

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

In the Matter of)	
)	
Improving the Effectiveness of the Robocall Mitigation Database)	WC Docket No. 24-213
)	
Amendment of Part 1 of the Commission’s Rules, Concerning Practice and Procedure, Amendment of CORES Registration System)	MD Docket No. 10-234
)	

**JOINT COMMENTS OF INCOMPAS AND
THE CLOUD COMMUNICATIONS ALLIANCE**

INCOMPAS and the Cloud Communications Alliance (“Alliance”) submit these joint comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) *Notice of Proposed Rulemaking (“Notice”)* proposing new measures to increase accountability for providers that participate in the Commission’s Robocall Mitigation Database.¹

I. INTRODUCTION

INCOMPAS, the national industry association for providers of internet and competitive communications networks, represents a variety of different voice service models, including traditional CLECs and VoIP providers, that serve residential and enterprise customers. The Alliance is a peer association dedicated to the growth of the cloud communications industry. Our members are committed to mitigating the threat of illegal robocalls and robotexts to their customers while working with the Commission to concurrently identify ways to preserve

¹ *Improving the Effectiveness of the Robocall Mitigation Database, Amendment of Part 1 of the Commission’s Rules, Concerning Practice and Procedure, Amendment of CORES Registration System*, WC Docket No. 24-213, MD Docket No. 10-234, Notice of Proposed Rulemaking, FCC 24-85 (rel. Aug. 8, 2024) (“*Notice*”).

consumer trust in voice and messaging services while promoting policies that encourage competition, innovation and economic development. INCOMPAS and Alliance members universally participate in the Robocall Mitigation Database (“RMD”) and share in the Commission’s goal of protecting consumers from illegal and fraudulent robocalls. However, our organizations remain concerned that the new administrative measures that the Commission proposes in the *Notice* are unlikely to improve RMD submissions by bad actors or those insufficiently attentive to the filing requirements and would be unnecessarily burdensome to participating voice service providers that make every effort to provide accurate and meaningful information. As a result, we urge the Commission to tailor its proposals to give voice service providers and intermediate providers the necessary opportunity to cure deficiencies in the RMD without penalty while preserving the Commission’s ability to take action against providers that are non-responsive or overly delinquent in the maintenance of their RMD filings.

II. THE MEASURES THE COMMISSION IS CONSIDERING TO IMPROVE THE ACCURACY OF RMD FILINGS WILL BE ADMINISTRATIVELY CUMBERSOME AND UNNECESSARY

In the *Notice*, the Commission proposes to adopt additional measures for RMD filings to improve “diligent adherence” to the filing requirements by filers and ensure the accuracy of information contained in the RMD.² Despite the FCC’s insistence that “ample information” exists in the Commission’s rules and materials to advise providers on what they must file in the RMD to comply with the agency’s rules,³ INCOMPAS members report that the primary concern with the database currently is a lack of clarity, best practices, and guidance surrounding requirements for registration and the information that must be included in a service provider’s

² *Notice* at para. 16.

³ *Id.*

filing (including their Robocall Mitigation Plan). These requirements can be vague, opening providers up to inadvertent errors in their filings. Instead, INCOMPAS and the Alliance urge the Commission to provide more specificity regarding what must be included in a filing, and in particular to what constitutes the “reasonable steps” that providers and carriers must take to mitigate illegal robocalls as part of a Robocall Mitigation Plan.

Multi-Factor Authentication and Requiring Filers to Obtain a PIN to File in the RMD. Among the procedural steps that the Commission proposes in the *Notice* is a requirement for providers to update any information submitted to CORES within 10 business days of any change to that information, the deployment of multi-factor authentication functionality, provisions that would require providers to obtain a PIN for RMD submissions, and new filing fee requirements. While INCOMPAS and the Alliance are agnostic on the Commission’s CORES proposal, new requirements for multi-factor authentication and having an officer, owner or principal obtain a PIN to submit new materials to the RMD are seemingly unnecessary and cumbersome administrative steps that will not increase adherence to the requirements of the RMD or mitigate the threats of bad actors.

Multi-factor authentication is designed to ensure that a person is who she claims to be but there is little evidence that users are seeking to submit or modify another entity’s RMD filings. If a bad actor does submit information in the RMD, so that its illegal traffic will be transmitted, having that actor authenticate itself is of little value. Requiring an officer to use a PIN whenever submitting any new information into the RMD, no matter how minor, is also unnecessarily burdensome. That a lower-level employee has been assigned the job of submitting RMD updates does not signify a lack of diligence and requiring an officer to obtain and then utilize a PIN for every update is unnecessary, particularly given the breadth of detail now required to be submitted

and updated into the RMD. These extra procedural steps to engage with the system will simply put new administrative burdens on providers without addressing the problem.

The Commission also indicates that this is an effort to consolidate a provider's efforts to mitigate illegal robocalls under a specific officer of the company, when, in fact, most providers utilize and prefer a team approach to conduct mitigation. For large or multi-national companies, robocall mitigation is conducted in multiple sites with a team of dedicated personnel working in concert to alleviate the threats. The Commission's approach, at least in this scenario, would seemingly slow down mitigation efforts and remove the flexibility that companies have to address the problem of illegal robocall mitigation in the way that best meets their needs.

