

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

COMMENTS OF INCOMPAS

INCOMPAS, by its undersigned counsel, submits these comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) *Further Notice of Proposed Rulemaking* in its proceeding on mitigating the impact of illegal robocalls.¹

I. INTRODUCTION & SUMMARY

In its effort to counter the threat of unlawful robocalls, INCOMPAS commends the Commission for simultaneously working to ensure that providers that engage in call blocking will still be required to meet their call completion obligations. Throughout this proceeding, INCOMPAS has urged the Commission to exercise caution in its consideration of call blocking proposals given the valid concerns that these tactics could be used as a way for larger providers to curtail competitive services and to restrict voice traffic.² In its *Report and Order*, the Commission addressed the competitive industry’s concerns by prohibiting voice service providers from blocking unassigned numbers used to make legal outbound calls, such as

¹ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Report and Order and Further Notice of Proposed Rulemaking, FCC 17-151 (rel. Nov. 17, 2017) (“Robocall Order” or “FNPRM”).

² See Comments of INCOMPAS, CG Docket No. 17-59, at 5-7 (filed June 30, 2017).

intermediate, administrative, and proxy numbers,³ and it also concluded that providers that violate the scope of the rules may be liable for violating the agency’s call completion rules.⁴ The attention to these considerations and the safeguards the Commission has put into place in this proceeding will help maintain the “ubiquity and seamlessness of the network” and should mitigate the potential for mistaken or discriminatory call blocking.⁵ Nonetheless, the Commission should not rush to implement any solutions that may have an adverse effect on competitive providers and new entrants until such time as a technology-neutral and reliable system for robocall detection is available industry-wide.

Now that the Commission has reconsidered its long-standing policy against allowing voice service providers to block calls in order to counter the threat of illegal robocalls, it seeks comment on how to ensure that erroneously blocked calls can be quickly unblocked by callers or their providers as well as on how the Commission can measure the effectiveness of its robocalling efforts. INCOMPAS urges the Commission to consider a readily discoverable complaint mechanism on a blocking provider’s website that would allow callers or other providers to offer specific call information in order to alert a blocking provider that a legitimate call has been blocked. Additionally, INCOMPAS recommends waiting to adopt new reporting obligations measuring the effectiveness of the Commission’s robocall targeting efforts until industry has a better sense of how these policies, like provider-initiated call blocking, will be implemented and employed.

³ See Robocall Order at ¶ 40.

⁴ See Robocall Order at ¶ 9, n. 28.

⁵ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 17-24 (rel. Mar. 23, 2017), at ¶ 9.

II. PROVIDERS THAT ENGAGE IN CALL BLOCKING MUST PROVIDE A READILY DISCOVERABLE CHALLENGE MECHANISM ON THEIR WEBSITE FOR ERRONEOUSLY BLOCKED CALLS.

As small- and mid-sized competitive local exchange carriers and new entrants, including interconnected Voice over Internet Protocol (“VoIP”) providers, our members are at risk of having their customers’ calls blocked under the new provider-initiated call blocking rules. Even though the Commission has gone to great lengths to install safeguards in the process, our members have had to resolve occurrences of call blocking in the past—one member had 1.2 million SkypeOut calls inadvertently blocked by a major U.S. carrier between November 2016 and February 2017⁶—and we remain concerned that despite the Commission’s thoughtful call completion considerations, a number of legitimate calls may still be inadvertently blocked. As such, INCOMPAS appreciates the Commission’s willingness to examine the best mechanisms for unblocking erroneously blocked calls. Ensuring that erroneous blocking can be quickly fixed is critical to preventing undue harm to consumers and their voice providers that originate these calls on their behalf.

With respect to the potential mechanisms that could be used to quickly rectify erroneous blocking, INCOMPAS has argued that providers that want to participate in call blocking should be required to develop protections for legitimate callers and for holders of legitimate numbers whose inbound calls appear to be blocked.⁷ The reality is that the current process for challenging an erroneously blocked call is essentially manual in that it relies on individual callers and providers to identify when a call has been blocked, to alert the blocking provider, and to seek a quick resolution. To that end, the Commission should consider requiring providers to offer a

⁶ See Comments of Microsoft Corporation, CG Docket No. 17-59, at 6 (filed July 3, 2017).

