

**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 CTIA

CTIA submits these reply comments in response to the Further Notice of Proposed Rulemaking (“FNPRM”) released by the Federal Communications Commission (“FCC” or “the Commission”) seeking input on possible remedies for calls that may be blocked in error, as well as on potential reporting requirements.¹

I. INTRODUCTION AND SUMMARY

CTIA members are leading ongoing efforts to fight illegal robocalls. CTIA supports the Commission’s work to promote voluntary call-blocking and empower customers, and is pleased that the record shows wide support for the blocking rules that recently took effect. The record makes clear that the Commission has rightly focused the attention of voice providers, third party applications developers, and the calling industry on ways to reduce illegal robocalls. This has led to a proliferation of activity: new applications and services are being rolled out, new network-based tools are being developed and tested, industry is working to deploy call authentication, and collaboration is ongoing across the ecosystem.

¹ See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd. 9706 (2017) (“FNPRM”). Where the comments refer to *Report and Order*, it is to that portion of the same item.

Even as the broad ecosystem takes unprecedented steps to address consumers' concerns about robocalling, CTIA shares concerns about potential erroneous blocking and agrees that providers that make blocking available to their subscribers should act quickly to address any "false positives," that is, calls from legitimate numbers that should not have been blocked. Industry is actively working to address unblocking of numbers that may be blocked in error. It is also addressing the underlying data analytics as diverse participants work to deploy call authentication and enhance consumers' blocking options.

Given the ongoing innovation addressing consumers' concerns, the development of tools to reduce false positives, and the nascence of the blocking rules, many commenters correctly urged the FCC to promote these voluntary activities and decline premature calls to regulate. The staff of the Federal Trade Commission ("FTC") agrees.² Accordingly, the FCC should:

- Avoid imposing mandates, such as challenge mechanisms or unblocking requirements;
- Encourage voluntary efforts by providers to address false positives;
- Focus on enforcement action against bad actors;
- Decline to create new reporting obligations; and
- Resist calls to regulate third-party call-labeling services.

If the FCC promotes a voluntary regime that encourages innovation, then carriers and others in the ecosystem will be able to address both illegal robocalls and erroneously blocked numbers.

II. THE RECORD DEMONSTRATES THE IMPORTANCE OF VOLUNTARY ACTION ON UNBLOCKING AND DOES NOT SUPPORT ANY MANDATE.

Commenters, including CTIA, appreciate concerns about having legitimate numbers blocked in error, but now is not the time to create new regulatory mandates that might discourage

² Comments of the Federal Trade Commission's Staff, CG Docket No. 17-59 at 2-4 (filed Jan. 23, 2018) ("FTC Comments").

the development or limit the effectiveness of new tools designed to benefit consumers. The FCC's new rules only recently took effect and it is not clear they will result in many false positives. Many of the concerns raised in the record may be more appropriately directed at third-party services rather than the provider-initiated blocking addressed in this proceeding. Likewise, consumers are increasingly declining to answer calls. Thus, FTC staff correctly observed that "[t]he type of call-blocking authorized by the Report and Order [] is limited in scope and it is not clear . . . based on the current record [] that there is a need to require a formal challenge mechanism for errors resulting from provider-based call blocking authorized by this Report and Order."³ NCTA agrees, stating that "[t]he Commission should allow the voluntary blocking rules to become effective and monitor voice service provider activity and consumer response and then determine whether, and what types of, additional rules may be necessary in the future."⁴ A mandatory challenge process or a carrier-specific reporting website,⁵ is premature at best.

Commenters generally oppose any mandatory challenge mechanism or unblocking process. There are many ways for callers to challenge blocking and for providers to unblock numbers. "Each provider should have the flexibility to develop the methods that best suit their own processes."⁶ Mandates threaten to stifle innovation⁷ and are "ill-suited to the highly fluid

³ *Id.* at 2-3.

⁴ Comments of NCTA – The Internet & Television Association, CG Docket No. 17-59 at 2 (filed Jan. 23, 2018) ("NCTA Comments").

⁵ Comments of Comcast Corp., CG Docket No. 17-59 at 4 (filed Jan. 23, 2018).

