

“(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

“(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

“(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

“(4) Total United States sales generated through telemarketing amounted to \$435,000,000,000 in 1990, a more than four-fold increase since 1984.

“(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and, when an emergency or medical assistance telephone line is seized, a risk to public safety.

“(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

“(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

“(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

“(9) Individuals’ privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

“(10) Evidence compiled by the Congress indicates that residential telephone subscribers consider automated or prerecorded telephone calls, regardless of the content or the initiator of the message, to be a nuisance and an invasion of privacy.

“(11) Technologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer.

“(12) Banning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

“(13) While the evidence presented to the Congress indicates that automated or prerecorded calls are a nuisance and an invasion of privacy, regardless of the type of call, the Federal Communications Commission should have the flexibility to design different rules for those types of automated or prerecorded calls that it finds are not considered a nuisance or invasion of privacy, or for noncommercial calls, consistent with the free speech protections embodied in the First Amendment of the Constitution.

“(14) Businesses also have complained to the Congress and the Federal Communications Commission that automated or prerecorded telephone calls are a nuisance, are an invasion of privacy, and interfere with interstate commerce.

“(15) The Federal Communications Commission should consider adopting reasonable restrictions on automated or prerecorded calls to businesses as well as to the home, consistent with the constitutional protections of free speech.”

DEFINITION

Pub. L. 116-105, § 2, Dec. 30, 2019, 133 Stat. 3274, provided that: “In this Act [see Short Title of 2019 Amendment note set out under section 609 of this title], the term ‘Commission’ means the Federal Communications Commission.”

§ 227a. Consumer education materials on how to avoid scams that rely upon misleading or inaccurate caller identification information

(1) Development of materials

Not later than 1 year after March 23, 2018, the Commission, in coordination with the Federal Trade Commission, shall develop consumer education materials that provide information about—

(A) ways for consumers to identify scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information; and

(B) existing technologies, if any, that a consumer can use to protect against such scams and other fraudulent activity.

(2) Contents

In developing the consumer education materials under paragraph (1), the Commission shall—

(A) identify existing technologies, if any, that can help consumers guard themselves against scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information, including—

(i) descriptions of how a consumer can use the technologies to protect against such scams and other fraudulent activity; and

(ii) details on how consumers can access and use the technologies; and

(B) provide other information that may help consumers identify and avoid scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information.

(3) Updates

The Commission shall ensure that the consumer education materials required under paragraph (1) are updated on a regular basis.

(4) Website

The Commission shall include the consumer education materials developed under paragraph (1) on its website.

(Pub. L. 115-141, div. P, title V, § 503(b), Mar. 23, 2018, 132 Stat. 1092.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, also known as the RAY BAUM’S Act of 2018, and as part of the Consolidated Appropriations Act, 2018, and not as part of the Communications Act of 1934 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definition of “Commission” as used in this section, see section 2 of div. P of Pub. L. 115-141, set out as a note under section 155a of this title.

§ 227b. Call authentication

(a) Definitions

In this section:

(1) STIR/SHAKEN authentication framework

The term “STIR/SHAKEN authentication framework” means the secure telephone iden-

tity revisited and signature-based handling of asserted information using tokens standards proposed by the information and communications technology industry.

(2) Voice service

The term “voice service”—

(A) means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1) of this title; and

(B) includes—

(i) transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine; and

(ii) without limitation, any service that enables real-time, two-way voice communications, including any service that requires internet protocol-compatible customer premises equipment (commonly known as “CPE”) and permits out-bound calling, whether or not the service is one-way or two-way voice over internet protocol.

(b) Authentication frameworks

(1) In general

Subject to paragraphs (2) and (3), and in accordance with paragraph (6), not later than 18 months after December 30, 2019, the Commission shall—

(A) require a provider of voice service to implement the STIR/SHAKEN authentication framework in the internet protocol networks of the provider of voice service; and

(B) require a provider of voice service to take reasonable measures to implement an effective call authentication framework in the non-internet protocol networks of the provider of voice service.

(2) Implementation

The Commission shall not take the action described in paragraph (1) with respect to a provider of voice service if the Commission determines, not later than 12 months after December 30, 2019, that such provider of voice service—

(A) in internet protocol networks—

(i) has adopted the STIR/SHAKEN authentication framework for calls on the internet protocol networks of the provider of voice service;

(ii) has agreed voluntarily to participate with other providers of voice service in the STIR/SHAKEN authentication framework;

(iii) has begun to implement the STIR/SHAKEN authentication framework; and

(iv) will be capable of fully implementing the STIR/SHAKEN authentication framework not later than 18 months after December 30, 2019; and

(B) in non-internet protocol networks—

(i) has taken reasonable measures to implement an effective call authentication framework; and

(ii) will be capable of fully implementing an effective call authentication framework

not later than 18 months after December 30, 2019.

