

STOPPING BAD ROBOCALLS ACT

JULY 23, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 3375]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3375) to amend the Communications Act of 1934 to clarify the prohibitions on making robocalls, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Stopping Bad Robocalls Act”.

SEC. 2. CONSUMER PROTECTION REGULATIONS RELATING TO MAKING ROBOCALLS.

Not later than 6 months after the date of the enactment of this Act, and as appropriate thereafter to ensure that the consumer protection and privacy purposes of

section 227 of the Communications Act of 1934 (47 U.S.C. 227) remain effective, the Commission shall prescribe such regulations, or amend such existing regulations, regarding calls made or text messages sent using automatic telephone dialing systems and calls made using an artificial or prerecorded voice as will, in the judgment of the Commission, clarify descriptions of automatic telephone dialing systems and ensure that—

- (1) the consumer protection and privacy purposes of such section are effectuated;
- (2) calls made and text messages sent using automatic telephone dialing systems and calls made using an artificial or prerecorded voice are made or sent (as the case may be) with consent, unless consent is not required under or the call or text message is exempted by paragraph (1), (2)(B), or (2)(C) of subsection (b) of such section;
- (3) consumers can withdraw consent for such calls and text messages;
- (4) circumvention or evasion of such section is prevented;
- (5) callers maintain records to demonstrate that such callers have obtained consent, unless consent is not required under or the call or text message is exempted by paragraph (1), (2)(B), or (2)(C) of subsection (b) of such section, for such calls and text messages, for a period of time that will permit the Commission to effectuate the consumer protection and privacy purposes of such section; and
- (6) compliance with such section is facilitated.

SEC. 3. CONSUMER PROTECTIONS FOR EXEMPTIONS.

(a) **IN GENERAL.**—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

- (1) in subparagraph (G)(ii), by striking “; and” and inserting a semicolon;
- (2) in subparagraph (H), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:

“(I) shall ensure that any exemption under subparagraph (B) or (C) contains requirements for calls made in reliance on the exemption with respect to—

- “(i) the classes of parties that may make such calls;
- “(ii) the classes of parties that may be called; and
- “(iii) the number of such calls that a calling party may make to a particular called party.”.

(b) **DEADLINE FOR REGULATIONS.**—In the case of any exemption issued under subparagraph (B) or (C) of section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) before the date of the enactment of this Act, the Commission, shall, not later than 1 year after such date of enactment, prescribe such regulations, or amend such existing regulations, as necessary to ensure that such exemption contains each requirement described in subparagraph (I) of such section, as added by subsection (a). To the extent such an exemption contains such a requirement before such date of enactment, nothing in this section or the amendments made by this section shall be construed to require the Commission to prescribe or amend regulations relating to such requirement.

SEC. 4. REPORT ON REASSIGNED NUMBER DATABASE.

(a) **REPORT TO CONGRESS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit to Congress, and make publicly available on the website of the Commission, a report on the status of the efforts of the Commission pursuant to the Second Report and Order in the matter of Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59; FCC 18–177; adopted on December 12, 2018).

(2) **CONTENTS.**—The report required by paragraph (1) shall describe the efforts of the Commission, as described in such Second Report and Order, to ensure—

(A) the establishment of a database of telephone numbers that have been disconnected, in order to provide a person making calls subject to section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)) with comprehensive and timely information to enable such person to avoid making calls without the prior express consent of the called party because the number called has been reassigned;

(B) that a person who wishes to use any safe harbor provided pursuant to such Second Report and Order with respect to making calls must demonstrate that, before making the call, the person appropriately checked the most recent update of the database and the database reported that the number had not been disconnected; and

(C) that if the person makes the demonstration described in subparagraph (B), the person will be shielded from liability under section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)) should the database return an inaccurate result.

(b) CLARIFICATION OF DEFINITION OF CALLED PARTY.—

(1) IN GENERAL.—Section 227(a) of the Communications Act of 1934 (47 U.S.C. 227(a)) is amended by adding at the end the following:

“(6) The term ‘called party’ means, with respect to a call, the current subscriber or customary user of the telephone number to which the call is made, determined at the time when the call is made.”

(2) CONFORMING AMENDMENTS.—Section 227(d)(3)(B) of the Communications Act of 1934 (47 U.S.C. 227(d)(3)(B)) is amended—

(A) by striking “called party’s line” each place it appears and inserting “telephone line called”; and

(B) by striking “called party has hung up” and inserting “answering party has hung up”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply beginning on the date on which the database described in the Second Report and Order in the matter of Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59; FCC 18–177; adopted on December 12, 2018) becomes fully operational, such that a person may check the database to determine the last date of permanent disconnection associated with a phone number. Nothing in the amendments made by this subsection shall affect the construction of the law as it applies before the effective date.

SEC. 5. ENFORCEMENT.

(a) NO CITATION REQUIRED TO SEEK FORFEITURE PENALTY.—

(1) FOR ROBOCALL VIOLATIONS.—Section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)) is amended by adding at the end the following:

“(4) NO CITATION REQUIRED TO SEEK FORFEITURE PENALTY.—Paragraph (5) of section 503(b) shall not apply in the case of a violation made with the intent to cause such violation of this subsection.”

(2) FOR CALLER IDENTIFICATION INFORMATION VIOLATIONS.—Section 227(e)(5)(A)(iii) of the Communications Act of 1934 (47 U.S.C. 227(e)(5)(A)(iii)) is amended by adding at the end the following: “Paragraph (5) of section 503(b) shall not apply in the case of a violation of this subsection.”

(b) 4-YEAR STATUTE OF LIMITATIONS.—

(1) FOR ROBOCALL VIOLATIONS.—Section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)), as amended by subsection (a), is further amended by adding at the end the following:

“(5) 4-YEAR STATUTE OF LIMITATIONS.—Notwithstanding paragraph (6) of section 503(b), no forfeiture penalty for violation of this subsection shall be determined or imposed against any person if the violation charged occurred more than—

“(A) 3 years prior to the date of issuance of the notice required by paragraph (3) of such section or the notice of apparent liability required by paragraph (4) of such section (as the case may be); or

“(B) if the violation was made with the intent to cause such violation, 4 years prior to the date of issuance of the notice required by paragraph (3) of such section or the notice of apparent liability required by paragraph (4) of such section (as the case may be).”

(2) FOR CALLER IDENTIFICATION INFORMATION VIOLATIONS.—Section 227(e)(5)(A)(iv) of the Communications Act of 1934 (47 U.S.C. 227(e)(5)(A)(iv)) is amended—

(A) in the heading, by striking “2-YEAR” and inserting “4-YEAR”; and

(B) by striking “2 years” and inserting “4 years”.

(c) INCREASED PENALTY FOR ROBOCALL VIOLATIONS WITH INTENT.—Section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)), as amended by subsections (a) and (b), is further amended by adding at the end the following:

“(6) INCREASED PENALTY FOR VIOLATIONS WITH INTENT.—In the case of a forfeiture penalty for violation of this subsection that is determined or imposed under section 503(b), if such violation was made with the intent to cause such violation, the amount of such penalty shall be equal to an amount determined in accordance with subparagraphs (A) through (F) of section 503(b)(2) plus an additional penalty not to exceed \$10,000.”

SEC. 6. ANNUAL REPORT TO CONGRESS.

