



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS TO REFRESH THE RECORD ON ADVANCED METHODS TO TARGET AND ELIMINATE UNLAWFUL ROBOCALLS

CG Docket No. 17-59

Comment Date: September 24, 2018

Reply Comment Date: October 8, 2018

With this Public Notice, we seek to refresh the record on how the Commission might further empower voice service providers to block illegal calls¹ before they reach American consumers. In the March 2017 *Call Blocking NPRM and NOI*, the Commission began an inquiry into provider-initiated call blocking.² In the *Call Blocking Report and Order and Further Notice*, the Commission adopted rules expressly authorizing providers to block clearly defined categories of calls highly likely to be illegal³ and sought comment on two issues related to blocking those calls.⁴ We now seek to refresh the record in response to the *Call Blocking NPRM and NOI* on additional criteria voice providers could use to identify and block illegal calls. Our goal in seeking additional comment is to identify specific, enforceable criteria for targeting illegal calls that cannot be abused⁵ while ensuring providers have sufficient flexibility available to adapt to dynamic calling patterns. We encourage commenters to address these general goals when commenting on the questions below.

¹ While third-party apps and other tools can help consumers avoid illegal calls, our focus here is voice service provider blocking of illegal calls without consumer consent or opt-in.

² *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Notice of Proposed Rulemaking and Notice of Inquiry, 32 FCC Rcd 2306 (2017) (*Call Blocking NPRM and NOI*).

³ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9706 (2017) (*Call Blocking Report and Order and Further Notice*). Specifically, the *Call Blocking Report and Order and Further Notice* authorized providers to block calls where the subscriber to a number does not make outgoing calls from a number and requests that calls purporting to originate from that number be blocked as well as where the number purporting to originate calls is invalid, unallocated, or unused. *Call Blocking Report and Order and Further Notice*, 32 FCC Rcd at 9709-25.

⁴ With regard to the blocking authorized in the *Call Blocking Report and Order and Further Notice*, the Commission sought comment on potential mechanisms to ensure that erroneously blocked calls can be unblocked as quickly as possible and without undue harm to callers and consumers, and on ways to measure the effectiveness of the Commission's and industry's robocalling efforts. *Call Blocking Report and Order and Further Notice*, 32 FCC Rcd at 9726, paras. 57-59.

⁵ For example, by enabling blocking without consumer consent or opt-in for reasons other than stopping illegal calls.

First, we seek to refresh the record on methods providers can use to identify illegal calls.⁶ Can providers reliably identify calls that are highly likely to be illegal beyond those calls the Commission approved for blocking in the *Call Blocking Report and Order and Further Notice*? If so, what criteria indicate that particular calls are illegal or warrant additional scrutiny? For example, do large bursts of calls from a particular caller in a short time window, low average call duration, or low call completion ratios generally indicate that calls might be illegal?⁷ Are some of these criteria more accurate than others, or better suited to identifying a particular type of illegal call? For example, are some criteria better suited for detecting calls that unlawfully spoof Caller ID, and others better at detecting calls that are part of a fraudulent scheme that do not spoof Caller ID and rely on consumers calling back? Are some criteria more accurate when used in combination with others?

Are there particular criteria that help differentiate lawful, high-volume callers from illegal callers? How can providers identify calls as coming from the same caller? Do providers currently use these or other criteria to analyze calls and take action on them? The record in response to the *Call Blocking NPRM and NOI* did not provide specific criteria.⁸ We acknowledge commenter concerns that enshrining blocking criteria in the Commission's rules would enable illegal callers to circumvent them.⁹ However, specific, enforceable criteria might be necessary to prevent improper blocking, i.e., for any reason other than to stop illegal calls.

If criteria exist to establish that calls are highly likely to be illegal, should providers nevertheless take additional steps to corroborate that before blocking? If so, what should they be? Should providers make a test call to the number shown in Caller ID to determine whether the calls are indeed being placed from that number and who is making them? Should providers check with other providers to see whether they have detected the same calls from the same source? What other additional steps could providers take? Which of these additional steps would provide the greatest accuracy? What is the risk that a specific additional step might delay action long enough that action regarding the calls becomes ineffective?

