



A POINT OF VIEW  
LIKE NO OTHER

# ...AND AI APPROVE THIS MESSAGE: ROBOCALL REGS AND FCC UPDATES

Bob Silverman, Communications, Technology & Media Practice

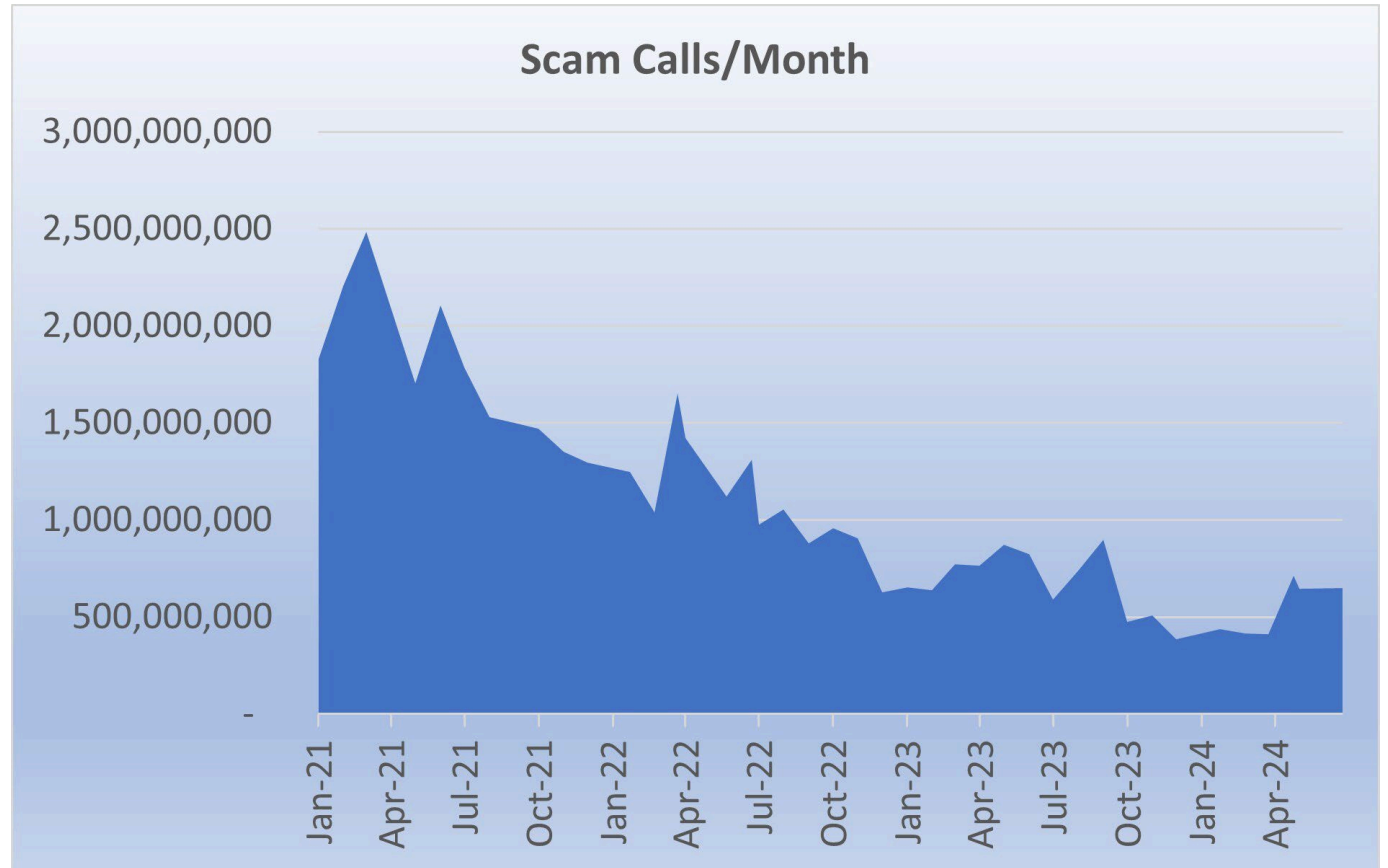
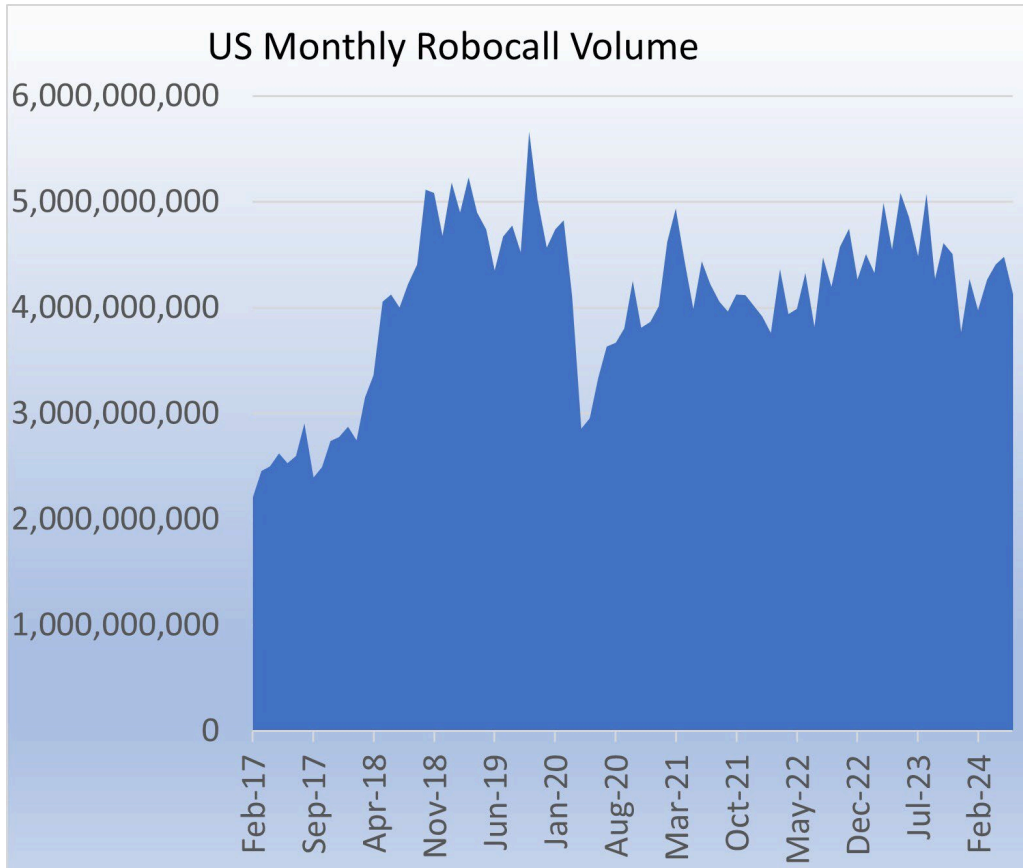
OTA Technical Conference, Oklahoma City, OK  
August 28, 2024



