

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Advanced Methods to Target and Eliminate Unlawful Robocalls |) | CG Docket No. 17-59 |
| |) | |
| Call Authentication Trust Anchor |) | WC Docket No. 17-97 |

REPLY COMMENTS OF INCOMPAS

INCOMPAS submits these reply comments in response to the Federal Communications Commission’s (“Commission”) *Eighth Further Notice of Proposed Rulemaking* in CG Docket No. 17-59 and *Third Notice of Inquiry* in WC Docket No. 17-97 seeking comment on additional measures to stem the tide of illegal robocalls while increasing consumer trust in voice services.¹ In our initial comments, INCOMPAS addressed the interrelated nature of the issues being examined in the *Further Notice* and the need to develop a comprehensive and standardized framework around call blocking, immediate call blocking notification, and call labeling that will allow voice service providers to address illegal robocalling while preserving consumer trust in voice services as well as competition and innovation in the market. In these reply comments, INCOMPAS addresses three issues that require additional attention following the comment period: (1) reservations about the Commission’s analytics-based blocking proposals, (2) requiring the use of SIP Code 608, or in the alternative SIP Code 603+ for immediate call

¹ *Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Seventh Report and Order in CG Docket No. 17-59 and WC Docket No. 17-97, *Eighth Further Notice of Proposed Rulemaking* in CG Docket No. 17-59, and *Third Notice of Inquiry* in CG Docket No. 17-59, FCC 23-37 (rel. May 19, 2023) (“*Further Notice*” and “*NOP*”).

blocking notification, and (3) the need to modify the Commission’s base forfeiture proposal to protect voice service providers whose networks may be unwittingly exploited by illegal robocallers.

Mandatory Call Blocking Programs. In the *Further Notice*, the Commission is proposing to require voice service providers to engage in mandatory blocking programs, including opt-out analytics-based blocking of calls that are highly likely to be illegal as well as blocking based on a reasonable Do-Not-Originate list. Furthermore, the Commission seeks to strengthen its blocking requirements by having terminating and non-gateway intermediate providers engage in blocking when notified by the agency that the provider is carrying suspected illegal traffic. In our comments, INCOMPAS expressed concern about this proposed expansion of the Commission’s call blocking requirements in part because voice service providers continue to experience instances where their customers are subject to overly broad blocking practices that have significant negative implications for lawfully placed calls even though on a surface level they may share certain characteristics to illegal calls being flagged by analytics engines. The continued reliability of the public switched telephone network must remain of paramount importance in the Commission’s consideration. Accordingly, INCOMPAS has consistently argued that until the call blocking software industry has improved to avoid blocking of legitimate calls, and matured to consistently accommodate such nuances and inadequacies in the redress processes,² including the widespread adoption of call blocking notification, the FCC should not mandate any additional call blocking requirements, particularly those that are analytics-based.

² See Comments of INCOMPAS, CG Docket No. 17-59, WC Docket No. 17-97, 7 (filed Aug. 9, 2023) (disclosing that our members’ corporate customers experience routine blocking of lawfully placed calls because certain characteristics are similar to those flagged by analytics engines even when those calls have earned an “A” attestation level in the STIR/SHAKEN framework). INCOMPAS members also report that the current redress ecosystem is inconsistent and

Other stakeholders have also expressed reservations about the Commission’s proposed blocking requirements, including that the current approach already offers providers the flexibility needed to address illegal robocalling.³ The Cloud Communications Alliance, in calling for the Commission to retain its current permissive approach to analytics-based call blocking for terminating providers, reminds the agency that it rejected mandating analytics-based blocking in the Gateway Order for fear that it would undermine consumer protections.⁴ NTCA indicates that the Commission should take a “measured approach to the use of [call blocking] tools” and urges the Commission to “pause any efforts to expand its call blocking regime” until a notification mechanism and “strong and clear ‘guardrails’ around voice providers’ authority to block suspected unwanted or illegal robocalls” are in place.⁵ INCOMPAS agrees with these stakeholders and strongly recommends that the Commission not mandate any further call blocking requirements until the Commission settles on a notification mechanism and has mandated its use by a date certain.

administratively burdensome as it can often take providers several attempts to resolve instances of blocking with a single provider.

³ See Comments of USTelecom—The Broadband Association, CG Docket No. 17-59, WC Docket No. 17-97, 7 (filed Aug. 9, 2023) (urging the Commission “to afford further flexibility in any new blocking mandate so that the requirement better aligns with existing deployments based on the Commission’s framework to date”).

⁴ See Comments of the Cloud Communications Alliance, CG Docket No. 17-59, WC Docket No. 17-97, 3 (filed Aug. 9, 2023) (“CCA Comments”). INCOMPAS similarly agrees with CCA’s argument that mandating analytics-based blocking would be overly burdensome for smaller providers.

⁵ See Comments of NTCA—The Rural Broadband Association, CG Docket No. 17-59, WC Docket No. 17-97, 3, 2 (filed Aug. 9, 2023) (“NTCA Comments”).

