

States; and (B) prevent unjust or unreasonable discrimination among areas of the United States in the delivery of covered voice communications.”³

NTCA supports the proposal in the FRPRM to require intermediate providers to register via a portal on the Commission’s website and make public the following information:

(1) the intermediate provider’s business name(s) and primary address; (2) the name(s), telephone number(s), email address(es), and business address(es) of the intermediate provider’s regulatory contact and/or designated agent for service of process; (3) all business names that the intermediate provider has used in the past; (4) the state(s) in which the intermediate provider provides service; and (5) the name, title, business address, telephone number, and email address of at least one person as well as the department within the company responsible for addressing rural call completion issues.⁴

As the Commission notes,⁵ the first four categories here are similar to the registration requirements for telecommunications carriers and interconnected VoIP providers.⁶ The last requirement will provide great benefit by helping operators and the Commission itself identify and correct call completion issues, eliminating the mysterious class of “providers in the middle” that neither operators nor the Commission could identify or contact regarding call completion providers. On the other hand, the burden to providers arising out of reporting such information is minimal – it requires no more than logging into an account and typing in the most basic information about a company.

³ RCC Act, 262(c)(2).

⁴ FNPRM, ¶ 71.

⁵ FNPRM, ¶ 72.

⁶ 47 CFR § 64.1195.

III. PROHIBITION ON USE OF UNREGISTERED INTERMEDIATE PROVIDERS

NTCA supports the Commission’s proposals regarding the interpretation and implementation of the RCC Act’s prohibition on covered providers’ use of unregistered intermediate providers. It is clear that Congress intended that covered providers may not rely on any unregistered intermediate providers in the path of a given call. Specifically, the law was intended to “increase the reliability of intermediate providers by bringing transparency and standards to the intermediate provider market.”⁷ Such transparency necessitates that operators and the Commission have the ability to identify all intermediate providers throughout the call path so that problems can be detected and addressed as quickly and effectively as possible. To limit the prohibition such that only the *first* intermediate provider must be registered and known to the originating provider would enable unscrupulous carriers or intermediate providers to circumvent their ultimate responsibility to complete calls. Indeed, any interpretation of the law that permits the use of unregistered intermediate providers in a call path would thus defeat the spirit and intent of the law and is not a reasonable interpretation.

IV. SERVICE QUALITY STANDARDS

Industry defined best practices such as those identified by ATIS establish an appropriate base-line standard by which all providers should be expected to abide. NTCA therefore supports the proposal to require intermediate providers to take reasonable steps to: (1) prevent “call looping”; (2) “crank back” or release a call back to the originating carrier, rather than simply dropping calls upon failure to find a route; and (3) not process calls so as to “terminate and re-

⁷ Improving Rural Call Quality and Reliability Act of 2017, Report of the Committee on Commerce, Science, and Transportation on S. 96, S Report 115-6.

originate” them.⁸ NTCA also supports prohibiting intermediate providers from manipulating signaling information⁹ and requiring them to have processes in place to monitor their own rural call completion performance when transmitting covered voice communications.¹⁰ As a further measure, NTCA recommends that intermediate providers who hand off calls to additional intermediate providers be required to remove from the call path any other intermediate providers who do not abide by these same basic quality standards (and of course any that are not registered at all).

These sorts of industry-developed standards represent the minimal level of quality that every consumer should be able to expect when placing or receiving a voice call and the burden is no more than one would expect of someone contracted to complete a call. The ATIS best practices are the most proven measure thus far to accomplish the goal of minimizing, if not eliminating, rural call completion problems, while minimizing burdens and offering all providers greater certainty in compliance.

The Commission should also require self-monitoring by intermediate providers. Intermediate providers should be required to proactively monitor call completion performance and that of their downstream providers and correct anomalies.

Finally, the Commission should require an annual certification, under penalty of perjury, from a representative of each registered intermediate provider indicating that the company is

⁸ ATIS, Intercarrier Call Completion/ Call Termination Handbook §§ 6.3, 6.4 and 6.6. (2015) <https://www.atis.org/docstore/product.aspx?id=26780>

⁹ FNPRM, ¶ 89.

¹⁰ FNPRM ¶ 90.

adhering to such practices, that it is not transmitting covered voice communications to other intermediate providers not registered with the Commission, and that it will hold its own routers to the same standards.

V. ENFORCEMENT

No covered originating or intermediate provider should have the ability to route calls to an intermediate provider that fails to comply with the requirements and standards outlined above. The Commission should therefore remove from its intermediate provider registry any company that fails to complete its certification or is otherwise found to fail to meet the applicable requirements. Once an intermediate provider is removed from the registry, NTCA suggests that it be required to petition the Commission for reinstatement on the registration list with a written explanation of how it rectified any defects. Until the Commission affirmatively rules on the sufficiency of the petition and remediation plan, the intermediate provider should be barred from receiving or routing voice calls. Willful violations of the standards and certification requirements should also be subject to investigation and enforcement action.

VI. SUNSET OF RECORDING AND RETENTION RULES

While NTCA remains hopeful that the rules adopted in response to this proceeding will effectively eliminate continuing rural call completion problems, the association opposes as premature any proposal to eliminate existing covered provider recordkeeping and retention rules in conjunction with the implementation of the RCC Act. While providers identified difficulties with the reporting rules, they were effective in mitigating rural call completion problems, with “sunshine serving as the best disinfectant” when covered providers recognized that their performance (or lack thereof) was be visible to the Commission. With the reporting rules now

eliminated, NTCA's members are concerned that removal of even just a "paper trail" with respect to call completion will frustrate investigation and enforcement efforts and create incentives that lead to backsliding in call completion. Indeed, NTCA is aware that prior to the recordkeeping and retention requirements being adopted, one of the primary barriers to effective enforcement of basic duties to complete calls was the lack of sufficient evidence to detect call completion failures. There is nothing in the current rules that holds carriers or intermediate providers to a specific rural call completion percentage threshold. Without record keeping, there is no way to measure or enforce the language of the RCC Act that is intended to "prevent unjust or unreasonable discrimination among areas of the United States. . ."

Further, the use of multiple intermediate providers in a call path is known as a primary reason for call failure. Covered providers were incented to limit the number of intermediate providers in the call path with the "Safe Harbor." Carriers who abide by the Safe Harbor are subject to reduced record keeping and recording requirements. Several larger originating providers elected to take advantage of the Safe Harbor and have a demonstrably better record of completing rural calls than those carriers who do not fall under the Safe Harbor.

While the Safe Harbor would continue under the rules adopted as part of this proceeding by allowing covered providers to avoid requirements associated with the intermediate provider quality standards, only those providers who are themselves intermediate providers have any incentive to comply. Prematurely eliminating the record keeping and retention requirements may lead to an increase in the number of intermediate providers being used in the call path for providers who now have a good record of completing calls. Until it is known that the registration of intermediate providers in conjunction with the quality standard requirements adopted by the

Commission eliminates the problem of rural call failure, the Safe Harbor, in its current form, is a necessary part of rural call completion mitigation efforts.

At the very least, the Commission should determine first if elimination of the reporting requirements has had any impact upon call completion, and also provide time for implementation and evaluation of the intermediate provider rules to be adopted in this proceeding before reaching any conclusions with respect to whether the recordkeeping and retention requirements should likewise be torn down.

III. CONCLUSION

Rural customers and businesses have suffered with call failure for a decade. NTCA and its members remain hopeful that the intermediate provider registration and quality standard rules adopted as part of this proceeding will effectively eliminate rural call completion problems. However, it is imperative that the Commission does not prematurely roll back proven mitigation measures.

Respectfully submitted,



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