⁶ Comments of the Voice on the Net Coalition Comments, CG Docket No. 17-59 at 1 (filed Jan. 23, 2018) ("VON Coalition Comments"); *see also* Comments of the USTelecom Association, CG Docket No. 17-59 at 3 (filed Jan. 23, 2018) ("USTelecom Comments") ("the Commission should leave such operational decisions to the discretion of voice providers, and should not mandate a single framework or approach for use in such instances").

⁷ Comments of CTIA, CG Docket No. 17-59 at 6 (filed Jan. 23, 2018) ("CTIA Comments").

and dynamic robocalling environment.”⁸ Worse, rigid regulatory prescriptions, such as the signaling cause code and intercept message suggested by PACE,⁹ could aid bad actors and undermine industry efforts: “Such [a] signal will enable illegal spoofers to quickly learn that they have been caught and to move on to other numbers.”¹⁰ Instead, a diversity of mitigation tools “makes it more cumbersome for illegal robocallers to adjust their tactics.”¹¹ The Commission should reject calls to micromanage unblocking, be it by requiring one-step unblocking, challenge and feedback mechanisms, alert systems, or by defining the timeframe for unblocking.

Rather than impose new mandates, “the Commission should encourage ongoing industry-led efforts that are developing approaches to handle false positives.”¹² FTC staff echoes this sentiment and “continues to support encouraging all entities that engage in call blocking, particularly voice service providers, to offer protections for legitimate callers and subscribers impacted by increased call-blocking.”¹³ The record shows that this is taking place.¹⁴ In addition, USTelecom has already committed to convene a second industry-wide best practices workshop, and industry

⁸ USTelecom Comments at 2.

⁹ Comments of Professional Association for Customer Engagement, Alorica, Inc. and the Consumer Relations Consortium, CG Docket No. 17-59 at 5-6 (filed Jan. 23, 2017) (“PACE Comments”).

¹⁰ Comments of First Orion Corp., CG Docket No. 17-59 at 3 filed Jan. 23, 2018) (“First Orion Comments”); *see also* USTelecom Comments at 3 (“Such mechanisms would be the equivalent of a telephonic ‘radar detector’ that would provide illegal robocallers with affirmative, real-time information regarding which of their spoofed numbers are being blocked, and which are not.”).

¹¹ USTelecom Comments at 3-4.

¹² *Id.* at 2; *see also* First Orion Comments at 1 (“The Commission should give providers the leeway to design and implement their own or industry-wide challenge mechanisms.”)

¹³ FTC Comments at 5.

¹⁴ USTelecom Comments at 2; Verizon’s Comments on Further Notice, CG Docket No. 17-59 at 1 (filed Jan. 23, 2018) (“Verizon Comments”).

is looking at additional methods to protect legitimate callers. Such ongoing work obviates the need for regulatory action.

The record confirms that the Commission should continue to focus its efforts on enforcement. “When considering advancing robocall prevention, the Commission should focus its efforts on actionable items aimed at the sources of fraud and abuse rather than widespread regulations that may not ultimately be actionable.”¹⁵ “Tracking down and prosecuting bad actors should be the centerpiece of robocall mitigation efforts.”¹⁶ As CTIA discussed, the FCC should also focus on using “creative partnerships with industry while working internationally to help thwart global bad actors.”¹⁷ This will help address illegal robocalling without increasing regulatory burdens.

III. COMMENTERS LIKEWISE OPPOSE REPORTING OBLIGATIONS, WHICH WOULD BE PREMATURE AND LIKELY UNHELPFUL.

The FNPRM’s proposed reporting obligation is equally unnecessary. Commenters explained that a reporting requirement would be premature, complex, provide little benefit to the public, and would not deter robocallers.¹⁸ Given that the call-blocking rules are new, “it is too soon for high-level reporting on misidentified calls to be particularly meaningful in either the provider-initiated call-blocking or call-identification contexts.”¹⁹

¹⁵ INCOMPAS Comments at 6.

¹⁶ Verizon Comments at 5.

¹⁷ CTIA Comments at 9.

¹⁸ *See, e.g.*, CTIA Comments at 7; VON Coalition Comments at 4; Comments of ITTA – The Voice of America’s Broadband Providers, CG Docket No. 17-59 at 3 (filed Jan. 23, 2018); NCTA Comments at 2-3.

