

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

**Comments
of**

Consumers Union

National Consumer Law Center, on behalf of its low-income clients

Consumer Federation of America

July 20, 2018

Consumers Union, the National Consumer Law Center on behalf of its low-income clients, and the Consumer Federation of America thank you for soliciting input to the report on robocalls that the Federal Communications Commission (“FCC” or “Commission”) is organizing in consultation with the Federal Trade Commission (“FTC”). The FCC seeks to obtain “insight into the current state of the robocalling problem and how to target additional measures to help consumers avoid the fraud and annoyance that they experience.”¹ We appreciate that the two agencies are working to evaluate the scope of the robocall problem in order to better determine how to adequately address it, as stemming unwanted robocalls is a top priority for our organizations. To do so effectively, we urge against narrowly focusing on scam robocalls exclusively. A comprehensive report should focus more broadly, soliciting information including, but not limited to, the following:

- Data that assesses the scope of the entire robocall problem, from three main sources: phone companies, callers, and call-mitigation services; and
- Data that assesses implementation and efficacy of call-mitigation efforts as well as anti-spoofing efforts.

As existing sources of data indicate that the robocall problem continues to worsen,² it’s of the utmost importance to obtain a full understanding of the issue.

The FCC and FTC should solicit data to assess the scope of the entire robocall problem, from phone companies, callers, and call-mitigation services.

First, to effectively assess the robocall problem, we urge the FCC to solicit data from three sources: phone companies, callers, and call-blocking companies. The data should be comparative over a period of time—for instance, in 2015, in 2016, in 2017, and through June of 2018—to provide a basis for identifying trends. The FCC should collect the following information from the phone companies: the overall volume of robocalls; the volume of robocalls broken out by individual companies making the calls, if it has the technical capability to do so; and the geographical origin of the robocalls. This will provide one uniform metric for assessing the overall volume, origins, and categories of calls.

Callers, some of whom have previously filed comments seeking to narrow or weaken the robocalls laws, also should be asked to provide useful information. From callers themselves, the agencies should ask: the number of robocalls made per day; the equipment used; the numbers of prerecorded and artificial voice calls, and the numbers of calls made with human agents using any type of automated equipment; the

¹ Fed. Comm’n’s Comm’n, Public Notice, Consumer and Governmental Affairs Bureau Seeks Input for Report on Robocalling, CG Docket No. 17-59 at 1 (Jun. 20, 2018), <https://docs.fcc.gov/public/attachments/DA-18-638A1.pdf>, quoting *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9706, 9727 (2018).

² See, for example, YouMail, June 2018 Nationwide Robocall Data, <https://robocallindex.com/> (indicating 4.1 billion robocalls in June 2018; and YouMail, June 2017 Nationwide Robocall Data, <https://robocallindex.com/2017/june> (indicating 2.5 billion robocalls in June 2017); *National Do Not Call Registry Data Book FY 2017*, FED. TRADE COMM’N at 6 (Dec. 2017), https://www.ftc.gov/sites/default/files/filefield_paths/dnc_data_book_fy2017.pdf (showing an increase in complaints about unwanted robocalls, from about 3.4 million in FY 2016 to approximately 4.5 million in FY 2017).

numbers of robocalls directed to home phones, and the numbers directed to cell phones; and the type of robocall (telemarketing, debt collection, etc.).

Call-blocking and call-mitigation companies also have access to a great deal of useful information. They should provide their best estimate of the volume of robocalls to consumers in the United States per month, broken down by types of call (telemarketing, debt collection, scams, etc.), their geographical origin, and the percentage of calls blocked as related to total volume of calls attempted.

Soliciting information from each of these sources is important because there is a serious deficit of information about the robocall problem. We rely primarily on information provided by the FTC; data from the call-blocking companies, such as YouMail and Nomorobo; consumer stories; and complaint data in order to understand the outlines of the robocall problem. These sources have been helpful, but gaps remain.

Having comprehensive, reliable data is also necessary because some callers are seeking to weaken the crucial legal protections against unwanted robocalls, on the grounds that the robocall problem is primarily about scam calls. While several commenters seeking a diminished Telephone Consumer Protection Act (TCPA) have incorrectly characterized the robocall problem as due to automated calls from fraudsters,³ consumers have consistently made it clear that they are concerned with *any* unwanted, non-emergency robocalls, as demonstrated by the more than 30,000 consumers who recently sent comments to the FCC urging the strongest possible protections against unwanted robocalls more broadly.⁴ Weakening legal protections against unwanted robocalls would not only lead to millions more robocalls from so-called legitimate companies, who in many cases would no longer be required to obtain consent or honor opt-out requests from consumers, but would also likely lead to more scam robocalls as well.

