

**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

**COMMENTS OF THE VOICE ON THE NET COALITION**

The Voice on the Net Coalition (“VON”)<sup>1</sup> hereby files these comments in response to the issues raised in the Further Notice of Proposed Rulemakings in the above-captioned proceedings.<sup>2</sup> VON applauds Commission efforts to date to reduce the number of illegal and encourages the Commission to use its existing tools instead of establishing premature regulatory obligations that increase service provider costs while yielding few benefits. In particular, the Commission should not adopt new restrictions on access to and/or the use of telephone numbers by interconnected VoIP providers.

**The Commission should not adopt a rigid 24-hour traceback response time.** The Commission seeks comment on whether it should extend to all US-based providers in the call path a requirement to respond to traceback requests within 24 hours of receipt; how it should address carriers that may not respond within 24 hours; and whether it should adopt a tiered approach to traceback response based on volume of requests received.<sup>3</sup>

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<sup>1</sup> 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](http://www.von.org).

<sup>2</sup> See *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 comment deadline of August 17, 2022.

<sup>3</sup> FNPRM at paras. 177-180.

As an initial matter, VON does not recommend any changes to the existing requirement that providers respond to traceback requests in a timely manner. Originating service providers have an obligation to mitigate potentially illegal calls on their networks; that obligation, rather than a rigid 24-hour requirement or cumbersome tiered approach, is the best response for eliminating what may be illegal traffic.

That being said, VON understands that there are benefits to a tiered response time approach, such as minimizing burdens on small providers while protecting consumers by requiring more immediate responses from providers who originate more potentially illegal calls. If the Commission adopts this approach, there should be clear guidelines on how the total number of traceback requests and monthly averages are calculated.

VON is concerned that a rigid 24-hour requirement will likely result in increased enforcement activity and expenses for good actors who for legitimate reasons (and on an infrequent basis) may not respond in a timely manner. A rigid requirement would also impose significant burdens on smaller providers that may struggle to comply, particularly with requests that arrive at the end of, or after the close of the typical business day. Should the Commission choose to adopt the 24-hour requirement, it should make clear that those are 24 *business* hours to account for weekends and holidays.<sup>4</sup> The Commission must also clarify that business hours are calculated based on the time zone of the provider.

**The Commission should issue clear guidance in any order requiring downstream provider blocking.** The Commission seeks comments on requiring all domestic providers in the call path to block when notified of such traffic by the Commission (replacing the current

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<sup>4</sup> VON understands that the ITG only requires traceback responses Monday-Friday.

requirement to investigate and effectively mitigate), regardless of whether the traffic originates abroad or domestically.<sup>5</sup> VON does not oppose this requirement, and encourages the Commission to set forth factors it would consider when determining whether to order blocking of an originating providers' traffic. Moreover, the Commission should mandate blocking only when **all** traffic from a provider must be blocked to allow for clear, implementable orders and to avoid shifting the burden to providers to determine which traffic falls within the contours of a blocking order. Finally, the Commission should clarify, if adopted, that any safe harbors are extended to all blocking parties.

**The Commission need not adopt additional measures to prevent customers from originating illegal calls at this time.** The Commission seeks comment on whether it should further clarify its rule requiring voice service providers to take affirmative, effective measures to prevent new and renewing customers from using their networks to originate illegal calls.<sup>6</sup>

VON does not support additional measures at this time. The Commission's robocall framework, including the obligation to implement STIR/SHAKEN is barely two years old. The Commission's most recent requirement that gateway providers implement STIR/SHAKEN will not go into effect for another 10 months. Until the Commission has had more time to determine what is and is not working, it should continue to allow voice service providers the flexibility to determine how best to comply.

In the interim, VON expects that all voice service providers have implemented "know-your-customer" vetting, are including provisions in their terms and conditions permitting suspension or termination of service for violations of law, including the Commission's robocall rules, and will continue to do so with or without new rules.

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<sup>5</sup> NPRM at paras. 181-182.

<sup>6</sup> Id. at paras. 183-186.