¹⁹ First Orion Comments at 11.

Moreover, such a requirement may be counterproductive.²⁰ A reporting obligation “risks deterring provider participation in blocking” in the first instance, due to its burdens.²¹ At this nascent stage, there is no reason to make voluntary blocking more difficult, particularly given the proposed rule’s focus only on a portion of the evolving ecosystem, voice providers. And given the breadth of the ecosystem and the many approaches, a reporting requirement focused on one element will paint an incomplete picture of the effectiveness of call blocking efforts.

IV. THE COMMISSION SHOULD NOT DISCOURAGE THE DEVELOPMENT OF THIRD-PARTY LABELING SERVICES, WHICH ARE BEYOND THE SCOPE OF THIS PROCEEDING.

The Commission should reject calls from Sirius XM, ACA International, and PACE to regulate and investigate third-party call-labeling services. These requests would discourage and restrict important efforts that can empower consumers and promote innovation. Sirius XM requests several aggressive regulations.²² It wants the FCC to regulate what information may be displayed on a consumer’s screen as part of call labeling. It seeks prohibitions on any effort to categorize calls by type or category, reasoning that categorization involves subjective value judgments and arbitrary, discriminatory decisions. And it asks the FCC to prohibit providers from contracting, coordinating, or cooperating with any entity that engages in such practices or passes telephone traffic including such labels. ACA International asks the Commission to

²⁰ INCOMPAS Comments at 6.

²¹ NCTA Comments at 2-3.

²² Comments of Sirius XM Radio, Inc., CG Docket No. 17-59 at 5-6 (filed Jan. 23, 2018).

consider future mechanisms to mitigate potentially inaccurate call labeling,²³ while PACE wants the FCC to investigate third party labeling practices.²⁴

These proposals extend beyond the scope of the proposed rulemaking and would affirmatively undermine consumer choice.²⁵ The Commission explicitly stated that this proceeding is limited to the call blocking authorized by the Report and Order and does not reach third-party call-blocking services.²⁶ Call-labeling services do not implicate the Commission's rules because calls are not blocked by carriers; calls are completed or refused by the end user.

Worse, regulating call-labeling services would be inconsistent with the Commission's desire to empower consumers. After all, these are consumer opt-in services and it is consumers who choose whether they want to answer the calls. The FCC previously ruled that a consumer's use of call-labeling services is part of their right to block calls.²⁷ Any attempt to regulate these services will only burden that right and hinder efforts to abate robocalls. As Verizon notes, "call-labeling services have an important place in the overall robocall mitigation toolkit."²⁸ Thus, allowing these services to continue to grow, innovate, and develop in the current environment free from regulation is important to protecting and empowering consumers.

Finally, industry continues to refine the SHAKEN/STIR framework, which may include the ability to communicate call-verification statuses to end users. This could enhance the

²³ Comments of ACA International, CG Docket No. 17-59 at 5-6 (filed Jan. 23, 2018).

²⁴ PACE Comments at 3 n.7.

²⁵ First Orion Comments at 5.

²⁶ *Report and Order*, ¶ 9 n. 26.

²⁷ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Declaratory Ruling and Order, 30 FCC Rcd. 7961 ¶ 158 (2015).

²⁸ Verizon Comments at 3.

effectiveness of call labeling. But developing this framework will take time. Setting arbitrary deadlines, as Consumers Union requests, will inadvertently impede this effort by discouraging voluntary participation and stifling innovation in the methods and best practices for call labeling and scoring.²⁹

V. CONCLUSION

The record in this proceeding supports efforts by the Commission and industry to mitigate illegal robocalls. The record also opposes new regulatory mandates to adopt challenge mechanisms for potential false positives or reporting obligations. Nor does the record support some commenters' requests for regulation of third-party call-labeling activity. Industry is working to prevent potential false positives and ensure effective number blocking, which it has every incentive to do. The Commission should not interfere by pursuing unjustified mandates. To effectively fight robocalls, the ecosystem requires a flexibility, supported by regulatory clarity. CTIA looks forward to continuing to support industry leadership in this effort and its work with the Commission.

²⁹ Comments of Consumers Union et al, CG Docket No. 17-59 at 2 (filed Jan. 23, 2018).

Respectfully submitted,

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