Requiring Providers to Remit a Filing Fee. Next, the Commission concludes that RMD filings should be deemed applications for purposes of requiring a filing fee. Given our previously stated concerns about how vague the current filing requirements are for the RMD, INCOMPAS and the Alliance oppose the Commission's new filing fee proposals. Requiring providers to submit a new filing fee every time a provider makes a minor adjustment to its RMD filing or corrects inaccurate (but readily curable) information is unnecessarily onerous for service providers.

Moreover, the fees would not provide a resource to help offset the costs of operating the RMD, an argument that the Commission relies on in the *Notice* to justify this proposed change. The Commission notes that the fee would constitute an application fee pursuant to 47 U.S.C. § 158.⁴ Under that provision, application fees must be deposited generally in the Treasury, and thus would not be earmarked to reimburse the Commission for RMD costs.⁵ We urge the

⁴ *Notice* at para. 27.

⁵ 47 U.S.C. § 158(e).

Commission to abandon its proposal to require providers to remit a filing fee for submissions to the RMD. In the alternative, the Commission should determine that providers will only be assessed a one-time fee at the initial filing, not each time an update is required.

III. PROVIDERS SHOULD HAVE AMPLE OPPORTUNITY TO CURE INACCURATE INFORMATION AND FORFEITURES SHOULD ONLY BE ASSESSED FOR KNOWINGLY SUBMITTING INACCURATE OR FALSE CERTIFICATION DATA

The Commission also seeks comment on increasing the base forfeiture for submitting false or inaccurate information to the RMD. While this is seemingly an attempt by the Commission to identify bad actors in the RMD, assessing a base forfeiture against providers for inaccurate (but readily curable) information will be unnecessarily punitive for service providers. The Commission notes that forfeitures may be imposed against any person found to have “willfully or repeatedly failed to comply substantially with the terms and conditions” established by the agency.⁶ INCOMPAS and the Alliance suggests that providers should not be assessed a base forfeiture unless they have either failed to respond to the Commission requests to update information in their RMD filing or have “knowingly” submitted inaccurate data. Including a knowledge requirement and giving providers notice and an opportunity to cure deficient filings will help the Commission distinguish conscientious voice service providers from bad actors that threaten consumers.

⁶ *Notice* at 35.

IV. THE *NOTICE* FAILS TO CONSIDER THE REGULATORY IMBALANCE IN TREATMENT BETWEEN DOMESTIC AND FOREIGN PROVIDERS

The Commission's rules bar U.S. providers from accepting foreign-originated traffic using NANP numbers unless the foreign provider has registered in the RMD.⁷ The Commission acknowledged that it lacks authority to directly regulate foreign providers and justified the rule as having only an indirect effect on such providers.⁸ Lacking jurisdiction over foreign companies, the Commission thus has no authority to enforce the various proposals in the *Notice* through the application of forfeitures, or to require foreign providers to pay filing fees, for foreign providers whose only interaction with the Commission is filing in the RMD. The Commission similarly lacks jurisdiction to impose specific certification requirements on officers of foreign companies as well as other proposals in the notice. There are currently hundreds of foreign providers listed in the RMD. The Commission's lack of authority to impose forfeiture penalties on, or to compel the payment of fees from, foreign providers in the RMD, as well as the lack of jurisdiction to impose other proposals in the *Notice*, would create an unfair regulatory asymmetry if the Commission were to apply those provisions to domestic providers.

⁷ See 47 C.F.R. § 64.6305(g)(2); *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, Fifth Report and Order, Order on Reconsideration, Order, Seventh Further Notice of Proposed Rulemaking, Fifth Further Notice of Proposed Rulemaking, 37 FCC Rcd 6865, 6867, 6913, paras. 3, 120 (2022) (*Gateway Provider Order*).

⁸ *Id.*

V. THE COMMISSION’S PERMISSIVE BLOCKING PROPOSALS PROVIDE INADEQUATE TIME FOR PROVIDERS TO CURE DEFICIENCIES AND WILL LEAD TO BLOCKING OF LEGITIMATE VOICE TRAFFIC

Finally, INCOMPAS and the Alliance have repeatedly expressed concerns about permissive call blocking and the potential impact it may have on legitimate voice traffic. Here, the Commission proposes to allow permissive call blocking of voice traffic based on facial deficiencies in an RMD filing despite there being no evidence that the voice traffic itself is illegal or unwanted. Under the current rules, providers have 10 days from receiving an Enforcement Bureau notice to cure a deficiency or explain why its certification is not deficient. The *Notice* proposes to modify that requirement to 48 hours. In the absence of standardized redress procedures for call and text blocking, INCOMPAS and the Alliance remain concerned that terminating providers and their analytics partners could utilize their place in the call path to discriminate against competitive providers’ and their customers. We therefore urge the Commission to remove this proposal and maintain the current process which requires providers to block traffic only from providers that have been removed from the RMD.

VI. CONCLUSION

For the reasons stated herein, INCOMPAS and the Alliance urge the Commission to consider the recommendations in its comments as it examines the issues raised in the *Notice*.

Respectfully submitted,

INCOMPAS

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