**Restrictions on non-conversational traffic are unworkable and problematic.** The Commission should not place a higher burden on providers who originate “non-conversational” traffic. This would make it more difficult for medical institutions and schools to find carriers willing to carry legitimate notifications to patients and families. Legitimate use cases like two factor authentication (2FA) and appointment reminders can have shorter call durations on average, and already risk being blocked or mislabeled today by analytics provider algorithms. In addition, putting additional restrictions on intermediate carriers could create significant privacy issues as those carriers would need to make determinations as to whether short traffic is from legitimate sources.

**The Commission should require voice service providers to take reasonable steps to mitigate illegal traffic.** VON supports the Commission’s proposal to require all voice service providers to take “reasonable steps” to avoid originating, terminating, carrying, or processing illegal robocall traffic. This would include filing a mitigation plan and certification in the Robocall Mitigation Database (“RMD”) that includes detailed practices that can reasonably be expected to substantially reduce illegal robocalls. The Commission proposes that it would determine “reasonable steps” are insufficient if a provider knowingly or through negligence originates, carries, or processes illegal robocall campaigns.

VON recommends that the Commission adopt a standard of knowingly or through *gross* negligence because imposing a standard of mere negligence would essentially impose strict liability on providers and make providers hesitant to accept traffic from new service providers or smaller customers.

Should the Commission adopt new mitigation standards, it should give affected service providers not less than 180 days after the effective date of the order to comply; allowing sufficient

time to make any necessary Commission filings, as well as changes to customer onboarding, service, and compliance systems.

**VoIP specific requirements would be anti-competitive and undermine “regulatory symmetry”.** The Commission should extend all requirements equally to all voice service providers, regardless of whether they are local exchange carriers or VoIP providers. Doing otherwise would undermine the “regulatory symmetry” that the Commission ostensibly seeks,<sup>7</sup> would be anti-competitive and would result in the type of definition-splitting that would make compliance difficult if not impossible. For example, how would the obligation apply to providers that offer a mix of VoIP and TDM-based services? All providers in the calling ecosystem should work together to find solutions to illegal robocalling, not attempt to place additional burdens on VoIP providers.<sup>8</sup>

VON strongly opposes any new limitations on use and access to telephone numbers.<sup>9</sup> Robocalling is not strictly a VoIP problem. Robocalls can originate on IP or TDM networks and are likely to escape detection when they pass through TDM. Bad actors can obtain numbers from VoIP direct access recipients or local exchange carriers (“LEC”). There is nothing in the record to date showing that restricting direct access of numbers would have any effect, let alone an appreciable effect, in reducing robocalls. Instead, any restrictions targeted at VoIP providers would only be anti-competitive, would reduce innovative use of numbers, and would be easily avoided as bad actors would simply access numbers indirectly through the wholesale market from carriers. It would be detrimental to the industry if VoIP specific restrictions are adopted, would slow the transition to IP networks and the adoption of STIR/SHAKEN more broadly.

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<sup>7</sup> Id. at para. 189

<sup>8</sup> Id. at paras. 188-194.

<sup>9</sup> See also, Comments of the Voice on the Net Coalition, WC Docket No. 20-67, filed October 14, 2021.

VON further opposes VoIP proscriptive standards for traffic monitoring or requirements to meet industry metrics. Such standards could result in blocking hundreds of legitimate use cases, such as school emergency notifications and could result in less innovation and a general failure of industry to meet emerging customer needs.

The Commission should not require VoIP providers to update the RMD whenever they receive an inquiry about alleged robocall traffic.<sup>10</sup> This requirement would essentially make VoIP providers guilty based on an allegation, which may or may not be true and could result in harmful competitive effects without any conclusive basis that the provider is a bad actor. The investigation should run its course and the Commission may ultimately determine what, if any, action should be taken once the facts are known.

**Additional requirements for robocall mitigation plans are unnecessary.** The Commission seeks comment on whether it needs to further articulate the sufficiency of robocall mitigation programs, beyond the detailed practices that can reasonably be expected to significantly reduce the origination of illegal robocalls.<sup>11</sup> VON does not believe that further articulation or additional requirements are necessary. Instead, the Commission should make clear that providers who invoke contractual clauses when terminating customers that originate illegal traffic would have an affirmative defense against a breach of contract claim by the customer; providing something akin to a safe harbor that providers could invoke should they rely on Commission rules as the basis for blocking calls.

