





ATA is committed to serving the needs of its members by recommending the highest standards of quality for the channel and protecting the rights of consumers. It regularly promotes training and compliance with all state and federal laws pertaining to telephone and marketing communications to our membership. As such, ATA provides leadership in the professional and ethical use of the telephone for conducting business and is committed to serving the needs of its members, recommending the highest standards of quality for the channel, and protecting the rights of consumers.

### **III. TRUTH IN CALLER ID ACT OF 2009.**

On December 22, 2010, President Obama signed the Act into law. The Act outlaws the transmission of misleading or inaccurate caller identification (“Caller ID”) information for fraudulent purposes. Specifically, the Act makes it unlawful for:

[A]ny person within the United States, in connection with any telecommunications service or IP-enabled voice service (“VoIP”), to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value, unless such transmission is exempted.<sup>1</sup>

Some ATA members manipulate Caller ID for legitimate business reasons and certainly without the requisite intent necessary to invoke the statute. The ability of ATA members to manipulate Caller ID information for legitimate business reasons must be maintained, provided that the intent of the manipulation is not to defraud, cause harm, or wrongfully obtain anything of value.

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<sup>1</sup> Truth in Caller ID Act of 2009, Pub. L. No. 111-331, codified at 47 U.S.C. § 227(e). As part of the Act, Congress directed the Federal Communications Commission (“the Commission”) to prescribe regulations implementing the Act no later than six (6) months after the date of enactment. Id. The Commission must also “report to Congress whether additional legislation is necessary to prohibit the provision of inaccurate Caller ID information in technologies that are successor or replacement technologies to telecommunications services or VoIP.” Id.

#### IV. FCC'S REQUEST FOR COMMENTS.

##### A. Limit "Information Regarding The Origination" of a Call to Exclude Alpha Information.

The NPRM defines "information regarding the origination" as any: (i) telephone number; (ii) portion of a telephone number, such as an area code; (iii) name; (iv) location information; or (v) other information regarding the source or apparent source of a telephone call.<sup>2</sup> As proposed, carriers may choose the type of origination information to be transmitted provided that any of the five (5) enumerated options are transmitted. ATA supports this definition, provided the Commission does not modify it to *require* the transmission of "alpha information" since many carriers continue to lack the ability to transmit such information. Otherwise, the Commission would interfere with the business marketplace and severely disadvantage certain carriers over others.

Furthermore, ATA members may transmit either an area code or location information that indicates the originating telephone number is local to the call recipient, even though the call is originating from a different area code. Transmitting information that indicates the caller is local to the consumer may increase the likelihood that the consumer will answer the call<sup>3</sup> and may be done in a manner that ensures compliance with the requirements of 47 C.F.R. § 64.1601. In fact, the transmission of a telephone number local to the consumer actually benefits the consumer by facilitating the consumer's ability to call the displayed number to request to be placed on the seller's do-not-call list without incurring the costs and expense of long distance charges.

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<sup>2</sup> *Rules and Regulations implementing the Truth in Caller ID Act of 2009*, Notice of Proposed Rulemaking, WC Docket No. 11-39 ("NPRM"), Appendix A, Subpart P; See 16 C.F.R. § 64.1600(g).

<sup>3</sup> See NPRM, fn. 16.

B. Limit Prohibition to Persons or Entities Who Knowingly Manipulated the Transmission of Caller ID for Fraudulent Purposes.

The proposed rules focus on “whether the *caller* has knowingly manipulated the caller identification information that is seen by the call recipient in order to defraud, cause harm, or wrongfully obtain anything of value.”<sup>4</sup> However, the NPRM states that “even if a carrier or interconnected VoIP provider transmits accurate caller identification information, it would be a violation for a person or entity to cause a device . . . to display inaccurate or misleading information with the intent to defraud, cause harm, or wrongfully obtain anything of value.”<sup>5</sup>

As the Commission notes, “in many instances, the caller identification service is unaware of whether the caller identification information it receives has been manipulated.”<sup>6</sup> To that effect, the Commission seeks comments on what actions are prohibited, and whether greater specification is necessary, especially regarding the terms “misleading or inaccurate” and “defraud.”<sup>7</sup>

ATA suggests that no additional specification is required so long as the *knowingly* provision is strictly limited to fraudulent purposes. As noted above by the Commission, ATA is concerned that a party transmitting accurate Caller ID information may be penalized if the Caller ID information is not displayed accurately when mismanaged or interfered with by third parties for fraudulent purposes. The FCC should not implement rules that penalize parties that *unknowingly* transmit inaccurate or misleading Caller ID information provided the transmitting party lacks the intent to transmit such information for purposes of defrauding, causing harm, or wrongfully obtaining anything of value.

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<sup>4</sup> NPRM, para.13.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> *See* NPRM, para 14.

C. Limit Prohibition to Persons or Entities Who Intend to Defraud, Cause Harm, or Wrongfully Obtain Anything of Value.

The Commission indicates the proposed rules should focus on those violators that manipulate caller ID information with the intent to defraud, cause harm, or wrongfully obtain anything of value. As previously indicated, the Commission acknowledges that “spoofing” can facilitate lawful and legitimate instances.<sup>8</sup> For example, services that manage Caller ID signals should fall outside of the scope of the Act since the manipulations performed are not done with the intent to defraud, cause harm, or obtain anything of value.

V. ATA SELF-REGULATORY ORGANIZATION (“SRO”) STANDARDS.

Lastly, ATA reminds the Commission that its Self-Regulatory Organization (“SRO”) creates best practices to provide consumers with the greatest level of protection from fraudsters and unethical telemarketers. SRO member organizations are required to adhere to industry standards that frequently are more stringent than existing laws and regulations. They are then audited by certified individuals to confirm that they are, in fact, adhering to those stringent standards.

Regarding Caller ID information, Section 4.10.2 of the SRO Standards provides:

All Members shall, when making Outbound Sales Calls, ensure that: 1) calling equipment is used that is capable of transmitting Caller ID information; and 2) the telephone number transmitted via Caller ID allows the called Consumer to identify the entity making and/or (as appropriate) response for the call.”<sup>9</sup>

As part of any Outbound Sales Calls, Sellers “shall transmit the Seller’s name (along with the number as required, above) when such name-transmittal service is made available by the Seller’s telephone company.”<sup>10</sup>

<sup>8</sup> Id. at para. 21. One such example is the use of Caller ID manipulation by domestic violence shelters. Id. at para. 7.

<sup>9</sup> SRO Standards, Section 4.10.2. A similar provision applies to Service Bureaus. See SRO Standards, Section 4.10.2.2 et seq.

<sup>10</sup> SRO Standards, Section 4.10.2.4.1. A similar provision applies to Service Bureaus. See SRO Standards, Section 4.10.2.4.2.

“All Sellers directly making Outbound Sales Calls shall also transmit a customer service number that is answered during Seller’s Normal Business Hours.”<sup>11</sup>

ATA maintains that its SRO Standards meet the intent of the Act to limit the transmission of misleading or inaccurate caller identification information for fraudulent purposes. Therefore, ATA supports any proposed changes set forth in the Commission’s that are consistent with its SRO Standards.

**VI. CONCLUSION.**

In conclusion, ATA respectfully suggests the Commission adopt rules directed at prohibiting the transmission of inaccurate or misleading Caller ID information with the specific intent to defraud, cause harm, or wrongfully obtain anything of value, and limit all other proposed rules or changes otherwise inconsistent with the Act or its SRO Standards.

Respectfully submitted,

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<sup>11</sup> SRO Standards, Section 4.10.2.1.