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ENFORCEMENT UPDATE

This edition includes notable FCC and FTC enforcement actions during the fourth quarter of 2022 that may be of interest to telecom, media, and tech companies.

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SPOOFING/ROBOCALLING

The Enforcement Bureau issued show cause orders demanding that Akabis, Cloud4, Global UC, Horizon Technology Group, Morse Communications, Sharon Telephone Company, and SW Arkansas Telecommunications and Technology show cause as to why the FCC should not remove them from the Robocall Mitigation Database. Removal from the database would require all intermediate providers and terminating voice service providers to cease carrying the companies' traffic.

The Enforcement Bureau ordered that Global UC be removed from the Robocall Mitigation Database which "requires all intermediate providers and terminating voice service providers to cease accepting the Company's traffic." Global UC is the first company to be removed for failure to take concrete steps to protect consumer from scam robocalls and spoofing.

The FCC proposed a fine of \$299,997,000, the highest fine ever, against an auto warranty scam robocall campaign. The operation run by Roy Cox, Jr. and Michael Aaron Jones is said to have made billions of apparently illegal robocalls via their Sumco Panama company, other domestic and foreign entities, and international cohorts located in Panama and Hungary. This robocall scheme made more than 5 billion robocalls to more than half a billion phone numbers during a three-month span in 2021, using pre-recorded voice calls to press consumers to speak to a "warranty specialist" about extending or reinstating their car's warranty. The FCC found that these robocalls apparently violated federal anti-robocalling and spoofing laws.

The Enforcement Bureau ordered all U.S. telecommunications companies to stop carrying robocalls related to known student loan scams. Specifically, all voice service providers must cease accepting robocall traffic from Urth Access, LLC, which, along with associated entities and individuals, the Enforcement Bureau believes generated upwards of 40% of student loan debt robocalls in October. The Enforcement Bureau had previously ordered Urth Access, LLC to cease and desist carrying this apparently illegal traffic.

ENVIRONMENTAL RULES

The Enforcement Bureau entered into a Consent Decree to resolve an investigation into whether a wireless service provider constructed wireless facilities without complying with the Commission's environmental and historic preservation rules, including rules implementing the National Environmental Policy Act of 1969 and the National Historic Preservation Act. To settle this matter, the company (i) admitted that it unlawfully constructed wireless facilities prior to completing the required environmental or historical reviews and without onsite monitoring as requested by certain tribes, (ii) agreed to implement a compliance plan to ensure that it does not violate these rules in the future, and (iii) paid a \$950,000 civil penalty.

UNAUTHORIZED TRANSFER OF CONTROL

The Enforcement Bureau settled a Notice of Apparent Liability for Forfeiture issued against Truphone for failing to disclose accurate ownership stakes held by foreign entities and transferring control of FCC licenses and international section 214 authorizations without Commission approval to do so. To settle the matter, the company admitted to the violations, paid a penalty of \$600,000, and established a compliance plan. The settlement also required the divestiture of any stake in Truphone held by Alexander Abramov, Alexander Frolov, or Roman Abramovich, and the company must file all overdue and incomplete transfer of control forms so that the FCC can review the company's ownership structure to assess whether it warrants a referral to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector.

OTHER NOTABLE MATTERS

PUBLIC FILE RULE

The Media Bureau entered into a consent decree with Vision Multimedia Group LLC WUFO, the licensee for Station WUFO(AM), Amherst, New York, resolving issues related to the station's license renewal application and the licensee's compliance with the Public File Rule. The Bureau's Audio Division had suspended processing of the renewal application due to the licensee's apparent failure to comply with its public file obligations. To settle the matter, the licensee admitted to a violation of the rule and agreed to implement a compliance plan to ensure future compliance with its online public inspection file obligations and to submit a compliance report to the Audio Division. Adoption of the consent decree cleared the way for the Bureau to process the station's renewal application.

The Media Bureau entered into two consent decrees with Bird St. Media Project resolving an investigation into the licensee's compliance with the Public File Rule. The Bureau's Audio Division had suspended processing of the licensee's renewal applications for failure to comply with the Public File Rule. To settle the matter, the licensee admits that it violated the rule and agreed to implement a compliance plan to ensure future compliance with its online public inspection file obligations and, one year after entering into the Consent Decree, submit compliance reports to the Audio Division. Adoption of the consent decree cleared the way for the Bureau to process the station's renewal application.

