

**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
THE USTELECOM ASSOCIATION**

The USTelecom Association (USTelecom)¹ submits these comments in response to the Notice of Proposed Rulemaking and Notice of Inquiry (Notice) released by the Federal Communications Commission (Commission) in the above-referenced proceedings.² Through its Notice, the Commission seeks comment on proposed rules that would allow facilities-based voice providers to – on their customers’ behalf – block illegal robocalls based on four categories of calls: 1) blocking at the request of the subscriber to the originating number; 2) calls originating from invalid numbers; 3) calls originating from numbers not allocated to any provider; and 4) calls originating from numbers that are allocated to a provider, but not assigned to a subscriber.

I. Introduction

As the Commission correctly observed in its Notice, “[f]ew other communications issues have unified disparate interests the way illegal robocalls have,” bringing together industry,

¹ USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data and video over wireline and wireless networks.

² Notice of Proposed Rulemaking and Notice of Inquiry, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, 32 FCC Rcd. 2306, FCC 17-24 (released March 23, 2017) (*Notice*).

government, and consumer stakeholders for the common goal of “stopping illegal robocalls and the problems they cause.”³ The record in this proceeding reflects a clear reflection of that unified voice, with industry, consumer groups, and state and federal agencies all supporting the voluntary blocking of illegal robocalls by voice service providers.⁴ Multiple commenters from a broad range of industries and a diversity of interests, expressed strong support for permitting such blocking of the four categories of calls identified by the Commission in its Notice.

Very few commenters express outright opposition to the Commission’s proposal, although some note that adoption of the Commission’s proposal would not capture large volumes of calls.⁵ Even if this is indeed the case, USTelecom maintains that multifaceted holistic approaches are necessary – and indeed, beneficial – in order to mitigate harms resulting from such illegal calls. The Commission should not let the perfect be the enemy of the good; especially since targeted blocking of illegal robocalls within the network, combined with opt-in tools with consumer devices, will create an active layered defense that can help to further mitigate the flood of illegal robocalls.

³ *Id.*, ¶ 3.

⁴ See e.g., Comments of the Federal Trade Commission, CG Docket No. 17-59 (filed July 3, 2017) (available at: https://www.ftc.gov/system/files/documents/advocacy_documents/ftc-staff-comment-federal-communications-commission-supporting-fccs-proposed-expansion-provider/ftc_comment_to_fcc_re_nprm_noi_call_blocking_07032017.pdf) (visited July 31, 2017) (*FTC Comments*); Comment of 30 State Attorneys General, CG Docket No. 17-59, (filed June 30, 2017) (*State AG Comments*).

⁵ See e.g., Comments of Transaction Network Services, Inc., CG Docket No. 17-59, pp. 6 – 7 (filed July 3, 2017) (*TNS Comments*) (noting that while the blocking of invalid, unallocated, or unassigned numbers “makes good sense,” such numbers “represent a small subset of the spoofing calls TNS sees across its network.”); Comments of ZipDX., CG Docket No. 17-59, p. 7, Appendix A (filed June 27, 2017) (*ZipDX Comments*) (noting that “examination of current robocalling patterns reveals that the number of robocalls falling into at least the first three categories is imperceptible on the scale of the current problem.”).

Of course, while adoption of the proposals in the Notice raise varying degrees of risk that legitimate calls could be blocked, the Commission should not be dissuaded from pursuing this course of action for a variety of reasons. As reflected in the record, a broad range of interests are cognizant of these risks, and stand prepared to minimize them to the greatest degree possible. Moreover, the record clearly demonstrates that while the potential for false positives may exist, there is an overwhelming desire from all stakeholders that affirmative action be taken by the Commission and industry stakeholders to address the illegal robocall plague.

II. The Record Demonstrates Strong Support for Voluntary Industry Blocking of Illegal Robocalls.

The record in this proceeding reflects broad and nearly universal support for the Commission to adopt the call blocking proposals contained in the Notice. Numerous parties from a diverse range of interests supported the Commission’s proposal to allow voice service providers to voluntarily block calls within the four categories identified in the Notice. From industry stakeholders, there is strong consensus for the Commission to adopt its proposal. In addition, several consumer groups also support the adoption of the Commission’s blocking proposals.⁶ As succinctly stated by AARP, “for robocalls to be stopped, numbers must be blocked.”⁷

Multiple industry stakeholders acknowledge the pragmatic value of adopting the Commission’s proposal to permit voluntary blocking of robocalls by voice service providers. One commenter, for example, describes the Commission’s four categories for blocking as a “well-defined class of illegal robocalls,” noting that each category of calls identified by the

⁶ Comments of Consumers Union, et. al., CG Docket No. 17-59 (filed June 30, 2017) (*Consumers Union Comments*).

