



## Comments of the Regulatory Action Center

Re: Advanced Methods To Target and Eliminate Unlawful Robocalls

Docket ID: CG Docket No. 17-59

September 29, 2020

The Regulatory Action Center at FreedomWorks Foundation is dedicated to educating Americans about the impact of government regulations on economic prosperity and individual liberty. FreedomWorks Foundation is committed to lowering the barrier between millions of FreedomWorks citizen activists and the rule-making process of government bureaus to which they are entitled to contribute.

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On behalf of over 5.7 million activists nationwide, FreedomWorks Foundation appreciates the opportunity to offer these comments regarding the notice and request for comments on Advanced Methods To Target and Eliminate Unlawful Robocalls (CG Docket No. 17-59). This notice seeks comment on the proposed revisions to the rules implementing the Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) in an effort to more effectively protect consumers from illegal and unwanted robocalls.

Despite numerous legislative and regulatory attempts to address this problem, consumers are still being inundated with robocalls. As in other areas of rapid technological innovation, combatting robocalls has been a cat and mouse game between regulators and malicious actors continually seeking new ways to exploit consumers. Last year, Americans received a record 58.5 billion robocalls, a 22 percent increase from 2018.<sup>1</sup> Since the implementation of the TRACED Act, the YouMail Robocall Index has shown marked declines, but recent gains demonstrate the importance of constant vigilance from the Federal Communications Commission (FCC).<sup>2</sup> It is positive to see that the Commission -- having long recognized that regulatory enforcement alone is insufficient -- is taking further steps to enable corporate partners to aid in the fight against malicious robocalls.

Since 2017, the Commission has allowed service providers to block some calls that are blatantly problematic like those originating from unallocated or otherwise invalid numbers. This public-private partnership has been an essential component of efforts to combat malicious robocalls. Towards this end, it remains crucial that the FCC enable the private sector with the

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<sup>1</sup> Figliola, Patricia. "Federal Communications Commission: Progress Protecting Consumers from Illegal Robocalls." *Congressional Research Service*. April 10, 2020.

<https://crsreports.congress.gov/product/pdf/R/R46311>

<sup>2</sup> YouMail Robocall Index. *August 2020 Nationwide Robocall Data*. <https://robocallindex.com/>



tools they need, as it did in the June 2019 Declaratory Ruling on blocking calls by default.<sup>3</sup> Extending the legal safe harbor to include network-based blocking will better enable providers to use advanced analytical tools to block illegal robocalls. As both offensive and defensive methods continue to develop rapidly, a robust safe harbor is necessary to protect service providers that are acting in good faith. As such, the Commission should continue to provide service providers with regulatory flexibility.

However, as the Commission recognizes, voice service providers do not - and should not - hold *carte blanche* over call blocking on their networks. The Commission's determination to extend the safe harbor to methods that lack a consumer opt out could present an issue for consumer transparency. For this reason, it is essential that the FCC include some affirmative requirements in its final decision to protect consumers. Primary among these is the requirement that voice service providers grant individual consumers access to a full accounting of calls to their number that were blocked. Such a list would be invaluable to consumers who wish to ensure that their legitimate calls are not being mistakenly blocked. Furthermore, as the Commission notes, consumers are entitled to "transparency and effective redress options" for all call blocking. Without an accurate accounting of blocked calls, consumers have no way of determining whether legitimate calls are being blocked, and therefore have no way to properly redress the issue with their provider.

The implementation of the TRACED Act resulted in a significant decline in malicious robocalls. Hopefully, these actions, and future actions by the commission, can build off this initial success. As the FCC continues to consider ways they can combat illegal and malicious robocalls, it is essential that regulators focus on working with the industry. The Commission should also continue its existing emphasis on ensuring that innovative methods do not unintentionally disrupt legitimate traffic. Constant vigilance is essential to continued success in combating illicit robocalls.

Respectfully submitted,

Daniel Savickas  
Regulatory Policy Manager  
FreedomWorks Foundation

Luke Hogg  
Foundation Program Coordinator  
FreedomWorks Foundation

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<sup>3</sup> 34 FCC Rcd 4876 (6)