

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

In the Matter of)

Call Authentication Trust Anchor)

WC Docket No. 17-97



COMMENTS

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July 9, 2021

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seriously their responsibility to avoid originating these calls from their own networks, as documented in their robocall mitigation certification filings with the Commission.³

Last autumn, the Commission set a deadline of June 30, 2023, for small voice providers to implement STIR/SHAKEN in their Internet Protocol networks, which amounted to a two-year extension of the deadline imposed on larger providers.⁴ The extra time was intended to ease burdens and barriers for small providers in implementing this new technology. In the FNPRM, the Commission proposes advancing the deadline by one year – to June 30, 2022 – for “the subset of small providers that are at heightened risk of originating an especially large amount of robocall traffic.” In support of this proposal, the Commission cites evidence that a “subset” of small providers is responsible for a large and disproportionate share of illegal robocalls.⁵

The Commission’s reasoning makes good sense: Providers that continue to flood the network with illegal robocalls should not be permitted to take advantage of an extension aimed at mitigating hardship for good actors with limited resources. Equally sound is the Commission’s “preliminary view” that “it is appropriate to tailor [its] alteration of the extension as narrowly as possible to those small voice service providers most likely to originate unlawful robocalls to avoid unnecessarily burdening

³ See *Wireline Competition Bureau Announces Opening of Robocall Mitigation Database and Provides Filing Instructions and Deadlines*, WC Docket No. 17-97, Public Notice, DA 21-454 (rel. Apr. 20, 2021).

⁴ See *Call Authentication Trust Anchor*, WC Docket No. 17-97, Second Report and Order, FCC 20-136 at ¶¶ 40-43 (2020) (“Order”).

⁵ See FNPRM, ¶ 10.

small providers.”⁶ The Commission must be careful not to sweep in small providers not originating unlawful robocalls that have relied in good faith on the existing deadline to plan and budget their implementation of STIR/SHAKEN and that would incur significant burdens if they were required to meet an earlier deadline.

The FNPRM seeks comment on various criteria and metrics for delineating the “subset” of providers that will be held to an accelerated deadline. As explained below, ACA Connects urges the Commission to carefully define this subset so that it includes only those providers that offer high-volume robocalling capabilities as a core part of their business. In addition, ACA Connects supports the Commission’s proposal that the existing deadline should be maintained for small voice providers that provide communications services in their communities over their own last-mile facilities. This combination of measures will enable the Commission to realize the goals of the FNPRM without imposing unnecessary and unjustified burdens on providers that are not contributing to the problem the Commission is trying to solve.

II. AN ACCELERATED STIR/SHAKEN IMPLEMENTATION DEADLINE WOULD “UNNECESSARILY BURDEN” ACA CONNECTS MEMBERS AND OTHER PROVIDERS NOT ORIGINATING LARGE VOLUMES OF ILLEGAL ROBOCALLS THAT ARE WORKING IN EARNEST TO MEET THE JUNE 30, 2023 DEADLINE

The FNPRM seeks comment on the costs and burdens that would accrue to small voice providers if they were required to implement STIR/SHAKEN on an accelerated timeline. It is worth observing that the Commission adopted the current deadline less than one year ago, through a notice-and-comment rulemaking proceeding

⁶ *Id.* at ¶ 15.

that generated a substantial record. The Commission had proposed granting small voice providers only a one-year deadline extension, but concluded in the Order, on the basis of the record, that a two-year extension was appropriate to account for the “substantial cost” and operational challenges that small providers would face in implementing this new technology.⁷

Since the release of the Order on October 1, 2020, ACA Connects members have quite reasonably planned and budgeted their implementation of STIR/SHAKEN to occur within the ensuing thirty-three-month period that will conclude on June 30, 2023. A bit less than twenty-four months of that thirty-three-month period remain. Were the Commission to adopt an order that advanced the deadline by one year, it would reduce by more than half the amount of time that remains for small providers to implement STIR/SHAKEN. The Commission would also be announcing a new deadline that, at the time of the announcement, would be less than one year away—probably less than nine months.⁸ Notably, larger operators subject to the June 30, 2021 compliance deadline that derives from the TRACED Act were given substantially greater notice of that deadline.⁹

⁷ See Order, ¶¶ 41-42.

⁸ With reply comments on the FNPRM due Aug. 9, it is possible but unlikely the Commission would adopt an order before Sept. 30, i.e., the date that is nine months prior to June 30, 2022.

