

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Advanced Methods to Target and Eliminate Unlawful Robocalls)	CG Docket No. 17-59
)	
Call Authentication Trust Anchor)	WC Docket No. 17-97

REPLY COMMENTS OF THE VOICE ON THE NET COALITION

The Voice on the Net Coalition (“VON”)¹ hereby submits this reply in response to comments filed in the Further Notice of Proposed Rulemakings in the above-captioned proceedings.² As discussed in VON’s opening comments, the Commission’s robocall framework, including the obligation to implement STIR/SHAKEN, is barely two years old. Until the Commission and industry have more time to determine what is and is not working, the Commission should consider surgical changes rather than sweeping new requirements to prevent illegal robocalls. Accordingly, the Commission should reject proposals broadly targeting VoIP providers that will introduce regulatory uncertainty and unnecessary burdens on the entire VoIP industry without any likelihood of reducing illegal robocalls.

DISCUSSION

In their initial comments, the Electronic Privacy Information Center and National Consumer Law Center (collectively “Epic”), recommend that non-facilities-based VoIP providers be termed

¹ The VON Coalition promotes regulatory policies that enable Americans to take advantage of the promise and potential of IP-enabled communications. For more information, see www.von.org.

²See *Seventh Further Notice of Proposed Rulemaking in CG Docket No. 17-59 & Fifth Further Notice of Proposed Rulemaking in WC Docket No. 17-97*, CG Docket No. 17-59 and WC Docket 17-97, FCC 22-37 (rel. May 20, 2022) (“FNPRM”); see also 87 Fed. Reg 42670 (July 18, 2022), establishing a reply comment deadline of September 16, 2022.

“high risk providers” and subject to a new regime of expedited robocall mitigation database (“RMD”) suspension rules.³ Specifically, “high risk providers” would be subject to suspension from the RMD for continuing to transmit illegal calls after receiving a third traceback request within a 12-month period.⁴ Epic also recommends automatic RMD suspension for providers who fail to pay fines or forfeitures to the Commission or if a provider’s management is comprised of individuals who have been subject to previous Commission action.⁵ Finally, Epic recommends new application, licensing and bond requirements for non-facilities based VoIP providers, with bond requirements “tailored to the degree of risk associated with the applicant.”⁶

There are multiple problems with the Epic proposals. Most glaringly, there is no definition of “non-facilities-based VoIP providers,” leaving to conjecture which providers the new application, licensing and bonding requirements would apply. Would the operation of a router, session border controller, media gateway or softswitch (or some combination thereof) meet the definition of facilities necessary to avoid the new requirements? Also, how will the Commission determine the “degree of risk associated with an applicant” and the appropriate bond to require?⁷ Will the Commission require additional staff to process and review VoIP applications? Today, VoIP providers may begin providing interstate services with the filing of an FCC Form 499 registration. EPIC’s proposal instead would require a potentially long and complicated licensure process before a provider can serve customers. This to-be-defined review process could be time-consuming. Any delay in getting new VoIP services to market will reduce competition to the detriment of

³ Epic Comments, Docket 17-59, filed August 17, 2022, at 18.

⁴ *Id.* at 19. To support this proposal, Epic cites two cases where service providers appeared to be complicit in illegal robocalling schemes and received multiple traceback requests. *Id.* at 20-21.

⁵ *Id.* at 22-23.

⁶ *Id.* at 30. According to Epic, bonds could be “seized” to cover unpaid forfeitures. *Id.*

⁷ Today, the Commission only requires surety bonds for satellite licensees (whose systems may cost hundreds of millions of dollars) to ensure compliance with critical milestones. 47 CFR § 25.165.

consumers. Moreover, surety bonds can be expensive and time-consuming to acquire, but more problematically, they unnecessarily constrain a service provider's access to capital that could be used for the development or expansion of services. Does it make sense for the Commission to require bonds to protect against the small chance of an unpaid forfeiture (noting that FCC enforcement actions may take years to resolve)?⁸ There's also no rational basis for RMD suspension based on some random number (in this case three) of traceback requests in a 12-month period. The critical issues are whether the voice service provider cooperated with the Industry Traceback Group and whether it's complying with its illegal robocall mitigation obligations. If not, the Commission has ample authority to begin the suspension process. There could be numerous reasons for a spike in traceback requests; many of which should not result in suspension from the RMD (and effectively shuttering the business). Finally, would the new requirements apply only to VoIP providers entering the US market after the effective date of the order, or would they apply retroactively to the thousands of VoIP providers already serving the domestic market?

