

Title: Advanced Methods to Target and Eliminate Unlawful Robocalls, Sixth Report and Order, CG Docket No. 17-59, Call Authentication Trust Anchor, Fifth Report and Order, WC Docket No. 17-97, FCC 22-37

A. Justification

Background

1. The Commission seeks emergency processing under the Paperwork Reduction Act (PRA), 5 C.F.R. § 1320.13. The Commission is requesting approval from the Office of Management and Budget (OMB) for this information collection no later than 37 days after it is received at OMB.

The Federal Communications Commission seeks to establish a new information collection associated with the *Advanced Methods to Target and Eliminate Unlawful Robocalls Sixth Report and Order and Call Authentication Trust Anchor Fifth Report and Order* (“*Gateway Provider Report and Order*”).¹

Unwanted and illegal robocalls have long been the Federal Communication Commission’s (“Commission”) top source of consumer complaints and one of the Commission’s top consumer protection priorities. Foreign-originated robocalls represent a significant portion of illegal robocalls, and gateway providers serve as a critical choke-point for reducing the number of illegal robocalls received by American consumers.

In the *Gateway Provider Report and Order*, the Commission took steps to prevent these foreign-originated illegal robocalls from reaching consumers and to help track these calls back to the source. Along with further extension of the Commission’s caller ID authentication requirements² and Robocall Mitigation Database filing requirements,³ the Commission adopted several robocall mitigation requirements, including a requirement for gateway providers to respond to traceback within 24 hours,⁴ mandatory blocking requirements,⁵ a “know your upstream provider” requirement,⁶ and a general mitigation requirement.⁷

New Information Collection Requirements:

The requirement for all providers to respond to traceback requests “fully and timely” and for gateway providers to respond to traceback requests within 24 hours requires approval prior to implementation requires an information collection. Other requirements adopted in the *Gateway Provider Order* do not include information collections or are part of other information collections for which the Commission will request separate approval.

¹ *Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Sixth Report and Order and Seventh Further Notice of Proposed Rulemaking in CG Docket No. 17-59 & Fifth Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 17-97, FCC 22-37 (rel. May 20, 2022) (*Gateway Provider Order*).

² *Id.* at paras. 51-63.

³ *Id.* at paras. 34-50.

⁴ *Id.* at paras. 65-71.

⁵ *Id.* at paras. 72-95.

⁶ *Id.* at paras. 96-101.

⁷ *Id.* at paras 102-108.

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Gateway Provider Report and Order, FCC 22-37, paras. 65-71, 47 CFR § 64.1200(n)(1).

A voice service provider must: . . . Upon receipt of a traceback request from the Commission, civil law enforcement, criminal law enforcement, or the industry traceback consortium:

(i) If the provider is an originating, terminating, or non-gateway intermediate provider for all calls specified in the traceback request, the provider must respond fully and in a timely manner;

(ii) If the provider receiving a traceback request is the gateway provider for any calls specified in the traceback request, the provider must fully respond to the traceback request within 24 hours of receipt of the request. The 24-hour clock does not start outside of business hours, and requests received during that time are deemed received at 8:00 a.m. on the next business day. If the 24-hour response period would end on a non-business day, either a weekend or a federal legal holiday, the 24-hour clock does not run for the weekend or holiday in question, and restarts at 12:01 a.m. on the next business day following when the request would otherwise be due. For example, a request received at 3:00 p.m. on a Friday will be due at 3:00 p.m. on the following Monday, assuming that Monday is not a federal legal holiday. For purposes of this rule, “business day” is defined as Monday through Friday, excluding federal legal holidays, and “business hours” is defined as 8:00 a.m. to 5:30 p.m. on a business day. For purposes of this rule, all times are local time for the office that is required to respond to the request.