⁷ Comments of AARP, CG Docket No. 17-59, p. 1 (filed July 3, 2017) (*AARP Comments*).

Commission could “potentially be the basis for a successful blocking regime.”⁸ One voice service provider commented that by permitting it to engage in such blocking, the carrier would “preemptively reject many fraudulent calls, and will free its customers of the requirement to proactively request blocking of those calls.”⁹

Various industry stakeholders also emphasize the undeniable competitive realities of permitting voice service providers to voluntarily block the categories of calls identified by the Commission. One industry association noted with respect to illegal robocalls, “call blocking may become a competitive necessity.”¹⁰ Another industry group observed that “competitive voice service providers have found success by concentrating on meeting the needs of their customers,” and as “unwanted and often illegal robocalls have become pervasive, and potentially criminal, customers are looking to their providers to find permanent solutions that will restore their faith in the nation’s communications networks.”¹¹

Federal and state government stakeholders also support the Commission’s proposals to permit the voluntary blocking of certain categories of calls by voice service providers. For example, several state attorneys general describe the Commission’s proposal as a “sensible plan,” that would stop “certain types of calls that seem to be such clear violations of the [federal] statute that they could be blocked.” The attorneys general also state that there is “little risk in allowing providers to block calls” from the four categories identified by the Commission, since “legitimate businesses do not need to use any of these methods to contact consumers,” and

⁸ Comments of CTIA, CG Docket No. 17-59, p. 7 (filed June 30, 2017) (*CTIA Comments*).

⁹ Comments of T-Mobile USA, Inc., CG Docket No. 17-59, p. 3 (filed July 3, 2017).

¹⁰ Comments of ITTA, CG Docket No. 17-59, pp. 1 – 2 (filed July 3, 2017) (*ITTA Comments*).

¹¹ Comments of INCOMPAS, CG Docket No. 17-59, p. 1 (filed June 30, 2017).

“as such, allowing providers to block these calls would stymie scammers without burdening businesses.”¹²

The Federal Trade Commission (FTC) identifies an equally compelling reason for the Commission to permit voice service providers to voluntarily block illegal calls in the network, noting that “stopping illegal calls *before* they reach a consumer is the most efficient way to protect a consumer’s privacy and to prevent telemarketing fraud.”¹³ The FTC further notes that, “provider-based blocking has the potential to stop illegal calls from reaching all end-users, regardless of whether they have a mobile device, Voice over Internet Protocol (VoIP) service, or a traditional landline telephone.”¹⁴

The Commission should also reject arguments from various commenters that seek to either limit the scope of the Commission’s proposals, or reject them altogether. For example, a coalition of several consumer groups assert that while the blocking proposals contained in the Notice should be adopted, they should be subject to an opt-in framework for consumers.¹⁵ The Commission should reject such proposals, since they inappropriately conflate industry-led blocking efforts, with more narrowly targeted consumer tools. The Commission’s Notice appropriately focuses on ‘across the board’ blocking by service providers of all illegal robocalls traversing their networks, rather than more flexible blocking of unwanted robocalls that consumer may choose to use on an opt-in basis. Imposition of unnecessary opt-in requirements for blocking of the four categories of calls may have the perverse effect of dissuading voice service providers from implementing such blocking. Thus, although that may reduce some risk

¹² See, *State AG Comments*, pp. 2 - 3.

¹³ See, *FTC Comments*, p. 2 (emphasis in original).

¹⁴ *Id.*, p. 2.

¹⁵ *Consumers Union Comments*, pp. 5 – 6.

of blocking legitimate calls, the Commission must recognize that some carriers may instead forego blocking altogether. As a result, consumers would be left only with self-managed service or device specific mitigation tools that would require consumer technological sophistication that would otherwise be unnecessary if managed across the network by the service provider. It only makes sense that the more flexibility consumers and service providers have to mitigate illegal robocall, the more effective the mitigation will be.

