

STARWOOD TECHNOLOGIES LLC.

ROBOCALL MITIGATION PLAN

I. Background

The Federal Communications Commission (“FCC” or “Commission”) has adopted rules requiring voice service providers, like Starwood Technologies, LLC. (“Starwood Technologies”), to, among other things, file certifications and robocall mitigation plans in the FCC’s Robocall Mitigation Database (“RMD”). 47 CFR § 64.6305; see also Call Authentication Trust Anchor, WC Docket No. 17-97, Sixth Report and Order and Further Notice of Proposed Rulemaking, FCC 23-18 (Mar. 17, 2023) (“Sixth Caller ID Authentication Report and Order”).

The FCC requires that all voice service providers certify, by February 26, 2024, in the Commission’s RMD whether they have implemented the STIR/SHAKEN authentication framework, and that all of the calls that it originates, carries or processes are subject to a robocall mitigation program consistent with the Commission’s rules.¹ The provider’s mitigation plan “shall include reasonable steps to avoid originating illegal robocall traffic and shall include a commitment to respond within 24 hours to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to originate calls.” 47 C.F.R. § 64.6305(a)(2).

Despite imposing a general duty to mitigate “robocalls,” the Commission’s codified rules do not define “robocall.”² The TRACED Act defines “robocall violation” as “a violation of subsection (b) or (e) of section 227 of the Communications Act of 1934.” TRACED Act § 11(d), Pub. L. No. 116-105, 133 Stat. 3274 (2019); *id.* at § 13(d)(f)(3) (defining a “suspected unlawful robocall” as a “call that the Commission or a voice service provider reasonably believes was made in violation of subsection (b) or (e) of section 227 of the Communications Act of 1934.”). Thus, Starwood Technologies training and mitigation efforts focus, as they must, on potentially unlawful calls that violate either (a) 47 U.S.C. § 227(b) (governing non-emergency calls initiated

¹See <https://docs.fcc.gov/public/attachments/DA-24-73A1.pdf> (WCB Jan. 25, 2024 Public Notice).

²The Commission’s TCPA-related regulations, 47 C.F.R. § 64.1200, use the undefined term “illegal traffic,” 47 C.F.R. § 64.1200((k)-(m)), while its STIR/SHAKEN-related regulations define the FCC’s public-facing Robocall Mitigation Database, but not the “robocalls” that are to be mitigated. 47 C.F.R. § 64.6300. Thus, neither of the regulations that bear directly on the project of robocall mitigation expressly define “robocall.” Cf. *In re Advanced Methods to Target & Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Report and Order and Further Notice of Proposed Rule Making, 32 FCC Rcd. 9706, 9725 ¶ 56 (Nov. 17, 2017) (declining to define “illegal robocall,” and acknowledging that “the record shows confusion regarding how the proposed definition of ‘illegal robocall’ should apply to the call blocking rules.”); *In re Core Communications, Inc., et al.* Tariff F.C.C. No. 3, WC Docket No. 21-191, Order, 36 FCC Rcd. 9997, 9999 (June 23, 2021) (In a related context, stating that the “Commission defines a robocall as a call made using an automatic telephone dialing system or an artificial or prerecorded voice.”) (citing 47 U.S.C. § 227(b)(1); 47 CFR § 64.1200(a)). Starwood Technologies therefore focuses on the two types of unlawful calls—227(b) and 227(e) of the TCPA—that Congress expressly addressed.

with a prerecorded or artificial voice or an automatic telephone dialing system, as that term has been interpreted by the Supreme Court in *Facebook, Inc. v. Duguid*, 592 U.S. 395 (2011)) or (b) 47 U.S.C. 227(e), or the Truth in Caller ID Act, which prohibits people from causing “any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value,” absent an applicable exemption.

The FCC’s rules contemplate that the provider’s plan should describe how it “complies with its obligation to know its customers pursuant to § 64.1200(n)(4), any procedures in place to know its upstream providers, and the analytics system(s) it uses to identify and block illegal traffic, including whether it uses any third-party analytics vendor(s) and the name(s) of such vendor(s).” 47 C.F.R. § 64.6305(d)(1)(ii). The Commission has acknowledged, however, that, “we do not currently require [] providers other than gateway providers to engage in ‘know-your-upstream-provider’ procedures, [but] if they have put such procedures in place, they must be documented in their robocall mitigation plan,” and that “we do not specifically require providers to use call analytics.” Sixth Caller ID Authentication Report and Order ¶ 40 & n.155-56.

The Commission has explained that a robocall-mitigation program is “sufficient if it includes detailed practices that can reasonably be expected to significantly reduce” the provider’s origination or carriage of illegal robocalls, and the voice service provider complies with the practices described in its plan. Sixth Caller ID Authentication Report and Order ¶ 31. Starwood Technologies is dedicated to developing and taking reasonable steps, consistent with FCC regulations and its “Best Practices” guidance. This document outlines Starwood Technologies robocall mitigation plan.

II. Starwood Technologies Know Your Customer (“KYC”) Standards

Starwood Technologies is a Managed Services Provider (“MSP”) and voice service provider that focuses its business and operations on the small and medium-sized business segment of the voice services communications market in its local service territory. As part of its customer-onboarding process, Starwood Technologies undertakes various commercially reasonable precautions to verify a given customer’s identity as part of entering into a formal written agreement.

