

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Call Authentication Trust Anchor)	WC Docket No. 17-97
)	
Implementation of TRACED ACT Section 6(a))	WC Docket No. 20-67
Knowledge of Customers by Entities with)	
Access to Numbering Resources)	

Reply Comments

of

**Consumer Reports
Consumer Action
Consumer Federation of America
National Consumer Law Center, on behalf of its low-income clients**

May 29, 2020

Consumer Reports, Consumer Action, Consumer Federation of America, and the National Consumer Law Center on behalf of its low-income clients thanks the Federal Communications Commission (“FCC” or “Commission”) for inviting comment as it works to issue rules to implement the Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act. We were leading supporters of this important legislation throughout the legislative process, and we are committed to helping the FCC implement it effectively.

Now more than ever, consumers need meaningful protections against robocalls: unwanted autodialed calls and texts. The overall volume of robocalls has declined in recent months,¹ presumably in part because of recent joint FCC/FTC enforcement actions,² and because COVID has shut down call centers just as it has caused other businesses to close or scale back their operations.³ But at the same time, there have been disturbing reports of an increase in scam calls related to COVID-19. For example, there are reports of scam calls related to fake coronavirus testing kits.⁴ It’s likely that debt collection robocalls will increase, as rising unemployment rates will make it difficult for consumers to make regular loan payments. Clearly, consumers need effective protections against unwanted robocalls.

Having reviewed comments submitted thus far, we wish to help add to the record by emphasizing a few points for the Commission’s consideration.

In implementing the TRACED Act, we urge the FCC to:

- Ensure that the prohibition in the Act against line item charges for all call mitigation technology, including caller ID authentication and call-blocking, is unambiguous and airtight, with no exceptions;
- Require all phone companies to provide three levels of call blocking options: opt-out screening of scam calls, opt in to more comprehensive technologies to block spam calls, and personal blacklists, all at no additional line item charge to subscribers;
- Require all providers to register with the FCC, to participate in the traceback group, to know who is placing call traffic, to decline traffic from bad actors, and to keep their records for the full four years of the TCPA’s statute of limitations;
- Require providers to forward the STIR/SHAKEN attestation to intermediate providers, who should not be permitted to alter the attestation;

¹ YouMail Robocall Index, April 2020 Nationwide Robocall Data, <https://robocallindex.com/>.

² Fed. Comm’ns Comm’n, FCC, FTC Demand Gateway Providers Cut Off COVID-19 Robocall Scammers (Apr. 3, 2020), <https://www.fcc.gov/document/fcc-ftc-demand-gateway-providers-cut-covid-19-robocall-scammers>.

³ YouMail, 4.1 Billion Robocalls Mark 15.7% Decline in March, Says YouMail Robocall Index (Apr. 8, 2020), <https://www.prnewswire.com/news-releases/4-1-billion-robocalls-mark-15-7-decline-in-march-says-youmail-robocall-index-301037329.html>.

⁴ Karen Hobbs, *Socially Distancing from COVID-19 Robocall Scams*, FED. TRADE COMM’N, (Mar. 27, 2020), <https://www.consumer.ftc.gov/blog/2020/03/socially-distancing-covid-19-robocall-scams>.

- For companies granted a delay in compliance with TRACED, evaluate their efforts to become compliant regularly, on no less than a yearly basis.

These steps will help ensure that technological methods to help address the robocall problem will be effective.

The FCC should prohibit line item charges for all call mitigation technology, including caller ID authentication and call-blocking, as set forth in the TRACED Act.

Consumers pay enough for phone service already; it's not fair to push the costs for addressing robocalls onto consumers. Robocalls interfere with the efficacy of phone service, as consumers have reported to us that they dropped their service because it's overrun with robocalls. TRACED properly stipulated that caller ID authentication must be provided at no additional line item charge⁵ and that call-blocking services must be provided at no additional cost as well.⁶

Along with Arkansas Attorney General Leslie Rutledge, we support the FCC proposal to clarify in the rules that caller ID authentication must be provided to consumers and small businesses at no additional charge, and that providers may not add additional line item charges to cover the cost of upgrading systems to become compliant with STIR/SHAKEN standards, for recurring costs related to authenticating or verifying calls, or for STIR/SHAKEN signals on consumers' phone display.⁷ We disagree with Securus Technologies, which argues against clarifying that these line items are not permitted, while they also argue in favor of allowing companies to recover their costs for implementing STIR/SHAKEN.⁸ Consumers already bear the burden of dealing with robocalls, and should not be charged further to address the problem; these costs are appropriately borne by the providers.

