

**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 AND INITIAL REGULATORY FLEXIBILITY ANALYSIS RESPONSE
OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

I. INTRODUCTION

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these comments in response to the Notice of Proposed Rulemaking and Notice of Inquiry (“NPRM” or “NOI”)² and Initial Regulatory Flexibility Analysis (“IRFA”)³ in the above-captioned proceeding. In the NPRM and NOI, the Federal Communications Commission (the “Commission”) proposes rules that would allow providers to block illegal robocalls on their customers’ behalf and examines further steps the Commission might take to protect consumers and empower voice service providers to block illegal robocalls without impairing legitimate calls.⁴

Like other Americans, the customers of NTCA members are plagued by robocalls. According to a survey of NTCA members conducted in May of this year, nearly 40 percent of respondents have seen an increase in consumer complaints about robocalls to landline numbers

¹ NTCA represents nearly 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All of NTCA’s service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers. NTCA holds a seat on the North American Numbering Council, a Commission advisory body.

² *Advanced Methods to Target and Eliminate Unlawful Robocalls*, GN Docket No. 17-59, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 17-24 (rel. Mar. 23, 2017).

³ *Id.*, IRFA, Appendix B.

⁴ NPRM, ¶ 1.

over the previous twelve months. Even worse, nearly 80 percent of survey respondents that provide wireless services have faced an increase of robocall complaints over the same time frame. A coordinated and comprehensive response is clearly needed and welcomed by small carriers and their customers alike.

The NPRM and NOI correctly aim to achieve three equally important goals. First, carriers should be permitted to take new steps to protect consumers from illegal and fraudulent calls. Second, any rule changes should not result in the inadvertent blocking of any legitimate calls, which is an especially important goal in rural areas where rural call completion problems persist. Third, while the proposed rule changes are permissive and not mandatory, it is important to ensure that any rule or procedural changes do not impose any inadvertent new, unrecoverable costs upon small carriers, for whom new costs could be disproportionately burdensome. NTCA supports efforts to achieve these three goals in a coordinated fashion, and suggests that questions regarding the implementation of new or altered procedures related to the definition and coordination of invalid or unallocated numbers be referred to the Commission's advisory North American Numbering Council ("NANC"), which has expertise in these matters.

II. PROCEDURES FOR BLOCKING NUMBERS AT THE SUBSCRIBER'S REQUEST, AND BLOCKING INVALID OR UNALLOCATED NUMBERS, SHOULD BE REVIEWED BY THE NORTH AMERICAN NUMBERING COUNCIL PRIOR TO ANY RULE CHANGES, AND SHOULD NOT RESULT IN INADVERTENT BLOCKING OF LEGITIMATE CALLS OR NEW UNRECOVERABLE COSTS FOR SMALL CARRIERS

The NPRM proposes several rule changes to permit the blocking of calls under certain well-defined circumstances, notably when evidence clearly suggests that caller identity information supplied to the called party is falsified (or "spoofed"). Specifically, the NPRM proposes that voice service providers may block calls at the request of a subscriber that holds a

certain number.⁵ It is anticipated that such a request would usually be made by subscribers that operate inbound call centers, and do not use the numbers in question for outbound calls. While it is therefore reasonable to permit carriers to block calls from specific numbers at the request of those numbers' subscribers, the NPRM also seeks comment, as discussed below, on what challenges must be overcome and what, if any, rule changes might be necessary to ensure that any subscriber blocking requests can be disseminated throughout the industry in order to be effectively implemented.⁶

The NPRM further seeks comment on proposals to permit the blocking of calls from numbers that are:

- invalid under the North American Numbering Plan;⁷
- valid numbers that are not allocated to a voice service provider,⁸ and
- valid numbers that are allocated to a provider but not assigned to a subscriber.⁹

If a number is to be blocked, whether it is due to subscriber request, or its status as an invalid or unallocated number, there must be some mechanism in place to promulgate this information to voice service providers nationwide (and perhaps further). A subscriber that requests to have its number blocked may desire to unblock it at a future time; or, the number may at some point be reassigned to a new subscriber who does not desire blocking. In addition, while the use of invalid or unallocated numbers may be *prima facie* evidence of spoofing today, these numbers may become assigned, and therefore become the source of a legitimate call, tomorrow. Carriers throughout the industry must be kept current with changes to a number's status.

