

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

**Advanced Methods to Target and
Eliminate Unlawful Robocalls**

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CG Docket No. 17-59

**COMMENTS OF
ITTA – THE VOICE OF AMERICA’S BROADBAND PROVIDERS**

ITTA – The Voice of America’s Broadband Providers (ITTA) hereby submits these brief comments in response to the Commission’s Further Notice of Proposed Rulemaking in its robocalls docket.¹ The *FNPRM* seeks comment on ways the Commission can measure the effectiveness of its efforts, as well as those of industry, to combat unlawful robocalls.² ITTA urges the Commission to refrain from adopting a reporting obligation for voice service providers.

As it did in its comments on the *Advanced Methods NPRM and NOI*,³ ITTA applauds the Commission’s efforts in this proceeding to target and combat unlawful robocalls. However, the record reflects the Commission’s awareness that the measures adopted in the *Order* are only part of a comprehensive set of mechanisms needed to even approach eliminating the problem. For instance, the *Order* cites the conclusion of the industry-established Robocall Strike Force that “robocalls are best addressed in a holistic manner through deployment of a wide variety of tools

¹*Advanced Methods to Target and Eliminate Unlawful Robocalls*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9706 (2017) (*Order and/or FNPRM*).

² *See id.* at 9726, para. 59.

³ *See* ITTA Comments, CG Docket No. 17-59, at 1 (July 3, 2017); *see also Advanced Methods to Target and Eliminate Unlawful Robocalls*, Notice of Proposed Rulemaking and Notice of Inquiry, 32 FCC Rcd 2306 (2017) (*Advanced Methods NPRM and NOI*).

by a broad range of stakeholders,” including industry blocking of calls.⁴ In addition, in separate statements appended to the *Order and FNPRM*, four of the five Commissioners specifically acknowledged that more needs to be done. For example, Commissioner Rosenworcel declared that “the FCC needs to do more—a lot more—than the small-bore stuff we do today.”⁵ In fact, Commissioner Clyburn, who pushed for questions in the *FNPRM* on how to measure the effectiveness of the Commission’s and industry’s efforts to combat unlawful robocalls,⁶ characterized the *Order* as a “dent” that is “a small one at first,” and lamented that adoption of the *Order* will not put an end to unlawful robocalls.⁷ Because the recognized reality is that substantially more needs to be done in order to make significant inroads towards eliminating unlawful robocalls, the burdens of saddling voice service providers with an onerous reporting obligation outweigh any potential benefits at this juncture.

The idea also suffers from several other infirmities. Whereas the *FNPRM* seeks comment on whether to adopt a reporting obligation “on all voice service providers,”⁸ the measures approved in the *Order* are voluntary, giving voice service providers the *option* of blocking illegal calls in certain circumstances,⁹ so any contemplated reporting obligation is overbroad. In

⁴ See *Order and FNPRM*, 32 FCC Rcd at 9708, para. 5 (quoting Robocall Strike Force, Robocall Strike Force Report at 25 (2016)).

⁵ *Id.* at 9759, Statement of Commissioner Jessica Rosenworcel Approving in Part, Dissenting in Part. See also *id.* at 9755, Statement of Chairman Ajit Pai (Chairman Pai Statement) (“Make no mistake—this isn’t the end of our efforts.”); 9758, Statement of Commissioner Brendan Carr (“Today’s action is not a silver bullet. . . . Combatting [unlawful robocalls] will require action on many fronts, from rulemakings, to enforcement actions, to industry and stakeholder engagement.”).

⁶ See *id.* at 9756, Statement of Commissioner Mignon L. Clyburn (Commissioner Clyburn Statement) (“I asked my colleagues to include a series of questions as part of a Further Notice, that could enable this agency and consumers to better assess the effectiveness of our robocalling efforts.”).

⁷ *Id.*

⁸ *Id.* at 9726, para. 59.

⁹ See, e.g., *id.* at 9709, para. 9.

addition, the *FNPRM* seeks comment on how the information collected could help the Commission evaluate the effectiveness of its efforts as well as those of “industry,”¹⁰ but it is not apparent how an information collection merely imposed on voice service providers could capture the results of third-party industry-based solutions such as Nomorobo and YouMail.

Furthermore, the *FNPRM* seeks comment on what consumer benefits would come from requiring all voice service providers to publicly report the number of illegal robocalls blocked over certain time intervals.¹¹ The answer is few to none; either consumers will remain addled by robocalls or be relieved to largely not receive them anymore. The average consumer likely will not care how many calls a voice service provider blocked in the aggregate since there is no discernible correlation between that statistic and his particular experience. In fact, if anything, such statistics might only serve to embolden illegal robocallers if they perceive the number of aggregate or provider-specific blocked calls to be low. Further, such a requirement could only attempt to capture a portion of the effort that is being made to mitigate illegal robocalls as unregulated third parties or application providers also make up the significant effort that is made to mitigate unwanted and illegal robocalls. Thus, there would be no valid correlation between the service provider’s data and the Commission’s Consumer Complaint data.

The *FNPRM* also seeks comment on whether, alternatively, the Commission should use data from the Commission’s Consumer Complaint Data Center as a benchmark for assessing the effectiveness of Commission and industry efforts to combat unlawful robocalls.¹² ITTA believes it should. As Commissioner Clyburn stated, the Commission “already ha[s] valuable data at [its] disposal through the FCC’s Consumer Complaint Data Center.”¹³ Indeed, robocalls are the

¹⁰ *Id.* at 9726, para. 59.

¹¹ *See id.*

¹² *See id.*

¹³ *Id.* at 9756, Commissioner Clyburn Statement.

number one consumer complaint to the FCC from the public.¹⁴ Clearly, consumers know to file complaints with the Commission about unwarranted robocalls, and the Commission appropriately has responded through rulemaking and enforcement actions. At least at this juncture, no additional reporting requirements are necessary to evaluate efforts to combat robocalls.¹⁵ Trends in consumer complaints to the FCC will continue to function as a useful and sufficient barometer of the effectiveness of efforts in this regard.

In sum, a reporting requirement is not necessary to inform the Commission of what it is already well aware, that additional substantive measures are necessary to address this problem. Thus, it would burden voice service providers with no corresponding benefit, as well as contravene the deregulatory nature of the Commission's actions heretofore in this proceeding.¹⁶

¹⁴ See, e.g., *Advanced Methods NPRM and NOI*, 32 FCC Rcd at 2331, Statement of Chairman Ajit Pai.

¹⁵ *Contra Order and FNPRM* at 9756, Commissioner Clyburn Statement (suggesting that coupling Commission consumer complaint data with a reporting obligation on providers will better position the Commission to evaluate its efforts to combat robocalls and whether additional action is required). Already-existing third-party resources also can provide valuable data to assist in the Commission's analysis of the success of efforts to combat unlawful robocalls. For example, Commissioner Clyburn cites the YouMail Robocall Index for a monthly figure of nationwide robocalls and an assessment of to what degree they are unlawful. See *id.* See also YouMail Robocall Index, <http://robocallindex.com>; *Order and FNPRM*, 32 FCC Rcd at 9726, para. 59 (seeking comment on whether there are third-party data sources the Commission could use to assess effectiveness of its and industry's efforts at targeting illegal robocalls).

¹⁶ See *id.* at 9755, Chairman Pai Statement ("It is important to note that today's action is deregulatory in nature. We aren't piling more rules upon industry.").

For the foregoing reasons, ITTA urges the Commission to refrain from applying a reporting requirement to voice service providers.

Respectfully submitted,

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