

April 15, 2021

Marlene Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, D.C. 20554

**Re: Notice of Ex Parte Presentation
Call Authentication Trust Anchor
CG Docket No. 17-97**

Dear Ms. Dortch:

On April 13, 2021, Linda Vandeloop of AT&T, Phil Linse of Lumen, Diana Eisner of Frontier, Chris Oatway of Verizon, and the undersigned met by phone with Pam Arluk, Matthew Collins, Daniel Kahn, and Jonathan Lechter of the Wireline Competition Bureau. We discussed aspects of the Commission's *Second Report & Order*,¹ specifically the small provider two-year extension to the requirement to deploy STIR/SHAKEN and a potential loophole in the Commission's Robocall Mitigation Database scheme for illegal foreign-originated robocall traffic.

Small Provider Extension. During the meeting, we discussed USTelecom's prior suggestion that small providers that generate a disproportionate amount of traffic should not be eligible for the two-year extension to deploy STIR/SHAKEN.² We explained that voice service providers that serve as their primary business, or a key part of their business, call centers or other prolific callers should not be eligible for the full two-year extension because of the extent of the volume of traffic they originate. In particular, voice broadcasters that offer platforms in which callers can make a high-volume of robocalls should be required to rapidly deploy STIR/SHAKEN.

With that goal in mind, USTelecom previously suggested that the extension should not be available for any provider that (i) receives more than half of its revenue from customers purchasing services that are not mass-market services; or (ii) originates more than 500 calls per day for any single line in the normal course of business.³ The first prong was intended to be narrow and capture those providers who target enterprise and other non-consumer customers as a key part of their business.⁴ The second prong was intended to draw a line between the number of

¹ *Call Authentication Trust Anchor*, Second Report and Order, WC Docket No. 17-97, FCC 20-136 (rel. Oct. 1, 2020) ("*Second Report & Order*").

² See Notice of Ex Parte Presentation of USTelecom, WC Docket No. 17-97, at 5-6 (filed Sept. 18, 2020).

³ See Notice of Ex Parte Presentation of USTelecom, WC Docket No. 17-97, at 2 (filed Sept. 23, 2020).

⁴ The Commission could use the definition of mass market already in the *Second Report & Order* should it adopt this exception, which would include small businesses but not larger, higher-volume enterprise callers. See *Second Report & Order* ¶ 124 n. 451.

calls that a particularly prolific individual subscriber could make in a given day and more automated technology that originates a high volume of calls on a routine basis.

We also discussed other potential criteria and approaches to an exception to the small provider extension. For instance, we noted that the Commission could focus on the type of calling enabled by a particular platform in order to capture voice broadcasters and other prolific originators. For example, if a voice service provider allows its customers to upload and broadcast at volume a prerecorded message – the type of call that is covered under the Telephone Consumer Protection Act separate and apart from the autodialer definition⁵ – that provider could be excluded from the extension. In addition, we suggested that providers that have showed up as responsible for illegal calls through traceback and other investigations should no longer enjoy the extension.⁶

To operationalize any new requirement, the Commission could require a certification from providers that they do not meet whatever criteria the Commission ultimately adopts in order to keep the two-year extension.

Intermediate Provider Loophole. We separately discussed the treatment of intermediate providers under the Commission’s Robocall Mitigation Database scheme and requirement to accept traffic only from those voice service providers in the Database under section 64.6305(c) of the Commission’s rules. We explained that there has been confusion in the industry about the scope of the rule. In our experience, much of the industry has read section 64.6305(c) as requiring that every upstream provider – originating or intermediate – in the call path needs to be in the database for the next intermediate or terminating provider to accept traffic from it. The text of the rule and text in the order, however, may best be read to suggest otherwise, namely that only the originating provider needs to be in the database for the next provider to take the traffic.⁷

For domestically-originated traffic, either interpretation of the rule may support the Commission’s policy goal of increasing trust in traffic.⁸ For foreign-originated traffic, however,

⁵ See 47 U.S.C. § 227(b)(1)(A), (B).

⁶ In particular, the Commission could build on the robocall mitigation requirement adopted in the *Call Blocking Fourth Report & Order*, explicitly authorizing the Enforcement Bureau to cancel the extension (perhaps under a certain defined timeline) for providers notified by the Enforcement Bureau of illegal traffic under section 64.1200(n)(2) of the Commission’s rules.

⁷ See 47 C.F.R. § 64.6305(c) (requiring that “intermediate providers and voice service providers ... only accept calls directly from a voice service provider, including a foreign voice service provider ... if that voice service provider’s filing appears in the Robocall Mitigation Database”); *id.* 64.6300(l)(1) (defining “voice service” “any service that is interconnected with the public switched telephone network *and that furnishes voice communications to an end user*”) (emphasis added); *Second Report & Order* ¶ 89 (“We find the rule we establish—whereby intermediate providers are prohibited from accepting traffic from an *originating voice service provider* that has not certified to a robocall mitigation program—best leverages the role of intermediate providers to combat illegal robocalls within our greater robocall mitigation scheme.”) (emphasis added); *id.* ¶ 87 n.340 (“By affirmatively adding such providers we give intermediate and terminating voice service providers confidence that any provider not listed in the Robocall Mitigation Database is out of compliance with our rules, rather than leaving the potential for uncertainty about whether a provider is noncompliant or *simply was not required to be included in the database because it does not originate traffic.*”) (emphasis added).

⁸ However, given that there is no Rural Call Completion or other requirement to avoid accepting traffic from an intermediate provider not registered with the Commission, the narrower definition does not ensure a registered chain

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a reading that intermediate providers can accept traffic from other intermediate providers that are not in the database leaves open a loophole for foreign-originated illegal traffic to reach U.S. consumers without any meaningful constraints. Specifically, if intermediate providers can take traffic from any other intermediate provider regardless of their database status, international gateways could continue to take traffic from foreign intermediate providers that aggregate the traffic on the way to the United States. This would be a breakdown of the chain of trust that is implicit in the framework established in the *Second Report & Order*. Meanwhile, providers that try to follow the spirit of the Commission's intended chain of trust for their legitimate traffic will run into the call completion risks that CTIA, VON, and others have flagged.⁹

We suggested that the Commission could address this loophole through additional comment, while also affording the industry more time to ensure to educate foreign partners about the Robocall Mitigation Database and adapt arrangements to comply with the new, clarified regime.

* * *

Please contact the undersigned if you have any questions.

Sincerely,

/s/ Joshua M. Bercu/
Joshua M. Bercu
Vice President, Policy & Advocacy, USTelecom

cc: Pam Arluk
Matthew Collins
Daniel Kahn
Jonathan Lechter

between the originating and the terminating providers. If the only purpose of imposing section 64.6305(c) on intermediate and terminating service providers is to punish originating service providers that fail to certify with the Robocall Mitigation Database, the Commission could accomplish that with more direct mechanisms such as by taking enforcement directly against any non-registered originating service provider.

⁹ See, e.g., Notice of Ex Parte of CTIA, WC Docket No. 17-97 (filed Apr. 12, 2021); Notice of Ex Parte of VON, INCOMPAS, and CCA, WC Docket No. 17-97 (filed Apr. 13, 2021).