(3) Implementation report

Not later than 12 months after December 30, 2019, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the determination required under paragraph (2), which shall include—

(A) an analysis of the extent to which providers of voice service have implemented the call authentication frameworks described in subparagraphs (A) and (B) of paragraph (1), including whether the availability of necessary equipment and equipment upgrades has impacted such implementation; and

(B) an assessment of the efficacy of the call authentication frameworks described in subparagraphs (A) and (B) of paragraph (1) in addressing all aspects of call authentication.

(4) Review and revision or replacement

Not later than 3 years after December 30, 2019, and every 3 years thereafter, the Commission, after public notice and an opportunity for comment, shall—

(A) assess the efficacy of the technologies used for call authentication frameworks implemented under this section;

(B) based on the assessment under subparagraph (A), revise or replace the call authentication frameworks under this section if the Commission determines it is in the public interest to do so; and

(C) submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings of the assessment under subparagraph (A) and on any actions to revise or replace the call authentication frameworks under subparagraph (B).

(5) Extension of implementation deadline

(A) Burdens and barriers to implementation

Not later than 12 months after December 30, 2019, and as appropriate thereafter, the Commission—

(i) shall assess any burdens or barriers to the implementation required by paragraph (1), including—

(I) for providers of voice service to the extent the networks of such providers use time-division multiplexing;

(II) for small providers of voice service and those in rural areas; and

(III) the inability to purchase or upgrade equipment to support the call authentication frameworks under this section, or lack of availability of such equipment; and

(ii) in connection with an assessment under clause (i), may, upon a public finding of undue hardship, delay required compliance with the 18-month time period described in paragraph (1), for a reasonable period of time, for a provider or class of providers of voice service, or type of voice calls, as necessary for that provider or

class of providers or type of calls to participate in the implementation in order to address the identified burdens and barriers.

(B) Delay of compliance required for certain non-internet protocol networks

Subject to subparagraphs (C) through (F), for any provider or class of providers of voice service, or type of voice calls, only to the extent that such a provider or class of providers of voice service, or type of voice calls, materially relies on a non-internet protocol network for the provision of such service or calls, the Commission shall grant a delay of required compliance under subparagraph (A)(ii) until a call authentication protocol has been developed for calls delivered over non-internet protocol networks and is reasonably available.

(C) Robocall mitigation program

(i) Program required

During the time of a delay of compliance granted under subparagraph (A)(ii), the Commission shall require, pursuant to the authority of the Commission, that any provider subject to such delay shall implement an appropriate robocall mitigation program to prevent unlawful robocalls from originating on the network of the provider.

(ii) Additional requirements

If the consortium registered under section 13(d) identifies a provider of voice service that is subject to a delay of compliance granted under subparagraph (A)(ii) as repeatedly originating large-scale unlawful robocall campaigns, the Commission shall require such provider to take action to ensure that such provider does not continue to originate such calls.

(iii) Minimization of burden

The Commission shall make reasonable efforts to minimize the burden of any robocall mitigation required pursuant to clause (ii), which may include prescribing certain specific robocall mitigation practices for providers of voice service that have repeatedly originated large-scale unlawful robocall campaigns.

(D) Full participation

The Commission shall take reasonable measures to address any issues in an assessment under subparagraph (A)(i) and enable as promptly as reasonable full participation of all classes of providers of voice service and types of voice calls to receive the highest level of trust. Such measures shall include, without limitation, as appropriate, limiting or terminating a delay of compliance granted to a provider under subparagraph (B) if the Commission determines in such assessment that the provider is not making reasonable efforts to develop the call authentication protocol described in such subparagraph.

(E) Alternative methodologies

The Commission shall identify, in consultation with small providers of voice serv-

ice and those in rural areas, alternative effective methodologies to protect customers from unauthenticated calls during any delay of compliance granted under subparagraph (A)(ii).

(F) Revision of delay of compliance

Not less frequently than annually after the first delay of compliance is granted under subparagraph (A)(ii), the Commission—

(i) shall consider revising or extending any delay of compliance granted under subparagraph (A)(ii);

(ii) may revise such delay of compliance; and

(iii) shall issue a public notice with regard to whether such delay of compliance remains necessary, including—

(I) why such delay of compliance remains necessary; and

(II) when the Commission expects to achieve the goal of full participation as described in subparagraph (D).

(6) No additional cost to consumers or small business customers

The Commission shall prohibit providers of voice service from adding any additional line item charges to consumer or small business customer subscribers for the effective call authentication technology required under paragraph (1).

(7) Accurate identification

Not later than 12 months after December 30, 2019, the Commission shall issue best practices that providers of voice service may use as part of the implementation of effective call authentication frameworks under paragraph (1) to take steps to ensure the calling party is accurately identified.