⁹ See Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Pub. L. No. 116-105, 133 Stat. 3274, 3277, § 4(b)(1)(A), (b)(5) (2019) (directing the Commission to require voice providers to implement STIR/SHAKEN within eighteen months, subject to possible deadline extensions for individual providers or classes of providers). The Commission formally adopted a June 30, 2021 STIR/SHAKEN implementation deadline on March 31, 2020, i.e., fifteen months in advance of the deadline. See *Call Authentication Trust Anchor et al.*, WC Docket No. 17-97 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 20-42 at ¶¶ 25 (2020).

ACA Connects members would incur significant burdens if they were faced suddenly with such a drastic reduction of their timeline to implement STIR/SHAKEN. Because they operate under severe resource constraints, they must plan for and budget major expenditures far in advance. Acceleration of the STIR/SHAKEN deadline would disrupt current plans that are based on the existing deadline, which could increase deployment costs as providers scramble to implement solutions on a much faster timeline than they had anticipated. An expedited deadline to deploy STIR/SHAKEN could also divert funds and staff resources from other planned activities, including broadband deployment and other network upgrades that have been planned for the coming year.

ACA Connects members' and other small providers' reliance on the June 30, 2023 deadline is entirely reasonable. Indeed, the Commission's stated purpose in setting this deadline was to grant small providers "sufficient time" to manage the costs and logistical burdens of implementing STIR/SHAKEN.¹⁰ The FNPRM's proposed "basis for action" is not that STIR/SHAKEN has become simpler or less expensive to implement, but rather that a "subset" of small providers is responsible for flooding the network with illegal, unsigned calls.¹¹

In taking action to address this narrow problem, the Commission must be careful not to overshoot the mark. Given the substantial burdens that would accrue to ACA Connects members and other small providers if they were held to an accelerated

¹⁰ See Order, ¶ 43.

¹¹ See FNPRM, ¶ 10.

deadline, the Commission would be justified in shortening the deadline only for that limited subset of providers that there is evidence to conclude are providing an entry point for illegal robocalls by virtue of their non-participation in STIR/SHAKEN. It would be unjust and unreasonable for the Commission to extend such treatment to providers that do not fall in that category, and that are working in earnest to meet the current deadline. Accordingly, we urge the Commission to err on the side of caution to ensure that any curtailment of June 20, 2023 deadline applies only to those providers that are the legitimate target of this proceeding: those that facilitate illegal robocalls as a core part of their business.

III. ANY ACCELERATION OF THE DEADLINE SHOULD BE NARROWLY TAILORED TO THOSE PROVIDERS THAT ARE AT GREATEST RISK OF ORIGINATING LARGE VOLUMES OF ILLEGAL ROBOCALLS

In the FNPRM, the Commission proposes expediting the STIR/SHAKEN implementation deadline by one year for those providers that are at “heightened risk” of originating a large and disproportionate number of illegal robocalls. The Commission seeks comment on how to delineate this subset of at-risk small providers, and also asks whether there are particular classes of small voice provider that should be excluded categorically from the subset. ACA Connects believes the best course is for the Commission to approach this problem from both sides. First, we recommend that the Commission work with stakeholders to identify criteria that narrowly capture those voice providers that make robocalls a core part of their business and to accelerate the deadline only for those providers. Second, we support the Commission’s proposal to

maintain the existing deadline for those small voice providers that deliver service within local communities using their own last-mile facilities.

A. Defining the Subset of Small Voice Providers Subject to an Accelerated STIR/SHAKEN Implementation Deadline

The Commission proposes in the FNPRM that it accelerate the STIR/SHAKEN implementation deadline for small providers that originate “an especially large amount of traffic,” on the theory that such providers “are more likely to originate unlawful robocalls.”¹² The FNPRM seeks comment on various criteria for delineating this class of providers. Some of the criteria under consideration are based on the number of calls a provider originates per day from any single line; others are based on the proportion of revenue that a provider derives from non-mass market services or customers.¹³

Based on feedback we have received from ACA Connects members with 100,000 or fewer voice subscriber lines, we are concerned that specific criteria proposed in the FNPRM, such as those discussed above, are not “narrowly tailored” to the problem at hand and would in fact sweep in providers that are not contributing to the problem. For instance, some of these ACA Connects members report that they serve a handful of businesses or other enterprises – including schools or medical facilities – that have legitimate needs to originate large volumes of lawful calls in the normal course of business. These service relationships could potentially trigger various criteria proposed in the FNPRM, depending on how the criteria are precisely defined.¹⁴ This is true

¹² See *id.*

¹³ See FNPRM, ¶¶ 21-29.