Section 227 of the Communications Act of 1934 (47 U.S.C. 227) is amended by adding at the end the following:

“(i) ANNUAL REPORT TO CONGRESS ON ROBOCALLS AND TRANSMISSION OF MISLEADING OR INACCURATE CALLER IDENTIFICATION INFORMATION.—

“(1) REPORT REQUIRED.—Not later than 1 year after the date of the enactment of this subsection, and annually thereafter, the Commission, after consultation with the Federal Trade Commission, shall submit to Congress a report regarding enforcement by the Commission of subsections (b), (c), (d), and (e) during the preceding calendar year.

“(2) MATTERS FOR INCLUSION.—Each report required by paragraph (1) shall include the following:

“(A) The number of complaints received by the Commission during each of the preceding five calendar years, for each of the following categories:

“(i) Complaints alleging that a consumer received a call in violation of subsection (b) or (c).

“(ii) Complaints alleging that a consumer received a call in violation of the standards prescribed under subsection (d).

“(iii) Complaints alleging that a consumer received a call in connection with which misleading or inaccurate caller identification information was transmitted in violation of subsection (e).

“(B) The number of citations issued by the Commission pursuant to section 503(b) during the preceding calendar year to enforce subsection (d), and details of each such citation.

“(C) The number of notices of apparent liability issued by the Commission pursuant to section 503(b) during the preceding calendar year to enforce subsections (b), (c), (d), and (e), and details of each such notice including any proposed forfeiture amount.

“(D) The number of final orders imposing forfeiture penalties issued pursuant to section 503(b) during the preceding calendar year to enforce such subsections, and details of each such order including the forfeiture imposed.

“(E) The amount of forfeiture penalties or criminal fines collected, during the preceding calendar year, by the Commission or the Attorney General for violations of such subsections, and details of each case in which such a forfeiture penalty or criminal fine was collected.

“(F) Proposals for reducing the number of calls made in violation of such subsections.

“(G) An analysis of the contribution by providers of interconnected VoIP service and non-interconnected VoIP service that discount high-volume, unlawful, short-duration calls to the total number of calls made in violation of such subsections, and recommendations on how to address such contribution in order to decrease the total number of calls made in violation of such subsections.

“(3) NO ADDITIONAL REPORTING REQUIRED.—The Commission shall prepare the report required by paragraph (1) without requiring the provision of additional information from providers of telecommunications service or voice service (as defined in section 7(d) of the Stopping Bad Robocalls Act).”

SEC. 7. REGULATIONS RELATING TO EFFECTIVE CALL AUTHENTICATION TECHNOLOGY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission shall prescribe regulations in WC Docket No. 17–97.

(b) REQUIREMENTS FOR EFFECTIVE CALL AUTHENTICATION TECHNOLOGY.—

(1) IN GENERAL.—The regulations required by subsection (a) shall—

(A) require providers of voice service to implement, within six months after the date on which such regulations are prescribed, an effective call authentication technology; and

(B) ensure that voice service providers that have implemented the effective authentication technology attest that such provider has determined, when originating calls on behalf of a calling party, that the calling party number transmitted with such calls has been appropriately authenticated.

(2) REASSESSMENT OF REGULATIONS.—The Commission shall reassess such regulations, at least once every two years, to ensure the regulations remain effective and up to date with technological capabilities.

(3) EXEMPTION.—

(A) BURDENS AND BARRIERS TO IMPLEMENTATION.—The Commission—

(i) shall include findings on any burdens or barriers to the implementation required in paragraph (1), including—

(I) for providers of voice service to the extent the networks of such providers use time-division multiplexing; and

(II) for small providers of voice service and those in rural areas; and

(ii) in connection with such findings, may exempt from the 6-month time period described in paragraph (1)(A), for a reasonable period of time a class of providers of voice service, or type of voice calls, as necessary for that class of providers or type of calls to participate in the implementation in order to address the identified burdens and barriers.

(B) FULL PARTICIPATION.—The Commission shall take all steps necessary to address any issues in the findings and enable as promptly as possible full participation of all classes of providers of voice service and types of voice calls to receive the highest level of attestation.

(C) ALTERNATIVE METHODOLOGIES.—The Commission shall identify or develop, in consultation with small providers of service and those in rural areas, alternative effective methodologies to protect customers from unauthenticated calls during any exemption given under subparagraph (A)(ii). Such methodologies shall be provided with no additional line item charge to customers.

(D) REVISION OF EXEMPTION.—Not less frequently than annually after the first exemption is issued under this paragraph, the Commission shall consider revising or extending any exemption made, may revise such exemption, and shall issue a public notice with regard to whether such exemption remains necessary.

(4) ACCURATE IDENTIFICATION.—The regulations required by subsection (a) shall include guidelines that providers of voice service may use as part of the implementation of effective call authentication technology under paragraph (1) to take steps to ensure the calling party is accurately identified.

(5) NO ADDITIONAL COST TO CONSUMERS OR SMALL BUSINESS CUSTOMERS.—The regulations required by subsection (a) shall prohibit providers of voice service from making any additional line item charges to consumer or small business customer subscribers for the effective call authentication technology required under paragraph (1).

(6) EVALUATION.—Not later than 2 years after the date of enactment of this Act, and consistent with the regulations prescribed under subsection (a), the Commission shall initiate an evaluation of the success of the effective call authentication technology required under paragraph (1).

(7) UNAUTHENTICATED CALLS.—The Commission shall—

(A) in the regulations required by subsection (a), consistent with the regulations prescribed under subsection (k) of section 227 of the Communications Act of 1934 (47 U.S.C. 227), as added by section 8, help protect subscribers from receiving unwanted calls from a caller using an unauthenticated number, through effective means of enabling the subscriber or provider to block such calls, with no additional line item charge to the subscriber; and

(B) take appropriate steps to ensure that calls originating from a provider of service in an area where the provider is exempt from the 6-month time period described in paragraph (1)(A) are not wrongly blocked because the calls are not able to be authenticated.

(c) REPORT.—Not later than 6 months after the date on which the regulations under subsection (a) are prescribed, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and make publicly available on its website, a report on the implementation of subsection (b), which shall include—

(1) an analysis of the extent to which providers of a voice service have implemented the effective call authentication technology, including whether the availability of necessary equipment and equipment upgrades has impacted such implementation; and

(2) an assessment of the effective call authentication technology, as being implemented under subsection (b), in addressing all aspects of call authentication.

(d) VOICE SERVICE DEFINED.—In this section, the term “voice service”—

(1) means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1) of the Communications Act of 1934 (47 U.S.C. 251(e)(1)); and

(2) includes—

(A) transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine; and

(B) without limitation, any service that enables real-time, two-way voice communications, including any service that requires internet protocol-compatible customer premises equipment (commonly known as “CPE”) and per-

mits out-bound calling, whether or not the service is one-way or two-way voice over internet protocol.

SEC. 8. STOP ROBOCALLS.

(a) **INFORMATION SHARING REGARDING ROBOCALL AND SPOOFING VIOLATIONS.**—Section 227 of the Communications Act of 1934 (47 U.S.C. 227), as amended by section 6, is further amended by adding at the end the following:

“(j) **INFORMATION SHARING.**—

“(1) **IN GENERAL.**—Not later than 18 months after the date of the enactment of this subsection, the Commission shall prescribe regulations to establish a process that streamlines the ways in which a private entity may voluntarily share with the Commission information relating to—

“(A) a call made or a text message sent in violation of subsection (b); or

“(B) a call or text message for which misleading or inaccurate caller identification information was caused to be transmitted in violation of subsection (e).

