

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

**REPLY COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments in response to the *Public Notice*² released by the Federal Communications Commission’s (“Commission”) Consumer and Government Affairs Bureau in the above-captioned proceeding. The *Public Notice* seeks comment on methods by which voice service providers can block illegal calls before such calls reach consumers.

Like carriers of all sizes and technologies, NTCA members have found that unwanted and illegal robocalls are a source of customer frustration and complaints. As such, these providers are educating their customers as to steps they themselves can take to mitigate the incidence of such calls. These providers are also utilizing every “tool in their toolkit” to reduce the number of unwanted or illegal robocalls that reach their customers.

NTCA is taking steps as well to mitigate the incidence of these calls and assisting its members in addressing robocalling. For example, a NTCA member holds a seat on the Secure

¹ NTCA represents nearly 850 rural rate-of-return regulated telecommunications providers (“RLECs”). All of NTCA’s members are full service local exchange carriers and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities.

² *Consumer and Government Affairs Bureau Seeks to Refresh the Record on Advanced Methods to Target and Eliminate Unlawful Robocalls*, DA 18-842 (rel. Aug. 10, 2018) (“*Public Notice*”).

Telephone Identity Governance Authority (“STI-GA”) Board of Directors.³ The creation of this industry-led body is the first step in the adoption of the SHAKEN/STIR technical protocols that promise to mitigate caller-ID “spoofing,” a pernicious practice that facilitates illegal robocalls, often by callers attempting to scam consumers. NTCA’s investment in the STI-GA has been coupled with its efforts to educate its member companies about SHAKEN/STIR as well as any robocall mitigation tools RLECs can utilize. NTCA, its member companies, and similarly situated operators are serious about mitigating unwanted and illegal robocalls for the benefit of rural consumers.

However, as the Commission considers criteria that providers could use to determine that certain calls are likely to be illegal and thus eligible for blocking, NTCA urges the Commission to proceed with caution and an eye towards protecting consumers from the dangers of “false positives.” Erroneous call blocking could undermine the integrity and interconnected nature of communications networks and prove disastrous to the well-being and safety of consumers and to the economic welfare of businesses across the nation. From the rural perspective, as the Commission knows, consumers and businesses in these areas are painfully familiar with the consequences of legitimate calls failing to complete. For well over a decade, originating providers’ inability or unwillingness to consistently complete calls to rural areas has caused businesses to lose customers, has left families unable to reach loved ones, hospitals unable reach doctors, doctors unable to reach patients, and 911 call centers unable to make emergency call backs. Given the patent concerns that arise out of calls that fail to complete, the Commission

³ *Secure Telephone Identity Governance Authority Launched In Major Industry Effort to Combat Unwanted Robocalling*, Press Release, ATIS, September 18, 2018.

must not allow the blocking of illegal robocalls to exacerbate the difficulty subscribers face in making or receiving legitimate calls.

Thus, just as providers should use “every tool in their toolkit” to mitigate the incidence of unwanted robocalls, so too should the Commission do the same in terms of protecting consumers from “false positives.” For example, the Commission should require that every provider utilizing call blocking tools adopt a robust, clearly articulated resolution process. Such a process would enable callers that discover they have been inadvertently blocked to contact the provider and remove their number from any call blocking lists. Consumers (and businesses making wanted and legitimate robocalls, such as pharmacies making reminder calls to patients to pick up their medications) are best protected if providers cease blocking calls as soon as is practicable upon a credible claim by a caller that their calls are being mistakenly blocked. While the annoyance of illegal robocalls can be significant and seemingly unending at times, the risks associated with legitimate calls failing to complete are greater still. The fundamental value of our nation’s interconnected communications networks arises out of the ability of callers to place and have completed legitimate calls, and a Commission directive that providers utilize a resolution process preserves that value and promotes the public interest.

