



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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B-335434

July 24, 2023

The Honorable Maria Cantwell
Chair
The Honorable Ted Cruz
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Cathy McMorris Rodgers
Chair
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Federal Communications Commission: Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC) entitled “Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor” (FCC 23-37). We received the rule on May 22, 2023. It was published in the *Federal Register* as a final rule on July 10, 2023. 88 Fed. Reg. 43446. The effective date is January 8, 2024, except for the amendments to 47 C.F.R. § 64.6305(d)(2)(ii) and (iii), (e)(2)(ii), and (f)(2)(iii) (amendatory instruction 5), which are delayed indefinitely. The amendments to 47 C.F.R. § 64.6305(d)(2)(ii) and (iii), (e)(2)(ii), and (f)(2)(iii) will become effective following publication of a document in the *Federal Register* announcing approval of the information collection and the relevant effective date.

According to FCC, this final rule expands several rules previously adopted for Gateway Providers to other categories of voice service providers and modifies or removes existing rules consistent with these changes. Specifically, FCC stated that the rule requires all domestic voice service providers to respond to traceback requests from FCC, civil and criminal law enforcement, and the industry traceback consortium within 24 hours of receipt of the request. FCC also stated that the rule requires originating providers to block substantially similar traffic when FCC notifies the provider of illegal traffic, or risk FCC requiring all providers immediately downstream to block all of that provider's traffic. FCC stated further that this rule is consistent with the rule for Gateway Providers, and requires Non-Gateway Intermediate or Terminating Providers that receive such a notice to promptly inform FCC that it is not the originating or Gateway Provider for the identified traffic, identify the upstream provider(s) from which it received the traffic, and, if possible, take lawful steps to mitigate the traffic. Furthermore, FCC explained that the rule requires all voice service providers to take reasonable and effective steps to ensure that the immediate upstream provider is not using it to carry or process a high

volume of illegal traffic. Finally, FCC noted that the rule updates FCC's Robocall Mitigation Database certification requirements to reflect the 24-hour traceback requirement.

Enclosed is our assessment of FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink, appearing to read "Shirley A. Jones".

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Cathy Williams
 Program Analyst
 Federal Communications Commission

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
“ADVANCED METHODS TO TARGET AND ELIMINATE UNLAWFUL ROBOCALLS,
CALL AUTHENTICATION TRUST ANCHOR”
(FCC 23-37)

(i) Cost-benefit analysis

The Federal Communications Commission (FCC) provided a summary of the cost and benefits of this final rule. According to FCC, the final rule will help increase the effectiveness of all of FCC's efforts to combat illegal calls, including its existing affirmative obligations and Robocall Mitigation Database filing requirements. FCC stated that the final rule makes it easier to identify and stop illegal calls before they reach consumers. FCC also stated that it has previously found that an overall reduction in illegal calls will lower network costs by eliminating both unwanted traffic congestion and the labor costs of handling numerous customer complaints, and that the final rule contributes to this overall reduction. FCC stated further that the reduction in illegal calls will also help restore confidence in the U.S. telephone network and facilitate reliable access to emergency and healthcare services. Additionally, FCC asserts that the record for this matter, although sparse in quantitative estimates, supports its conclusion that the benefits of the rule exceed the costs. According to FCC, a more uniform blocking standard will provide additional benefits and reduce the overall burden on providers. FCC contends that extending the rule, originally adopted for Gateway Providers, to all voice service providers will not be overly costly or burdensome and that the incremental costs of compliance with FCC's new rule is relatively small. FCC explained that because robocalls reduce public welfare by billions of dollars annually, even a small percentage reduction in robocalls implies benefits that exceed the costs of its new rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

FCC prepared a Final Regulatory Flexibility Analysis. The analysis included 1) a statement of the need for and objectives of the rule; 2) a summary of significant issues raised by public comments in response to FCC's Initial Regulatory Flexibility Analysis (IRFA); 3) a response to comments by the Chief Counsel for Advocacy of the Small Business Administration; 4) a description and estimate of the number of the small entities to which the rule will apply; 5) a description of projected reporting, recordkeeping, and other compliance requirements for small entities; and 6) steps taken to minimize the significant economic impact on small entities, and significant alternatives considered.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, FCC is not subject to the Act. See 2 U.S.C. §§ 658(1), 1502(1).

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

In May of 2022, FCC adopted the *Gateway Provider Further Notice of Proposed Rulemaking*, which was published in the *Federal Register* on July 18, 2022. 87 Fed. Reg. 42670. FCC provided a summary of significant issues raised by public comments in response to the IRFA.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

FCC stated that this final rule may contain new or modified information collection requirements subject to PRA. FCC also stated that it will submit the rule to the Office of Management and Budget (OMB) for review. FCC stated further that OMB, the general public, and other federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding.

Statutory authorization for the rule

FCC promulgated this final rule pursuant to sections 151, 152, 154, 155, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251, 254, 255, 262, 276, 403, 409, 616, 617, 620, and 1401–1473 of title 47, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, FCC is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, FCC is not subject to the Order.