

June 2017 FCC Meeting Recap: FCC Proposes \$120 Million Fine for Alleged “Spoofed Robocall Campaign”

June 26, 2017

On June 22, 2017, the Federal Communications Commission (FCC or Commission) issued a first-of-its-kind [Notice of Apparent Liability](#) (NAL) alleging that Adrian Abramovich, through numerous companies that he owned or operated, violated the Truth in Caller ID Act by placing more than 95 million robocalls to consumers while “knowingly causing the display of inaccurate caller ID information.” The NAL proposes fines totaling \$120 million, and seeks to hold Mr. Abramovich personally liable for the full amount. Separately, the Commission released a citation against Mr. Abramovich on the same day for alleged violations of the Telephone Consumer Protection Act and the federal wire fraud statute.

According to the NAL, the FCC began its investigation into Mr. Abramovich in response to numerous consumer complaints regarding spoofed robocalls offering vacation packages, which were purportedly affiliated with well-known companies such as TripAdvisor, Expedia, Marriott, or Hilton. In fact, TripAdvisor informed the FCC in April 2016 that it also was receiving consumer complaints about “receiving unwanted calls with prerecorded messages claiming to be on behalf of TripAdvisor.” In addition, a company called Spok, Inc. contacted the FCC in December 2015 to report “a significant robocalling event that was disrupting its emergency medical paging service.” The FCC was eventually able to trace the calls back to Mr. Abramovich and his companies. According to the FCC, subpoenas of the call records for his companies revealed that one company placed more than 95 million calls during a three month period, and upon review of a sample of those calls, staff “found that every reviewed call was spoofed.”

Based on these apparent violations, coupled with the FCC’s contention that the “falsification of caller ID was done with apparent intent to defraud, cause harm, or wrongfully obtain something of value,” the FCC proposes a \$120 million forfeiture. The proposed penalty consists of a base forfeiture amount of \$80 million, which according to the Commission is “a level well below the maximum in recognition of the fact that we have not previously proposed a forfeiture for this particular kind of violation, but that will still serve to put bad actors on notice that we take such violations seriously and will act as a deterrent to other large scale spoofing operations.” The NAL then proposes an upward adjustment of \$40 million due to “the sheer volume of calls Abramovich made.”

This NAL is important for a number of reasons. First, it is the Commission’s first spoofing enforcement action. Although the Truth in Caller ID Act does not prohibit all spoofing – and the FCC has openly acknowledged that there are many legitimate uses of caller ID spoofing – the NAL is the first action alleging that spoofing was conducted with an intent to defraud.

Second, the size of the proposed forfeiture suggests that the Commission will be active in enforcing

spoofing violations, which seems to be a priority for Chairman Pai as part of his robocall agenda. Notably, the Truth in Caller ID Act authorizes the FCC to propose an NAL against entities not holding Commission licenses, without the “warning” in the form of a Citation that is necessary in other contexts. Indeed, the two-step enforcement process is mandatory for TCPA, wire fraud and Communications Act violations, as is evidenced by the parallel Citation issued to Abramovich for TCPA and wire fraud violations stemming from the same conduct addressed in the NAL. With this streamlined enforcement process, the Pai FCC is more likely to use spoofing as the vehicle for prompt enforcement against fraudulent autodialing or prerecorded messages.

Third, the NAL is the result of a collaborative investigation between the FCC and industry players, in this case TripAdvisor and Spok. We expect to see more of this cooperation with respect to spoofing and robocalls going forward, especially involving legitimate companies whose businesses are affected by practices similar to those described in the NAL.