# FCC REGULATORY AUTHORITY – IN CHECK?

- FCC broadband authority hamstrung by federal court decisions and Congressional indecision
- However, FCC has clear (and bipartisan) policing power over AI robocall activity
- 2024: FCC fines \$6M against political consultant and \$2M *against telco* for deepfake robocalls around New Hampshire primary
  - Robocalls to Democratic NH voters mimicked President Biden’s voice urging them to “save their vote for the November election”
  - Lingo Telecom held liable for failing to authenticate caller ID information associated with thousands of illegal deepfake generative AI robocalls; has since agreed to \$1M penalty
- *Election season is ripe for AI robocall abuse... and FCC enforcement*

# ROBOCALL TRENDS



Source: YouMail Robocall Index

- **TCPA** (Telephone Consumer Protection Act) of 1991 TCPA passed
- Mandates prior express consent from recipients of robocalls
- Governs callers, though carriers not immune
- Some exemptions for noncommercial and other calls
- FCC and FTC enforce

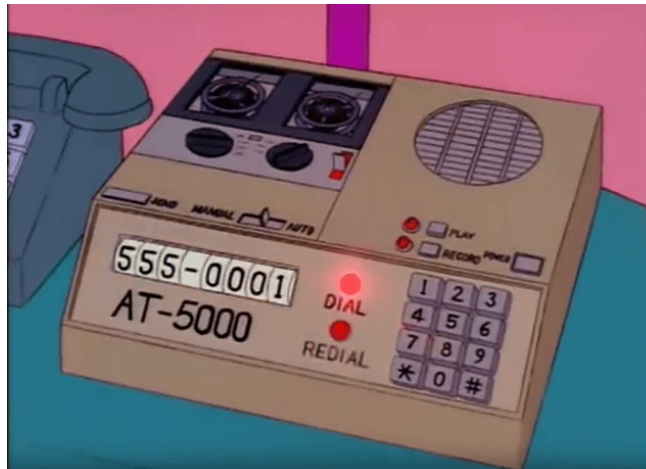
1991

1994 - 1995

- Telemarketing and Consumer Fraud and Abuse Prevention Act passed in 1994
- **TSR** (Telemarketing Sales Rule) adopted by FTC
- Prohibits deceptive or abusive telemarketing practices

- **CAN-SPAM** (Controlling the Assault of Non-Solicited Pornography and Marketing) Act of 2003 restricts spam mail to phones
- 2003: National Do Not Call Registry established under TSR
- 2008: Robocalls prohibited for sales and charity calls under TSR
- 2009: Truth in Caller ID Act of 2009 prohibits spoofing

2003 - 2009



- TRACED (Telephone Robocall Abuse Criminal Enforcement and Deterrence) Act
- FCC established **STIR/SHAKEN framework** (Secure Telephony Identity Revisited / Signature-based Handling of Asserted Information using toKENs)
- Protocols to authenticate caller ID info w/ SIP calls
- Robocall prevention *and* mitigation rules
- Order

2019-2023



February 2024

- **AI Robocall Declaratory Ruling**
- FCC *unanimously* finds calls using AI-generated voice cloning to be “artificial” and therefore subject to TCPA
- *Noncommercial calls exempted*
- **Robocall/Robotext Consent Order & NPRM**
- Do-not-call and consent revocation requests must be timely honored

- **AI-Generated Robocall & Robotext NPRM & NOI** adopted almost unanimously
- Proposes “AI-generated call” definition that would cover both robocalls *and* robotexts
- Does not ban AI robocalls
- Rather, proposes mandated disclosures of AI use when obtaining consent and with each AI robocall
- Comment sought on real-time AI-generated call detection
- Comment cycle still TBD

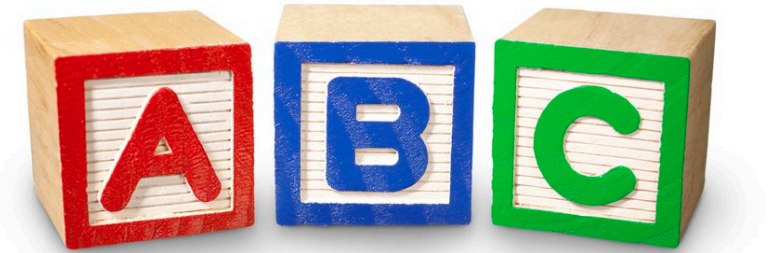
August 2024

# STEERING CLEAR OF AI ROBOCALL MISDEEDS

- Voice service providers must have implemented STIR/SHAKEN framework in IP portions of networks
  - Also includes gateway and intermediate providers receiving unauthenticated calls from originating providers
- Voice Service Providers must:
  - Take reasonable steps to mitigate illegal robocall traffic;
  - Submit a Robocall Mitigation Plan; and
  - Certify with FCC's Robocall Mitigation Database.