The Media Bureau entered into a consent decree with the Estate of Albert Benavides, and Christina Benavides, the licensee of station KAMZ(FM), Tahoka, Texas, settling an investigation into the licensee's compliance with the Public File Rule and the Ownership Report Rule. To settle the matter, the licensee admitted the rule violations, and paid a \$7,000 penalty. Adoption of the consent decree cleared the way for the Bureau to process the station's renewal application.

The Media Bureau entered into a consent decree with Winnebago Tribe of Nebraska terminating an investigation into the licensee's compliance with the Public File Rule. To resolve this matter, the licensee agreed admitted to a violation of the rule and agreed to implement a compliance plan to ensure its future compliance with the rule. The Media Bureau also granted a short term license renewal for one year due to several extended periods of silence during the original license term. The one-year renewal period will afford the opportunity to review the station's performance, as well as compliance with the Act and the Rules, and to take whatever corrective actions, if any, that may be warranted at that time.

UNLAWFUL OPERATION

The Media Bureau issued a monetary forfeiture of \$20,000 to Zwerling Broadcasting System, Ltd for operating KSCO(AM), Santa Cruz, California at a variance from its authorized parameters. Specifically, the Bureau found that, although the company was authorized to operate the station in a non-directional mode at 10 kilowatts nominal power during daytime hours, and in a directional mode at 5 kilowatts nominal power during nighttime hours, the company been operating the station non-directionally at night at 1 kilowatt for over 30 years.

REASSIGNED NUMBERS DATABASE

The Enforcement Bureau proposed fines against 12 phone companies that apparently failed to submit timely phone number disconnection information to the FCC's Reassigned Number Database. The database is a resource for lawful callers to avoid making unwanted and potentially illegal calls directed toward consumers whose numbers have been reassigned.

EQUIPMENT AUTHORIZATION

The Enforcement Bureau issued a citation notifying Broadcast Supply Worldwide, Inc. that it unlawfully marketed (i) one radio frequency device that was capable of operating outside of the FM frequency band, did not use a permanently attached antenna or an antenna that uses a unique connector, lacked an equipment authorization, and lacked the appropriate labeling and user manual disclosures; and (ii) three additional radio frequency devices that lacked the appropriate labeling and user manual disclosures.

The Enforcement Bureau issued a citation notifying B&H Foto & Electronics Corporation that it unlawfully marketed seven radio frequency devices that: (i) did not use a permanently attached antenna or an antenna that uses a unique connector; (ii) lacked an equipment authorization; (iii) lacked the appropriate labeling and user manual disclosures; (iv) operated in bands not authorized by the device's certifications; and/or (iv) were capable of operating outside of the FM frequency band.

The Enforcement Bureau issued a citation against Ride208, LLC notifying the company that it unlawfully marketed an unauthorized radio frequency device and failed to respond to an FCC order.

FAILURE TO FILE ANNUAL 911 RELIABILITY CERTIFICATIONS

The Enforcement Bureau entered into consent decrees with five covered 911 service providers for failure to file their annual 911 reliability certifications. The consent decrees required the providers to admit to violating the certification requirement, establish a compliance plan to ensure future compliance, and to pay penalties ranging from \$3,500 to \$6,000.

FTC MATTERS

The FTC and seven state attorneys general reached settlements with Google LLC and iHeartMedia, Inc. over allegations of the airing of thousands of deceptive endorsements for Google Pixel 4 phones by radio personalities who had never used the phone. The FTC's complaint alleges that in 2019, Google hired iHeart and 11 other radio broadcast companies to have their on-air personalities record and broadcast endorsements of the Pixel 4 phone, but did not provide the on-air personalities with the phone that they were endorsing. The deceptive endorsements aired over 28,000 times across ten major markets from October 2019 to March 2020. The settlements require Google to pay approximately 49 million and iHeart to pay approximately \$400,000 to the states that were part of the agreement. The settlements also include compliance reporting and record retention obligations.

