

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Advanced Methods to Target and) CG Docket No. 17-59
Eliminate Unlawful Robocalls)

Comments of

Consumers Union
National Consumer Law Center, on behalf of its low-income clients
Consumer Action
Consumer Federation of America
National Association of Consumer Advocates
Public Citizen
Public Knowledge

January 23, 2018

Consumers Union, National Consumer Law Center, Consumer Action, Consumer Federation of America, National Association of Consumer Advocates, Public Citizen, and Public Knowledge sincerely thank the Federal Communications Commission (“FCC” or “Commission”) for the opportunity to respond to the Further Notice of Proposed Rulemaking (“FNPRM”) included in the November 17, 2017 Report and Order on Advanced Methods to Target and Eliminate Unlawful Robocalls.¹ The new rules approved by the Commission in November clarify that phone companies may block certain categories of illegally spoofed calls—specifically, calls spoofed with an invalid number, those spoofed with an unallocated or unassigned number, or at the request of the owner of the spoofed number.²

While the Commission’s rulemaking is a positive step, much more needs to be done to effectively deal with deceptively spoofed calls, including the growing problem of neighbor spoofing—in which fraudulent callers spoof the consumer’s own area code³—or other spoofing of phone numbers already in use. Nor does the rulemaking address unspoofed, but other illegal or unwanted robocalls, such as telemarketing or debt collection robocalls made in violation of the law. Thus, the new rules partially close one side of a two-sided door.

The result is that the new rules, once in effect, will relate to only a small percentage of unwanted calls. Consumers will remain vulnerable to the daily influx of unwanted, irritating, and sometimes harmful calls. To more effectively address the full extent of the problem, we urge the FCC to:

1. Establish a deadline by which the voice service providers must implement an effective methodology to authenticate and block all spoofed calls unless they are within a narrow set of appropriate exceptions;
2. Require the providers to offer advanced tools to block unwanted robocalls to all of their subscribers, at no additional charge by a date certain;⁴ and
3. Clarify that unblocking requests must be handled in way that ensures objective application of criteria. Any unblocking shall:
 - a. Limit unblocking to calls that have 1) authenticated caller ID information; 2) are not illegal; and 3) do not include calls blocked at the request of the subscriber;
 - b. Limit any “universal whitelist” to true emergency calls only; and
 - c. Costs should be assessed to businesses who seek to participate in the system.
4. To help assess the need for further action, the Commission should also require the phone companies to report sufficient information so that the Commission can evaluate the availability and effectiveness of carrier-provided call-blocking services.

In considering these issues, we urge the Commission to remain sensitive to consumer frustration with unwanted calls. These calls remain a top complaint to the FCC,⁵ and complaints to the Federal Trade

¹ In the Matter of Advanced Methods to Target and Eliminate Unlawful Robocalls, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 17-59 (Rel. Nov. 17, 2017), *available at* https://ecfsapi.fcc.gov/file/111717758568/FCC-17-151A1_Rcd.pdf.

² *Id.* at ¶ 1.

³ Anthony Giorgianni, *The Newest Ways to Deal with Robocalls*, CONSUMER REPORTS (Nov. 13, 2017), <https://www.consumerreports.org/robocalls/how-to-deal-with-robocalls/>.

⁴ We request that the FCC require this blocking technology to be offered if it has the authority to do so. If the FCC does not, then we request that they continue to press the voice service providers to do so.

Commission (FTC) about violations of the Do Not Call list increased again last year, to just over 7 million (4.5 million complaints about pre-recorded calls specifically).⁶ Not only do these calls invade the privacy of Americans every day; they also place consumers at risk of falling victim to fraud and can compromise their health, by interrupting caregivers, by waking night-shift workers trying to sleep during the day, and by interfering with calls to and from medical professionals.

1. The Commission should establish a deadline by which voice providers must implement an effective methodology to authenticate and block all spoofed calls, at no additional charge, unless they are within a narrow set of appropriate exceptions.

The Commission's newly-approved rules will enable providers to enhance their call-blocking efforts, but because the rules only relate to certain specific categories of clearly illegally spoofed calls, consumers will continue to be besieged with unwanted spoofed calls. Addressing the broader problem of call spoofing is an essential step, so that carriers and consumers can more effectively block unwanted as well as illegal calls.