In addition, it should be noted that the danger of illegal robocallers exploiting any resolution process is minor because a caller using such a process must take affirmative steps to initiate it with the provider, including most notably the transfer to a live customer service representative. Automated robocalling systems or other illegal callers cannot, or are least highly unlikely to, take such steps to challenge a block.

In no case should the Commission rely solely on its informal complaint process in lieu of a direct provider resolution process. The complaint process requires the harmed party to take

extraneous steps to rectify the problem and would result in delays mired in a black hole of bureaucracy that also places greater, unnecessary burdens on the Commission itself. The potential harmful consequences of erroneous call blocking demands that the challenge mechanism be quick, simple, and straightforward for the calling party. It is far more efficient for the erroneously blocked party to work directly with the blocking provider to resolve the situation. The filing of a complaint with the FCC should still be a tool available to blocked parties who are dissatisfied with a provider's resolution process.

In addition, the Commission should require larger providers to report the quantity of "false positives" on a quarterly basis. A quarterly report will enable the Commission to judge the effectiveness of its rules and take quick corrective action if it is determined that legitimate calls are being blocked and the process for resolving those is not working quickly and effectively. In particular, false positives reports would enable the Commission to determine if an inordinate amount of calls to or from rural areas are being blocked and step in to determine why such is the case.

Turning to the record compiled thus far in response to the *Public Notice*, the Commission should proceed carefully with respect to proposed "safe harbors"⁴ for providers that inadvertently block legitimate calls. To be sure, NTCA members are like any other providers in that they have a concern with what could amount to a "strict liability" situation where any call blocked inadvertently leads to a Commission enforcement action. But at the same time, the

⁴ Comments of AT&T, CG Docket No. 17-59 (fil. Sept. 24, 2018), p. 12; Comments of USTelecom, CG Docket No. 17-59, p. 4 (fil. Sept. 24, 2018).

Commission should not rely on the supposed “good faith”⁵ of those blocking calls without more to demonstrate the existence of such a mind-set. In other words, those claiming that calls were blocked inadvertently based on a “good faith” reason to believe they were in fact illegal should be required to make some showing of it, demonstrating to the Commission the facts and or data trends that it utilized to determine that particular calls or classes of calls should be blocked. Moreover, providers should also be required to demonstrate that the facts or data utilized to determine that such calls be blocked have been amended to prevent similar false positives in the future.

In addition, the Commission should recognize that the adoption of a “safe harbor” could have unintended consequences beyond additional false positives – it could create poor incentives in terms of managing networks. As VON correctly states, “[w]ithout a safe harbor for overly-broad and potentially clumsy call blocking techniques, carriers are rightfully under pressure to improve their current call screening measures.”⁶ A safe-harbor may therefore stunt the growth of blocking techniques (or call screening technologies that empower the consumer to decide if a call should be answered) that over time and with experience actually reduce the incidence of false positives and capture only illegal robocalls.

⁵ AT&T in comments proposes a that a “voice service provider that inadvertently blocks a legitimate call shall not be deemed to have violated the Communications Act of 1934, as amended, or the Commission’s rules, if, at the time the provider blocked the call, the provider: (a) performed network blocking of calls in connection with an event that the carrier had a good-faith reason to believe was an illegal robocall event; (b) had procedures in place for network blocking that were reasonably likely to confirm that calls blocked were limited to illegal robocalls; (c) followed those procedures; and (d) had a process in place to unblock legitimate calls in the event of any inadvertent blocking of such calls.” AT&T, p. 9.

⁶ Comments of VON Coalition, CG Docket No. 17-59, p. 2 (fil. Sept. 24, 2018).

NTCA supports the Commission's efforts to mitigate unwanted or illegal robocalls. However, the Commission should not let the understandable rush to find and implement new robocall mitigation techniques to get ahead of the agency's basic responsibility to protect the integrity of the voice telephone system and ensure that legitimate calls are completed. Rural consumers have suffered from the call completion scourge for far too long and protecting these consumers from further abuse should be as high a priority for the Commission as is combatting illegal or unwanted robocalls.

Respectfully submitted,



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