Second, we seek to refresh the record on how providers could use these criteria to prevent illegal calls from reaching consumers. Our primary focus in this *Public Notice* is blocking. However, there may be other methods voice service providers could employ to protect consumers. What actions, if any, are providers currently taking based on call analysis? What additional actions could providers take? For example, could providers block or label calls if they are not already doing so? Are there other actions, including traceback, that providers could take that would stop such calls from reaching consumers in the

⁶ To be clear, we seek comment regarding identification of *illegal* calls, not other calls, e.g., those that are unwanted but legal.

⁷ See, e.g., Letter from Linda Vandeloop, AVP Federal Regulatory, AT&T, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 17-59 (filed Mar. 6, 2018) (AT&T Wholesale Blocking *Ex Parte*) at 4. In addition to large bursts of calls in a small time window, low average call duration, and low call completion ratios, other indicators that may trigger an investigation in AT&T's wholesale blocking program include: invalid numbers placing a large volume of calls; common Caller ID Name (CNAM) values across service providers; a large volume of complaints related to a suspect line; sequential dialing patterns; neighbor spoofing patterns; patterns that indicate Telephone Consumer Protection Act (TCPA) or contract violations; correlation of AT&T network data with data from regulators, consumers, and other carriers; and comparison of dialed numbers to the Federal Trade Commission's Do Not Call List.

⁸ Voice service providers, among other commenters, stressed the importance of flexibility in standards and concerns regarding public disclosure. See, e.g., ATIS Comments at 11; Comcast Comments at 16-17; FTC Comments at 8; TNS Comments at 12, 14; USTelecom Comments at 15-16. *But see* AT&T Wholesale Blocking *Ex Parte*; FTC Comments at 8-9; Taff Comments at 6 ("If legitimate callers use a Caller ID that can be authenticated, no other protection for them is needed, it seems to me.").

⁹ See, e.g., FTC Comments at 8; TNS Comments at 14; USTelecom Comments at 16.

future? Are some actions more likely to be effective than others? For example, is call labeling preferable to blocking in some cases? Should there be restrictions on how providers label calls? Are there limits—*e.g.*, under the First Amendment—on such restrictions? What is the risk to lawful callers and consumers if providers were to take any of these actions?

There are numerous third-party applications that offer call blocking or labeling services directly to consumers. While these services generally are beyond the scope of this Public Notice, we seek comment on the extent to which providers include access to these services as part of their own offerings.¹⁰ How do consumers access and use these third-party services in conjunction with the providers' services? Do providers offer those services on an opt-in or opt-out basis? Does the ability of providers to offer opt-in or opt-out vary by network technology? Could these services be used to identify illegal calls that then could be blocked or labeled by a provider without consumer consent?

Third, we seek to refresh the record on industry traceback efforts,¹¹ and what the Commission can do to facilitate these efforts. Which providers are participating in the USTelecom Traceback Group? Which providers are not participating and why? Are there other coordinated traceback efforts, and, if so, which providers are participating in them? What do providers involved in traceback do with the information gathered? Are the current record-keeping requirements¹² sufficient to support effective traceback efforts? Are there any other concerns that the Commission could address to facilitate traceback? How will SHAKEN/STIR affect traceback?¹³

Fourth, we seek to refresh the record on how to reduce the potential for false positives—blocking lawful calls thought to be illegal—and how to address situations in which false positives occur.¹⁴ What measures could be used to reduce false positives? Is there information about calling patterns that are specific to a particular industry, caller, or calling campaign that would help providers to better distinguish lawful calls from illegal calls? How do lawful callers currently work with providers' blocking and labeling services to ensure their calls are not blocked or erroneously labeled? How much would this information improve accuracy? Would lawful callers be willing to share this information with providers?

We also seek additional information regarding “white lists,” which could allow calling parties to provide numbers to voice service providers to avoid calls being blocked or otherwise adversely

¹⁰ For example, T-Mobile provides the “Scam ID” service, in collaboration with Privacy Star. *See* T-Mobile, *Call Protection Solutions*, <https://www.t-mobile.com/resources/call-protection> (last visited June 12, 2018). Verizon recently launched a service that labels certain calls by appending “Spam?” to the Caller ID information displayed on wireline phones. *See* Verizon, *Stop Unwanted Calls*, <https://www.verizon.com/support/residential/homephone/calling-features/stop-unwanted-calls> (last visited June 12, 2018).