# KNOWING YOUR ATTESTATION ABC'S

**Attestation level assigned by voice service provider demonstrates what it knows about the calling party's identity and therefore how much trust downstream providers can ascribe to the caller ID number**



- **“A”** or “Full Attestation” means the provider:
  - (i) is responsible for the origination of the call onto the IP-based service provider voice network;
  - (ii) has a direct authenticated relationship with the customer and can identify the customer; and
  - (iii) has established a verified association with the telephone number used for the call.
- **“B”** or “Partial Attestation” means the provider can meet the first two criteria of the A level attestation but the provider has NOT established a verified association with the telephone number being used for the call; and
- **“C”** or “Gateway Attestation” means the signing provider has NO RELATIONSHIP with the initiator of the call (e.g., international gateways)

# COMPLIANCE

- Robocall Mitigation Plans must provide (among other things):
  - Reasonable steps taken to comply and mitigate
  - “Know your customer” and “know your upstream provider” procedures
  - Call analytics system to ID/block illegal traffic
- As of May 28, 2024, downstream providers must *refuse traffic* from ANY provider—voice service, gateway, or non-gateway intermediate provider—that is *unlisted in the Robocall Mitigation Database*
- Starting September 3, 2024, mobile wireless providers must block texts purporting to be from NANP numbers on a reasonable Do-Not-Originate (DNO) list (invalid, unallocated, or unused numbers) and where subscriber requested that blocking of texts purporting to originate from that number



# ENFORCEMENT: FCC AND BEYOND

- FCC forfeitures for violations of mandatory blocking requirements range from \$2,500 to \$23,727 per call
- A determination that a voice service provider's Robocall Mitigation Plan or certification is deemed noncompliant could lead to enforcement, forfeitures, and/or removal from the Robocall Mitigation Database
- Anti-Robocall Litigation Task Force (51 states & DC) members suing Avid Telecom for alleged 24.5 billion illegal robocalls in 5 years

# ENFORCEMENT CONTINUED

- In NH primary case, Lingo Telecom completed ~ 4,000 calls to potential voters on January 21, 2024, which it signed with *A-Level attestations*
  - Political consultant Steven Kramer engaged Voice Broadcasting Corp., which used services/equipment of Life Corp. to transmit calls, and Life Corp. used Lingo to originate traffic onto PSTN
  - Lingo's policy was to assign *A-level attestations* to a customer's traffic when it assigned Direct Inward Dialing (DID) numbers to customers like Life Corp., and if such customer purchased SIP trunks permitting them to use numbers assigned by other carriers, Lingo allowed them to "receive an A-level attestation for traffic associated with... non-Lingo provisioned telephone numbers if the customer certified that it 'will identify its customer and has a verified association with the telephone number used for the call'"
  - Lingo and Life Corp. have both been subjects of prior illegal robocall investigations, with Anti-Robocall Litigation Task Force going after Life Corp.
  - Kramer has been indicted by New Hampshire on felony charges of voter suppression and misdemeanor impersonation of a candidate
- FCC may impose mandatory blocking of all Veriwave Telco, LLC traffic for ongoing noncompliance after July 2024 Initial Determination Order

# HEED FCC PROCEEDINGS AND ENFORCEMENT

DA 24-102  
Released: February 6, 2024

## ROBOCALL ENFORCEMENT NOTICE TO ALL U.S.-BASED VOICE SERVICE PROVIDERS

FCC Enforcement Bureau Notifies All U.S.-Based Providers of Rules Permitting Them to Block Robocalls Transmitting from Lingo Telecom, LLC

File No. EB-TCD-00036094

Federal Communications Commission

DA 24-790

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of  
Lingo Telecom, LLC

)  
)  
)  
)  
)  
)