The FCC has opened a Notice of Inquiry⁷ to collect information about how to assist in implementation of the SHAKEN/STIR technology that confirms the validity of the caller ID information, which is currently in testing.⁸ While we are not prescriptive of the technology that should be implemented to achieve this task, the FCC must hold voice providers to clear standards to ensure that the anti-spoofing technology:

- Is effective against all kinds of spoofing, including spoofing of in-use numbers;
- Is implemented within a firm deadline;
- Can screen out all deceptively spoofed calls;
- Offers protection from spoofed calls originating internationally; and
- Provides these protections to all call recipients for no additional charge.

We recognize that this technology could be initially costly to develop and to implement, and that the costs may pose a more difficult challenge for smaller or rural providers. Under no circumstances are we advocating for the deployment of new technologies that would drive up the cost of basic cell or residential line service. For this reason, we believe that the FCC should consider setting a longer and perhaps more flexible deadline for the smaller, rural providers, while holding the larger companies to a more expeditious deadline.

We also recognize that some consumers may have a legitimate need to spoof their caller ID information. Those appropriate exceptions should be taken into account.

⁵ Fed. Comm'n's Comm'n, Consumer Complaint Center, Unwanted Calls (last visited Jan. 20, 2018), <https://consumercomplaints.fcc.gov/hc/en-us/articles/115002234203-Unwanted-Calls>.

⁶ *National Do Not Call Registry Data Book FY 2017*, FED. TRADE COMM'N at 6 (Dec. 2017), https://www.ftc.gov/sites/default/files/filefield_paths/dnc_data_book_fy2017.pdf.

⁷ In the Matter of Call Authentication Trust Anchor, Notice of Inquiry, WC Docket No. 17-79 (Rel. Jul. 14, 2017), https://ecfsapi.fcc.gov/file/07141096201120/FCC-17-89A1_Rcd.pdf.

⁸ Jonjie Sena, *It's Time to Hang Up on Robocalls for Good*, NEUSTAR BLOG (May 16, 2017), <https://www.neustar.biz/blog/hang-up-on-robocalls>.

2. The Commission should require voice providers to offer advanced tools to block unwanted robocalls to all of their customers, at no additional charge, by a date certain.

Overwhelmed with unwanted robocalls, nearly three quarters of a million consumers have signed Consumers Union’s petition calling on voice providers to offer to their customers free, effective call-blocking tools.⁹ Thanks in large part to the outpouring of frustration with robocalls expressed by consumers, along with the encouragement of the FCC,¹⁰ a number of providers, many of them members of the industry-led Robocall Strike Force, now provide robocall-mitigation tools to their customers.¹¹ AT&T, for example, now offers Call Protect, which automatically blocks suspected fraudulent calls, and labels suspected spam calls.¹² T-Mobile offers a scam call-blocking service to its customers, Scam Block.¹³

However, not all providers offer this type of technology, and not always for free.¹⁴ Traditional landline customers in particular have limited options to address these calls. We urge the Commission to require providers to ensure that all customers have access to similar tools, within a reasonable timeframe, at no additional charge.

3. Unblocking requests must be handled in way that ensures objective application of criteria.

We believe that once fully-implemented caller ID authentication is established, the chance that legitimate, *wanted* calls are inadvertently blocked will be minimized, as providers and call recipients will be able to identify and block illegal or unwanted calls with greater precision (currently, it is difficult to reliably block calls based on caller ID information, because fraudsters commonly evade detection through call spoofing). Until a robust call authentication methodology has been developed, we agree that unblocking of essential government and other emergency calls must be appropriately managed. We agree that there could be dire consequences to the smooth operations of governmental and other essential services (like schools, utilities, and health care providers) if fraudsters were spoofing using legitimate phone numbers, and that use triggered the blocking of those numbers, even when used by their true owners. So at least in the interim, until there is a fully-developed authentication system in place, we agree that there needs to be an unblocking mechanism.

We are also cognizant of the strong push by certain businesses and organizations for unblocking mechanisms and whitelists, and we are aware of their concerns that call-blocking mechanisms affect their

⁹ Consumers Union, End Robocalls (last visited Jan. 20, 2018) <https://consumersunion.org/end-robocalls/>.

¹⁰ See, for example, Tom Wheeler, *Cutting off Robocalls*, FCC BLOG (Jul. 22, 2016), <https://www.fcc.gov/news-events/blog/2016/07/22/cutting-robocalls>.

¹¹ See, ACT, USTelecom, CTIA, and ATIS, Industry Robocall Strike Force Report 17-18 (April 28, 2017) <https://www.ustelecom.org/sites/default/files/documents/Ex%20Parte-Strike-Force-Report-2017-04-28-FINAL.pdf>.