“(2) **TEXT MESSAGE DEFINED.**—In this subsection, the term ‘text message’ has the meaning given such term in subsection (e)(8).”.

(b) **ROBOCALL BLOCKING SERVICE.**—Section 227 of the Communications Act of 1934 (47 U.S.C. 227), as amended by section 6 and subsection (a) of this section, is further amended by adding at the end the following:

“(k) **ROBOCALL BLOCKING SERVICE.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this subsection, the Commission shall take a final agency action to ensure the robocall blocking services provided on an opt-out or opt-in basis pursuant to the Declaratory Ruling of the Commission in the matter of Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59; FCC 19–51; adopted on June 6, 2019)—

“(A) are provided with transparency and effective redress options for both—

“(i) consumers; and

“(ii) callers; and

“(B) are provided with no additional line item charge to consumers and no additional charge to callers for resolving complaints related to erroneously blocked calls.

“(2) **TEXT MESSAGE DEFINED.**—In this subsection, the term ‘text message’ has the meaning given such term in subsection (e)(8).”.

(c) **STUDY ON INFORMATION REQUIREMENTS FOR CERTAIN VOIP SERVICE PROVIDERS.**—

(1) **IN GENERAL.**—The Commission shall conduct a study regarding whether to require a provider of covered VoIP service to—

(A) provide to the Commission contact information for such provider and keep such information current; and

(B) retain records relating to each call transmitted over the covered VoIP service of such provider that are sufficient to trace such call back to the source of such call.

(2) **REPORT TO CONGRESS.**—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the results of the study conducted under paragraph (1).

(3) **COVERED VOIP SERVICE DEFINED.**—In this subsection, the term “covered VoIP service” means a service that—

(A) is an interconnected VoIP service (as defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153)); or

(B) would be an interconnected VoIP service (as so defined) except that the service permits users to terminate calls to the public switched telephone network but does not permit users to receive calls that originate on the public switched telephone network.

(d) **TRANSITIONAL RULE REGARDING DEFINITION OF TEXT MESSAGE.**—Paragraph (2) of subsection (j) of section 227 of the Communications Act of 1934 (47 U.S.C. 227), as added by subsection (a) of this section, and paragraph (2) of subsection (k) of such section 227, as added by subsection (b) of this section, shall apply before the effective date of the amendment made to subsection (e)(8) of such section 227 by subparagraph (C) of section 503(a)(2) of division P of the Consolidated Appropriations Act, 2018 (Public Law 115–141) as if such amendment was already in effect.

SEC. 9. PROVISION OF EVIDENCE OF CERTAIN ROBOCALL VIOLATIONS TO ATTORNEY GENERAL.

(a) **IN GENERAL.**—If the Chief of the Enforcement Bureau of the Commission obtains evidence that suggests a willful, knowing, and repeated robocall violation with

an intent to defraud, cause harm, or wrongfully obtain anything of value, the Chief of the Enforcement Bureau shall provide such evidence to the Attorney General.

(b) **REPORT TO CONGRESS.**—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Commission shall publish on its website and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) states the number of instances during the preceding year in which the Chief of the Enforcement Bureau provided the evidence described in subsection (a) to the Attorney General; and

(2) contains a general summary of the types of robocall violations to which such evidence relates.

(c) **RULES OF CONSTRUCTION.**—Nothing in this section shall be construed to affect the ability of the Commission or the Chief of the Enforcement Bureau under other law—

(1) to refer a matter to the Attorney General; or

(2) to pursue or continue pursuit of an enforcement action in a matter with respect to which the Chief of the Enforcement Bureau provided the evidence described in subsection (a) to the Attorney General.

(d) **ROBOCALL VIOLATION DEFINED.**—In this section, the term “robocall violation” means a violation of subsection (b) or (e) of section 227 of the Communications Act of 1934 (47 U.S.C. 227).

SEC. 10. PROTECTION FROM ONE-RING SCAMS.

(a) **INITIATION OF PROCEEDING.**—Not later than 120 days after the date of the enactment of this Act, the Commission shall initiate a proceeding to protect called parties from one-ring scams.

(b) **MATTERS TO BE CONSIDERED.**—As part of the proceeding required by subsection (a), the Commission shall consider how the Commission can—

(1) work with Federal and State law enforcement agencies to address one-ring scams;

(2) work with the governments of foreign countries to address one-ring scams;

(3) in consultation with the Federal Trade Commission, better educate consumers about how to avoid one-ring scams;

(4) incentivize voice service providers to stop calls made to perpetrate one-ring scams from being received by called parties, including consideration of adding identified one-ring scam type numbers to the Commission’s existing list of permissible categories for carrier-initiated blocking;

(5) work with entities that provide call-blocking services to address one-ring scams; and

(6) establish obligations on international gateway providers that are the first point of entry for these calls into the United States, including potential requirements that such providers verify with the foreign originator the nature or purpose of calls before initiating service.

(c) **REPORT TO CONGRESS.**—Not later than 1 year after the date of the enactment of this Act, the Commission shall publish on its website and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the status of the proceeding required by subsection (a).

(d) **DEFINITIONS.**—In this section:

(1) **ONE-RING SCAM.**—The term “one-ring scam” means a scam in which a caller makes a call and allows the call to ring the called party for a short duration, in order to prompt the called party to return the call, thereby subjecting the called party to charges.

(2) **STATE.**—The term “State” has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(3) **VOICE SERVICE.**—The term “voice service” has the meaning given such term in section 227(e)(8) of the Communications Act of 1934 (47 U.S.C. 227(e)(8)). This paragraph shall apply before the effective date of the amendment made to such section by subparagraph (C) of section 503(a)(2) of division P of the Consolidated Appropriations Act, 2018 (Public Law 115–141) as if such amendment was already in effect.

SEC. 11. INTERAGENCY WORKING GROUP.

(a) **IN GENERAL.**—The Attorney General, in consultation with the Commission, shall convene an interagency working group to study the enforcement of section 227(b) of the Communications Act of 1934 (47 U.S.C. 227(b)).

(b) **DUTIES.**—In carrying out the study under subsection (a), the interagency working group shall—

(1) determine whether, and if so how, any Federal law, including regulations, policies, and practices, or budgetary or jurisdictional constraints inhibit the enforcement of such section;

(2) identify existing and potential Federal policies and programs that encourage and improve coordination among Federal departments and agencies and States, and between States, in the enforcement and prevention of the violation of such section;

(3) identify existing and potential international policies and programs that encourage and improve coordination between countries in the enforcement and prevention of the violation of such section (and laws of foreign countries prohibiting similar conduct); and

(4) consider—

(A) the benefit and potential sources of additional resources for the Federal enforcement and prevention of the violation of such section;

(B) whether memoranda of understanding regarding the enforcement and prevention of the violation of such section should be established between—

(i) the States;

(ii) the States and the Federal Government; and

(iii) the Federal Government and foreign governments;

(C) whether a process should be established to allow States to request Federal subpoenas from the Commission with respect to the enforcement of such section;

(D) whether increased criminal penalties for the violation of such section (including increasing the amount of fines and increasing the maximum term of imprisonment that may be imposed to a period greater than 2 years) are appropriate;

(E) whether regulation of any entity that enters into a business arrangement with a carrier for the specific purpose of carrying, routing, or transmitting a call that constitutes a violation of such section would assist in the successful enforcement and prevention of the violation of such section; and

(F) the extent to which the prosecution of certain violations of such section (which result in economic, physical, or emotional harm) pursuant to any Department of Justice policy may inhibit or otherwise interfere with the prosecution of other violations of such section.

