

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

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

**COMMENTS OF ACT | THE APP ASSOCIATION**

ACT | The App Association (App Association) respectfully submits its views in response to the Federal Communications Commission (Commission) Notice of Proposed Rulemaking (NPRM) in the above-captioned proceeding.<sup>1</sup> The App Association supports the Commission’s action and continues to work on this initiative through our involvement with the Industry Robocall Strike Force (Strike Force).

The App Association represents more than 5,000 small- and medium-sized app development companies and technology firms across the globe, each of which contribute to the \$143 billion app ecosystem.<sup>2</sup> In a world that has adopted mobile technologies faster than any other innovation in human history, the dynamic app ecosystem continues to produce innovative and efficient solutions that leverage mobile technologies to drive the global digital economy and support consumer interactions and experiences throughout their lives.

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<sup>1</sup> *In the Matter of Advance Methods to Target and Eliminate Unlawful Robocalls*, CH Docket No. 17-59, Notice of Proposed Rulemaking & Notice of Inquiry, *found here*: [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-17-24A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-24A1.pdf). (Robocall NPRM).

<sup>2</sup> [http://actonline.org/wp-content/uploads/App\\_Economy\\_Report\\_2017\\_Digital.pdf](http://actonline.org/wp-content/uploads/App_Economy_Report_2017_Digital.pdf).

## **I. The App Association Supports the Commission’s Efforts to Address Illegal Robocalls**

In 2016, U.S. consumers received about 29 billion robocalls, both legal and illegal.<sup>3</sup> The App Association believes that illegal robocalls impose significant harm on consumers, particularly aging Americans. In some egregious instances, robocall fraudsters may use an automated voice to ask an otherwise innocuous question to receive an affirmative response, after which that response is unlawfully used to con the speaker into paying for an unwanted service. Fraudsters accomplish their goal by using the illegally obtained voice affirmations to suggest the victim approved the use of his or her sensitive information, often private financial data, to purchase the useless service,<sup>4</sup> leaving many Americans in precarious financial and legal situations.

The situation described above is one of a myriad examples highlighting the danger illegal robocalls pose to countless Americans. We believe the Commission, industry representatives, consumers, and other stakeholders should work together to address this damaging issue. Recognizing the harm of unwanted robocalls, Congress enacted the Telephone Consumer Protection Act (TCPA) in 1991,<sup>5</sup> tasking the Commission to promulgate rules that would thwart

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<sup>3</sup> Cision, *First-Ever Full-Year Review Shows Americans Hit by 29 Billion Robocalls in 2016*, PR Newswire (Jan. 19, 2017, 9:00 AM ET) <http://www.prnewswire.com/news-releases/first-ever-full-year-review-shows-americans-hit-by-29-billion-robocalls-in-2016-300392880.html>.

<sup>4</sup> See Susan Tomper, *USA Today: Can You Hear Me? What Matters is Phone Fraudsters Hear You*, (Updated Feb 13, 2017, 11:30 AM). <https://www.usatoday.com/story/money/personalfinance/columnist/2017/02/03/can-you-hear-me-what-matters-phone-fraudsters-hear-you/97338174/>.

<sup>5</sup> S. Rep. 102-178, p. 1-2 (1991) (writing “The use of automated equipment to engage in telemarketing is generating an increasing number of consumer complaints. The Federal Communications Commission (FCC) received over 2,300 complaints about telemarketing calls over the past year... Consumers are especially frustrated because there appears to be no way to prevent these calls. The telephone companies usually do not know when their lines are being used for telemarketing purposes, and, even if they did, it is questionable whether the telephone companies should be given the responsibility of preventing such calls

unlawful robocalls to promote consumer privacy and public safety.<sup>6</sup> The App Association supports the Commission’s efforts to uphold the congressional directive to protect Americans from illegal robocalls, while promoting and leveraging innovative solutions developed by the private sector.

We hope the Commission continues to work with industry to find a positive solution to this growing problem. We are pleased to see Chairman Pai tackle this issue head on, and we remain committed to assist the Commission in any way to help it accomplish its goals.<sup>7</sup> Specifically, we support the Commission’s proposed changes as articulated in this proceeding that will ease service providers’ ability to address illegal robocalls.

## **II. The Commission Should Leverage the Robocall Strike Force’s Efforts**

The App Association had the privilege of working with the Robocall Strike Force and contributed substantively to its six-month report. The app ecosystem has produced incredible solutions that leverage mobile technologies to drive the digital economy, and we believe app developers, service providers, manufacturers, government agencies, and consumers all have a role in reducing unwanted robocalls. In particular, third-party apps can play a critical role in empowering consumers to mitigate robocalls. While representing the developer community, the App Association has worked within the Strike Force to encourage and foster the development of more effective apps to increase consumer control over robocalls. In this effort, the App Association executed three key deliverables:

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by monitoring conversations. Having an unlisted number does not prevent those telemarketers that call numbers randomly or sequentially.”).

<sup>6</sup> 47 U.S.C. § 227(b)(2).

