

May 4, 2023

Good afternoon. My name is Glenn Richards, and I am a partner with Pillsbury Winthrop Shaw Pittman and counsel for Voice on the Net Coalition, or “VON.” VON’s interest in this proceeding is the proposed liability section. VON is a trade association founded in 1996 to advocate for a fresh approach to regulation of Internet communications. You can review all VON’s regulatory filings on its website, [www.von.org](http://www.von.org). VON would like to thank the Commission for the opportunity to speak today and address the proposed Rule on Impersonation of Government and Businesses.

VON fully supports the FTC’s efforts to curb impersonation-based fraud and to reduce spam targeting American consumers. The communications industry has already contributed significant resources to the FCC’s robocall mitigation campaign, which includes implementing STIR/SHAKEN, creating robocall mitigation plans, implementing know your customer procedures, and monitoring traffic patterns to identify and eliminate fraudulent activity.

However, despite these measures, fraudsters are constantly adapting their tactics to reach American consumers. As a result, service providers must continually evolve their techniques to keep pace with emerging threats in order to protect themselves and consumers. That said, given the complexities of call routing, terminating and transit providers do not always have access to information about the content of a particular call or whether the call is illegal.

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The FTC proposes to impose liability on parties who provide the means and instrumentalities of violations of the prohibitions against impersonation of government and businesses.

VON concurs with USTelecom and joins in asking the Commission to modify § 461.4's proposed language to implement knowledge-based liability and make it clear that a party must have had *actual knowledge* or *a reason to expect* that it is providing the means and instrumentalities of violations of the prohibitions against impersonation of government and businesses. As currently drafted, § 461.4 could be read to impose *strict liability* on any party who even unknowingly provides so much as a pen to a bad actor.

Providers should not be held liable for the transmission of traffic related to illegal government impersonation campaigns conducted on their network if they had no knowledge or reason to know of such impersonations. The liability standard should be based on *knowledge* and the *lack of action* to prevent fraudulent activity by upstream providers or customers. Importantly, the FTC should not impose liability where service providers have implemented robust "know your customer" checks and verification of the customer identities prior to providing service.

In sum, VON strongly urges the FTC to revise the proposed rule to impose liability only where a party acted knowingly. That concludes my remarks.

Thank you.