(c) MEMBERS.—The interagency working group shall be composed of such representatives of Federal departments and agencies as the Attorney General considers appropriate, which may include—

(1) the Department of Commerce (including the National Telecommunications and Information Administration);

(2) the Department of State;

(3) the Department of Homeland Security;

(4) the Commission;

(5) the Federal Trade Commission; and

(6) the Bureau of Consumer Financial Protection.

(d) NON-FEDERAL STAKEHOLDERS.—In carrying out the study under subsection (a), the interagency working group shall consult with such non-Federal stakeholders as the Attorney General determines have relevant expertise, including the National Association of Attorneys General.

(e) REPORT TO CONGRESS.—Not later than 9 months after the date of the enactment of this Act, the interagency working group shall submit to the Committee on Commerce, Science, and Transportation and the Committee on the Judiciary of the Senate and the Committee on Energy and Commerce and the Committee on the Judiciary of the House of Representatives a report on the findings of the study under subsection (a), including—

(1) any recommendations regarding the enforcement and prevention of the violation of such section; and

(2) a description of what process, if any, relevant Federal departments and agencies have made in implementing the recommendations under paragraph (1).

SEC. 12. COMMISSION DEFINED.

In this Act, the term “Commission” means the Federal Communications Commission.

SEC. 13. ANNUAL ROBOCALL REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Commission shall make publicly available on the website of the Commission, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate, a report on the status of private-led efforts to trace

back the origin of suspected unlawful robocalls by the registered consortium and the participation of voice service providers in such efforts.

(b) CONTENTS OF REPORT.—The report required under subsection (a) shall include, at minimum, the following:

(1) A description of private-led efforts to trace back the origin of suspected unlawful robocalls by the registered consortium and the actions taken by the registered consortium to coordinate with the Commission.

(2) A list of voice service providers identified by the registered consortium that participated in private-led efforts to trace back the origin of suspected unlawful robocalls through the registered consortium.

(3) A list of each voice service provider that received a request from the registered consortium to participate in private-led efforts to trace back the origin of suspected unlawful robocalls and refused to participate, as identified by the registered consortium.

(4) The reason, if any, each voice service provider identified by the registered consortium provided for not participating in private-led efforts to trace back the origin of suspected unlawful robocalls.

(5) A description of how the Commission may use the information provided to the Commission by voice service providers or the registered consortium that have participated in private-led efforts to trace back the origin of suspected unlawful robocalls in the enforcement efforts by the Commission.

(c) ADDITIONAL INFORMATION.—Not later than 210 days after the date of the enactment of this Act, and annually thereafter, the Commission shall issue a notice to the public seeking additional information from voice service providers and the registered consortium of private-led efforts to trace back the origin of suspected unlawful robocalls necessary for the report by the Commission required under subsection (a).

(d) REGISTRATION OF CONSORTIUM OF PRIVATE-LED EFFORTS TO TRACE BACK THE ORIGIN OF SUSPECTED UNLAWFUL ROBOCALLS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Commission shall issue rules to establish a registration process for the registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls. The consortium shall meet the following requirements:

(A) Be a neutral third-party competent to manage the private-led effort to trace back the origin of suspected unlawful robocalls in the judgement of the Commission.

(B) Maintain a set of written best practices about the management of such efforts and regarding providers of voice services' participation in private-led efforts to trace back the origin of suspected unlawful robocalls.

(C) Consistent with section 222(d)(2) of the Communications Act of 1934 (47 U.S.C. 222(d)(2)), any private-led efforts to trace back the origin of suspected unlawful robocalls conducted by the third-party focus on “fraudulent, abusive, or unlawful” traffic.

(D) File a notice with the Commission that the consortium intends to conduct private-led efforts to trace back in advance of such registration.

(2) ANNUAL NOTICE BY THE COMMISSION SEEKING REGISTRATIONS.—Not later than 120 days after the date of the enactment of this Act, and annually thereafter, the Commission shall issue a notice to the public seeking the registration described in paragraph (1).

(e) LIST OF VOICE SERVICE PROVIDERS.—The Commission may publish a list of voice service providers and take appropriate enforcement action based on information obtained from the consortium about voice service providers that refuse to participate in private-led efforts to trace back the origin of suspected unlawful robocalls, and other information the Commission may collect about service providers that are found to originate or transmit substantial amounts of illegal calls.

(f) DEFINITIONS.—In this section:

(1) PRIVATE-LED EFFORT TO TRACE BACK.—The term “private-led effort to trace back” means an effort made by the registered consortium of voice service providers to establish a methodology for determining the origin of a suspected unlawful robocall.

(2) REGISTERED CONSORTIUM.—The term “registered consortium” means the consortium registered under subsection (d).

(3) SUSPECTED UNLAWFUL ROBOCALL.—The term “suspected unlawful robocall” means a call that the Commission or a voice service provider reasonably believes was made in violation of subsection (b) or (e) of section 227 of the Communications Act of 1934 (47 U.S.C. 227).

(4) VOICE SERVICE.—The term “voice service”—

(A) means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1) of the Communications Act of 1934 (47 U.S.C. 251(e)(1)); and

(B) includes—

(i) transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine; and

(ii) without limitation, any service that enables real-time, two-way voice communications, including any service that requires internet protocol-compatible customer premises equipment (commonly known as “CPE”) and permits out-bound calling, whether or not the service is one-way or two-way voice over internet protocol.

SEC. 14. HOSPITAL ROBOCALL PROTECTION GROUP.

(a) **ESTABLISHMENT.**—Not later than 180 days after the date of the enactment of this Act, the Commission shall establish an advisory committee to be known as the “Hospital Robocall Protection Group”.

(b) **MEMBERSHIP.**—The Group shall be composed only of the following members:

(1) An equal number of representatives from each of the following:

(A) Voice service providers that serve hospitals.

(B) Companies that focus on mitigating unlawful robocalls.

(C) Consumer advocacy organizations.

(D) Providers of one-way voice over internet protocol services described in subsection (e)(4)(B)(ii).

(E) Hospitals.

(F) State government officials focused on combatting unlawful robocalls.

(2) One representative of the Commission.

(3) One representative of the Federal Trade Commission.

(c) **ISSUANCE OF BEST PRACTICES.**—Not later than 180 days after the date on which the Group is established under subsection (a), the Group shall issue best practices regarding the following:

(1) How voice service providers can better combat unlawful robocalls made to hospitals.

(2) How hospitals can better protect themselves from such calls, including by using unlawful robocall mitigation techniques.

(3) How the Federal Government and State governments can help combat such calls.

(d) **PROCEEDING BY FCC.**—Not later than 180 days after the date on which the best practices are issued by the Group under subsection (c), the Commission shall conclude a proceeding to assess the extent to which the voluntary adoption of such best practices can be facilitated to protect hospitals and other institutions.

(e) **DEFINITIONS.**—In this section:

(1) **GROUP.**—The term “Group” means the Hospital Robocall Protection Group established under subsection (a).

(2) **STATE.**—The term “State” has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(3) **VOICE SERVICE.**—The term “voice service”—

(A) means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1) of the Communications Act of 1934 (47 U.S.C. 251(e)(1)); and

(B) includes—

(i) transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine; and

(ii) without limitation, any service that enables real-time, two-way voice communications, including any service that requires internet protocol-compatible customer premises equipment (commonly known as “CPE”) and permits out-bound calling, whether or not the service is one-way or two-way voice over internet protocol.