SIP Codes for Immediate Notification of Blocked Calls. INCOMPAS welcomes the Commission’s efforts to address the transparency and effective redress provisions of the TRACED Act by determining which SIP Codes terminating providers should be required to use to notify callers that calls have been blocked. INCOMPAS has consistently advocated for a robust and uniform system of notification and redress so that callers and voice service providers can respond to and permanently correct call blocking in the event of false positives. However, as NTCA—The Rural Broadband Association explains, “[r]edress’ is of little value if the SIP code never reaches the originating caller or does not do so with all of the information they need for effective redress,”⁶ and INCOMPAS urges the Commission to ensure that the SIP codes it authorizes allows for the inclusion of specific information about the blocked call and the contact information for the provider doing the blocking.

INCOMPAS members have embraced SIP Code 608 as their preferred mechanism of call blocking notification. The standard is designed specifically for analytics-based blocking and is already in use by some providers today. Several other stakeholders share this assessment. TCN, Inc. argues that the “consistent use of SIP Code 608 would increase transparency and create an opportunity for more effective redress.”⁷ In its comments, the Voice on the Net Coalition

⁶ NTCA Comments at 4.

⁷ See Comments of TCN, Inc., CG Docket No. 17-59, WC Docket No. 17-97, 4 (filed Aug. 9, 2023). According to TCN, “[t]he record clearly demonstrates that terminating and intermediate providers’ lack of transparency and ineffective redress have imposed real-world costs on callers, requiring companies like TCN to invest 10-20 hours of investigation and outreach to voice service providers to diagnose a single erroneous blocking issue and open a ticket with the relevant voice service provider.”

contends that “SIP Code 608 is already in use by major terminating providers and has proven to be highly effective for originating providers due to its ease of identification and integration.”⁸

While INCOMPAS prefers the Commission adopt SIP Code 608, for the reasons mentioned here and by others in the record, the association also concludes that a standardized solution is preferred and would suggest that, in the alternative, the Commission consider SIP Code 603+. The Cloud Communications Alliance and the Ad Hoc Telecom Users Committee support both standards and implore the Commission to ensure that industry adopts standardized notifications in the near term. The Cloud Communications Alliance urges the Commission to mandate the use of either SIP Code 608 or 603+ with a preference for 608, since it “applies only to blocking based on analytics and it is currently being used at least by some terminating providers.”⁹ The Ad Hoc Telecom Users Committee supports both 608 and 603+ because they “convey more actionable information than general 603, because SIP Codes 608 and 603+ each inform the caller that the block . . . was due to an intermediary machine or process or a network level protocol to block.”¹⁰ Most importantly, INCOMPAS urges the Commission to mandate a means for industry to achieve call blocking notification and set a deadline by which all providers will be required to adopt and use the codes for notification purposes.

Base Forfeitures. Finally, INCOMPAS recommends that the Commission modify its proposal to authorize a base forfeiture “for any voice service provider that fails to take affirmative, effective measures to prevent new and renewing customers from using its network to

⁸ See Comments of the Voice on the Net Coalition, CG Docket No. 17-59, WC Docket No. 17-97, 2 (filed Aug. 9, 2023) (“VON Comments”).

⁹ CCA Comments at 13.

¹⁰ Comments of the Ad Hoc Telecom Users Committee, CG Docket No. 17-59, WC Docket No. 17-97, 5 (filed Aug. 9, 2023).

originate illegal calls, including knowing its customers and exercising due diligence in ensuring that its services are not used to originate illegal traffic” by adopting language that conveys that a service provider can only be subject to the forfeiture if it had intent to allow its network to deliver illegal robocalling and demonstrably failed to take reasonable corrective action to address the activity. In this regard, INCOMPAS seeks to align itself with the comments of the VON Coalition which similarly urges the Commission to modify this proposal in order to ensure that “[a]ny fines imposed on originating service providers should be grounded in evidence demonstrating that the provider was aware that its network was involved in facilitating illegal calls and failed to take remedial measures.”¹¹ INCOMPAS is concerned that such a proposal, without modification, could dramatically expand current legal standards and inadvertently create exposure for compliant voice service providers beyond just those that intentionally facilitate illegal robocalling or intentionally neglect the Commission’s rules.

The Commission makes its intentions in the *Further Notice* plain by indicating that the new base forfeitures are intended to penalize “bad-actor voice service providers” that “profit from the callers that they protect.”¹² Intermediate and downstream providers cannot be held to a strict liability standard for every call that they had no control over originating. Rather, the enforcement focus must remain on those that are intentionally and demonstrably engaged in illegal activity. The interconnected PSTN is comprised of an incredibly complex network of networks. Aligning the industry and enforcement agency in joint and coordinated efforts to root out illegal behaviors is critically important. Recognizing that bad-actor voice service providers

¹¹ See VON Comments at 6-7. INCOMPAS agrees with the VON Coalition that “[u]naddressed multiple traceback requests concerning the same customer or ignoring complaints from the FCC, FTC, or state attorneys general could serve as such evidence.”

¹² See *Further Notice* at para. 104.

engaged in an illegal robocalling scheme inherently operate within this complex ecosystem of networks, providers with illegal intent would gain no protection from our proposed modification and the Commission's overall objectives with respect to the base forfeiture would be preserved. At the same time, voice service providers, whose networks may be unwittingly exploited or utilized in ways that are fundamentally beyond their direct control, would have a legitimate measure of protection against illegal robocallers if such a modification is included in a final *Order*.

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

Respectfully submitted,

INCOMPAS

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