File No.: EB-TCD-24-00036425  
NAL/Acct. No.: 202432170004  
FRN: 0035440734

ORDER

Adopted: August 21, 2024

By the Chief, Enforcement Bureau:

Released: August 21, 2024

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree to resolve its investigation into the apparent violations of Lingo Telecom, LLC (Lingo Telecom or Company) of section 64.6301(a) of the Commission's rules<sup>1</sup> in connection with Secure Telephone Identity Revisited and Signature-based Handling of Asserted Information Using toKENS (STIR/SHAKEN) attestations. To resolve this matter, Lingo Telecom agrees to implement a robust compliance plan and pay a \$1,000,000 civil penalty.

DA 24-359  
Released: April 17, 2024

## ROBOCALL ENFORCEMENT NOTICE TO ALL U.S.-BASED VOICE SERVICE PROVIDERS

FCC Enforcement Bureau Notifies All U.S.-Based Providers of Rules Permitting Them to Block Robocalls Transmitting from DigitalIPvoice, Inc

File No. EB-TCD-23-00035954

By the Chief, Enforcement Bureau:

The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC or Commission) issues this Public Notice to notify all U.S.-based voice service providers of substantial amounts of apparently unlawful robocalls transmitted from DigitalIPvoice, Inc (Alliant) pursuant to section 64.1200(k)(4) of the Commission's rules, we hereby notify all U.S.-based voice service providers that if DigitalIPvoice fails to effectively mitigate illegal traffic, including the similar traffic described in the cease-and-desist letter (CDL) listed below and substantially may block voice calls or cease to accept traffic<sup>1</sup> from Alliant, U.S.-based voice service providers may block voice calls or cease to accept traffic<sup>1</sup> from Alliant, without liability under the Communications Act of 1934, as amended, or the Commission's rules.<sup>2</sup>

DA 24-467  
Released: May 20, 2024

## ROBOCALL ENFORCEMENT NOTICE TO ALL U.S.-BASED VOICE SERVICE PROVIDERS

FCC Enforcement Bureau Notifies All U.S.-Based Voice Service Providers of Rules Permitting Them to Block Calls Transmitting from Alliant Financial.

File No. EB-TCD-23-00035896

By the Chief, Enforcement Bureau:

The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC or Commission) issues this Public Notice to notify all U.S.-based voice service providers of substantial amounts of apparently unlawful robocalls related to debt consolidation loans originating from Alliant Financial (Alliant). Pursuant to section 64.1200(k)(4) of the Commission's rules, we hereby notify all U.S.-based voice service providers that if Alliant fails to effectively mitigate illegal traffic, including the similar traffic described in the cease-and-desist letter (CDL) listed below and substantially may block voice calls or cease to accept traffic<sup>1</sup> from Alliant, U.S.-based voice service providers may block voice calls or cease to accept traffic<sup>1</sup> from Alliant, without liability under the Communications Act of 1934, as amended, or the Commission's rules.<sup>2</sup>

# TAKEAWAYS

- Do not ignore or disregard Robocall Mitigation Plan details
- Adapt and update internal policies for compliance
- Enforcement activity is increasing with a wider net
- Pay attention to this space as it is constantly evolving
- Questions?