The FCC should further clarify that all line item charges for call mitigation technology are prohibited, and provide a non-exclusive list of examples of these charges. This additional specificity is important, because phone companies have often charged consumers for blocking services, or for premium versions of blocking services, further frustrating consumers who have found their phone service devalued because it serves primarily as a vector for scams. For example, Verizon currently offers to provide the actual name of otherwise unknown callers,

⁵ Sec. 4 (b)(6).

⁶ Sec. 10 (b).

⁷ Proposed rule, Call Authentication Trust Anchor; Implementation of TRACED Act: Knowledge of Customers by Entities with Access to Numbering Resources ¶ 63-4 (Apr. 21, 2020), <https://beta.regulations.gov/document/FCC-2020-0165-0001>; Comments of Attorney General Leslie Rutledge, WC Docket No. 17-97, 20-67 at 5 (May 15, 2020), <https://ecfsapi.fcc.gov/file/10515710419675/FCC%2020-42%20-%20WC%20Docket%2017-97%2C%20WC%20Docket%2020-67%20-%20Comment%20of%20Arkansas%20AG%20-%202020-05-15.pdf>.

⁸ Comments of Securus Technologies, WC Docket No. 17-97, 20-67 at 6-7 (May 15, 2020), [https://ecfsapi.fcc.gov/file/10515052704764/Securus%20Comments%20re%20STIRSHAKEN%20FNPRM%20\(05-15-2020\).pdf](https://ecfsapi.fcc.gov/file/10515052704764/Securus%20Comments%20re%20STIRSHAKEN%20FNPRM%20(05-15-2020).pdf).

including for health agencies or COVID-related calls, for an additional fee.⁹ Consumers shouldn't have to pay for that essential information; they deserve effective robocall mitigation technologies at no additional charge, as the TRACED Act requires.

Require phone companies to provide three levels of call blocking options: opt-out screening of scam calls, opt in to more comprehensive technologies to stop spam calls, and personal blacklists of specific numbers to be blocked, all at no additional line item charge to subscribers.

Caller ID authentication will give phone companies more confidence in intercepting scam calls, but it must be paired with effective mechanisms to allow the phone companies screen out these calls and at no additional charge—for example, redirecting the calls to voicemail or to a separate “spam” folder that consumers can review later at their convenience. Major phone companies have already agreed to provide free call-blocking in an agreement with all fifty states and the District of Columbia, so companies are clearly capable of providing these services¹⁰—the FCC should require phone companies to provide free, effective blocking tools by regulation to remove any uncertainty.

It is not sufficient for caller ID authentication and associated services to simply indicate the accuracy of the caller ID information. Just as Caller ID has not stopped the scourge of robocalls, simply informing consumers that they are being called by a fake number will fail to address much of the harm associated with these robocalls, which is the unwanted interruption coming from the ringing telephone. Consumers being harassed by scammers also need effective mechanisms to prevent these calls from entering their homes.

Opt-out screening for suspected scam calls

Phone companies should be required to screen out suspected scam robocalls on an opt-out basis. While the FCC appropriately reaffirmed last year that phone companies *may* offer advanced call-blocking tools on an opt-out basis, phone companies have not previously been required to do so.¹¹ Mandates are important because it's not clear how many phone companies are offering this service.

⁹ See, for example, Verizon's Call Filter Plus, for \$2.99/month, <https://www.verizon.com/support/call-filter-faqs/>.

¹⁰ Anti-Robocall Principles (accessed May 27, 2020), <https://www.ustelecom.org/wp-content/uploads/2019/08/State-AGs-Providers-AntiRobocall-Principles-With-Signatories.pdf>.

¹¹ 84 FR 29387 (June 24, 2019), <https://www.federalregister.gov/documents/2019/06/24/2019-13270/advanced-methods-to-target-and-eliminate-unlawful-robocalls-call-authentication-trust-anchor>; Tali Arbel, *End of Robocalls? Phone Companies Can Block Them for You, FCC Rules*, THE AP (June 6, 2019), <https://www.wusa9.com/article/news/no-more-robocalls-phone-companies-can-block-them-for-you-fcc-rules/507-731b9c73-c41c-4722-ac69-06ed046b2ead>.