Therefore, the NPRM appropriately asks if any steps are necessary to more accurately define/identify invalid or unallocated numbers; and if there are any measures that might help

⁵ *Id.*, ¶¶ 11 – 14.

⁶ *Id.*, ¶ 14.

⁷ *Id.*, ¶¶ 16 – 17.

⁸ *Id.*, ¶¶ 18 – 19.

⁹ *Id.*, ¶¶ 20 – 22.

small carriers specifically to identify and block calls that purport to originate from them, without inadvertently blocking legitimate calls.¹⁰ The Commission’s advisory body, the NANC, would appear well equipped to examine the challenges and anticipate unintended consequences related to defining, identifying, and permitting the handling of calls that appear to originate from numbers that are subject to block requests, or that are invalid or unallocated. Questions regarding the definition and identification of unallocated and invalid numbers should be referred to the NANC, and public comment sought on any recommendations the NANC may generate, prior to the changes of any rules.

As a specific example, the NPRM inquires if the number portability database administered by the Number Portability Administration Center (“NPAC”) could provide information that could be used to help clarify which numbers are allocated to a provider but not assigned to a customer.¹¹ While invalid or unallocated Numbering Plan Area (“NPA”) or Numbering Plan Exchange (“NXX”) numbers are fairly simple to identify, once blocks of numbers have been assigned to carriers (especially pooled blocks), tracking which numbers have been allocated to an end-user (and perhaps, after a subscriber cancels service, subsequently re-allocated) becomes far more complicated. Given the NANC’s expertise with numbering issues, and its role in working with NPAC and other bodies involved in administering various aspects of the North American Number Plan, it would be beneficial and prudent to leverage NANC’s expertise on an expedited basis in this matter.¹²

¹⁰ *Id.*, ¶ 17; *see also* ¶ 19, ¶ 21.

¹¹ *Id.*, ¶ 21.

¹² The NPRM also requests comment at ¶ 23 about the potential special treatment required of calls that originate internationally, and further asks about the treatment of an international call that purports to come from a number generated by the North American Numbering Plan. Again, as the expert advisory body on numbering, the NANC is a logical place to start.

There are any number of practical questions which may ultimately require Commission decisions, but which may also benefit from NANC's perspectives. For example, what funding source(s) would establish, maintain, and update any new database, or alter any that are currently operating? Would there be any implications for current numbering database costs? How would the revenue flow operate? How would carriers, especially small carriers for whom costs may be disproportionality burdensome, recover these costs?

As the IRFA notes, until the proposed "requirements are defined in full, it is not possible to predict with certainty whether the costs of compliance will be proportionate between small and large providers."¹³ The NANC may be best positioned to help clarify practical requirements, in addition to helping to establish the definitions of, as well as determine how best to identify, invalid and unallocated numbers that might be blocked under the NPRM's proposals. This scoping exercise, in turn, could enable substantive compliance with the requirement to assess and mitigate the costs of compliance for smaller firms.

III. STEPS TO ESTABLISH ANY SAFE HARBOR, OR THAT WOULD ALLOW CARRIERS TO EXCLUDE DATA FROM THEIR CALL COMPLETION REPORTS, ARE PREMATURE UNTIL THERE IS MORE CLARITY ON HOW INFORMATION REGARDING SUBSCRIBER BLOCKING REQUESTS AND INVALID OR UNALLOCATED NUMBERS WILL BE CLARIFIED AND SHARED

The NPRM proposes allowing providers to not count the blocking of "illegal and fraudulent calls" for the purposes of calculating a provider's call completion rate, per the recommendation of the Commission's Robocall Strike Force.¹⁴ Similarly, the NOI seeks comment on a potential "safe harbor" for providers that block calls in good faith based upon objective standards.¹⁵ However, as discussed in Section II *supra*, the NPRM acknowledges that

¹³ IRFA, ¶ 20.

¹⁴ NPRM, ¶ 25.

¹⁵ NOI, ¶ 27, ¶¶ 33-35.

the Commission has yet to clearly determine exactly how all providers can uniformly define, identify, and update as needed, invalid, unallocated and block-requested numbers, which, when spoofed, would presumably indicate an illegal and/or fraudulent call. While fully sharing the Commission's desire to combat robocalls with alacrity, NTCA cautions that until the definitions and practical considerations noted above are addressed and standardized by industry and the Commission, steps to permit providers to not count certain calls in their call completion reports would be premature.