The first portion of the new information collection for which OMB approval is sought comes from the requirement adopted in the *Gateway Provider Report and Order* that all voice service providers respond to traceback “fully and in in a timely manner” and gateway providers must respond within 24 hours.⁸ All voice service providers, including gateway providers are required to respond to traceback requests from the Commission, civil and criminal law enforcement, and the Industry Traceback Consortium.⁹ Traceback is a key enforcement tool in the fight against illegal calls, allowing the Commission or law enforcement to identify the caller and bring enforcement actions or otherwise stop future calls before they reach consumers. Any unnecessary delay in the process can increase the risk that this essential information may become impossible to obtain. While traceback is not a new process, some providers have historically been reluctant to respond, or have simply ignored requests. This requirement ensures that all providers are on notice that a response is required, and allows real consequences for refusal.

This collection does not affect individuals or households; thus there is no impact under the Privacy Act because it does not require the collection of personally identifiable information (“PII”) from individuals.

The statutory authority for the information collection requirements is contained in sections 4(i), 4(j), 201, 202, 217, 227, 227b 251(e), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 201, 202, 217, 227, 227b, 251(e), 303(r), and 403.

⁸ *Id.* at paras. 65-71.

⁹ *Id.* at para 65.

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2. Traceback is the process by which the path of a call is followed, hop by hop through the call path, back to the point of origination. The data collected from this process allows the Commission, law enforcement, and the Industry Traceback Consortium to identify callers placing illegal calls and the providers that facilitate, or even actively solicit, this traffic. Without timely traceback data, the Commission would be unable to identify the originating or gateway provider that allowed the traffic onto the U.S. network. The Commission makes use of this information to require a provider to either block or effectively mitigate illegal traffic once identified, which reduces the number of illegal calls American consumers receive and reduces the incentive to facilitate this traffic on an ongoing basis. This data is also invaluable for enforcement both at the state and federal level. Traceback data is also used to identify illegal calling campaigns and inform voluntary blocking by terminating providers, who may be able to incorporate data from investigations by the Industry Traceback Consortium into their reasonable analytics-based blocking programs.
3. The required disclosures may be provided using electronic means. Voice service providers may receive traceback requests through various electronic means and should generally respond using the same means, unless the request clearly directs another method of communication, such as an email asking for a response via web portal. The rule does not mandate a specific method for the request or the response.
4. This requirement replaces the existing rule requiring responses “fully and in a timely manner” for all voice service providers adopted in December 2020; there is no approved information collection for that rule. Many voice service providers already respond to traceback requests. This disclosure requirement is not duplicative within the meaning of the Paperwork Reduction Act (“PRA”) and Office of Management and Budget (“OMB”) regulations.¹⁰
5. The impact of these requirements on small businesses or other small entities is expected to be limited, except where small providers actively facilitate illegal calls. Small providers that are not actively facilitating illegal calls will generally receive few, if any traceback requests. Non-gateway small providers are only required to respond fully and in a timely manner, which allows flexibility for individual providers to develop processes that work for them. Gateway providers must respond within 24 hours, but the rule ensures that they will not be penalized when requests are received outside of business hours or when responses would otherwise be expected outside of business hours.
6. There are no statutory consequences if such information is not disclosed by voice service providers. All voice service providers, however, are potentially subject to enforcement action by the Commission’s Enforcement Bureau if they do not meet the applicable requirements. In addition, members of the public may file informal or formal complaints against providers.
7. There is a possibility that a voice service provider may need to report more often than quarterly. Providers are required to respond to traceback requests whenever they receive such a request from the Commission, civil or criminal law enforcement, or the Industry Traceback Consortium, which can happen at any time and with any frequency. This is necessary because the value of traceback information is significantly reduced over time.

¹⁰ OMB PRA Guide at 42.

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Information may no longer be available if responses are delayed, and bad actors may be able to move on and avoid detection and enforcement by changing providers, names, or other details. Additionally, illegal traffic will continue to reach consumers in the interim period without the benefit of blocking or other mitigation.

Additionally, voice service providers will need to respond in fewer than 30 days. As noted above, it is essential that this information be received in a timely manner. Any delay significantly decreases the usefulness of the information. As a result, non-gateway voice service providers must respond in a timely manner while gateway providers must respond within 24 hours.

