

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Veriwave Telco, LLC) EB-TCD-24-00036355
) EB Docket No. 22-174
)

INITIAL DETERMINATION ORDER

Adopted: July 8, 2024

Released: July 8, 2024

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this Initial Determination Order, the Enforcement Bureau (Bureau) issues its initial determination that Veriwave Telco, LLC (Veriwave or Company) has not complied with section 64.1200(n)(2) of the Federal Communications Commission’s (Commission or FCC) rules, which requires originating and gateway providers to investigate suspected illegal traffic following notification from the Commission and to block illegal traffic that they are originating or transmitting.¹ This Initial Determination Order follows the Bureau’s April 4, 2024 Notification of Suspected Illegal Traffic (Veriwave Notice or Notice), which identified suspected illegal traffic Veriwave was originating and instructed Veriwave to investigate the traffic, block the traffic unless it determined that it had not originated the traffic or the traffic was not illegal, and provide a report to the Bureau within 14 days.² Veriwave failed to respond to the Notice, and as a consequence Veriwave is not in compliance with section 64.1200(n)(2)(i) of the Commission’s rules.³

2. Pursuant to section 64.1200(n)(2)(ii) of the Commission’s rules, Veriwave now has 14 days to respond to this Initial Determination Order with a final response to the Bureau’s finding and to demonstrate compliance with the Commission’s rules.⁴ If Veriwave fails to provide an adequate response within 14 days or continues to originate or allow onto the U.S. network substantially similar illegal traffic, the Bureau will issue a Final Determination Order.⁵ Any provider immediately downstream from Veriwave will then be required to block and cease accepting all traffic received directly from Veriwave beginning 30 days after release of the Final Determination Order.⁶

¹ See 47 CFR § 64.1200(n)(2).

² See Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Felix Hernandez, Compliance Officer, Veriwave Telco, LLC, 2024 WL 1526701 (Apr. 4, 2024), <https://docs.fcc.gov/public/attachments/DOC-401632A1.pdf> (Veriwave Notice).

³ See 47 CFR § 64.1200(n)(2)(i).

⁴ See *id.* § 64.1200(n)(2)(ii).

⁵ See *id.* § 64.1200(n)(2)(iii).

⁶ *Id.* § 64.1200(n)(3).

II. BACKGROUND

A. Legal Framework for Mandatory Blocking Rules

3. Protecting consumers in the United States from the dangers and risks of unwanted and illegal robocalls is the Commission's top consumer protection priority.⁷ Originating and gateway providers serve critical roles in the call chain and are best positioned to mitigate and block illegal robocall traffic—originating providers are closest to bad-actor callers that originate illegal robocalls, and gateway providers serve as critical choke points for reducing the number of illegal calls reaching consumers in the United States.⁸ In recognition of this positioning, the Commission places critical obligations on originating and gateway providers to police their networks and imposes consequences on such providers that fail to do so.⁹

4. Once a provider receives a notification from the Bureau pursuant to section 64.1200(n)(2)(i)(A) (notice), the provider must comply with the notice by investigating and reporting the results of its investigation to the Bureau.¹⁰ If the provider's investigation determines it served as the originating or gateway provider for the identified traffic, the provider must: (i) within the timeframe specified in the notice, block or cease accepting the identified traffic and substantially similar traffic on an ongoing basis; (ii) certify in its report to the Bureau that it is blocking the identified traffic and will continue to do so; and (iii) in its report to the Bureau, describe its plan to identify and block substantially similar traffic on an ongoing basis.¹¹ If the provider determines that the identified traffic is not illegal, it shall provide an explanation as to why the provider reasonably concluded that the identified traffic is not illegal and what steps it took to reach that conclusion.¹² If the provider concludes that it did not serve as the originating or gateway provider for the traffic, then it must provide an explanation as to how it

⁷ Fed. Comm'n's Comm'n, *Stop Unwanted Robocalls and Texts*, <https://www.fcc.gov/consumers/guides/stop-unwanted-robocalls-and-texts> (last visited June 25, 2024) (“Unwanted calls – including illegal and spoofed robocalls - are the FCC's top consumer complaint and our top consumer protection priority.”).

⁸ See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Fourth Report and Order, 35 FCC Rcd 15221, 15332-33, para. 33 (2020) (*Call Blocking Fourth Report and Order*) (“Originating and gateway voice service providers are best positioned to prevent illegal calls by stopping them before they enter the network.”); see also *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 in CG Docket No. 17-59, Fifth Report and Order in WC Docket No. 17-97, Order on Reconsideration in WC Docket No. 17-97, Order, Seventh Further Notice of Proposed Rulemaking in CG Docket No. 17-59, and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 17-97, FCC 22-37, 37 FCC Rcd 6865, 6875, para. 24 (*Gateway Provider Order*) (stating that “gateway providers serve as a critical choke-point for reducing the number of illegal robocalls received by American consumers”); *Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Seventh Report and Order in CG Docket 17-59 and WC Docket 17-97, Eighth Further Notice of Proposed Rulemaking in CG Docket 17-59, and Third Notice of Inquiry in CG Docket 17-59, 38 FCC Rcd 5404, 5416, para. 33 (2023) (*Originating Provider Blocking Order*) (noting that as “the first domestic voice service provider in the call path,” the originating or gateway provider is best placed to block illegal traffic).