⁷ See Reply Comments of INCOMPAS, CG Docket No. 17-59, at 6 (filed July 31, 2017).

readily discoverable challenge mechanism on a provider's website that gives consumers or other providers the ability to submit a request seeking to unblock erroneously blocked calls. Such a mechanism should be relatively easy to maintain and monitor, yet enable providers to quickly address any blocking complaints. Providers could seek the basic information that would allow them to identify the blocked number and the circumstances under which the customer was blocked, including: (1) time and date of the blocked call; (2) telephone number; and (3) carrier of origin. Ensuring that providers that wish to participate in call blocking have this publicly accessible means to address complaints will assist in quickly resolving these disputes.

Given the differences between providers in terms of size and service technology used, the Commission should first allow providers the discretion to adjust their policies and practices rather than prescribe any other specific procedure for unblocking calls at this time. Moreover, the Commission should encourage and rely upon an industry-led process, where providers work together to correct individual cases of call blocking, attempt to perfect their internal procedures, and create a series of policies and procedures that can be shared across the industry. USTelecom has already started this effort and has developed a manual of best practices and a point of contact list that many of the providers already employ with respect to addressing situations of erroneously blocked calls. It should be noted that while industry appears well positioned to lead in this effort, the Commission must be willing to serve as a backstop in case callers or providers are unable to remedy a blocked call situation with the blocking provider. Having the FCC serve in this role, through an expedited complaint process, would give carriers an additional option for relief in the event they are unable to come to a satisfactory resolution with a blocking provider.

While the process for investigating erroneously blocked calls remains primarily manual, the development of the Secure Telephony Identity Revisited ("STIR") protocols and Signature-

based Handling of Asserted information using toKENS (“SHAKEN”) framework offers hope that fewer legitimate calls will be blocked. When these standards are ready to be adopted on an industry-wide and technology-neutral basis, the Commission should adopt an oversight role to ensure that the framework is having the intended effect of eliminating erroneously blocked calls. This will allow the Commission to determine specifically if the call blocking efforts are effective. While INCOMPAS remains optimistic that the framework will eventually accommodate wholesale, VoIP services, and other new technologies, these solutions are still being tested and must eventually be integrated into the networks in a way that ensures that the certifications being offered by competitors and new entrants are viewed on a non-discriminatory basis.

III. AS INDUSTRY ADOPTS STIR/SHAKEN AND CALL BLOCKING RULES, IT MAY BE TOO SOON TO CONSIDER NEW REPORTING OBLIGATIONS THAT MEASURE THE EFFECTIVENESS OF THE COMMISSION’S EFFORTS.

Given that the STIR/SHAKEN framework is still being tested and that the Commission has just recently adopted new rules permitting provider-initiated call blocking to target unlawful robocalls, INCOMPAS believes it is not an appropriate time to also impose reporting obligations on voice service providers. In fact, the best resource that the Commission may have for determining whether its efforts are successful is the complaint data it can collect while serving as a backstop for erroneous call blocking complaint resolution. The number of complaints the Commission receives can be an early barometer of how successful providers are in eliminating unlawful robocalls.

INCOMPAS believes the Commission should continue to aggressively advance industry efforts to effectively combat fraud and abuse yet avoid onerous new reporting obligations that are not likely to yield actionable results and risk depleting resources from more productive

efforts just as the industry is adjusting to this new call blocking regime. So, while competitive neutrality remains paramount, INCOMPAS realizes that as providers work together to unblock erroneously blocked calls, it currently may be counterproductive to adopt regulatory reporting obligations to gather detailed accounting of things like false positives. When considering advancing robocall prevention, the Commission should focus its efforts on actionable items aimed at the sources of fraud and abuse rather than widespread regulations that may not ultimately be actionable. The shared experience with high-cost traffic pumping and the subsequent adoption of rural call completion requirements is telling in this regard—where new reporting obligations generated new administrative burdens for the Commission and providers, but little analytical and actionable benefit was ultimately created.

IV. CONCLUSION

For the reasons stated herein, INCOMPAS urges the Commission to adopt the recommendations in its Comments in this proceeding, as it considers the issues raised in the *FNPRM*.

Respectfully submitted,

INCOMPAS

/s/ Christopher L. Shipley

Christopher L. Shipley
INCOMPAS
1200 G Street N.W.
Suite 350
Washington, D.C. 20005
(202) 872-5746

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