(c) Safe harbor and other regulations

(1) In general

Consistent with the regulations prescribed under subsection (j) of section 227 of this title, as added by section 10, the Commission shall, not later than 1 year after December 30, 2019, promulgate rules—

(A) establishing when a provider of voice service may block a voice call based, in whole or in part, on information provided by the call authentication frameworks under subsection (b), with no additional line item charge;

(B) establishing a safe harbor for a provider of voice service from liability for unintended or inadvertent blocking of calls or for the unintended or inadvertent misidentification of the level of trust for individual calls based, in whole or in part, on information provided by the call authentication frameworks under subsection (b);

(C) establishing a process to permit a calling party adversely affected by the information provided by the call authentication frameworks under subsection (b) to verify the authenticity of the calling party's calls; and

(D) ensuring that calls originating from a provider of voice service in an area where the provider is subject to a delay of compli-

ance with the time period described in subsection (b)(1) are not unreasonably blocked because the calls are not able to be authenticated.

(2) Considerations

In establishing the safe harbor under paragraph (1), consistent with the regulations prescribed under subsection (j) of section 227 of this title, as added by section 10, the Commission shall consider limiting the liability of a provider of voice service based on the extent to which the provider of voice service—

(A) blocks or identifies calls based, in whole or in part, on the information provided by the call authentication frameworks under subsection (b);

(B) implemented procedures based, in whole or in part, on the information provided by the call authentication frameworks under subsection (b); and

(C) used reasonable care, including making all reasonable efforts to avoid blocking emergency public safety calls.

(d) Rule of construction

Nothing in this section shall preclude the Commission from initiating a rulemaking pursuant to its existing statutory authority.

(Pub. L. 116-105, § 4, Dec. 30, 2019, 133 Stat. 3276.)

Editorial Notes

REFERENCES IN TEXT

Section 13, referred to in subsec. (b)(5)(C)(ii), is section 13 of Pub. L. 116-105, which is set out as a note under section 227 of this title.

Section 10, referred to in subsec. (c), means section 10 of Pub. L. 116-105.

CODIFICATION

Section was enacted as part of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, also known as the Pallone-Thune TRACED Act, and not as part of the Communications Act of 1934 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITION

For definition of “Commission” as used in this section, see section 2 of Pub. L. 116-105, set out as a note under section 227 of this title.

§ 227b-1. Access to number resources

(a) In general

(1) Examination of FCC policies

Not later than 180 days after December 30, 2019, the Commission shall commence a proceeding to determine how Commission policies regarding access to number resources, including number resources for toll-free and non-toll-free telephone numbers, could be modified, including by establishing registration and compliance obligations, and requirements that providers of voice service given access to number resources take sufficient steps to know the identity of the customers of such providers, to help reduce access to numbers by potential perpetrators of violations of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)).

(2) Regulations

If the Commission determines under paragraph (1) that modifying the policies described in that paragraph could help achieve the goal described in that paragraph, the Commission shall prescribe regulations to implement those policy modifications.

(b) Authority

Any person who knowingly, through an employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, is a party to obtaining number resources, including number resources for toll-free and non-toll-free telephone numbers, from a common carrier regulated under title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.), in violation of a regulation prescribed under subsection (a), shall, notwithstanding section 503(b)(5) of the Communications Act of 1934 (47 U.S.C. 503(b)(5)), be subject to a forfeiture penalty under section 503(b) of that Act (47 U.S.C. 503(b)). A forfeiture penalty under this subsection shall be in addition to any other penalty provided for by law.

(Pub. L. 116-105, § 6, Dec. 30, 2019, 133 Stat. 3282.)

Editorial Notes

REFERENCES IN TEXT

The Communications Act of 1934, referred to in subsec. (b), is act June 19, 1934, ch. 652, 48 Stat. 1064. Title II of the Act is classified generally to this subchapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

CODIFICATION

Section was enacted as part of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, also known as the Pallone-Thune TRACED Act, and not as part of the Communications Act of 1934 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITION

For definition of “Commission” as used in this section, see section 2 of Pub. L. 116-105, set out as a note under section 227 of this title.

§ 227b-2. Provision of evidence of certain robocall violations to Attorney General

(a) In general

If the Chief of the Enforcement Bureau of the Commission obtains evidence that suggests a willful, knowing, and repeated robocall violation with an intent to defraud, cause harm, or wrongfully obtain anything of value, the Chief of the Enforcement Bureau shall provide such evidence to the Attorney General.

(b) Report to Congress

Not later than 1 year after December 30, 2019, and annually thereafter, the Commission shall publish on its website and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) states the number of instances during the preceding year in which the Chief of the Enforcement Bureau provided the evidence de-