The NPRM and NOI correctly emphasize that while stopping robocalls is urgent, there is at the same time a recognized need to avoid the inadvertent blocking of any legitimate calls.¹⁶ This priority is especially important to rural consumers, who have endured an epidemic of call completion failures for a number of years.¹⁷ While the Commission has taken important steps to address the rural call completion crises,¹⁸ the problem is not solved. NTCA's May survey of rural carriers reveals that over 52 percent of respondents have experienced rural call completion problems within the past quarter, and more than a third are still experiencing them on at least a monthly basis. The actual number is likely higher, as many customers do not even realize that calls placed to them did not go through, and those that are aware may not have reported these incidents to their local carrier. Therefore, as stated *supra*, the Commission should not provide safe harbors for call blocking or with regard to rural call completion reports until effective procedures to define, identify, and promulgate information on numbers that may be blocked have

¹⁶ NPRM, ¶ 9.

¹⁷ See, e.g., Letter from Shirley Bloomfield, Chief Executive Officer, National Telecommunications Cooperative Association, to Hon. Julius Genachowski, Chairman, FCC, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51 at 2-3 (filed Sept. 20, 2011); see also comments of the National Exchange Carrier Association, Inc., NTCA, the Western Telecommunications Alliance, and the Eastern Rural Telecom Association, WC Docket No. 13-39 (fil. May 13, 2013).

¹⁸ See, e.g., *Rural Call Completion*, WC Docket No. 13-19, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-135 (rel. Nov. 8, 2013).

been firmly established. At that time, the Commission can then assess whether and to what degree new safe harbors from blocking might be created and/or related blocking data might be excluded from call completion reports.

IV. THE INITIAL REGULATORY FLEXIBILITY ANALYSIS HIGHLIGHTS THE NEED TO ESTABLISH DEFINITIONS AND PROCEDURES FOR BLOCKING NUMBERS PRIOR TO RULE CHANGES, AND TO AVOID PROVIDING SAFE HARBORS OR CALL COMPLETION REPORTING CHANGES PREMATURELY

The IRFA properly notes that the rules proposed in the NPRM are “permissive and not mandatory.”¹⁹ This is sensible, especially as the IRFA also states that until the proposed “requirements are defined in full, it is not possible” to ascertain compliance costs and whether they would be disproportionate for small carriers. As the IRFA observes, providers might be required to record requests from subscribers to block certain numbers, identify invalid and unallocated numbers, and/or set up communication with other providers to share information about numbers to be blocked.²⁰ This underscores the need, discussed above, to standardize procedures on defining, identifying, and sharing information regarding numbers that may be blocked prior to any rule changes.

Furthermore, as discussed earlier, great care must be taken to avoid any measure that may inadvertently block legitimate calls, especially in light of the ongoing rural call completion crises. Rural carriers have very few resources in terms of personnel and yet have spent untold staff hours fielding consumer complaints and performing tremendous amounts of research to help customers resolve call completion problems. Therefore, a balance between fighting robocalls and maintaining vigilance against calls failing to complete must be maintained. Even if rural carriers are not required to make any changes to their operations under the proposed rules,

¹⁹ IRFA, ¶ 23.

²⁰ *Id.*, ¶ 21.

and thus incur no direct costs, any changes that may result in the inadvertent blocking of legitimate calls could lead to severe pressures on their scant resources. Under these circumstances, it is premature to provide safe harbors or permit carriers to exclude data from their call completion reports.

V. CONCLUSION

Robocalls plague consumers across the nation, and NTCA and its members are eager to contribute to a solution to this endemic problem. As the NPRM and NOI recognize, practical questions regarding how to define, identify, and promulgate updates about numbers that may be blocked should be vetted and resolved by the industry, with guidance from the Commission's expert advisory body, the North American Numbering Council, prior to any rule changes.

Respectfully submitted,



By: /s/ Stephen Pastorkovich
Stephen Pastorkovich
Vice President, Technology &
Business Development
4121 Wilson Boulevard, Suite 1000
Arlington, VA 22203

spastorkovich@ntca.org
703-351-2000 (Tel)

July 3, 2017