¹² AT&T Mobile Security & Call Protect (last visited Jan. 20, 2018), <https://www.att.com/features/security-apps.html>.

¹³ T-Mobile, Call Protection Solutions (last visited Jan. 20, 2018), <https://explore.t-mobile.com/callprotection>.

¹⁴ Carla Fried, *New Study Finds Some Phone Companies Offer Better Robocall Protection Than Others*, CONSUMER REPORTS, (Oct. 26, 2016), <https://www.consumerreports.org/consumer-protection/the-best-service-providers-for-blocking-robocalls/>.

profitability.¹⁵ We do not oppose creating such an unblocking mechanism, or “appeal process.” However, we suggest that there should be certain principles applied to any such process that is developed, to ensure fairness and efficiency, while protecting consumers from having to shoulder the costs of these appeals.

It would not be efficient for each voice provider to develop its own evaluation process to determine which numbers and callers were real and should be always unblocked. And it could be a costly undertaking for the voice providers to engage in such a process. One can imagine that there will be give-and-take, and discussions and potentially arguments between providers and callers regarding which numbers should be blocked. Additionally, the cost of any evaluation and appeal process should not be borne by the phone subscribers; it should be borne by the callers who wish to appeal the blocking of their calls or their numbers. Moreover, if voice service providers were required to manage every unblocking request, they would likely be less willing to offer consumers free, effective call-blocking technology.

For these reasons, we recommend that unblocking requests be handled in way that ensures objective application of criteria. In addition, the program should be guided by a set of principles to preserve consumer control over incoming calls, including the following:

- a. Unblocking should be limited to calls that 1) have authenticated caller ID information; 2) are not illegal; and 3) do not include calls that have been blocked at the request of the subscriber.

Those assessing unblock requests must first ensure that the requesting caller is not deceptively spoofing to evade appropriate blocks. In addition, evaluators should have a reasonable basis to believe that the call is not illegal before unblocking it. So-called legitimate callers may make calls in violation of the consent requirements of the Telephone Consumer Protection Act (TCPA) or the Do Not Call Registry, and the caller’s history of TCPA compliance should be considered before unblocking the calls. And numbers blocked individually by the call recipient should never be overridden.

Additionally, the appeal process must not override the preferences of consumers who have opted in to a call-blocking service. In 2015, the FCC affirmed that voice providers may offer advanced services to block certain categories of unwanted calls, such as telemarketing calls.¹⁶ Providers also typically offer services that allow consumers to block anonymous calls, or to screen out all calls except for a limited number of whitelisted calls.¹⁷ These call-blocking services should remain a viable option for consumers seeking to avoid unwanted calls.

¹⁵ See, for example, Eckert Seamans, Notice of Ex Parte, CG Docket No. 17-59 (Sept. 21, 2017), [https://ecfsapi.fcc.gov/file/10921030146271/COLONIAL%20PENNSYLVANIA%20LIFE%20EX%20PARTE%209%2021%2017%20\(N0271754xA35AA\).pdf](https://ecfsapi.fcc.gov/file/10921030146271/COLONIAL%20PENNSYLVANIA%20LIFE%20EX%20PARTE%209%2021%2017%20(N0271754xA35AA).pdf); PACE (Professional Association for Consumer Engagement), Notice of Ex Parte Presentation, CG Docket No. 17-59, (Nov. 9, 2017), [https://ecfsapi.fcc.gov/file/1109565025909/PACE%20Notice%20of%20Ex%20Parte%20\(Nov%202017\).pdf](https://ecfsapi.fcc.gov/file/1109565025909/PACE%20Notice%20of%20Ex%20Parte%20(Nov%202017).pdf).

¹⁶ In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act, Declaratory Ruling and Order, CG Docket No. 02-278, at ¶154, 157 (Rel. July 10, 2015), https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-72A1.pdf.

¹⁷ See, for example, AT&T’s Anonymous Call Blocking and Call Screening. AT&T, Phone Calling Features and Star Codes (last visited Jan. 22, 2018), <https://www.att.com/esupport/article.html#!/u-verse-voice/KM1000459>.

b. Limit any “universal whitelist” to emergency numbers only.