Opt-in screening for spam calls

Phone companies should also be required to offer advanced technologies with more comprehensive blocking capabilities to screen out spam calls on an opt-in basis, also at no additional line item charge. The FCC has made clear that phone companies have the full authority to offer these services, which can block entire categories of robocalls, at the discretion of the consumer.¹²

Those tools should give consumers flexibility in terms of the categories of calls they would like to block, such as telemarketing calls, and even debt collection calls. Clearly, phone companies have the ability to offer these services: AT&T's basic Call Protect service blocks scam calls and spam.¹³

Personal blacklists

These call-blocking offerings should also allow consumers to create their own personalized blacklists, to more surgically stop any unwanted calls that have slipped through the carrier-level blocking and screening. AT&T's Call Protect likewise offers the capability to create personalized blacklists.¹⁴ All of these services should be offered at no additional line item charge, since consumers should not be forced to pay extra to deal with the flood of unwanted robocalls.

Require all providers to register with the FCC, to participate in the traceback group, to know who is placing call traffic, to decline traffic from bad actors, and to keep records to allow the traceback efforts to be effective for a sufficient period of time.

To supplement call authentication strategies, the FCC should require that providers register with the agency, as US Telecom has suggested,¹⁵ and participate in a government-supervised traceback program. In addition to complying with STIR/SHAKEN, phone companies should be required to know their customers, and to decline traffic from bad actors. These additional requirements will help ensure that robocallers can't evade the new rules by simply routing their unverified calls through providers that have been granted deferments on implementing STIR/SHAKEN.

¹² 30 FCC Rcd 7961 (10) at ¶154.

¹³ AT&T Call Protect FAQ (last visited May 27, 2020), <https://www.att.com/features/security-apps.html#faqs>.

¹⁴ *Id.*

¹⁵ Comments of US Telecom - Broadband Association, WC Docket No 17-97, 20-67 at ii (May 15, 2020), <https://ecfsapi.fcc.gov/file/10515071300596/USTelecom%20STIR-SHAKEN%20Mandate%20FNPRM%20Comment%20-%205.15.20%20%5BFINAL%5D.pdf>.

Since calls are typically routed through multiple phone companies before they reach the recipient, it has often taken months in order to trace a complaint about a call back to the originating carrier, as the enforcement agency has had to seek multiple subpoenas to obtain the necessary information.¹⁶ The traceback program has routinized this process and has sped it up, in many cases, to a matter of days.¹⁷ The traceback program has also been useful recently in helping authorities to crack down on COVID-scam calls.¹⁸ If all providers were participating in the program, the process would be even more successful. Enforcement authorities could more quickly identify perpetrators, or at least more quickly identify the point at which the calls enter the United States, and shut down the traffic.

Meaningful participation in the traceback program should require that providers keep records of the calls that are originated or terminated on their network, or that flow through their network. These records should be required to be kept by the providers for at least four years after the calls are made, to ensure that traceback efforts relating to older calls can be successful.

Requiring the phone companies to know who their customers are, and to decline traffic from bad actors, would also reduce the amount of fraudulent traffic in the system. As AT&T noted in last year's STIR/SHAKEN summit, "Focusing in on those service providers who are originating those calls, and finding a way to require them to implement STIR/SHAKEN or stop carrying the traffic or whatever it is, that's going to have the biggest, quickest impact."¹⁹ The specific technologies that are used to actually authenticate identities and share that information with other carriers are less important, especially as any single current technology is unlikely to be entirely effective in addressing all unwanted robocalls, and so will likely need to be supplemented by other techniques. For example, STIR/SHAKEN does not allow traditional landline providers to sign calls, and its efficacy is limited with respect to calls originating overseas. Whatever specific technologies are used, they should be as effective as possible in eliminating deceptively spoofed calls in the network.

The FCC should require providers to forward the STIR/SHAKEN attestation to intermediate providers, who should not be permitted to alter the attestation.

Intermediate carriers have a role to play in mitigating robocalls as well. We agree with US Telecom and First Orion, that originating carriers should be required to forward attestations to intermediate providers, who must be prohibited from altering the attestation as they forward the

¹⁶ Report on Robocalls, CG Docket No. 17-59 at ¶ 29-31 (Feb. 2019), <https://docs.fcc.gov/public/attachments/DOC-356196A1.pdf>.