Soliciting data about robocalls from so-called legitimate companies would also clearly fit within the scope of the project as outlined by the Public Notice. The Notice explains that the FCC and FTC are seeking information about “notable trends in illegal robocalling.”⁵ Many of the robocalls from these companies may well be illegal, as a call is illegal if it violates the consent requirements of the Telephone Consumer Protection Act or the Do Not Call registry, regardless of whether it is also sent with the intent to deceive or defraud the consumer.

³ See, e.g. Comments of Professional Council for Consumer Engagement, CG Docket No. 02-278 and 18-152 at 2-3 (Jun. 13, 2018),

[https://ecfsapi.fcc.gov/file/106130429322839/PACE%20TCPA%20Comment%20to%20FCC%20\(6-13-18\).pdf](https://ecfsapi.fcc.gov/file/106130429322839/PACE%20TCPA%20Comment%20to%20FCC%20(6-13-18).pdf);

Comments of Noble Systems, CG Docket No. 02-278 and 18-152 at 26-27 (Jun. 13, 2018),

https://ecfsapi.fcc.gov/file/1061323365377/Noble_System_Comments_FCC_DA18-493_FINAL.pdf.

⁴ See, Reply Comments of Consumers Union, CG Docket No. 02-278 and 18-152 (Jun. 28, 2018), *available at* <https://ecfsapi.fcc.gov/file/10629208708577/CU%20TCPA%20Reply%20Comments%206.28.18.pdf>.

⁵ Public Notice, *supra* note 1, at 2.

The FCC and FTC should collect data for assessing implementation and efficacy of call-mitigation and anti-spoofing efforts.

Data on calling trends is just part of the information that should be reported. We reiterate our previous comments on the subject,⁶ in which we called on the FCC to solicit information on robocall mitigation efforts, robocall-blocking services provided, progress toward implementing caller ID authentication, number of robocalls blocked, percentage blocked as a percentage of estimated volume of robocalls attempted, false positives, and strategies employed by robocallers to evade detection. We have previously called on phone companies to implement, and the FCC to require, optional call-blocking tools and comprehensive, consumer-friendly caller ID authentication technology, and this information will be essential in evaluating progress towards those goals and the efficacy of those efforts.⁷

Finally, we urge you to consider releasing additional reports in the future, so stakeholders can remain adequately informed about changing trends in illegal and unwanted robocalls, and policymakers can respond quickly to these changes.

Thank you again for your continuing efforts to assess and respond to the robocall problem. We are happy to provide any additional information that would be helpful to this work.

Respectfully submitted,

Maureen Mahoney
Policy Analyst
Consumers Union

George Slover
Senior Policy Counsel
Consumers Union

Margot Saunders
Senior Counsel
National Consumer Law Center

Susan Grant
Director of Consumer Protection and Privacy
Consumer Federation of America

⁶ E.g., Reply Comments of Consumers Union, National Consumer Law Center, et al., CG Docket No. 17-59 at 7-8 (Feb. 22, 2018), <https://ecfsapi.fcc.gov/file/102230569505816/Consumer%20group%20reply%20comments%20FNPRM%2002.22.18.pdf>

⁷ See, *Id.* at 1-3.

Descriptions of the Organizations Joining This Filing

Consumers Union is the advocacy division of Consumer Reports. Consumers Union works for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves, focusing on the areas of telecommunications, health care, food and product safety, energy, financial services, and competition policy, among others. Consumer Reports is the world's largest independent product-testing organization. Using its dozens of labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 7 million subscribers to its magazine, website, and other publications.

National Consumer Law Center (NCLC) is a non-profit corporation founded in 1969 to assist legal services, consumer law attorneys, consumer advocates and public policy makers in using the powerful and complex tools of consumer law for just and fair treatment for all in the economic marketplace. NCLC has expertise in protecting low-income customer access to telecommunications, energy and water services in proceedings at the FCC and state utility commissions and publishes Access to Utility Service (5th edition, 2011) as well as NCLC's Guide to the Rights of Utility Consumers and Guide to Surviving Debt.

The Consumer Federation of America is an association of more than 250 nonprofit consumer groups that was established in 1968 to advance the consumer interest through research, advocacy and education.