I. PURPOSE AND SUMMARY

H.R. 3375, the “Stopping Bad Robocalls Act”, was introduced on June 25, 2019, by Reps. Pallone (D–NJ), Walden (R–OR), Doyle (D–PA), and Latta (R–OH), and referred to the Committee on Energy

and Commerce. H.R. 3375 would take myriad actions aimed at relieving consumers from the onslaught of robocalls. Among other things, H.R. 3375 would require the implementation of nationwide call authentication technology so consumers can again trust the number that appears on their caller ID. The legislation also provides for carriers to offer call blocking services and requires it to be offered at no additional line-item charge, and directs the Federal Communications Commission (FCC) to issue rules to protect consumers from calls they did not agree to receive and to ensure consumers can withdraw consent.

II. BACKGROUND AND NEED FOR LEGISLATION

According to many sources, Americans are receiving more unlawful robocalls than ever before. For example, the FCC received 232,000 consumer robocall complaints in 2018, a more than 34 percent increase since 2015.¹ YouMail estimates that there were nearly 48 billion robocalls in 2018, up more than 64 percent since 2016.² First Orion predicts that this year, 44.6 percent of all calls to mobile phones will be scam calls.³

In fact, the problem has become so pervasive, the FCC's Consumer and Governmental Affairs Bureau (CGB) noted that "[c]urrently, the only certain way to determine whether a call is wanted or unwanted is to answer it or let it go to voicemail, and hope the caller leaves a message."⁴

According to CGB, individuals tend to make robocalls for both legitimate and illegitimate purposes. Examples include telemarketing, committing fraud, but also to provide useful information pertaining to school closings or prescription or medical appointment reminders.⁵ With fraud becoming a growing concern, government agencies are warning consumers of scam calls in which callers impersonate the Internal Revenue Service, a local utility company, or foreign governments.⁶ Other agencies report "One Ring Phone Scams," where scammers make repeated calls to the same number in an attempt to induce the consumer to call the number back, potentially resulting in hefty charges to the consumer.⁷

Notably, however, not all robocalls are illegal. The Congress or the FCC, in relevant instances, have recognized that some calls provide significant benefits and therefore treats those differently. For example, some calls are exempted from the consent requirements of the Telephone Consumer Protection Act (TCPA). These include alerts regarding transactions and events that suggest a risk of fraud or identity theft from banks, news regarding school closings, calls made by the government, and non-telemarketing healthcare calls in cases of emergencies requiring healthcare treatment. H.R. 3375 would not overturn these exemptions.

¹See Federal Communication Commission, *Report on Robocalls*, at ¶ 9 (Feb. 2019).

²See YouMail, *Historical Robocalls by Time* (www.robocallindex.com/history/time) (accessed Apr. 24, 2019).

³First Orion, *Nearly 50% of U.S. Mobile Traffic Will Be Scam Calls by 2019* (www.firstorion.com/nearly-50-of-u-s-mobile-traffic-will-be-scam-calls-by-2019/) (accessed Apr. 24, 2019).

⁴See note 1 at ¶ 15.

⁵See Federal Communications Commission, *Report on Robocalls*, at ¶ 4–6 (Feb. 2019).

⁶See *id.* at fn. 13.

⁷*Morristown Residents Alerted to New Scam*, TAP into Morristown (Apr. 9, 2019) (www.tapinto.net/towns/morristown/articles/morristown-residents-alerted-to-new-scam).

H.R. 3375 builds on the Committee’s progress made in the RAY BAUM’S Act against fraudulent robocalls and spoofing, implementation of which was recently supported at the FCC by a bipartisan group of 42 State Attorneys General.⁸

III. COMMITTEE HEARING

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop or consider H.R. 3375:

The Subcommittee on Communications and Technology held a legislative hearing on April 30, 2019, entitled “Legislating to Stop the Onslaught of Annoying Robocalls.” The Subcommittee received testimony from:

- Aaron Foss, Founder, Nomorobo;
- Dave Summitt, Chief Information Security Officer H. Lee Moffitt Cancer Center & Research Institute, and Fellow for the Institute for Critical Infrastructure Technology;
- Margot Saunders, Senior Counsel, National Consumer Law Center; and
- Patrick Halley, Senior Vice President, Advocacy and Regulatory Affairs, USTelecom—The Broadband Association.

IV. COMMITTEE CONSIDERATION

H.R. 3375, the “Stopping Bad Robocalls Act”, was introduced in the House on June 20, 2019, by Reps. Pallone (D–NJ), Walden (R–OR), Doyle (D–PA), and Latta (R–OH), and referred to the Committee on Energy and Commerce. Subsequently, the bill was referred to the Subcommittee on Communications and Technology on June 21, 2019. Following a legislative hearing, the Subcommittee met in open markup session, pursuant to notice, on June 25, 2019, for consideration of the bill H.R. 3375. During consideration of the bill, Rep. McEachin (D–VA), Rep. Butterfield (D–NC), Rep. Clarke (D–NY), and Rep. Soto (D–FL) each offered an amendment to H.R. 3375 and each amendment was agreed to by a voice vote. Subsequently, the Subcommittee on Communications and Technology agreed to a motion by Mr. Doyle, Chairman of the Subcommittee, that H.R. 3375 be forwarded favorably to the full Committee on Energy and Commerce, amended, by a voice vote.

On July 17, 2019, the full Committee met in open markup session, pursuant to notice, to consider the bill H.R. 3375, as amended. During consideration, three amendments were adopted, each by a voice vote. The amendments were offered by Reps. Pallone and Walden, Rep. Burgess (R–TX), and Rep. Flores (R–TX). At the conclusion of the bill’s consideration, the Committee on Energy and Commerce agreed to a motion offered by Mr. Pallone, Chairman of the Committee, that the bill, H.R. 3375, be ordered reported favorably to the House, amended, by a recorded vote of 48 yeas to 0 nays, a quorum being present.

⁸Reply Comments of Forty-Two (42) State Attorneys General, FCC, WC Docket Nos. 18–335, 11–39 (filed May 3, 2019).

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there was one record vote taken on H.R. 3375, on a motion by Mr. Pallone ordering H.R. 3375 be reported favorably to the House, amended. The motion on final passage of the bill was approved by a record vote of 48 yeas to 0 nays. The following is the record vote taken during Committee consideration, including the names of those members voting for and against the motion:

**COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 27**

BILL: H.R. 3375, the “Stopping Bad Robocalls Act”

MOTION: A motion by Mr. Pallone of New Jersey to order H.R. 3375 reported favorably to the House, amended (Final Passage).

DISPOSITION: **AGREED TO** by a roll call vote of 48 yeas to 0 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone	X			Rep. Walden		X	
Rep. Rush	X			Rep. Upton		X	
Rep. Eshoo	X			Rep. Shimkus		X	
Rep. Engel				Rep. Burgess		X	
Rep. DeGette	X			Rep. Scalise		X	
Rep. Doyle	X			Rep. Latta		X	
Rep. Schakowsky	X			Rep. Rodgers		X	
Rep. Butterfield	X			Rep. Guthrie		X	
Rep. Matsui	X			Rep. Olson		X	
Rep. Castor	X			Rep. McKinley		X	
Rep. Sarbanes	X			Rep. Kinzinger			
Rep. McNerney	X			Rep. Griffith		X	
Rep. Welch	X			Rep. Bilirakis			
Rep. Lujan	X			Rep. Johnson		X	
Rep. Tonko	X			Rep. Long		X	
Rep. Clarke				Rep. Buschon		X	
Rep. Loeb sack	X			Rep. Flores		X	
Rep. Schrader	X			Rep. Brooks		X	
Rep. Kennedy	X			Rep. Mullin			
Rep. Cardenas	X			Rep. Hudson			
Rep. Ruiz	X			Rep. Walberg		X	
Rep. Peters	X			Rep. Carter		X	
Rep. Dingell	X			Rep. Duncan		X	
Rep. Veasey	X			Rep. Gianforte		X	
Rep. Kuster	X						
Rep. Kelly	X						
Rep. Barragan							
Rep. McEachin	X						
Rep. Blunt Rochester	X						
Rep. Soto	X						
Rep. O’Halleran	X						

07/17/2019

VI. OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portion of the report.

VII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

VIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

IX. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to protect consumers from unlawful robocalls.

X. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3375 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

XI. COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

XII. EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 3375 contains no earmarks, limited tax benefits, or limited tariff benefits.

XIII. ADVISORY COMMITTEE STATEMENT

The legislation creates one federal advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act.

XIV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XV. SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 designates that the short title may be cited as the “Stopping Bad Robocalls Act”.

Section 2. Consumer protection regulations relating to making robocalls

This section requires the Federal Communications Commission (FCC) to complete a rulemaking within six months to revise its rules under the Telephone Consumer Protection Act (TCPA) to protect consumers and their privacy. Section 2, among other things, requires the FCC to clarify which dialing equipment is captured by the statutory definition of an automatic telephone dialing system found in 47 U.S.C. 227(a)(1). These regulations must ensure that calls made and text messages sent using an automatic telephone dialing system or using an artificial or prerecorded voice (as the case may be) are only made and sent with the consent of the person being called, as required under the TCPA.

The Committee expects that the FCC will take steps to protect consumers from calls for which they have not consented to receive or for which they have revoked consent, as such calls are unlawful under the TCPA. This section also requires the FCC to ensure that consumers can always withdraw such consent, regardless of the means by which consent was granted. The Committee expects the FCC to make such withdrawal easy and intuitive for consumers.

This section also requires the FCC to prevent circumvention or evasion of the TCPA. And the Committee expects, as is required under the FCC’s regulations today, that if the calls or texts are for telemarketing purposes, consumers must have provided prior express written consent.

Under this section, the FCC is also required to ensure that callers making such calls and texts by automatic telephone dialing systems or using an artificial or prerecorded voice maintain records that demonstrate callers have the consent of the people they are calling and texting.

Section 3. Consumer protections for exemptions

This section requires the FCC to implement consumer protections on the FCC’s exempted classes of calls made or text messages sent using an automatic telephone dialing system or using an artificial or prerecorded voice. These consumer protections must specifically include limits on: (1) the classes of parties that may make such calls, (2) the classes of parties that may be called, and (3) the number of calls allowed under the exemption. The section requires the FCC to update its regulations within one year to implement these consumer protections.

Section 4. Report on reassigned number database

This section requires the FCC to issue a report to Congress to ensure the FCC is quickly implementing the reassigned number database it voted to implement in December 2018. This section also codifies what many courts have found to be the appropriate definition of the term “called party.” The Committee expects that the delay of implementation of this clarification will not affect such definition for calls made before the effective date, including in jurisdictions that have already interpreted the meaning of the term “called party” consistent with this section.

Section 5. Enforcement

This section extends the statute of limitations by up to three years, and four years in cases of violations made “with the intent to cause such violation,” to give relevant authorities enough time to prosecute illegal robocallers.

This section also permits the FCC to move forward with issuing a forfeiture against calls made in violation of 47 U.S.C. 227(b) without a citation when the caller acted with the “intent to cause such violations.” This section also provides an additional statutory clarification that no citation is needed to bring enforcement against a violation of the Truth and Caller ID Act, as is current FCC practice. Finally, this section allows the FCC to assess an additional \$10,000 penalty for a robocall violation if the offender acted with intent to cause the violation.

By limiting the extended enforcement period and the exemption from the citation requirement only for “violations with the intent to cause such violation” the Stopping Bad Robocalls Act would allow the FCC additional flexibility and penalties to pursue the worst of the worst: scammers and lead-generation mills intentionally violating restrictions on the use of automatic telephone dialing systems. Merely having “committed the act [that] violated the TCPA” would not be sufficient. For example, making a call using an automatic telephone dialing system without having updated a calling list to remove customers that have changed numbers or that revoked consent to receive otherwise prohibited calls would not reach the intent standard necessary to trigger the enhanced penalties. Rather, the calling party must knowingly use an automatic telephone dialing system to intentionally place calls to covered numbers without a reasonable basis for believing it had the necessary consent to call. It must also intend to violate the other applicable legal requirements, including any such requirements set forth in the TCPA’s statutory exceptions and the regulatory exemptions and clarifications issued by the FCC relating to the TCPA.

If a caller intentionally uses an automatic telephone dialing system to call, without a reasonable basis to conclude that the intended recipient had consented to receive such calls, that action would constitute the intent to cause a violation, as long as the intent requirement was satisfied for the other elements of the TCPA. Similarly, if a caller uses an automatic telephone dialing system in violation of the restrictions in 47 U.S.C. 227(b), and in making those calls spoofs its number in violation of 47 U.S.C. 227(c), the spoofing would demonstrate intent to cause violations.

The Committee recognizes that the phrasing of this standard is not a common phrasing in the U.S. Code, and is written specifically

in light of the need to overcome the FCC’s interpretation of “willful”, to ensure that this new enhanced enforcement authority is limited to truly intentional violations. The Committee intends for the FCC and the courts to interpret this standard in a straightforward manner consistent with the guidance expressed here.

H.R. 3375 would not apply the heightened intent standard to violations other than violations of 47 U.S.C. 227(b).

Section 6. Annual report to Congress

This section requires the FCC to issue an annual report to Congress on illegal robocallers detailing its enforcement activities so Congress can make sure the robocalling problem is being addressed. The report also requires the FCC to provide Congress with proposals for decreasing the number of robocalls through additional legislation.

Section 7. Regulations relating to effective call authentication technology

This section requires all carriers, over time, to implement effective call authentication technology to make sure that caller-ID information is appropriately authenticated, and with no additional line item charge to consumers or small businesses. The Committee expects the FCC to require implementation of the STIR/SHAKEN Framework as the primary method of effective call authentication.

In implementing section 7(b)(3), the Committee expects the FCC to review all burdens and barriers to implementation of effective call authentication technology—including the expense of purchasing and/or installing the equipment and software necessary to deploy call authentication technology, as well as any other associated expenses that deployment of the technology will impose on a particular class of providers or class of calls. The Committee expects the FCC will delay implementation of this requirement for those affected classes of providers or calls for a time that is reasonably necessary to address identified burdens and barriers. The FCC shall enable as promptly as possible full participation for all providers and all types of calls to reach the highest attestation.

Additionally, to the extent that some providers need additional time to implement effective call authentication technology, the FCC should seek to identify alternative effective methodologies for authenticating calls and protecting consumers from spoofed calls, at no additional line item charge to consumers or small businesses.

The Committee expects that the FCC’s regulations will effectively help prevent subscribers from receiving calls from a caller using an unauthenticated number, at no additional line item charge to the subscriber, while also taking appropriate steps to ensure that calls are not inappropriately blocked because a provider is not yet subject to the requirements to implement the call-authentication technology.