More generally, there is no legitimate basis to impose strict liability standards on all non-facilities-based VoIP providers. The VON Coalition is composed of nomadic VoIP providers who are established industry participants. All VON members have implemented STIR/SHAKEN and participate in industry traceback efforts. Like many other voice service providers, VON members are committed to decreasing the number of robocalls. Even if the majority of bad actors are VoIP providers, those bad actors represent a small percentage of all VoIP providers, and is not a basis to

⁸ There is also no basis for the Epic's assertion that the FCC should automatically suspend providers from the RMD who have failed to pay fines or forfeitures to the Commission. Such a result is inconsistent with Section 504 of the Act, which requires a trial de novo in federal court to enforce forfeiture penalties unless the FCC imposed those penalties under section 503(b)(3). 47 U.S.C. § 504(a), 47 U.S.C. § 503(b)(3). The FCC otherwise has no independent authority to enforce its forfeiture orders.

classify all VoIP providers as “high risk” or to impose a higher liability standard. As other commenters recognize, any rules adopted should be technologically neutral.⁹

In addition, there is no basis to impose strict liability on local exchange carriers and other recipients of direct access to telephone numbers for the behavior of providers to which they have suballocated numbers. To this end, VON supports USTelecom’s proposal that the Commission require providers that supply numbers on the secondary market to impose strong contractual obligations on their customers, to comply with know your customer and to follow best practices issued by the Commission.¹⁰

These best practices should not include restrictions on use of U.S. NANP numbers for foreign-originated calls. As the Trade Associations explain in their comments, there are numerous legitimate use cases for foreign callers to use U.S. numbers.¹¹ These use cases include military bases, foreign-based call centers, and satellite offices of U.S. companies. VON members have also seen these use cases employed by their U.S.-based customers.¹² Any restriction on the use of U.S. NANP numbers for foreign-originated calls would harm American businesses and their customers without any evidence that such restriction will prevent illegal robocalls.

Instead of classifying an entire segment of the voice service provider as “high risk,” the Commission should take steps to make STIR/SHAKEN more ubiquitous and create standard practices for signing of calls. Both USTelecom¹³ and TransNexus¹⁴ highlight existing gaps in the

⁹ Comments of RingCentral, Inc., Docket 17-59, filed August 17, 2022, at 5-6; Comments of Telnyx, LLC, Docket 17-59, filed August 17, 2022, at 4; Comments of YouMail, Inc., Docket 17-59, filed August 17, 2022, at 2.

¹⁰ Comments of USTelecom, Docket 17-59, filed August 17, 2022, at 14.

¹¹ Comments of the Credit Union National Association, et. al., Docket 17-59, filed August 17, 2022, at 5.

¹² Comments of RingCentral, at 4; Comments of Telnyx, at 3.

¹³ Comments of USTelecom, at 9-13.

¹⁴ Comments of Transnexus, Docket 17-59, filed August 17, 2022, at 2-3.

STIR/SHAKEN framework that exist because many small and non-facilities based providers do not have the ability to sign their own calls. Instead, a downstream provider may sign calls without knowledge of the end user who originated the call. That downstream provider also may not know if the originating provider verified the user's identity and right to use the number. If the Commission allows third-party authentication, these small providers could enter contractual arrangements with larger carriers in which the smaller provider will attest to the user's identity and right to the use the number, and the third-party provider will sign the calls with its own certificate. This arrangement would allow for more widespread implementation of STIR/SHAKEN without sacrificing visibility into the call path. The entity signing the call should be able to trace the number back to its partner and have the right to terminate the agreement if the partner did not meet its contractual obligations to perform the required know your customer obligations. The downstream provider should also have the right to disclose the name of the originating provider to the Industry Traceback Group in response to any valid traceback request.

CONCLUSION

VON respectfully requests the Commission to act consistent with the recommendations herein and in its opening comments.

Respectfully submitted,

VOICE ON THE NET COALITION

/s/ Glenn S. Richards

Glenn S. Richards

Pillsbury Winthrop Shaw Pittman LLP

1200 Seventeenth Street, NW

Washington, DC 20036

(202) 663-8000

glenn.richards@pillsburylaw.com

Its Attorney

September 16, 2022