**The Commission must avoid a strict liability regime in its enforcement of robocall requirements to avoid over-blocking of legitimate traffic and running afoul of due process.**

The Commission seeks comments on proposals to impose forfeitures for failure to block calls on a

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<sup>10</sup> Id. at para. 199.

<sup>11</sup> Id. at para. 203.

per-call basis; for failure to certify in the RMD; establishing red light features for filings that include known bad actors; and subjecting repeat offenders to revocation of Section 214 authorizations and banning those companies and/or owners, directors, offices from future association with entities regulated by the Commission.<sup>12</sup>

VON recommends that any forfeitures for failure to block calls be applied after widespread industry notice that the bad actor is originating illegal calls or has otherwise been removed from the RMD. The notice must be sufficient time to allow service providers to make the necessary system changes to block calls. To do otherwise would operate as de facto strict liability and result in over-blocking for fear of forfeitures or unnecessary enforcement proceedings for voice service providers attempting to implement Commission directives.

Finally, the Commission should proceed cautiously before revoking a company's Section 214 operating authority; or, for those companies not requiring Commission authority, suggesting that filing in the RMD extends that authority (including, problematically to foreign service providers), which may then be revoked for continued violations.<sup>13</sup> These are draconian measures (as is removal from the RMD) and must be subject to an exhaustive due process – not simply being subject to numerous traceback requests. If voice service providers have been clearly and repeatedly been responsible for origination or transport of illegal robocalls; have refused to cooperate with the ITG, Commission or law enforcement, have been provided opportunities to respond to requests, letters of inquiry, and notices of apparent liability, there may be ground for termination of Commission authorizations and or authority to operate. Anything less raises serious due process issues.

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<sup>12</sup> Id. at para. 207.

<sup>13</sup> Id. at para. 211.

**Strict limitations on use of US Caller ID on foreign traffic would harm US businesses**

**and consumers.** The Commission seeks comments on potential changes to its numbering rules to prevent the misuse of numbering resources to originate illegal robocalls.<sup>14</sup>

The Commission should not adopt a blanket restriction on the use of NANPA numbering resources for calls that originate overseas to avoid blocking legitimate use cases. Most obvious are foreign call centers providing 24-hour support that help reduce American companies' operating costs and reduce customer hold times and allow customer callbacks at any time of the day. US numbers may also be used by foreign offices of US companies that support expansion of those US companies in the global economy. Any new restrictions on the use of these numbers, or blocking based on ambiguous requirements of foreign-originated call, will only serve to harm US companies while providing no obvious benefit to reducing illegal robocalls. As noted earlier, the Commission's robocall rules have been in place for less than two years, the Commission should first determine what is working (or not working) before imposing new limitations.

**The Commission should authorize third party authentication.** The Commission seeks comment on whether it should permit a third party to authenticate caller ID information to satisfy an originating provider's obligation.<sup>15</sup> VON supports third party authentication or the use of delegated certs in order to meet STIR/SHAKEN obligations. These options reduce industry costs by allowing smaller service providers, who may not have the technical capability or personnel to implement STIR/SHAKEN, to leverage larger providers tokens. The larger provider would maintain the responsibility to ensure that the smaller provider knows their customer and is originating legitimate calls, which can be accomplished through contractual requirements.<sup>16</sup> The

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<sup>14</sup> Id. at paras. 218-223.

<sup>15</sup> Id. at para. 224.

<sup>16</sup> Should the FCC permit third party authentication, it should also require resellers originating traffic to file a mitigation plan in the RMD describing its know-your-customer procedures.



relationship between the larger and smaller provider may also impact the attestation level for those calls that pass through the larger provider's network. Any abuses or bad actors would be discovered through the ITG, and larger providers would have the option to exercise termination rights if the smaller provider could not provide assurances of mitigation. Finally, this structure will allow call centers to use their customers' names and phone numbers, creating greater trust between calling parties.

## CONCLUSION

For the reasons stated above, VON respectfully requests the Commission to act in accordance with the recommendations herein.

Respectfully submitted,

**VOICE ON THE NET COALITION**

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