Section 8. STOP robocalls

This section ensures that robocall blocking services offered on a default basis are provided with no additional line item charge on consumers’ bills and that consumers and callers have transparency as to when a number has been blocked and effective redress. The Committee expects the FCC, in consultation with call originators

and voice service providers, to establish a process by which voice service providers, in as timely and efficient a manner as reasonable, will:

- (1) provide notice of blocked calls to subscribers and callers; and
- (2) provide a method for subscribers and callers to unblock improperly blocked calls.

New subsection (k)(1)(B) created by this section specifies that these call blocking services are to be provided with no additional line item charge imposed by a provider on consumers receiving the services. It also specifies that there is to be no additional charge imposed by providers on callers for resolving complaints regarding calls erroneously blocked. In this regard, as one approach to reducing the incidence of erroneous blocking, the FCC may create, or direct development of, a nationwide database of callers and numbers verified as authentic, available for providers to consult. Callers who are concerned that their calls might be erroneously blocked, would have the opportunity to submit their names and numbers to the database, and might pay a reasonable charge for the benefits of doing so. This would not be considered a charge for resolving a complaint.

Section 9. Provision of evidence of certain robocall violations to Attorney General

This section requires the FCC to submit evidence of certain criminal robocall violations to the Department of Justice for criminal prosecution and requires the FCC to publish a report annually disclosing how frequently the FCC submitted such evidence.

Section 10. Protection from one-ring scams

This section requires the FCC to initiate a proceeding to protect consumers from one-ring-scams, including by working with foreign governments to address one-ring scams and by incentivizing carriers to stop calls made to perpetrate one-ring scams, among other things.

Section 11. Interagency working groups

This section requires the Attorney General, in consultation with the FCC, to convene an interagency working group to study the enforcement of the TCPA. Among other things, the task force shall: (1) determine how federal law and budgetary constraints inhibit enforcement of the TCPA; (2) identify existing policies and programs, and recommend policies and programs, to increase coordination between federal departments and agencies and the states for enforcing and preventing violations of the TCPA; and (3) identify existing and potential international policies and programs to improve coordination between countries in enforcing the TCPA and similar laws.

Section 12. Commission defined

The section defines the term “Commission” to mean the Federal Communications Commission.

Section 13. Annual robocall report

This section requires the FCC to register a consortium of companies engaged in private-led efforts to trace back the origin of suspected unlawful robocalls. The FCC would be required then to create a certification process to identify whether carriers have or have not participated in a private-led effort to traceback the origin of a suspected unlawful robocall, and requires the FCC to publish a report on carriers participation in private-led efforts to traceback the origin of suspected unlawful robocalls. This section further allows the FCC to publish a list of voice service providers based on information obtained from the consortium and take appropriate enforcement action.

Section 14. Hospital robocall protection group

This section requires the FCC to establish a Hospital Robocall Working Group to, among other things, issue best practices to help voice service providers combat unlawful robocalls made to hospitals and to help hospitals protect themselves from robocalls. It also requires the FCC to initiate a proceeding to determine whether the voluntary adoption of the practices can be facilitated.

XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

* * * * *

TITLE II—COMMON CARRIERS**PART I—COMMON CARRIER REGULATION**

* * * * *

SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

(a) DEFINITIONS.—As used in this section—

(1) The term “automatic telephone dialing system” means equipment which has the capacity—

- (A) to store or produce telephone numbers to be called, using a random or sequential number generator; and
- (B) to dial such numbers.

(2) The term “established business relationship”, for purposes only of subsection (b)(1)(C)(i), shall have the meaning given the term in section 64.1200 of title 47, Code of Federal Regulations, as in effect on January 1, 2003, except that—

- (A) such term shall include a relationship between a person or entity and a business subscriber subject to the same terms applicable under such section to a relationship between a person or entity and a residential subscriber; and

(B) an established business relationship shall be subject to any time limitation established pursuant to paragraph (2)(G)).

(3) The term “telephone facsimile machine” means equipment which has the capacity (A) to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

(4) The term “telephone solicitation” means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message (A) to any person with that person’s prior express invitation or permission, (B) to any person with whom the caller has an established business relationship, or (C) by a tax exempt nonprofit organization.

(5) The term “unsolicited advertisement” means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person’s prior express invitation or permission, in writing or otherwise.

(6) *The term “called party” means, with respect to a call, the current subscriber or customary user of the telephone number to which the call is made, determined at the time when the call is made.*

(b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—

(1) PROHIBITIONS.—It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(i) to any emergency telephone line (including any “911” line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency);

(ii) to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call, unless such call is made solely to collect a debt owed to or guaranteed by the United States;

(B) to initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes, is made solely pursuant to the collection of a debt owed to or guaranteed by the United States, or is exempt-

ed by rule or order by the Commission under paragraph (2)(B);

(C) to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement, unless—

(i) the unsolicited advertisement is from a sender with an established business relationship with the recipient;

(ii) the sender obtained the number of the telephone facsimile machine through—

(I) the voluntary communication of such number, within the context of such established business relationship, from the recipient of the unsolicited advertisement, or

(II) a directory, advertisement, or site on the Internet to which the recipient voluntarily agreed to make available its facsimile number for public distribution,

except that this clause shall not apply in the case of an unsolicited advertisement that is sent based on an established business relationship with the recipient that was in existence before the date of enactment of the Junk Fax Prevention Act of 2005 if the sender possessed the facsimile machine number of the recipient before such date of enactment; and

(iii) the unsolicited advertisement contains a notice meeting the requirements under paragraph (2)(D),

except that the exception under clauses (i) and (ii) shall not apply with respect to an unsolicited advertisement sent to a telephone facsimile machine by a sender to whom a request has been made not to send future unsolicited advertisements to such telephone facsimile machine that complies with the requirements under paragraph (2)(E); or

(D) to use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

(2) REGULATIONS; EXEMPTIONS AND OTHER PROVISIONS.—The Commission shall prescribe regulations to implement the requirements of this subsection. In implementing the requirements of this subsection, the Commission—

(A) shall consider prescribing regulations to allow businesses to avoid receiving calls made using an artificial or prerecorded voice to which they have not given their prior express consent;

(B) may, by rule or order, exempt from the requirements of paragraph (1)(B) of this subsection, subject to such conditions as the Commission may prescribe—

(i) calls that are not made for a commercial purpose; and

(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

(I) will not adversely affect the privacy rights that this section is intended to protect; and

(II) do not include the transmission of any unsolicited advertisement;

(C) may, by rule or order, exempt from the requirements of paragraph (1)(A)(iii) of this subsection calls to a telephone number assigned to a cellular telephone service that are not charged to the called party, subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights this section is intended to protect;

(D) shall provide that a notice contained in an unsolicited advertisement complies with the requirements under this subparagraph only if—

(i) the notice is clear and conspicuous and on the first page of the unsolicited advertisement;

(ii) the notice states that the recipient may make a request to the sender of the unsolicited advertisement not to send any future unsolicited advertisements to a telephone facsimile machine or machines and that failure to comply, within the shortest reasonable time, as determined by the Commission, with such a request meeting the requirements under subparagraph (E) is unlawful;

(iii) the notice sets forth the requirements for a request under subparagraph (E);

(iv) the notice includes—

(I) a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender; and

(II) a cost-free mechanism for a recipient to transmit a request pursuant to such notice to the sender of the unsolicited advertisement; the Commission shall by rule require the sender to provide such a mechanism and may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, exempt certain classes of small business senders, but only if the Commission determines that the costs to such class are unduly burdensome given the revenues generated by such small businesses;

