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FCC and FTC Convene Forum on Fighting Illegal Robocalls

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March 23, 2018

On March 23, 2018, the Federal Communications Commission (FCC) and the Federal Trade Commission (FTC) jointly hosted a policy forum to highlight the actions that the agencies and industry stakeholders have taken to fight the scourge of illegal robocalls.

FCC Chairman Ajit Pai delivered opening remarks, which detailed the severity of the problem of unwanted robocalls and noted that this issue is a top FCC consumer protection priority while highlighting FCC action to date. Last November, the FCC enacted rules to empower phone companies to block calls from spoofed phone numbers that are invalid or unassigned. The FCC is also seeking public input on ways to authenticate caller ID information and has launched an initiative to explore establishment of a database for reassigned numbers. Aggressive enforcement is also a key part of the FCC's strategy to address unwanted robocalls, and the agency has proposed over $200 million in fines against robocallers. Chairman Pai noted that he has "personally raised" the illegal robocalls issue with his foreign counterparts to enable government sharing of information which will assist in cracking down on illegal robocalls. Finally, Pai announced that the FCC and FTC will cohost an event on April 23, 2018, to feature technologies, devices, and applications to minimize or eliminate the number of unwanted robocalls that consumers receive.

FCC Commissioners Mignon Clyburn and Brendan Carr also spoke about the scourge of unwanted robocalls. Commissioner Clyburn stated that "robocalls are out of control and we have the consumer complaints to prove it." Commissioner Clyburn emphasized that the severity and complexity of the robocall problem necessitated action by the FCC, FTC, and industry stakeholders, and that this problem

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could best be addressed in a holistic manner through deployment of a wide variety of tools by a broad range of stakeholders. She noted that there is a need for innovative solutions, and that collaboration between parties will be key. Commissioner Carr echoed that it will take a sustained effort on all fronts to make progress against the robocall problem. Commissioner Carr also touted the FCCC's work on the topics of call blocking, call authentication, and a reassigned numbers database, and noted that the FCC will take aggressive enforcement action against illegal robocallers.

Maureen K. Ohlhausen, Acting Chairman, FTC, gave insight into the FTC's role in addressing illegal robocalls. She noted that the FTC uses every tool at its disposal:

- Aggressive enforcement via a program that targets those entities which commit fraud and via a program against abusive telemarketing. The FTC has brought 134 lawsuits against 789 companies and individuals alleged to be responsible for placing billions of unwanted calls to consumers.

- Encouraging industry to tackle unlawful robocalls through the FTC's "public challenges" to develop call blocking tools and the FTC's new initiative to increase the amount and frequency of publicly available consumer complaint data, including the phone numbers which are the subject of the complaints. Telecom carriers have told the FTC that sharing this data has enhanced their ability to block fraudulent or illegal calls.

- Consumer education and outreach, which advises consumers to hang up if they receive an unwanted recorded sales message and seeks to promote awareness of call blocking and labeling solutions.

FTC Commissioner Terrell McSweeny provided remarks focused on consumer protection. She began by discussing the need for stronger privacy protection for consumers' data. She then lauded the enforcement work done by the FTC, FCC, and state agencies against illegal robocallers. She continued by praising the innovation done by industry to provide consumers with services and apps to stop unwanted calls. The challenge now is to make these tools more widely used. She noted that the agencies are starting to promote the solutions more broadly, and she also challenged industry to deploy these call-blocking tools to all customers. She concluded her remarks by noting the need to restore trust in Caller ID, which requires quickly adopting the SHAKEN/STIR framework currently under development.

The first panel explored the challenges facing consumers and industry today. Moderator Micah Caldwell, Special Counsel, Office of the Bureau Chief, Consumer and Governmental Affairs Bureau at the FCC discussed the problem with panelists Eduard Bartholme, Executive Director, Call for Action, and Chair, FCC Consumer Advisory Committee, Kevin Rupy, Vice President of Law and Policy, USTelecom, and Michele Shuster, General Counsel, Professional Association for Customer Engagement.

- The panelists discussed how the robocall problem is severe and getting worse. Rupy noted that it is extremely cheap to make fraudulent phone calls, and the fallibility of caller ID technology makes it easy to spoof. Bartholme added that the success rate of the frauds and the fact that enforcement fines come out to a few pennies per fraudulent call exacerbate the problem. Both speakers suggested use of criminal penalties for robocall fraudsters.

