



April 5, 2018

The Honorable Grace Meng
The Honorable Joe Barton
The Honorable Leonard Lance
The Honorable Derek Kilmer
The Honorable Kyrsten Sinema
U.S. House of Representatives
Washington, D.C. 20515

Dear Representatives:

We are writing to thank you for your leadership in sponsoring H.R. 423, The Anti-Spoofing Act of 2017, a version of which was signed into law recently as part of the Consolidated Appropriations Act of 2018. This law extends the Truth in Caller ID Act's existing prohibition against fraudulently spoofed calls—in which the caller ID information has been falsified in order to commit fraud—to calls originating from overseas and to text messages. It also expands consumer education efforts, and directs the GAO to issue a report to analyze the robocall problem. These are helpful and constructive steps in the larger effort to stem abusive and unwanted robocalling and texting, which has expanded dramatically over the last decade. There is much more to be done, however, and we hope that you will continue working to address the remaining problems.

As you know, consumers are being besieged with unwanted calls and texts. The number of consumer complaints about these calls has exploded in the last decade. The Federal Trade Commission received over 7 million complaints about violations of the Do Not Call list in fiscal year 2017, about twice as many as in fiscal year 2015.¹ Robocalls are invading consumers' privacy, and interfering with customers' phone service, interrupting important incoming and outbound calls. And, they can be costly. According to the most recent government data, consumers lost an estimated \$350 million to telemarketing scams in 2011.² Moreover, these unwanted calls are coming not only from scammers, but from so-called legitimate actors as well. According to the YouMail Robocall index, 16 of the top 20 robocallers in February 2018 were debt collectors.³

¹*Do Not Call Registry Data Book FY 2017*, FED. TRADE COMM'N AT 6 (Dec. 2017), available at https://www.ftc.gov/sites/default/files/filefield_paths/dnc_data_book_fy2017.pdf.

² *Staff Report of the Bureau of Economics, Consumer Fraud in the United States, 2011: The Third FTC Survey*, FED. TRADE COMM'N (April 2013), available at https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-2011-third-ftcsurvey/130419fraudsurvey_0.pdf. There were an estimated 3.5 million telemarketing fraud cases in 2011 (p. 38). The median loss per case was \$100 (p. 39). Therefore, an estimated \$350 million was lost to telemarketing fraud in 2011.

³ YouMail, Robocall Index (last updated March 1, 2018), <https://robocallindex.com/>.

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Call spoofing poses additional challenges to robocall mitigation efforts. According to the call-blocking service Nomorobo, “neighbor” spoofed calls—calls in which the caller ID is spoofed with a number from the consumer’s own area code—have shot up from 4 percent of robocalls in 2016 to 18 percent in July 2017.⁴ Not only can spoofed calls trick consumers into picking up the phone, they also help spoofers evade detection and law enforcement efforts. Spoofed calls also compromise blacklist-based call-blocking methods, which are often consumers’ last line of defense against unwanted calls.

We are working to ensure that phone companies offer to consumers comprehensive tools to block spoofed and unwanted calls. Many bad actors continue to call and text consumers in violation of the law, and enforcement efforts can be challenging. Caller ID verification technology under the SHAKEN and STIR protocols is currently in development by the phone companies, and advanced call-blocking tools have been available in North America to traditional landline, VoIP, and cell phone users for years.⁵ We believe all consumers deserve access to these tools, at no charge, without delay. And any unblocking of legitimate calls should be governed by a sensible set of consumer-friendly criteria, so that telemarketers and other unscrupulous callers cannot circumvent blocks against the consumer’s wishes. It appears that a mandate will likely be needed to ensure that phone companies implement this technology. While we are hopeful that the Federal Communications Commission (FCC) will take the lead, it may ultimately fall to Congress, and in either case, your assistance would be very helpful and appreciated.

Second, in the wake of the recent D.C. Circuit decision, which vacated an important definition of autodialers issued by the FCC in 2015,⁶ we will be urging the FCC to issue new rules to ensure that the Telephone Consumer Protection Act (TCPA) continues to provide strong and meaningful protection against the robocalls plaguing American consumers.

Additionally, we support the HANGUP Act (S. 564), that would fix two loopholes that have opened the door to potentially millions more unwanted robocalls to consumers and their family members, friends, and employers. The first is a TCPA exemption, slipped into the 2015 budget bill, for private contractors trying to collect federal debts.⁷ The second is the FCC’s 2016 Broadnet decision,⁸ which said that private contractors are exempt from the TCPA entirely. We hope you can support this effort as well. Thank you again for your continued leadership in the efforts to protect consumers against abusive and deceptive calling and texting. We welcome the opportunity to discuss these related issues further at your convenience. Please contact Maureen Mahoney at mmahoney@consumer.org, George Slover at gslover@consumer.org, or Susan Grant at sgrant@consumerfed.org.

Sincerely,

Maureen Mahoney, Policy Analyst, Consumers Union
George Slover, Senior Policy Counsel, Consumers Union
Susan Grant, Director of Consumer Protection and Privacy, Consumer Federation of America

cc: Members, House Energy and Commerce Committee

⁴ Anthony Giorgianni, *The Newest Ways to Deal with Robocalls*, CONSUMER REPORTS (Nov. 13, 2017), <https://www.consumerreports.org/robocalls/how-to-deal-with-robocalls/>.

⁵ *Rage Against Robocalls*, CONSUMER REPORTS (Jul. 28, 2015), <https://www.consumerreports.org/cro/magazine/2015/07/rage-against-robocalls/index.htm>; see also *Robocalls: All the Rage, An FTC Summit*, FED. TRADE COMM’N, at 219 (Oct. 18, 2012), https://www.ftc.gov/sites/default/files/documents/public_events/robocalls-all-rage-ftcsummit/robocallsummittranscript.pdf.

⁶ *ACA Int’l v. FCC*, No. 15-1211 *et al.*, 2018 WL 1352922 (D.C. Cir. Mar. 16, 2018).

⁷ Bipartisan Budget Act of 2015, Pub. L. No. 114-74, 129 Stat. 588.

⁸ In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Petitions for Declaratory Ruling by Broadnet Teleservices LLC, National Employment Network Association, RTI International, Declaratory Ruling, FCC 16-72, CG Docket No. 02-278 (Jul. 5, 2016), *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0706/FCC-16-72A1.pdf.