Otherwise, the collections are not being conducted in any manner inconsistent with the guideline of 5 CFR Section 1320.

8. Emergency approval is being sought for the above-described information collection requirements, and the Commission seeks waiver of the 60-day notice requirement due to the emergency nature of this request under 5 C.F.R. § 1320.8(d). However, the Commission has published a 30-day emergency PRA notice in the Federal Register announcing submission of this emergency request and seeking public comment on the information collection (*see* 87 FR 35550) (June 10, 2022).
9. The Commission does not anticipate providing any payment or gift to respondents.
10. The Commission is not requesting that respondents submit confidential information to the Commission.
11. There are no questions of a sensitive nature with respect to the information collected.
12. Estimates of hour burden for the collection of information are as follows:

Information Collection Requirements:

The traceback requirement adopted in the *Gateway Provider Report and Order* requires all voice service providers except gateway providers to respond to traceback requests from the Commission, civil and criminal law enforcement, and the Industry Traceback Consortium fully in a timely manner. It additionally requires gateway providers to respond to such requests within 24 hours of the receipt of such a request, but does not require responses outside of business hours and delays the start of the 24-hour clock to the start of business hours if a request is received outside of business hours.

Response to Traceback:

We anticipate that the average voice service provider will need to respond traceback requests 48 times per year. The exact number of requests per voice service provider will vary drastically depending on the volume of calls the voice service provider carries and the percentage of those calls that are illegal. Many providers will likely receive no traceback requests, or only one or two per year. Larger providers and those with a

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disproportionately high volume of illegal traffic on their networks may receive significantly more requests.

Number of Respondents: 6,493

The number of respondents is based on the total number of telecommunications service providers, as indicated in the *2010 Trends in Telephone Service Report*.¹¹ The Commission is using this number to avoid the possibility that some categories of voice service providers covered in the *Final Regulatory Flexibility Analysis* included with the *Gateway Provider Report and Order* may be counted multiple times across multiple categories.¹² The data in the *2010 Trends in Telephone Service Report* is based on the number of FCC Form 499-A filers.

Annual Number of Responses: 311,664

6,493 respondents x 48 response = 311,664

Annual Number of Burden Hours: 6,493 respondents x 48 response x .25 hours/response = 77,916 hours

The information necessary to make the required disclosure will be based on the voice service provider's call detail records. This information is readily available to the responding voice service provider, and should take very little time to locate and provide to the requester. Voice service providers that are unfamiliar with the process and only receive these requests rarely may take longer to respond, while voice service providers that receive regular requests are likely to respond more quickly and may even choose to automate the response process.

Annual "In House" Cost Per Respondent: \$3,171,181.20

The Commission believes that the respondents will generally use "in-house" personnel whose pay is comparable to mid-level federal employees (GS 11/5), such as a junior fraud specialist. Therefore, the Commission estimates respondents' hourly costs to be about \$40.70 to locate the information and provide a response.

13. The Commission has determined that there is no annual cost burden for this information collection.

14. The Commission has determined there are no costs to the Federal Government for requiring respondents to comply with these requirements.

15. The Commission has the following program changes as the result of the information collection requirements adopted in FCC 22-37: 6,493 to the number of respondents, 311,664 to the annual number of responses and 77,916 to the annual burden hours.

16. There are no plans to publish the result of the collection of information.

¹¹ Industry Analysis and Technology Division, Wireline Competition Bureau, Trends in Telephone Service at 5-5 (2010), <https://www.fcc.gov/general/trends-telephone-service> (2010 Trends in Telephone Service Report).

¹² *Call Blocking Fourth Report and Order*, 35 FCC Rcd at 15257-69.

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17. The Commission is not seeking approval to not display the expiration date for OMB approval of the information collection because the collection does not include a form number.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

The Commission does not anticipate that the collection of information will employ any statistical methods.