

FCC Moves to De-List Certain Voice Providers from Robocall Mitigation Database

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On October 3, 2022, the Federal Communications Commission's (FCC or Commission) Robocall Response Team issued a Press Release announcing Enforcement Orders against seven voice service providers listed in the agency's Robocall Mitigation Database (RMD). These enforcement actions are the "first-of-their-kind," and they represent the latest example of the FCC cracking down on illegal robocallers and voice service providers routing their traffic. The Enforcement Orders direct the providers to respond to the FCC's Enforcement Bureau by October 18, 2022 to "demonstrate why the Enforcement Bureau ... should not remove" them from the RMD. If the voice service providers are ultimately removed from the RMD, the result is that they will no longer be able to originate traffic for U.S. networks – a high stakes consequence. Providers throughout the ecosystem should take note, as this is a new enforcement approach for the FCC and demonstrates its intent to aggressively monitor voice service providers' compliance with its robocall rules.

Background on the RMD and the Robocall Response Team

RMD: As the FCC describes, "[it] requires all voice service providers [which is a defined term under FCC rules] to file certifications in the Robocall Mitigation Database regarding their efforts to fight illegal robocalls on their networks." Specifically, voice service providers must "certify whether and to what extent they have implemented the STIR/SHAKEN caller ID authentication framework," and in some instances, must also file robocall mitigation plans.

Robocall Response Team: FCC Chairwoman Jessica Rosenworcel created the Robocall Response Team, which is situated in the agency's Enforcement Bureau (the Bureau), to "combat ... illegal

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spoofed, scam, robocalls and robotexts.” According to the FCC, the Robocall Response Team “pulls together expertise from across the agency to leverage the talents of enforcers, attorneys, policy makers, engineers, economists, and outreach experts.”

Details on the Latest FCC Action to Target Voice Providers with Allegedly Deficient Certifications

According to the latest Enforcement Orders, each of the seven voice service providers certified that they had not implemented the STIR/SHAKEN framework, but that all calls originating from their networks were subject to a robocall mitigation program. However, the providers’ certifications allegedly “did not include any specific reasonable steps [they were] taking to avoid origination of illegal robocall traffic.” The FCC gives providers flexibility in developing a robocall mitigation plan where one is required, but such plans must include “detailed practices that can reasonably be expected to significantly reduce the origination of illegal robocalls,” and providers must also comply with the practices described. Here, however, the FCC alleges that the seven voice service providers targeted in these Orders did not meet this standard, describing that the robocall mitigation plans submitted by some of the providers included a single slide describing the process to obtain a STIR/SHAKEN certificate, while others provided generic technical information about STIR/SHAKEN. Additionally, the Bureau alleges that one of the voice service providers never uploaded any robocall mitigation plan.

As for next steps, the Enforcement Orders explains that “[p]rior to removing a certification from the [RMD], the Enforcement Bureau must provide notice to the originating voice service provider and allow an opportunity to cure.” Each of the Enforcement Orders also note that if the subject provider is removed from the RMD, “[it] shall not refile, and the Wireline Bureau will not [the company] to the database, until the Wireline Bureau and the Enforcement Bureau determine that [the company] has addressed and resolved any deficiencies or shortcomings in its [RMD] certification.”

Implications: Voice Service Providers Should Review Their Robocall Mitigation Plans

In the Commission’s October 3rd Press Release, Chairwoman Rosenworcel issued a warning: “This is a new era. If a provider doesn’t meet its obligations under the law, it now faces expulsion from America’s phone networks. Fines alone aren’t enough. Providers that don’t follow our rules and make it easy to scam consumers will now face swift consequences.” These Enforcement Orders, coupled with new FCC and State Attorney General Partnerships and a renewed focus on robotexts demonstrate that the Commission will continue to be active in this space. Now is the time for voice service providers to review their robocall mitigation plans to ensure they are sufficiently detailed and updated.

We have a deep and experienced robocalling and robotexting bench. Our experts handle federal and state policy issues, compliance with federal and state requirements, and complex TCPA issues. For more information about the FCC’s new Enforcement Orders, please contact one of the authors listed on this alert.