red flags.
 - Transited massive volumes of highly suspect calls.

Why It Is Significant:

- Industry is on notice to substantively address fraudulent traffic.
- DOJ is ***currently*** pursuing civil action – the agency also has criminal authority.
- First of its kind action.

Feds Initiate Major Enforcement Activities

FCC VoIP Letters

- Issued late January, 2020, to seven identified VoIP providers.
- Requested “detailed” responses to series of questions (due yesterday).
- Similar to letters sent by Enforcement Bureau in November, 2018.

FTC VoIP Letters

- January, 2020, to 19 unidentified VoIP providers.
- Stated that “assisting and facilitating” illegal telemarketing or robocalling is against the law.
- FTC “put VoIP providers on notice that we will take action when they knowingly facilitate illegal robocalls.”
- FTC warns about knowing or “consciously avoid knowing”.