- Rupy discussed that there are now a number of tools available, over multiple platforms (wireline, wireless, cable, VoIP), there is more partnering in place, and the industry is moving forward with initiatives such as SHAKEN/STIR to authenticate calls. He urged the industry to continue to make progress.

- Shuster's main concern was ensuring that legitimate call traffic is not blocked. There are positive and efficient uses for robocall technology such as school closing alerts, delivery updates, and appointment reminders. Shuster noted it is important that legitimate businesses know if their calls are labeled or blocked, and there must be an easy remediation route to allow legitimate calls to reach consumers.

- Regarding information sharing, Rupy applauded the FTC's daily release of complaint information and noted that the industry acts cooperatively to share information to trace back illegal robocalls. Bartholme added that consumers are also interested in sharing and accessing data about illegal robocalls. Shuster noted that it is useful for companies to see if there are complaints against their numbers, so they can rectify the situation.

The second panel discussed recent regulatory and enforcement efforts. Thomas B. Pahl, Acting Director, Bureau of Consumer Protection, FTC, moderated the panel. The panelists included Denise Beamer, Senior Assistant Attorney General, Consumer Protection Division, Florida Office of the Attorney General, Lois Greisman, Associate Director, Division of Marketing Practices, Bureau of Consumer Protection, FTC, Sherwin Siy, Special Counsel, Competition Policy Division, Wireline Competition Bureau, FCC, Mark Stone, Deputy Chief, Consumer and Governmental Affairs Bureau, FCC, and Kristi Thompson, Chief, Telecommunications Consumer Division, Enforcement Bureau, FCC.

- The panelists noted that combating illegal robocalls is a top priority for each agency. Their focus is on bad actors such as scammers; they have no interest in policing non-problematic robocalls (though they get many complaints about those). They discussed the various tools at their disposal, including the Telephone Consumer Protection Act, the Truth-in-Caller-ID Act, Telemarketing Sales Rule, and state consumer protection laws.

- The panelists are encouraged by the number of partnerships forming to combat illegal robocalls. Partnerships across industry, like USTelecom's traceback group, help provide enforcement agencies with information about calls, making it easier to find originators of these calls. Partnerships and information sharing from consumer groups help inform the agencies of trends in illegal activity.

- There are a number of statutory changes that can make enforcement easier. Greisman suggested that eliminating the common carrier exception from the FTC Act would help the FTC's enforcement efforts. Thompson said that extending the statute of limitations for enforcement of TCPA violations and increasing penalties available for TCPA and Communications Act violations would help the FCC.

- Agencies have tools to reach bad actors based abroad and most bad actors have some presence in the US that agencies can use for enforcement efforts. But this area remains a challenge.

- Industry can help the agencies by helping to locate where robocalls originate, providing outreach and education to consumers about apps and other tools to block unwanted calls, continuing their innovation, and sharing information with law enforcement about bad actors and with the agencies on

their call-blocking efforts. The panelists also encouraged providers to deploy SHAKEN/STIR, which they think will help reduce spoofing and robocalls.

The final panel discussed solutions and tools available to consumers. Julius Knapp, Chief Engineer, Office of Engineering and Technology, FCC, moderated the panel. Alex Algard, Founder & CEO, Hiya, Jim McEachern, Senior Technology Consultant, Alliance for Telecommunications Industry Solutions Alex Quilici, Chief Executive Officer, YouMail, Margot Saunders, Senior Counsel, National Consumer Law Center, Krista Witanowski, Assistant Vice President, CTIA, and Nat Wood, Associate Director, Division of Consumer & Business Education, Bureau of Consumer Protection, FTC, sat on the panel.

- The panel noted that myriad tools are available to consumers to block unwanted calls. By one count, there are over 550 apps available. These are in addition to the tools and services by each major wireless carrier, IP providers, and even some wireline companies. Witanowski noted that CTIA has a website that rates the tools to help consumers choose what solution to use.

- Distinguishing bad actors from legitimate callers is a challenge. Some tools use algorithms to determine who is a bad actor, while others use dynamic black and white lists.

- Spoofing is the biggest challenge. Call authentication, like SHAKEN/STIR, will help. The framework is already in place, but they are waiting on the North American Numbering Council to release its report on the topic, which is expected in May. A governance authority is needed before SHAKEN/STIR can be deployed.

- There is no solution to illegal robocalls, just ways to mitigate the problem. Collaboration and partnerships across industry has helped and will continue. But as industry gets better at tracking and fighting these calls, their originators will get better as well.