

**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, hereby submits these reply comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) *Further Notice of Proposed Rulemaking* in its proceeding on combatting illegal robocalls.¹

The Commission’s new provider-initiated call blocking rules present both an opportunity and a challenge to voice service providers seeking ways to protect their customers from the threat of unlawful robocalls. The voluntary, network-level blocking regime gives providers another consumer protection tool to eradicate illegal robocalls from their networks. However, provider-initiated call blocking simultaneously exposes the networks to concerns over blocking desired calls and anticompetitive behavior. To address this challenge, the FNPRM seeks 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.”² While there appears to be an inclination in the record to allow the Commission’s new call blocking rules to go into effect and evaluate, at a later date, whether new regulatory measures are necessary, the

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 *Id.* at ¶ 57.

Commission must guard against the possibility that consumers and their originating providers will be left without a method to unblock erroneously blocked calls.

In this proceeding, the Commission can take measured, non-prescriptive action to guarantee that consumers and their providers have the necessary means to challenge providers who inadvertently block a legitimate call. INCOMPAS has urged the Commission to require providers who voluntarily block calls in accordance with the Commission's new rules to offer a readily discoverable mechanism on a provider's website where consumers can submit a request seeking to unblock erroneously blocked calls. Comcast Corporation, among others, similarly supports a web-based method to facilitate unblocking indicating that "easy-to-find web pages . . . could furnish a short and simple form that, when completed, would generate a 'ticket' to be resolved by the relevant personnel."³ Like Comcast, INCOMPAS has argued that using a web-based method to collect basic information that identifies the blocked number and the circumstances under which a call was blocked, will lead to the quick resolution of most disputes involving erroneously blocked numbers.⁴

Beyond this basic requirement, the Commission would not need to establish any additional measures, as providers should be allowed to develop the web-based solution that best

³ See Comments of Comcast Corporation, CG Docket No. 17-59 (filed Jan. 23, 2018), at 4 (finding that "[t]his approach would prove highly effective at addressing any erroneous blocking, as voice providers have strong incentives to act on and remediate any erroneous blocking as soon as they become aware of the issue"). See also Comments of Professional Association for Customer Engagement, Alorica, Inc. and the Consumer Relations Consortium, CG Docket No. 17-59 (filed Jan. 23, 2018), at 4 (asserting that carriers could offer a web-based portal for consumers seeking to verify the blocked status of a number).

⁴ See Comments of INCOMPAS, CG Docket No. 17-59 (filed Jan. 23, 2018), at 4 (contending that a blocking provider should be able to address a consumer claim based on the time and date of the blocked call, the telephone number, and the carrier of origin).

meets the needs of their customers. INCOMPAS envisions an industry-led process by which providers work directly with consumers, and in some cases, other providers, to quickly resolve disputes over inadvertent blocked calls and false positives. Even the Federal Trade Commission, which does not call for the establishment of a formal challenge mechanism, recognizes that a “clear and quick way to resolve such errors” is required in order to mitigate the risk that legitimate calls may be erroneously blocked.⁵

In the FNPRM, the Commission also seeks comment on the specific timeframes in which a provider will cease blocking calls once a credible claim has been received that a call has been blocked in error. INCOMPAS joins with those stakeholders, like NTCA—The Rural Broadband Association⁶ and the Voice on the Net Coalition (“VON Coalition”),⁷ that believe that consumers are best protected when providers cease blocking calls as soon as is practicable. The availability of a readily discoverable method for making a credible claim should allow consumers, and if necessary, their providers, to quickly address such occurrences. If nothing else, having a formal mechanism on the webpage of a provider that participates in call blocking will alert the blocking provider to the concerns of the individual or business and start the resolution process. The VON

⁵ See Comments of the Federal Trade Commission’s Staff, CG Docket No. 17-59 (filed Jan. 23, 2018), at 4.

⁶ Cf. Comments of NTCA—The Rural Broadband Association, CG Docket No. 17-59 (filed Jan. 23, 2018), at 3 (arguing that the “risks associated with legitimate calls failing to complete are greater than the annoyance of consumers continuing to receive an occasional illegal robocalls) *with* Comments of INCOMPAS, CG Docket No. 17-59 (filed June 30, 2017), at 6-7 (“Should the agency be forced to choose between blocking some legitimate calls as a means to block all robocalls, or letting all legitimate calls through while some robocalls occur, the Commission should consider the latter approach so as not to ‘degrade the reliability of the communications network[s]’ and consumer’s confidence in the services provided over those networks.”).

⁷ See Comments of The Voice on the Net Coalition, CG Docket No. 17-59 (filed Jan. 23, 2018), at 3.

Coalition indicates that an investigation of a claim of erroneous blocking could take one to four weeks, however, INCOMPAS agrees with the Coalition's assessment that it would not be prudent for the Commission to establish a specific timeframe given that each claim will require a case-by-base analysis.⁸

Finally, several stakeholders have renewed their appeals to the Commission to adopt a safe harbor for good-faith blocking of calls that fall outside the limited scope of the Order.⁹ In the *Robocall Order*, the Commission declined to adopt a safe harbor indicating that the proceeding had not produced “a sufficiently developed record on the subject.”¹⁰ As noted above, INCOMPAS has ongoing concerns about the potential for carriers to use network-level blocking to discriminate against competitive providers' traffic, such as calls from allocated but unassigned numbers, like intermediate numbers, administrative numbers, and proxy numbers. In setting aside the agency's long-standing policy against allowing voice service providers to block calls, the Commission should continue to take every precaution to ensure that providers are blocking calls in accordance with the proposed rules. While INCOMPAS anticipates that the majority of disputes over erroneous or inadvertent call blocking will be settled amicably between providers, the Commission should not immediately foreclose the ability of providers to seek redress for anticompetitive blocking. With the advent of network-level blocking, additional time is needed for the Commission to be assured that providers are effective in meeting the dual purpose of eliminating robocalls and protecting legitimate traffic, and INCOMPAS would encourage the

⁸ *Id.*

⁹ See Comments of CTIA, CG Docket No. 17-59 (filed Jan. 23, 2018), at 2 (urging the Commission to adopt a safe harbor to “mitigate risks and encourage voluntary blocking”); see also Comments of the USTelecom Association, CG Docket No. 17-59 (filed Jan. 23, 2018), at 8.

¹⁰ *Robocall Order* at ¶ 9, n. 28.

Commission to reserve judgment on safe harbor provisions until a more extensive record is developed.

For the reasons stated herein, INCOMPAS urges the Commission to adopt the recommendations in its reply comment, 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

February 22, 2018