

April 29, 2019

The Honorable Michael Doyle
Chair
Subcommittee on Communications
and Technology
U.S. House of Representatives
Washington, DC 20515

The Honorable Robert Latta
Ranking Member
Subcommittee on Communications
and Technology
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Doyle and Ranking Member Latta:

The undersigned organizations, which represent a diverse group of industry sectors throughout the economy, write regarding the Communications and Technology Subcommittee's upcoming hearing on the problem of illegal automated calls. Thank you for scheduling this important hearing. We strongly support and share the goal of thwarting unlawful actors that seek to defraud or commit other unlawful acts against consumers. Appropriately tailored efforts are critical to protect consumers from deception and other harm. We urge the Committee to support the Federal Communications Commission's unprecedented work to bring enforcement actions against illegal actors, while facilitating the ability of legitimate businesses to place valued and important calls to their customers using modern communications technologies.

Under its existing authority, the Commission has taken significant enforcement actions against illegal actors. For example, the Commission fined Adrian Abramovich \$120 million for making nearly 100 million spoofed calls over three months,¹ fined telemarketer Philip Roesel and his companies more than \$82 million for illegal caller ID spoofing,² and proposed a more than \$37.5 million fine against Affordable Enterprises of Arizona for making millions of illegally-spoofed telemarketing calls.³ We support appropriate enforcement actions to mitigate the harm caused to consumers by fraudulent and scam calls.

However, consumers are also harmed when they do not receive time-sensitive calls and text messages from legitimate businesses. Fraud alerts, data breach notifications, reminders to renew prescriptions or schedule a visit to the doctor, notifications of power outages, and automobile recall notices are consumer-benefitting calls that must be placed immediately to be of value to the recipient. It is critical that these calls and text messages be completed. As the Committee moves forward with its efforts in this area, we ask that it clearly distinguish between illegal callers and legitimate businesses. To that end, we are concerned that the legislation under

¹ Fed. Commc'ns Comm'n, News Release, Robocall Scammer Faces \$120 Million Proposed Fine for Massive Caller ID Spoofing Operation (June 22, 2017), <https://docs.fcc.gov/public/attachments/DOC-345470A1.pdf>.

² Fed. Commc'ns Comm'n, News Release, FCC Fines Robocaller \$82 Million for Illegally-Spoofed Health Insurance Marketing Calls (Sept. 26, 2018), <https://docs.fcc.gov/public/attachments/DOC-354284A1.pdf>.

³ Fed. Commc'ns Comm'n, News Release, FCC Proposes \$37.5 Million Fine for Spoofed Marketing Calls Appearing to Come from Consumers (Sept. 26, 2018), <https://docs.fcc.gov/public/attachments/DOC-354286A1.pdf>.

consideration by the Subcommittee will have unintended consequences that could negatively impact consumers as well as the broader business community. For example, H.R. 946 (the “Stopping Bad Robocalls Act”) goes far beyond the scope of addressing the illegal actors who make abusive automated calls. In its current form, the legislation would harm businesses and consumers by impeding legitimate calls that consumers actually need or want.

Furthermore, the business community is also concerned about the current lack of regulatory clarity regarding the Telephone Consumer Protection Act (TCPA). This statute was intended to target abusive telemarketing calls, and not “be a barrier to the normal, expected or desired communications between businesses and their customers.”⁴ However, uncertainty following a recent ruling by the D.C. Circuit Court of Appeals threatens the ability of legitimate callers to communicate with the consumers with whom they have a relationship.

Accordingly, we ask that you work with the Commission to provide clarity surrounding legitimate informational communications, while continuing your important work to impede truly abusive calls.

Sincerely,

ACA International
American Association of Healthcare Administrative Management
American Bankers Association
American Financial Services Association
Coalition of Higher Education Assistance Organizations
Credit Union National Association
Edison Electric Institute
Insights Association
National Association of Federally-Insured Credit Unions
National Restaurant Association
National Retail Federation
Professional Association for Customer Engagement
Student Loan Servicing Alliance
The Consumer Bankers Association
The Electronic Transactions Association
U.S. Chamber Institute for Legal Reform
U.S. Chamber of Commerce

cc: Members of the Subcommittee on Communications and Technology

⁴ H.R. Rep. No. 102-317, at 17 (1991).