Starwood Technologies meets each of its end user customers personally as part of its onboarding process. Starwood Technologies investigates the prospective customer’s background and business function, such as checking for a company website, the amount of time the business has been open, and other indications of a legal, operating business. Starwood Technologies routinely deploys its equipment and services at the customer’s location and therefore is personally familiar with the customer and their operations, and privy to their usage practices. None of Starwood Technologies business customers are call centers or other high-call-volume operations likely to generate illegal robocalls, and Starwood Technologies personally provisions all of their devices

through which the services are used, and none are capable of being used as an auto dialer or to deliver prerecorded or artificial voice messages.

Among other data points collected and, as appropriate, verified, as part of those processes Starwood Technologies gathers the following customer-identifying facts and circumstances:

- Customer business name,
- Physical business location,
- Contact person(s),
- Email address, and
- Federal Tax ID (EIN).

Starwood Technologies does not serve wholesale carrier customers. If it does, however, Starwood Technologies acknowledges that its verification practices would be expanded to include confirming a carrier customer's reported status in the FCC's Form 499 Filer database of registered carriers, and the Commission's Robocall Mitigation Database, along with a completed USF exemption certificate.

III. Starwood Technologies Acceptable Use Policy

As part of its customer-onboarding process, Starwood Technologies customers contractually agree to various terms and conditions, including a commitment to comply with Starwood Technologies Acceptable Use Policy (AUP). Among other things, Starwood Technologies AUP prohibits:

- Using the Services to engage in any activities that are illegal, abusive, false, fraudulent, deceptive or misleading, or any activity that exploits, harms, or threatens to harm children.
- Engaging in any unsolicited advertising, marketing, or other unlawful activities using the Services, including, without limitation, any activities that violate laws applicable to advertising, electronic communications, and telemarketing, including, but not limited to, Section 5 of the FTC Act (15 U.S.C. § 45), the CAN-SPAM Act (15 U.S.C. §§ 7701-7713), the Telemarketing Consumer Fraud and Abuse Prevention Act (15 U.S.C. §§ 6101-6108), the Federal Trade Commission Telemarketing Sales Rule (16 C.F.R. § 310 et seq.), the Telephone Consumer Protection Act (47 U.S.C. §§ 227), the Federal Communications Commission regulations (47 C.F.R. 64.1200 et seq.) and orders implementing the Telephone Consumer Protection Act, and all federal and state Do Not Call and calling-time restriction laws and regulations.

- Using Starwood Technologies Services in any way that fails to conform to any applicable industry guidelines and standards, including, without limitation, the CTIA Messaging Principles and Best Practices, Short Code Registry Best Practices, and Short Code Monitoring Handbook.
- Creating a false identity, forged email address or header, phone number, or otherwise attempting to mislead others as to the identity of the sender or the origin of a message or phone call, including failing to comply with the Truth in Caller ID Act.

Starwood Technologies contracts with its customers stipulate that Starwood Technologies is authorized to suspend and/or terminate all Services in the event of an AUP violation.

IV. Telephone Number Authorization and STIR-SHAKEN Capabilities

Starwood Technologies is a non-facilities-based reseller that lacks the necessary facilities and control over the network infrastructure necessary to implement STIR/SKAKEN, and therefore does not have a STIR/SKAKEN implementation obligation. See Sixth Caller ID Authentication Report and Order ¶ 36 & n. 137; id. ¶ 45 & n.170. Nevertheless, all of Starwood Technologies end users' outbound calls originated via the resold services of its immediately downstream carrier partner and number supplier are authenticated, at the applicable levels, in accordance with STIR/SKAKEN by that carrier partner.

Starwood Technologies end users only use telephone numbers to which they have subscribed from Starwood Technologies (or ported into Starwood Technologies), such that Starwood Technologies has a documented, verified relationship between the originating end user and their telephone number(s) used to originate their calls. Should that change and customers could use as a caller ID any number not assigned by Starwood Technologies, or ported into Starwood Technologies network by the end user, Starwood Technologies will document the end user's right to use the associated phone number(s) from the unaffiliated provider. Further, Starwood Technologies does not allow its customers to change their Caller ID displayed on their calls, such that their Caller ID accurately reflects their assigned telephone number(s).

V. Proactive Network Monitoring

As noted above, Starwood Technologies end users are traditional small business users incapable of generating substantial volumes of calls, incapable of displaying misleading caller ID, and incapable of initiated calls with artificial or prerecorded voice technology. Starwood Technologies has various monitoring and reporting systems in place via its upstream carrier to analyze traffic on its network for potentially suspicious traffic patterns that are likely to be associated with illegal robocalls or other potentially unlawful usage. For example, Starwood Technologies upstream carrier's monitoring systems are capable of assessing traffic based on

various criteria associated with possibly unlawful or fraudulent traffic and other anomalous call patterns, and has filters in place to either flag or block such traffic.

If those systems and/or Starwood Technologies detects a pattern consistent with illegal robocalls, or has reason to suspect illegal robocalling or spoofing is occurring on its network, Starwood Technologies will take prompt action to identify the party that is using its network to carry these calls and take appropriate action. Once suspected unlawful traffic is discovered, Starwood Technologies will block any further traffic from being carried associated with the Media IP address of that suspicious traffic.

In the event Starwood Technologies discovers any suspicious traffic that is not demonstrably unlawful, Starwood Technologies will complete its investigation, and their service can be temporally suspended while that process is completed depending on the severity of the complaint.

VI. Commitment to Timely Traceback Responses and Cooperation

Starwood Technologies commits to respond fully and in a timely manner, within 24 hours, to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to originate, carry, or process illegal robocalls.

Starwood Technologies will dedicate sufficient resources to provide timely and complete responses to such requests, and will investigate suspicious activity found by its monitoring systems or reported to it by appropriate parties and take appropriate action.