¹⁷ Linda Vandeloop, AT&T, STIR/SHAKEN Robocall Summit, Jul. 11, 2019, <https://www.fcc.gov/SHAKENSTIRSummit>.

¹⁸ Letter from Rosemary C. Harold, Federal Communications Commission, and Lois C. Greisman, Federal Trade Commission, to Jonathan Spalter, US Telecom (Apr. 3, 2020), <https://docs.fcc.gov/public/attachments/DOC-363522A2.pdf>.

¹⁹ Linda Vandeloop, AT&T, STIR/SHAKEN Robocall Summit, Jul. 11, 2019, <https://www.fcc.gov/SHAKENSTIRSummit> (at approximately 50.10).

call along the call path, unless necessary for security or other legitimate reasons.²⁰ This will help ensure that other intermediate providers and terminating providers are able to confirm the validity of the caller ID information, thus better ensuring that the consumer has effective protection from spoofed robocalls.

For companies granted a delay in compliance with TRACED, the FCC should evaluate their efforts to become compliant regularly, at least on a yearly basis.

All phone companies must be required to comply with call authentication techniques, not just the major carriers. As a representative of robocall-mitigation service TNS noted at the STIR/SHAKEN summit, “A lot of the tier ones do not generate the bad traffic. About 87% of the bad traffic comes from carriers outside of the tier one.”²¹ Small and rural carriers should be allowed appropriate flexibility with respect to meeting the deadlines; but the FCC should identify and take the steps necessary to enable full participation as quickly as practicable, and should reassess the impact of any allowances each year. Those providers with networks that are already partially IP should be required to implement STIR/SHAKEN on those portions. Further, simply participating in a working group shouldn’t be enough to satisfy the requirement that those who qualify for a delay take steps to get into compliance; they should, at the very least, have filed a plan with the FCC and be meeting the benchmarks laid out in the plan.

In the meantime, effective alternative techniques for mitigating spoofed robocalls should be identified and implemented by providers granted a delay. These techniques should include, at minimum, registration with the FCC, participation in the traceback program, knowing their customers, declining to originate traffic from bad actors, and, as TNS has suggested, offering free call-mitigation tools.²²

The FCC also has an important ongoing role to play in ensuring that providers are complying with call authentication requirements and that the compliance is effective. The FCC should make public who has been granted an extension on implementing caller ID authentication, why they were granted an extension, the extent to which these carriers are originating bad traffic; and whether calls originating from carriers with those exemptions are regularly being blocked. The FCC should also invite public comment on these reviews. This should be one component of a much broader ongoing analysis of the efficacy of the anti-robocall effort. The FCC should regularly collect and publish information about compliance with authentication, the origins of

²⁰ Comments of US Telecom, *supra* note 15, at 13-14; Comments of First Orion, WC Docket No. 17-97, 20-67 at 2 (May 15, 2020), <https://ecfsapi.fcc.gov/file/1051586883827/FirstOrionCommentsvFINAL.pdf>.

²¹ Lavinia Kennedy, TNS, STIR/SHAKEN Robocall Summit, Jul. 11, 2019, <https://www.fcc.gov/SHAKENSTIRSummit>. Tier One includes AT&T, Verizon, CenturyLink, and Sprint. Tier Two carriers must purchase access to Tier One networks, and includes Comcast and Cox. CTS Telecom, Inc., The Three Tiers of ISPS: What they Mean and Why They’re Important (last visited May 27, 2020), <https://www.ctstelecom.com/the-three-tiers-of-isps-what-they-mean-why-theyre-important/>.

²² Comments of Transaction Network Services, WC Docket No. 17-97, 20-67 at ii (May 15, 2020), <https://ecfsapi.fcc.gov/file/10516289219348/TNS%20May%202020%20Comments.pdf>.

bad traffic, the volume of robocalls, type of call, percentage blocked, number of calls improperly blocked, and complaints.

Conclusion

Thank you for the opportunity to submit comments on TRACED Act implementation. We look forward to working with you to ensure that consumers have effective technological tools to help address the robocall problem.

Respectfully submitted,

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National Consumer Law Center, on behalf of its low-income clients