The Commission should similarly reject suggestions from a small minority of commenters that oppose adoption of the Commission's blocking proposal altogether. For example, one commenter generally asserts that each of the Commission's four proposals should be rejected since they are of limited value, and have the potential to disrupt certain consumers' legitimate phone calls due to false positives. Other industry stakeholders assert that some of the Commission's proposals require further input from industry experts,¹⁶ or only after additional review of the proposals.¹⁷

While the Commission should indeed fully review and account for various aspects of its proposals,¹⁸ the record clearly demonstrates that an overly limited approach creates the additional risk of being ineffective in mitigating illegal robocalls, despite widespread consumer desire for end user and service provider mitigation tools. In this docket alone, various commenters correctly identify the robocall issue as the source of the largest number of complaints to the federal government,¹⁹ while also describing the robocall problem as a

¹⁶ Comments of NCTA, CG Docket No. 17-59, p. 5 (filed June 30, 2017) (*NCTA Comments*).

¹⁷ Comments of NTCA, CG Docket No. 17-59, pp. 2 – 5 (filed July 3, 2017) (*NTCA Comments*).

¹⁸ For example, the Commission can encourage industry to move forward with its call blocking proposal by implementing a safe harbor for industry stakeholders deploying such services.

¹⁹ See e.g., *State AG Comments*, pp. 1 – 2; *Consumers Union Comments*, pp. 3 – 4; *NCTA Comments*, p. 1; *FTC Comments*, pp. 2 – 3.

“plague.”²⁰ Given the heightened importance of this issue, the Commission should provide greater flexibility to voice service providers by enabling them to voluntarily block the four categories of calls.

While any such blocking framework adopted by the Commission would be voluntary, voice service providers uncomfortable with such a blocking framework can decline to implement such measures. The Commission should also disregard those commenters who assert that the blocking proposals under consideration are of limited to no value.²¹ While various stakeholders report that the four categories of calls proposed for blocking do not appear to constitute a large percentage of illegal robocalls, that should not foreclose Commission action. Voluntary implementation of such blocking may not be a panacea for the entire robocall problem, but USTelecom has long maintained that only by developing multiple and varied approaches to the robocall problem can the Commission effectively mitigate such calls.

III. Given the Legitimate Concerns Regarding the Potential for Inadvertent Blocking of Numbers, the Commission Should Implement its Proposed Safe Harbor.

Several commenters in this proceeding shared USTelecom’s observation that while each of the Commission’s four proposals for robocall blocking differ in approach, there are varying degrees of complexity and potential consumer harms resident in each.²² While USTelecom

²⁰ See e.g., Comments of Neustar, Inc., CG Docket No. 17-59, n. 5 (July 3, 2017) (quoting Robocall Strike Force report which stated that what was “once a nuisance has become a plague to U.S consumers receiving an estimated 2.4 billion robocalls per month in 2016.”); see also, *NTCA Comments*, p. 1 (stating that “the customers of NTCA members are plagued by robocalls.”); see also, Comments of the Electronic Privacy Information Center, CG Docket No. 17-59, p. 3 (June 30, 2017) (stating that “consumers continue to be plagued by unwanted robocalls and text messages.”).

²¹ See e.g., *ZipDX Comments*, p. 3 (stating that the Commission’s proposed blocking solutions “will have no sustainable measurable effect on the robocall problem.”).

²² See e.g., *AARP Comments*, pp. 2 – 3 (stating that “the potential for blocking of innocent consumer numbers cannot be ruled out.”); *ZipDX Comments*, p. 7 (observing that the reliance of current solutions on caller ID information could result in false positives, and the blocking of

supports the adoption of the proposals to permit voluntary blocking by voice providers, the Commission should also acknowledge that such a framework is not without risk. Given the risk and potential for such inadvertent blocking, the Commission should adopt its proposal for a safe harbor.²³

USTelecom’s member companies are deeply committed to ensuring the protection of legitimate callers in any blocking environment established by the Commission. However, due to the varying degrees of risk and the nature of blocking in the network, deployment of such services will be dependent upon objective standards developed by voice service providers to implement their respective blocking frameworks. As demonstrated in the record, even in a tightly controlled environment, the potential exists for legitimate calls to be blocked. The Commission should therefore afford voice service providers with sufficient flexibility to establish objective standards for implementing illegal robocall blocking. The development of a variety of such standards are beneficial to broader mitigation efforts against robocalls, since a diversity of approaches would create a more challenging operating environment for illegal robocallers.