⁹ See 47 CFR § 64.1200(n)(2) (setting forth investigation and blocking obligations for originating and gateway providers); *id.* § 64.1200(n)(3) (requiring downstream providers, when notified by the Bureau, to block all traffic from an upstream provider that has failed to comply with section 64.1200(n)(2)); see also *Gateway Provider Order*, 37 FCC Rcd at 6897-901, paras. 74-86; *Originating Provider Blocking Order*, 38 FCC Rcd at 5415-20, paras. 29-48.

¹⁰ See 47 CFR § 64.1200(n)(2)(i)(A).

¹¹ See *id.*

¹² See *id.* § 64.1200(n)(2)(i)(B).

reached that conclusion and, if applicable, identify the upstream provider(s) from which it received the identified traffic, as well as take lawful steps, if possible, to mitigate such traffic.¹³

5. If the notified provider fails to respond to a notice, fails to respond sufficiently, continues to originate or transmit substantially similar traffic, or if the Bureau determines the identified traffic is illegal despite the notified provider's assertions to the contrary, the Bureau will issue an Initial Determination Order stating its initial determination that the provider is not in compliance with section 64.1200(n)(2) of the Commission's rules and providing the notified provider with at least 14 days to provide a final response.¹⁴ If the Bureau determines that the notified provider's response to the Initial Determination Order is inadequate (including instances where the notified provider fails to respond),¹⁵ or if it continues to originate or transmit substantially similar traffic, the Bureau will issue a Final Determination Order finding that the provider is not in compliance with section 64.1200(n)(2) of the Commission's rules and directing all immediately downstream providers to block and cease accepting all traffic that they receive from the notified provider starting 30 days after the release date of the Final Determination Order.¹⁶ To provide notification to all downstream providers, the Bureau publishes each Final Determination Order in EB Docket No. 22-174.¹⁷ Prior to complying with the mandatory blocking requirement, immediate downstream providers may initiate permissive blocking of all traffic from the identified provider pursuant to section 64.1200(k)(4) of the Commission's rules.¹⁸

B. Veriwave's Origination of Suspected Illegal Robocalls

6. The Bureau identified at least 23 calls placed between November 30, 2023, and January 29, 2024, that featured prerecorded messages and were placed without the requisite consent of the called party, in apparent violation of section 227(b)(1)(A) of the Communications Act of 1934, as amended, and the Commission's rules.¹⁹ These calls purported to provide information about a "National Tax Relief Program" and, in some instances, also discussed a "Tax Dismissal Program."²⁰ The Bureau has found no evidence of the existence of either program. Many of the messages further appealed to recipients with the offer to "rapidly clear" their tax debt.²¹

¹³ See *id.*

¹⁴ *Id.* § 64.1200(n)(2)(ii).

¹⁵ See *One Eye LLC*, Final Determination Order, 38 FCC Rcd 4211, 4214, para. 8 (EB 2023) (finding that One Eye's failure to respond to the Bureau's Initial Determination Order was an inadequate response).

¹⁶ 47 CFR § 64.1200(n)(2)(iii), (3). A Final Determination Order may be issued up to one year after release of the Initial Determination Order. *Id.* § 64.1200(n)(2)(iii).

¹⁷ See *id.* § 64.1200(n)(3).

¹⁸ See *id.* (citing *id.* § 64.1200(k)(4)).

¹⁹ Veriwave Notice, *supra* note 2, at *1-2 & Attachment A (identifying calls); 47 U.S.C. § 227(b)(1)(A) (requiring callers obtain consent before placing certain types of pre-recorded calls); 47 CFR § 64.1200(a)(1)-(2) (same).

²⁰ See ITG Subpoena Response (Jan. 31, 2024) (on file at EB-TCD-24-00036355) (January ITG Subpoena Response); ITG Subpoena Response (Mar. 5, 2024) (on file at EB-TCD-24-00036355) (March ITG Subpoena Response); see also Veriwave Notice, *supra* note 2, at *1-2.

²¹ See January ITG Subpoena Response; March ITG Subpoena Response; see also Veriwave Notice, *supra* note 2, at *1.

7. USTelecom's Industry Traceback Group (ITG)²² conducted tracebacks on the calls and determined that Veriwave was the originating provider for the calls.²³ The ITG previously notified Veriwave of these calls and provided it access to supporting data identifying each call.²⁴ Veriwave did not provide the ITG with proof of the requisite consent for the calls and did not contest that it had originated the calls.²⁵

III. DISCUSSION

8. The Bureau issued the Veriwave Notice to the Company on April 4, 2024.²⁶ The Veriwave Notice directed the Company to take the following actions: (i) promptly investigate the identified suspected illegal traffic; (ii) block the identified traffic within 14 days (and continue to block the identified traffic as well as substantially similar traffic on an ongoing basis) unless it determined that the traffic was not illegal; and (iii) report the results of the Company's investigation to the Bureau within 14 days.²⁷ The Veriwave Notice warned that a failure to comply with those obligations would ultimately result in the Bureau requiring all immediately downstream providers to block its traffic pursuant to section 64.1200(n)(2) and (3) of the Commission's rules.²⁸ Veriwave did not respond to the Notice.²⁹ The Bureau has received no response from the Company and no other information to indicate the Company has fulfilled any of these obligations.