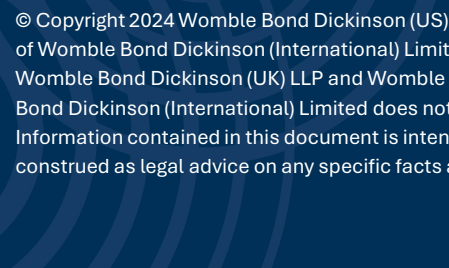
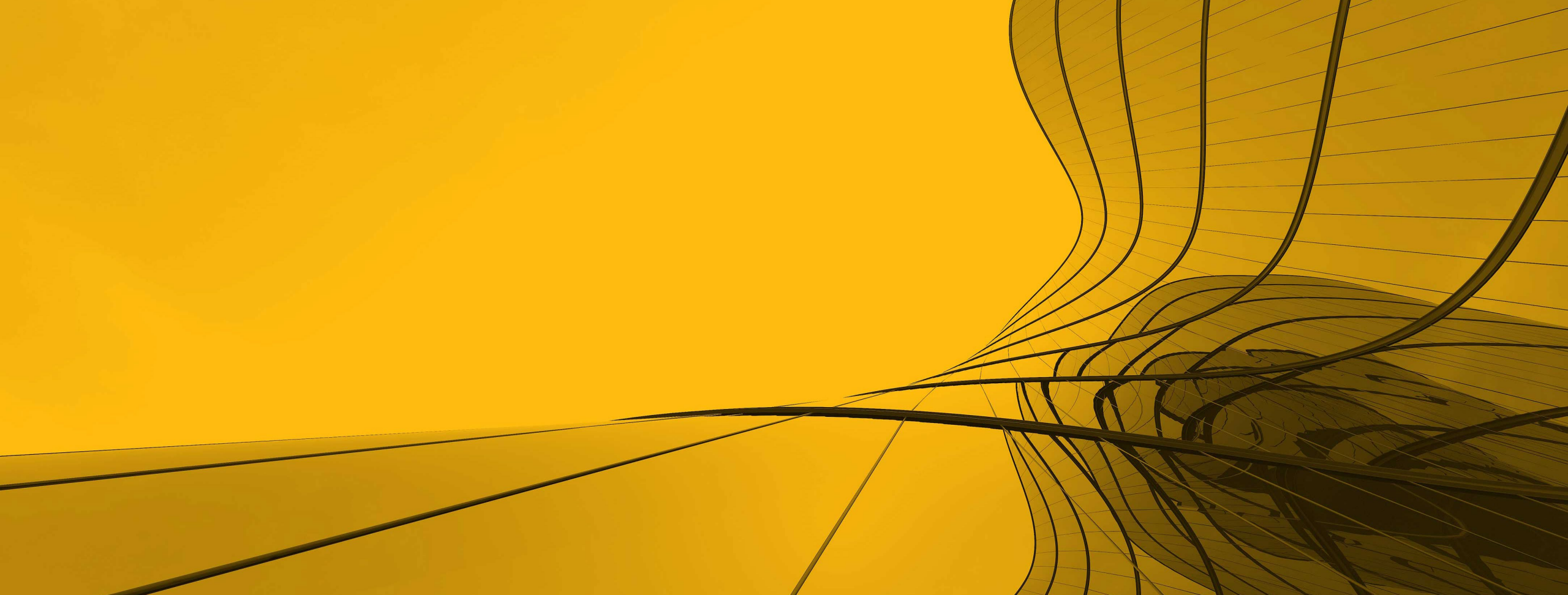


# Bob Silverman

Partner  
Communications, Technology & Media Practice

[bob.silverman@wbd-us.com](mailto:bob.silverman@wbd-us.com)

202.857.4532



© Copyright 2024 Womble Bond Dickinson (US) LLP. “Womble Bond Dickinson,” the “law firm” or the “firm” refers to the network of member firms of Womble Bond Dickinson (International) Limited, consisting of Womble Bond Dickinson (UK) LLP and Womble Bond Dickinson (US) LLP. Each of Womble Bond Dickinson (UK) LLP and Womble Bond Dickinson (US) LLP is a separate legal entity operating as an independent law firm. Womble Bond Dickinson (International) Limited does not practice law. Please see [www.womblebond Dickinson.com/us/legal-notices](http://www.womblebond Dickinson.com/us/legal-notices) for further details. Information contained in this document is intended to provide general information about significant legal developments and should not be construed as legal advice on any specific facts and circumstances, nor should they be construed as advertisements for legal services.