Once caller ID authentication technology is fully implemented, and the spoofing problem effectively addressed, a “universal whitelist”—a set of numbers that can automatically bypass various blocking mechanisms—could help ensure that genuine emergency calls are not blocked. Only actual emergency numbers should be whitelisted, to ensure that unwanted calls do not override optional call-blocking systems. In addition, because of the potentially devastating consequences if fraudsters were to start spoofing whitelisted emergency calls, a universal whitelist should be considered only after the spoofing problem has been quelled, including having sufficiently strong deterrent measures in place against spoofing any of these emergency numbers.

c. Costs should be assessed to businesses who seek to participate in the system.

The program should be funded by the businesses who want to participate in the system through assessments to callers (except government agencies whose numbers have been wrongly illegally spoofed). This will ensure that costs related to unblocking requests are not passed along to the call recipients.

4. The Commission should assess the need for imposing additional reporting requirements on voice providers based on evaluating the availability and effectiveness of carrier-provided call-blocking services.

Voice service providers must step up their call-blocking efforts. As this rulemaking does not require companies to engage in call-blocking, there should be incentives to encourage providers to do so. We support the recommendation of the FCC Consumer Advisory Committee,¹⁸ and recommend the FCC complete and publish a call-blocking study within two years of the date of implementation of these rules. This will help the Commission in assessing the need for further action and assist consumers in identifying the providers offering the best options to stop robocalls.

The study should assess all providers with respect to call-blocking availability; cost; the number and proportion of customers with access to these tools; the number and proportion of customers who opt into these tools; and their effectiveness. It should evaluate all of the call-blocking efforts provided by each company, whether as an opt-in service or conducted on the network level.

Conclusion

Above all, consumers deserve access to effective call-blocking tools, and their preferences, rather than the callers’, should remain paramount. We urge the Commission to maintain appropriate limits on any challenge mechanism under consideration, particularly with regard to any optional call-blocking service. Overly permissive call-unblocking would undermine the good work of the Commission in recent years to address this priority issue.

¹⁸ FCC Consumer Advisory Committee, Recommendation Regarding Unwanted Call Blocking (Sept. 27, 2017), available at <https://www.fcc.gov/ecfs/filing/1092759171055>.

We also ask the Commission to continue to work with consumers and industry to fight unwanted robocalls more broadly. This proceeding is a step in the right direction, but robocalls will remain a problem unless the Commission redoubles its efforts against nuisance and other unwanted calls.

We thank the Commission for its continued attention to this top consumer concern.

Respectfully Submitted,

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Descriptions of the Organizations Joining This Filing

Consumers Union is the public policy and mobilization division of Consumer Reports. Consumers Union works for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves, focusing on the areas of telecommunications, health care, food and product safety, energy, and financial services, among others. Consumer Reports is the world's largest independent product testing organization. Using its more than 60 labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications.

National Consumer Law Center (NCLC) is a non-profit corporation founded in 1969 to assist legal services, consumer law attorneys, consumer advocates and public policy makers in using the powerful and complex tools of consumer law for just and fair treatment for all in the economic marketplace. NCLC has expertise in protecting low-income customer access to telecommunications, energy and water services in proceedings at the FCC and state utility commissions and publishes Access to Utility Service (5th edition, 2011) as well as NCLC's Guide to the Rights of Utility Consumers and Guide to Surviving Debt.

Consumer Action has been a champion of underrepresented consumers since 1971. A national, nonprofit 501(c)(3) organization, Consumer Action focuses on financial education that empowers low to moderate income and limited English-speaking consumers to financially prosper. It also advocates for consumers in the media and before lawmakers and regulators to advance consumer rights and promote industry-wide change particularly in the fields of credit, banking, housing, privacy, insurance and utilities.
www.consumer-action.org

The Consumer Federation of America is an association of more than 250 nonprofit consumer groups that was established in 1968 to advance the consumer interest through research, advocacy and education.

The National Association of Consumer Advocates (NACA) is a nonprofit association of consumer advocates and attorney members who have represented hundreds of thousands of consumers victimized by fraudulent, abusive and predatory business practices. NACA is actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means.

Public Citizen is a national nonprofit organization with more than 400,000 members and supporters. We represent consumer interests through lobbying, litigation, administrative advocacy, research, and public education on a broad range of issues including consumer rights in the marketplace, product safety, financial regulation, safe and affordable health care, campaign finance reform and government ethics, fair trade, climate change, and corporate and government accountability.

Public Knowledge is a nonprofit policy and public interest organization that promotes competition and consumer protection on technology, telecommunications, and intellectual property issues.