However, even with the implementation of objective standards and carefully tailored blocking protocols, it is likely that in some instances, legitimate calls will be blocked. The record in this proceeding demonstrates strong support for the Commission’s proposal to adopt a safe harbor for voice service providers that engage in such blocking. As noted by CTIA, the Commission’s longstanding policies supporting call completion, voice service providers engaging in

“legitimate calls.”); *CTIA Comments*, pp. 12 – 13 (noting that the prevalence of caller ID spoofing “could generate false positives.”); *ITTA Comments*, pp. 2 – 3; *NCTA Comments*, p. 5 (noting that the blocking of unallocated and unassigned calls “could unintentionally result in harm to consumers.”).

²³ See, *Notice*, ¶¶ 34 – 36.

call blocking “incur risk, even if blocking is encouraged by the Commission.”²⁴ USTelecom agrees with CTIA that the Commission should therefore “recognize this change from its historic policy and provide liability protection.”²⁵

USTelecom also agrees with comments in the record addressing the strong commitment by voice service providers of ensuring that legitimate calls are completed. As noted by TNS, “providers will not wish to block false positives, and are motivated to provide the best customer experience. Providers acting in good faith to deploy solutions to their end users should receive safe harbor protections.”²⁶ Moreover, USTelecom agrees with various commenters who point out that the adoption of a safe harbor will incentive voice service providers to deploy call blocking solutions. Absent safe harbor protections against potential liability for erroneous call blocking, voice service providers will likely refrain from deploying such solutions due to the potential for civil liability.

IV. Commenters Support Commission Clarification Regarding the Sharing of CPNI Information by Carriers to Combat Robocalls.

Finally, there is strong support in the record for the Commission to issue a clarification that the sharing of customer proprietary network information (CPNI) amongst carriers is permitted. As noted by USTelecom in its original comments, Congress’ passage earlier this year of a Congressional Review Act that was signed into law by the President, removed rules adopted by the Commission in its 2016 Privacy Order that expressly permitted such sharing.²⁷ Given the importance of such sharing to robocall mediation and ongoing traceback efforts, the Commission should expeditiously issue such clarification.

²⁴ *CTIA Comments*, p. 13.

²⁵ *Id.*

²⁶ *TNS Comments*, p. 17.

²⁷ Comments of the USTelecom Association, CG Docket No. 17-59, pp. 20 – 21 (July 3, 2017).

Multiple commenters in this proceeding acknowledged the importance of such rules. For example, one commenter referred to the sharing of such information as “critically important for traceback efforts.”²⁸ The same commenter correctly observed that some voice providers “often cite fear of CPNI regulations for restricting,” the information that they share, despite the fact that the statute contains “a specific exemption permitting information sharing for the protection of the network and its customers.”²⁹ Comments from CTIA made a similar observation, while also noting that due to the absence of clarification by the Commission, “carriers may hesitate to share information, hindering robocall abatement efforts.”³⁰ The Commission therefore “should make clear to providers that sharing information amongst their peers, or with third parties specifically engaged in efforts to stop abusive calling is permitted and encouraged.”³¹

V. Conclusion.

The record in this proceeding demonstrates strong support for the Commission’s proposals that would provide carriers with greater flexibility to address the robocall problem. USTelecom encourages the Commission to continue to work in a collaborative manner with all stakeholders engaged on this issue, and to adopt its proposed rules consistent with the issues and concerns discussed above.

²⁸ *ZipDX Comments*, p. 22.

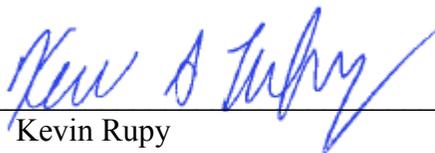
²⁹ *Id.*

³⁰ *CTIA Comments*, p. 15.

³¹ *ZipDX Comments*, p. 22.

Respectfully submitted,

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