

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Implementing Section 13(d) of the Pallone-Thune ) EB Docket No. 20-22  
Telephone Robocall Abuse Criminal Enforcement )  
and Deterrence Act (TRACED Act) )

**REPLY COMMENTS OF INCOMPAS**

INCOMPAS, by its undersigned counsel, hereby submits these reply comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) *Further Notice of Proposed Rulemaking* on implementing section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (“TRACED”) Act.<sup>1</sup>

In this proceeding, the Commission seeks comment on provisions of the TRACED Act that enable it to take action against voice service providers that are subject to a delay of compliance with the Act’s call authentication requirements should they be identified by the registered traceback consortium as originating large-scale campaigns of unlawful robocalls.<sup>2</sup> Specifically, the Commission seeks public comment on the standard the registered consortium should apply to identify these voice service providers, as well as the actions the agency requires of voice service providers to prevent them from continuing to originate illegal robocalls.

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<sup>1</sup> See *Implementing Section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, EB Docket No. 20-22, Report and Order and Further Notice of Proposed Rulemaking, DA 20-430 (rel. Mar. 27, 2020) (“*Further Notice*”).

<sup>2</sup> Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act of 2019 (“TRACED Act”), S. 151, 116th Cong. (2019) (enacted) at § 4(b)(5)(C)(ii).

As the designated robocall traceback manager,<sup>3</sup> USTelecom’s comments are instructive as to the approach the Industry Traceback Group (“ITG”) will take to identify providers engaged in large-scale, unlawful robocall campaigns. INCOMPAS has advocated in this proceeding that the ITG should be managed in a neutral and open way in accordance with the statutory obligations of the TRACED Act.<sup>4</sup> Furthermore, competitive voice service providers and non-USTelecom members should receive every opportunity to participate in the development of the ITG’s policies and procedures to ensure that traceback is conducted in a non-discriminatory and competitively neutral manner. As such, INCOMPAS is encouraged by USTelecom’s assertion that the criteria used to identify callers engaged in fraudulent activity and the providers responsible for originating these illegal calls should be “clear and objective” and that the ITG already has established metrics in place that will be used to designate a voice service provider as “non-cooperative.”<sup>5</sup> INCOMPAS agrees and urges the Commission to adopt identification standards for the ITG that are uniformly applied and based on objective criteria.

With respect to actions that the FCC should take when the ITG identifies an upstream voice service provider that is originating illegal robocalls, INCOMPAS contends that any provider-based blocking permitted by the Commission must be consistent with the agency’s recently released *Safe Harbor Order*.<sup>6</sup> In the *Order*, the Commission clarified that “voice

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<sup>3</sup> See *Implementing Section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, EB Docket No. 20-22, Report and Order, DA 20-785 (rel. July 27, 2020), at para. 3.

<sup>4</sup> TRACED Act § 13(d)(1)(A).

<sup>5</sup> Comments of USTelecom—The Broadband Association, EB Docket No. 20-22 (filed July 10, 2020), at 3-4 (“USTelecom Comments”).

<sup>6</sup> See *Advanced Methods to Target and Eliminate Unlawful Robocalls, Alarm Industry Communications Committee Petition for Clarification or Reconsideration, American Dental*

service providers may block calls from certain bad-actor upstream voice service providers” and established a safe harbor for downstream providers that have been notified by the Commission that the originating provider has failed to effectively mitigate illegal robocalls or put in place safeguards that will prevent new customers from originating illegal calls.<sup>7</sup> Upon notification, upstream voice service providers have 48 hours to inform the Commission of the steps they have taken to remove the illegal traffic in order to resolve any enforcement issues. At the expiration of the 48 hours, voice service providers may begin blocking calls from an upstream provider that fails to address the enforcement action by notifying the Commission and summarizing the basis upon which it is electing not to carry the upstream provider’s voice traffic.

While INCOMPAS generally supports the Commission’s approach in the *Safe Harbor Order* to bad-actor providers, the Commission should clarify the avenues that will be available to voice service providers to appeal, within the 48-hour deadline, the information presented by the Commission and the Industry Traceback Group. Having a formal appeals process in place would enable accused providers to understand how the determinations about their traffic were made and to present additional facts that could discharge them of the need to meet the Commission’s compliance requirements. Additionally, INCOMPAS agrees with USTelecom that the Commission must provide “clarity” as to the process by which voice service providers will be allowed to block voice traffic from upstream voice service providers.<sup>8</sup> Although the Commission has taken several recent, successful enforcement actions against international

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*Association Petition for Clarification or Reconsideration*, CG Docket No. 17-59, Third Report and Order, Order on Reconsideration, and Fourth Further Notice of Proposed Rulemaking, FCC 20-96 (rel. July 17, 2020), at para. 35 *et seq.* (“*Safe Harbor Order*”) (adopting a safe harbor for blocking of bad-actor providers).

<sup>7</sup> *Id.* at paras. 36-37.

<sup>8</sup> USTelecom Comments at 9.

gateway providers to prevent pandemic-related illegal robocalls,<sup>9</sup> INCOMPAS members report that there was still operational uncertainty about their ability to block these upstream providers' calls. Providing additional clarity and transparency regarding the blocking status of bad-actor providers would serve the dual purpose of reducing the number of illegal calls in instances where a provider fails to respond to a Commission notification while also ensuring that responsive providers are no longer at risk of inadvertently having their traffic inappropriately blocked once they have successfully resolved the issues on their networks.

Finally, Verizon's proposal to develop a registry that would allow providers to certify their compliance with STIR/SHAKEN or a robocall mitigation program offers additional benefits beyond monitoring for compliance with the Commission's robocall mandates, particularly with respect to addressing instances of false positives.<sup>10</sup> Should the Commission require the ITG or another industry stakeholder to establish and maintain such a registry, INCOMPAS recommends that it include information on a point of contact that would allow voice service providers to quickly resolve larger call-blocking disputes between providers. This resource would function similarly to the Intermediate Provider Registry for rural call completion, which has proven to be a highly-effective resource that providers use in their efforts to quickly

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<sup>9</sup> See *FCC, FTC Demand Gateway Providers Cut Off Robocallers Perpetrating Coronavirus-Related Scams from United States Telephone Network*, Press Release (rel. Apr. 3, 2020), available at <https://www.fcc.gov/document/fcc-ftc-demand-gateway-providers-cut-covid-19-robocall-scammers>; *FCC, FTC Demand Robocall-enabling Service Providers Cut Off COVID-19-related International Scammers*, Press Release (rel. May 20, 2020), available at <https://docs.fcc.gov/public/attachments/DOC-364482A1.pdf>.

<sup>10</sup> See Comments of Verizon, EB Docket No 20-22 (filed July 10, 2020), at 3-4. While INCOMPAS supports the establishment of a registry, it is unnecessary to require all voice service providers that handle domestic calls to certify compliance with specific robocall mitigation principles, like the *Anti-Robocall Principles for Voice Service Providers*, as these principles may not necessarily benefit every voice service business model.

investigate and resolve rural call completion issues, and has not resulted in unreasonable burdens or costs for either the Commission or for industry.<sup>11</sup> For carrier-level blocking, a similar resource would be a practical and effective tool for enabling prompt investigations and resolutions.

For the reasons stated herein, INCOMPAS urges the Commission to consider the recommendations in its reply comments as it further examines the issues raised in the *Further Notice*.

Respectfully submitted,

INCOMPAS

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July 27, 2020

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<sup>11</sup> See *Rural Call Completion*, Third Report and Order, FCC 18-120, at para. 2 (2018).