9. The Bureau provides Veriwave the opportunity to file a final response to this Initial Determination Order. The final response should address whether the Company is in compliance with section 64.1200(n)(2) of the Commission's rules, including obligations triggered by the Veriwave Notice.³⁰ If it chooses to file a final response, the Company must file its response with the Bureau within 14 calendar days of the release date of this Initial Determination Order. Failure to respond to this Initial Determination Order with an adequate response, or continued origination or allowance onto the U.S. network of substantially similar traffic, will result in the Bureau issuing a Final Determination Order.³¹ The Final Determination Order will be published in EB Docket No. 22-174 and will serve as notification

²² The ITG is the registered industry consortium selected pursuant to the TRACED Act to conduct tracebacks. *See Implementing Section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, EB Docket No. 20-22, Report and Order, DA 23-719, 2023 WL 5358422, at *1, para. 1 (EB Aug. 18, 2023); *see also* Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Pub. L. No. 116-105, § 13(d), 133 Stat. 3274, 3287-88 (2019).

²³ *See* January ITG Subpoena Response; March ITG Subpoena Response; *see also* Veriwave Notice, *supra* note 2, Attachment A (noting the Company's role as the originating provider for each identified call).

²⁴ *See* January ITG Subpoena Response; March ITG Subpoena Response.

²⁵ *See* January ITG Subpoena Response; March ITG Subpoena Response; *see also* Veriwave Notice, *supra* note 2, at *2.

²⁶ Veriwave Notice, *supra* note 2.

²⁷ *Id.* at *4. The Veriwave Notice contained specific instructions based on the outcome of the Company's investigation. *Id.*

²⁸ *Id.*

²⁹ The Veriwave Notice also directed the Company to investigate and effectively mitigate the identified traffic within 48 hours of the delivery date of the Veriwave Notice, consistent with section 64.1200(k)(4). *Id.* at *3; *see* 47 CFR § 64.1200(k)(4); Veriwave Telco, LLC PS Form 3811, Domestic Return Receipt (Apr. 9, 2024) (on file at on file at EB-TCD-24-00036355). The Company did not meet that deadline either.

³⁰ *See* 47 CFR § 64.1200(n)(2)(ii)-(iii); *see also* Veriwave Notice, *supra* note 2 at *4 (describing the actions the Company must take in response to the Veriwave Notice).

³¹ 47 CFR § 64.1200(n)(2)(iii).

to all immediately downstream providers that they must block and cease accepting all traffic received directly from Veriwave beginning 30 days after the release of the Final Determination Order.³²

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i), 4(j), 227, 251(e), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 227, 251(e), 403; sections 0.111, 0.311, 1.1, and 64.1200(n) of the Commission's rules, 47 CFR §§ 0.111, 0.311, 1.1, 64.1200(n), Veriwave Telco, LLC **SHALL FILE** any written final response to this Initial Determination Order **within 14 calendar days** from the release date of this Initial Determination Order.³³

11. Any response must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, ATTN: Enforcement Bureau – Telecommunications Consumers Division. The response must also be emailed to Kristi Thompson, Division Chief, Telecommunications Consumers Division, at kristi.thompson@fcc.gov, Daniel Stepanicich, Assistant Division Chief, Telecommunications Consumers Division, at daniel.stepanicich@fcc.gov, and Caitlin Barbas, Attorney Advisor, Telecommunications Consumers Division, at caitlin.barbas@fcc.gov.

12. **IT IS FURTHER ORDERED** that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Initial Determination Order **SHALL BE EFFECTIVE** upon release.

13. **IT IS FURTHER ORDERED** that copies of this Initial Determination Order shall be filed in EB Docket No. 22-174 and sent by email and certified mail, return receipt requested, to: michele@veriwavetelco.com³⁴ and Veriwave Telco, LLC, Felix Hernandez, Compliance Officer, 8 The Green, Suite A, Dover, DE 19901.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

³² *Id.* § 64.1200(n)(3). “A provider that chooses to initiate blocking sooner than 30 days from the release date may do so consistent with [section 64.1200(k)(4) of the Commission's rules].” *Id.*

³³ *Id.* § 64.1200(n)(2)(ii).

³⁴ See Veriwave Telco, LLC Listing (No. RMD0015520), Fed. Commc'ns Comm'n, Robocall Mitigation Database (filed Nov. 8, 2023), https://fccprod.servicenowservices.com/rmd?id=rmd_form&table=x_g_fmc_rmd_robotcall_mitigation_database&sys_id=c74be90f1b12395051e2c808624bcbd8&view=sp (listing Veriwave's robocall mitigation contact email address).