

A draft Report and Order addressing the next phase of STIR/SHAKEN implementation (the Draft Order) has been released and will be considered by the Commission on September 30, 2020.

STIR/SHAKEN will be a valuable tool in our fight against illegal robocalls, but even advocates are quick to acknowledge that it is not a solution. The Draft Order introduces two critical and potentially powerful tools: the Robocall Mitigation Program (RMP) and a Robocall Mitigation Database (RMD). But as it stands, the Draft Order is not sufficient to stop or even slow the worst of the robocallers. With the three focused areas of change that we propose here, the order will have a measurable impact.

Driving our suggestions is this fact: the worst robocalls – FRAUD – are largely sourced from outside the USA. Their calls ALWAYS enter the US telephone network via some US-based provider that, intentionally or not, facilitates the fraud.

Foreign entities can be difficult to locate, to classify, to regulate, and to bring to justice, even when they hide in plain sight. Thus, we must rely on US-based providers to implement practices that constrain misbehavior by foreigners.

SUGGESTED MODIFICATIONS

I. Draw a bright line between foreign entities and the various kinds of domestic providers.

- Define a Foreign Provider as any entity sending calls that is not a US Provider. Every US Provider should both: (1) be registered as a legal entity with a state or territory of the United States; and (2) be actively managed by at least one principal or officer legally resident in the United States. Capture this information in the RMD proposed in the Order.

- US Providers need to follow a more restrictive protocol when directly accepting calls from Foreign Providers. Regardless of whether the US Provider has implemented STIR/SHAKEN, that US Provider must not accept foreign-sourced calls that have a +1 USA Caller-ID unless they can: (a) provide A-level attestation for the call (i.e., they know with certainty that the caller is authorized to use that Caller-ID – this will be rare), AND (b) the foreign provider is listed in the RMD.
- US Providers accepting calls directly from foreign sources must have a RMP addressing foreign calls, and specifically how use of +1 USA Caller-ID values are vetted if they are allowed at all. The RMP is required even if the US Provider is STIR/SHAKEN compliant.

RATIONALE: Fraudsters routinely spoof +1 USA Caller-ID values to legitimize their calls to the victims and to evade detection by blocking and labeling algorithms. It makes no sense to allow millions of calls daily to American consumers that appear to come from within the US when in fact the caller is in Pakistan or India or Philippines or anyplace else that is NOT the USA. The very few circumstances where this might be permissible must be handled on an exception basis, rather than allowing these rogue callers to run roughshod over our network. USA-based providers that find the above requirements burdensome can either (a) force those callers to use Caller-ID values indicative of their real location, or (b) not do business with foreign callers. The RMP requirement prevents a USA provider from supplying a foreign fraudster with +1 USA numbers to facilitate their scam.

II. Scrutinize Intermediate Providers more carefully. The Draft Order acknowledges that whether a provider is acting as an Originating Provider or an Intermediate Provider can vary on a call-by-call basis (§ 146).

- The regulations need to reflect that a Provider must comply according to their role for each specific call.
- Add: “(3) Implements a Robocall Mitigation Program applicable to calls it does not authenticate” to the proposed 64.6302(b).

RATIONALE: Proposed 64.6302(b) is inadequate because traceback is an after-the-fact tool, not a proactive, preventative approach. Getting ahead of the illegal robocall problem requires proactive effort to reject the calls at the source (where they enter our network). Traceback – including going directly to the source as enabled by STIR/SHAKEN – should be relied upon only for calls that slip through the cracks. We must ensure that the cracks are as tiny as possible.

III. ALL providers must contribute to keeping illegal calls off the network. Those that implement STIR/SHAKEN are relieved of some burdens, but they still need to provide information about their robocall mitigation efforts in the STIR/SHAKEN context. An Originating or Intermediate Provider that authenticates some or all of its calls must:

- Document and share with the Commission how it assigns A-, B- and C-level attestation
- Have a full Robocall Mitigation Program addressing calls assigned C-level attestation, if it uses that level
- All Robocall Mitigation efforts must include EFFECTIVE steps to avoid originating illegal robocall traffic, rather than simply REASONABLE steps.
- The Enforcement Bureau needs the authority and ability to quickly suspend a provider’s RMD listing if they find their RMP deficient (that is, not fully effective).

RATIONALE: Specifications and standards for the attestation levels are subject to interpretation and thus give wide latitude to providers in making those assignments. Lax providers could trivially undermine the promise of STIR/SHAKEN. By explicitly documenting and disclosing their processes, providers will be subject to Commission scrutiny from the outset with a vehicle for rapid response. C-level attestation is most troubling, because it says: I have no idea who my customer really is or what number(s) they are using. That is a clear invitation for abuse. Providers in that situation must have additional mitigation measures in place. B- and even A-level attestation are subject to abuse; providers must explain how they are proactively preventing that.

CONCLUSION

As written, the Draft Order will have minimal effect on the worst category of robocalls. The modifications described here leverage STIR/SHAKEN as well as the innovative ancillary elements (RMD, RMP) proposed in the Draft Order. By requiring US-based providers operating in arenas that invite fraud (accepting foreign-sourced calls and using C-level attestation) to actively participate in the illegal robocall battle, STIR/SHAKEN can come out of the gates with a measurable impact.

Respectfully submitted,

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