<sup>7</sup> Ajit Pai, *Consumer Protection Month at the FCC*, Medium (June. 22, 2017) <https://medium.com/@AjitPaiFCC/consumer-protection-month-at-the-fcc-1dea0007d9c6>.

- The App Association created a public-facing webpage that provides technical information and recommendations for current and potential developers of robocall control apps. The guidance includes technical updates on changes to information regarding call spoofing, provided by networks and vendors, or suggestions of signaling systems that applications can harness. The website also provides app developers with information on privacy and privacy policy best practices. Ultimately, the App Association designed the webpage to help app developers capitalize on the approaches developed by the Strike Force, and create innovative solutions to combat unwanted robocalls.<sup>8</sup>
- The App Association implemented targeted outreach to our members to educate them about opportunities to develop robocall control apps.
- The App Association held an online workshop for developers, which provided both real-time participation and access to our comprehensive archives. The workshop laid the groundwork for the creation of new apps by quickly bringing developers up to speed on the technical and policy considerations behind robocall control apps.<sup>9</sup>

The App Association worked hard to satisfy our Strike Force obligations, and we are proud of the incredible work every member has contributed to tackle and mitigate unwanted robocalls. While innovative companies continue to develop apps to address this issue, apps are already playing a major role in mitigating unwanted robocalls. Examples include AT&T Call Protect, Nomorobo, Hiya, PrivacyStar, and many others. We encourage developers, consumers,

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<sup>8</sup> <http://actonline.org/2017/03/28/robocalls-app-developers/>

<sup>9</sup> *Id.*

and other stakeholders to explore the apps available today and continue collaborating to develop more innovative solutions.

As discussed in the report, the Robocall Strike Force is exploring the development of a standardized framework for delivering information from networks to devices, with the aim of empowering consumers to make informed call handling decisions. The App Association will continue encouraging its members to rely on these important consensus documents because they provide a key foundation for the solutions consumers may use to control robocalls.

We appreciate the Commission's recognition of the hard work done by each member of the Robocall Strike Force, and we stand committed to further collaboration. Considering the commitments made in the Strike Force's report, we hope the Commission continues to encourage these innovative solutions among stakeholders.

### **III. The Commission Should Take a Technology Neutral Approach, Leverage the Innovation of Industry Stakeholders**

As the Commission has acknowledged, the role of voluntary industry efforts will be crucial in addressing illegal robocalls,<sup>10</sup> particularly as criminals continue to find new ways to utilize robocalls (e.g., advanced spoofing techniques).<sup>11</sup> Much like the Department of Commerce's widely-lauded approach to cybersecurity risk mitigation,<sup>12</sup> we recognize that stagnant mandates are an ineffective approach to addressing a dynamic and constantly-evolving threat landscape. Therefore, the App Association urges the Commission to avoid prescriptive and technology-specific requirements in robocall mitigation, especially with regard to imposing

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<sup>10</sup> Robocall NPRM, at para. 24.

<sup>11</sup> See 2017 Strike Force Report p. 3-10.

<sup>12</sup> See generally, 2017 Strike Force Report.

mandatory standards onto industry. If the Commission takes too prescriptive of an approach, it will run the risk of disregarding, or even undermining, innovative approaches to mitigation (such as those used in contractual arrangements), which unintentionally leave consumers unprotected.

Industry flexibility is vital to the success of the Commission Robocall Strike Force.<sup>13</sup> For instance, within the Strike Force’s report, USTelecom discusses its research on the effectiveness of their Do Not Originate (DNO) process,<sup>14</sup> and highlights a series of concerns that regulators might face when attempting to regulate unwanted robocalls. For example, if a consumer were to institute a DNO process to prevent “spoofed” calls, USTelecom found that telephone numbers could be easily disguised, or deliberately spoofed at origination and through call delivery by malicious or fraudulent means.<sup>15</sup> Industry efforts are well underway to find sensible solutions to this problem, and the App Association lends its support to the Commission’s permissive approach, as outlined in its NPRM, so as to not stifle progress.<sup>16</sup>

Based on the above, the App Association urges that the Commission ensure that its final rules do not undermine current or future innovative approaches to robocall mitigation. Apps increasingly give consumers the ability to tailor their mobile phone experiences, through call blocking and other settings, that will shape how they are reached by unwanted calls. We are committed to unlocking the innovation of our industry to develop better, effective solutions to protect consumers.

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<sup>13</sup> *See id.*

<sup>14</sup> A process whereby certain telephone numbers are identified at VoIP gateways or interconnection points, and prevented from terminating to the end user based upon the originating telephone number. *See* 2017 Strike Force Report, p. 24.

<sup>15</sup> USTelecom Comments, CG Docket No. 02-278, WC Docket No. 02-278, p. 14 (submitted January 23, 2015) (available at: <https://ecfsapi.fcc.gov/file/60001015988.pdf>)

<sup>16</sup> *See generally*, Robocall NPRM.

#### IV. CONCLUSION

The App Association applauds the Commission on its efforts to rid consumers of illegal robocalls. As an active member of the Industry Robocall Strike Force, we remain committed to assist the Commission in any way to accomplish this crucial goal.

Respectfully submitted,



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