¹⁴ For instance, some members report that they provide service to a limited number of customers that in their estimation may originate more than 250 calls per day per line, and in some cases, potentially as

notwithstanding the fact that ACA Connects members' provision of service to such legitimate, well-known customers in no way correlates with the provision of service to bad actors that originate unlawful calls. On the contrary, ACA Connects' members' service relationships with legitimate businesses and enterprises can provide substantial benefits to the community at large.

For these ACA Connects members and other similarly situated providers, the volume of calls originating from any single line or the percentage of revenue derived from non-mass-market services may be a poor indicator whether the provider is at risk of originating excessive volumes of unlawful robocalls. It would not serve the Commission's goals in this proceeding if small providers delivering lawful voice services to legitimate enterprises within their communities were held to an accelerated implementation deadline on that basis alone.

To avoid that outcome, we suggest that the Commission aim for criteria that are more closely linked to the types of services and business models that are responsible for the heaviest volumes of illegal robocall traffic.¹⁵ For instance, the Commission could consider shortening the deadline only for those small voice providers that provide "voice broadcasting" or comparable services as a substantial part of their business, or that derive some threshold of revenues from such services.¹⁶

many as 500. Some members also report that business voice services are a growing share of their business that, in the aggregate, could account for 25 percent or more of their voice revenues.

¹⁵ The FNPRM seeks comment on accelerating the June 30, 2023 deadline for "all-IP" providers. See FNPRM, ¶ 32. The Commission should definitively reject this proposal, which is even more likely to be overbroad than the FNPRM proposals discussed above.

¹⁶ See, e.g., Letter from Josh Bercu, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-97 at 2 (filed Apr. 15, 2021) (suggesting as one possible means of identifying small providers most

To be clear, we are uncertain that we have identified the right criteria for capturing those providers—and only those providers—that are causing the problem; though there is evidence in the record that some small providers are introducing large volumes of illegal robocalls onto the network, the record lacks sufficient information about these providers and their business characteristics to make it possible to delineate this subset of providers in a precise manner that is not overinclusive. We realize it may be inherently difficult to develop objective, quantitative criteria that can reliably distinguish those providers that are at heightened risk of originating unlawful robocalls from those that are not. Hopefully other parties can adduce data and information in response to the FNPRM that will assist the Commission in drawing this line. As the Commission pursues this task, we encourage it to work closely with stakeholders to ensure that any criteria it adopts are narrowly tailored and do not inadvertently sweep in providers that are not responsible for large volumes of illegal calls.

B. Preserving the Existing Implementation Deadline for Local, Facilities-Based Providers

In proposing to accelerate the STIR/SHAKEN implementation deadline for those small providers that are most likely to originate large volumes of illegal robocalls, the FNPRM asks whether “providers that offer voice service over physical lines to end-user

likely to originate unlawful robocalls to “focus on the type of calling enabled by a particular platform in order to capture voice broadcasters and other prolific originators”). ACA Connects members may provide “voice broadcasting” or similar services to a limited number of customers to meet specific needs. ACA Connects members and other voice providers in similar circumstances should not be subject to an earlier deadline solely for providing these kinds of services on such a limited basis.

customers” are “less likely” to fall in that category, and whether the Commission should preserve the June 30, 2023 implementation deadline for this category of providers.¹⁷

Based on ACA Connects’ review of information that is publicly available on company websites, it would appear that voice providers targeted by the Commission recently for facilitating illegal robocalls tend not to be local, facilities-based providers.¹⁸ This may have to do with the fact that providers in this category are less likely to serve the types of customers that perpetrate robocall schemes, or they may have especially strong disincentives to participate in risky business models that could subject them to an enforcement action. In any event, in the absence of evidence that local, facilities-based providers are contributing substantially to the robocalls epidemic, we support the Commission’s proposal to allow providers in this category to continue working towards the June 30, 2023 deadline to implement STIR/SHAKEN. As noted above, any attempt to delineate the class of providers that are at heightened risk of originating unlawful robocalls will require difficult line drawing, and there is always the possibility that lower-risk providers will be mistakenly swept in. Adopting a bright-line rule that local, facilities-based providers will continue to be subject to the existing deadline will help mitigate this concern, without compromising the goals of this proceeding.

¹⁷ See FNPRM, ¶ 35.

¹⁸ As noted in the FNPRM, section 1.7001 of the Commission’s rules sets forth a definition of “[f]acilities-based provider.” See 47 CFR § 1.7001(a)(2). We use the term “local, facilities-based provider” to refer specifically to a provider that primarily serves a relatively well-defined geographic area or areas within the United States and that provides service to end-user locations in these areas over its own last-mile transmission facilities.

IV. CONCLUSION

ACA Connects appreciates the opportunity to participate in this proceeding, and it encourages the Commission to take its comments into consideration.

Respectfully submitted,



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