¹¹ *See* Robocall Strike Force, Industry Robocall Strike Force Report at 19-23 (April 28, 2017), <https://www.fcc.gov/file/12311/download> (Second Strike Force Report).

¹² 47 CFR § 42.6.

¹³ “SHAKEN” refers to the Signature-based Handling of Asserted information using toKENs framework. *See* Joint ATIS/SIP Forum Standard – Signature-Based Handling of Asserted Information Using toKENs (*Phase 1 SHAKEN Report*), <https://www.sipforum.org/download/sip-forum-twg-10-signature-based-handling-of-assertedinformation-using-tokens-shaken-pdf/?wpdmdl=2813>. “STIR” refers to Secure Telephone Identity Revisited. *See generally* Secure Telephone Identity Revisited, Internet Engineering Task Force, <https://datatracker.ietf.org/wg/stir/about/> (last visited June 8, 2018).

¹⁴ *See, e.g.*, Letter from James C. Falvely, Counsel to SiriusXM, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 17-59 (filed June 7, 2018) (discussing concerns regarding the impact of overblocking on lawful callers).

impacted.¹⁵ How could a white list best be implemented to avoid blocking of lawful calls and to avoid enabling unlawful spoofing of numbers on the white list, while also being easily administrable? For example, would an industry-wide list or a provider-specific list better balance these factors? The record in response to the *Call Blocking NPRM and NOI* reflected disagreement regarding the value of such a list. While some commenters urged adoption of such a list,¹⁶ others urged caution.¹⁷ For example, Consumers Union suggested limiting any white list to legitimate emergency calls.¹⁸ If the list were limited to “legitimate emergency calls,” how should we define the term? Could we limit the list to certain types of numbers, such as only government emergency numbers or numbers used by certain categories of high-volume or commercial callers? Would maintaining a list of trusted numbers that requires providers to conduct further investigation, such as contacting the subscriber to verify whether the subscriber is making the calls, before blocking calls purporting to be from a number on the list better balance these factors than a simple list of numbers that cannot be blocked? What obligations would callers need to meet in order to be on the white list or list of trusted numbers? For example, would a caller need to demonstrate that it is the lawful subscriber to, or user of, a number and designate a point of contact?

What can providers do to ensure quick resolution of false positives? For example, would it be helpful for the provider that blocks a call to play an intercept message identifying the provider, its contact information, or other information? How feasible and costly would an intercept message be to implement? Would returning a specific response code be useful in addition to, or as a substitute for, an intercept message? Would different types of callers benefit more from an intercept message or a response code? Are there any network technologies that would limit the effectiveness of intercept messages or response codes? Are there other methods through which providers could reliably inform a caller that a call has been blocked?

How would a provider best respond upon being informed that it is blocking lawful calls? Would it be best for the provider to cease blocking immediately and then investigate, to initiate an investigation before ceasing blocking, or to take some other series of actions? What would be the best approach if it were determined that a caller lawfully is making calls from a number while a scammer simultaneously is unlawfully spoofing that number? Are there circumstances under which the lawful caller would prefer that all calls purporting to originate from the number be blocked? What can lawful callers do to aid the quick resolution of false positives? What information would best enable the provider to verify the identity of the caller and to resolve the issue? What information would callers be able and willing to provide?

Pursuant to sections 1.415 and 1.419 of the Commission’s rules,¹⁹ interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/ecfs/>.

¹⁵ *Call Blocking NPRM and NOI*, 32 FCC Rcd at 2316-17.

¹⁶ See, e.g., ABA Comments at 6; AFSA Comments at 3; Encore Comments at 3; Tele-Town Hall Comments at 6-7.

¹⁷ See, e.g., Consumers Union et al. Reply Comments at 2; CTIA Reply Comments at 7-8; Neustar Comments at 18-19; USTelecom Comments at 18-19.

¹⁸ Consumers Union et al. Reply Comments at 2.

¹⁹ 47 CFR §§ 1.415, 1.419.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

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Ex Parte Rules. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.²⁰ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation.

If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission's rules.²¹ In proceedings governed by section 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf).²² Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Additional Information. For further information, contact Jerusha Burnett of the Consumer and Governmental Affairs Bureau at (202) 418-0526 or Jerusha.Burnett@fcc.gov.

²⁰ See *id.* §§ 1.1200 *et seq.*

²¹ *Id.* § 1.1206(b).

²² *Id.* § 1.49(f).