(v) the telephone and facsimile machine numbers and the cost-free mechanism set forth pursuant to clause (iv) permit an individual or business to make such a request at any time on any day of the week; and

(vi) the notice complies with the requirements of subsection (d);

(E) shall provide, by rule, that a request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if—

(i) the request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

(ii) the request is made to the telephone or facsimile number of the sender of such an unsolicited advertisement provided pursuant to subparagraph (D)(iv) or by

any other method of communication as determined by the Commission; and

(iii) the person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine;

(F) may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, allow professional or trade associations that are tax-exempt non-profit organizations to send unsolicited advertisements to their members in furtherance of the association's tax-exempt purpose that do not contain the notice required by paragraph (1)(C)(iii), except that the Commission may take action under this subparagraph only—

(i) by regulation issued after public notice and opportunity for public comment; and

(ii) if the Commission determines that such notice required by paragraph (1)(C)(iii) is not necessary to protect the ability of the members of such associations to stop such associations from sending any future unsolicited advertisements;

(G)(i) may, consistent with clause (ii), limit the duration of the existence of an established business relationship, however, before establishing any such limits, the Commission shall—

(I) determine whether the existence of the exception under paragraph (1)(C) relating to an established business relationship has resulted in a significant number of complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines;

(II) determine whether a significant number of any such complaints involve unsolicited advertisements that were sent on the basis of an established business relationship that was longer in duration than the Commission believes is consistent with the reasonable expectations of consumers;

(III) evaluate the costs to senders of demonstrating the existence of an established business relationship within a specified period of time and the benefits to recipients of establishing a limitation on such established business relationship; and

(IV) determine whether with respect to small businesses, the costs would not be unduly burdensome; and

(ii) may not commence a proceeding to determine whether to limit the duration of the existence of an established business relationship before the expiration of the 3-month period that begins on the date of the enactment of the Junk Fax Prevention Act of 2005【; and】;

(H) may restrict or limit the number and duration of calls made to a telephone number assigned to a cellular telephone service to collect a debt owed to or guaranteed by the United States【.】; and

(I) shall ensure that any exemption under subparagraph (B) or (C) contains requirements for calls made in reliance on the exemption with respect to—

- (i) the classes of parties that may make such calls;*
- (ii) the classes of parties that may be called; and*
- (iii) the number of such calls that a calling party may make to a particular called party.*

(3) PRIVATE RIGHT OF ACTION.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation,

(B) an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater, or

(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

(4) NO CITATION REQUIRED TO SEEK FORFEITURE PENALTY.—*Paragraph (5) of section 503(b) shall not apply in the case of a violation made with the intent to cause such violation of this subsection.*

(5) 4-YEAR STATUTE OF LIMITATIONS.—*Notwithstanding paragraph (6) of section 503(b), no forfeiture penalty for violation of this subsection shall be determined or imposed against any person if the violation charged occurred more than—*

(A) 3 years prior to the date of issuance of the notice required by paragraph (3) of such section or the notice of apparent liability required by paragraph (4) of such section (as the case may be); or

(B) if the violation was made with the intent to cause such violation, 4 years prior to the date of issuance of the notice required by paragraph (3) of such section or the notice of apparent liability required by paragraph (4) of such section (as the case may be).

(6) INCREASED PENALTY FOR VIOLATIONS WITH INTENT.—*In the case of a forfeiture penalty for violation of this subsection that is determined or imposed under section 503(b), if such violation was made with the intent to cause such violation, the amount of such penalty shall be equal to an amount determined in accordance with subparagraphs (A) through (F) of section 503(b)(2) plus an additional penalty not to exceed \$10,000.*

(c) PROTECTION OF SUBSCRIBER PRIVACY RIGHTS.—

(1) RULEMAKING PROCEEDING REQUIRED.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

(A) compare and evaluate alternative methods and procedures (including the use of electronic databases, telephone network technologies, special directory markings, industry-based or company-specific “do not call” systems, and any other alternatives, individually or in combination) for their effectiveness in protecting such privacy rights, and in terms of their cost and other advantages and disadvantages;

(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

(C) consider whether different methods and procedures may apply for local telephone solicitations, such as local telephone solicitations of small businesses or holders of second class mail permits;

(D) consider whether there is a need for additional Commission authority to further restrict telephone solicitations, including those calls exempted under subsection (a)(3) of this section, and, if such a finding is made and supported by the record, propose specific restrictions to the Congress; and

(E) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

(2) REGULATIONS.—Not later than 9 months after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

(3) USE OF DATABASE PERMITTED.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, and to make that compiled list and parts thereof available for purchase. If the Commission determines to require such a database, such regulations shall—

(A) specify a method by which the Commission will select an entity to administer such database;

(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber’s right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

(D) specify the methods by which such objections shall be collected and added to the database;

(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the telephone numbers of subscribers included in such database; and (ii) the costs to be recovered from such persons;

(H) specify the methods for recovering, from persons accessing such database, the costs involved in identifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with the regulations prescribed under this subsection;

(J) be designed to enable States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

(4) CONSIDERATIONS REQUIRED FOR USE OF DATABASE METHOD.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

(ii) reflect the relative costs of providing such lists on paper or electronic media; and

(iii) not place an unreasonable financial burden on small businesses; and

(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such direc-

tories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

(5) PRIVATE RIGHT OF ACTION.—A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State bring in an appropriate court of that State—

(A) an action based on a violation of the regulations prescribed under this subsection to enjoin such violation,

(B) an action to recover for actual monetary loss from such a violation, or to receive up to \$500 in damages for each such violation, whichever is greater, or

(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations prescribed under this subsection. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

(6) RELATION TO SUBSECTION (b).—The provisions of this subsection shall not be construed to permit a communication prohibited by subsection (b).

(d) TECHNICAL AND PROCEDURAL STANDARDS.—

(1) PROHIBITION.—It shall be unlawful for any person within the United States—

(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system, that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards; or

(B) to use a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual.

(2) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after one year after the date of enactment of this section clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business, other entity, or individual sending the message,

and the telephone number of the sending machine or of such business, other entity, or individual.

(3) ARTIFICIAL OR PRERECORDED VOICE SYSTEMS.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business, other entity, or individual; and

(B) any such system will automatically release the [called party's line] *telephone line called* within 5 seconds of the time notification is transmitted to the system that the [called party has hung up] *answering party has hung up*, to allow the [called party's line] *telephone line called* to be used to make or receive other calls.

(e) PROHIBITION ON PROVISION OF INACCURATE CALLER IDENTIFICATION INFORMATION.—

(1) IN GENERAL.—It shall be unlawful for any person within the United States, in connection with any telecommunications service or IP-enabled voice service, to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value, unless such transmission is exempted pursuant to paragraph (3)(B).

(2) PROTECTION FOR BLOCKING CALLER IDENTIFICATION INFORMATION.—Nothing in this subsection may be construed to prevent or restrict any person from blocking the capability of any caller identification service to transmit caller identification information.

(3) REGULATIONS.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of the Truth in Caller ID Act of 2009, the Commission shall prescribe regulations to implement this subsection.

(B) CONTENT OF REGULATIONS.—

(i) IN GENERAL.—The regulations required under subparagraph (A) shall include such exemptions from the prohibition under paragraph (1) as the Commission determines is appropriate.

(ii) SPECIFIC EXEMPTION FOR LAW ENFORCEMENT AGENCIES OR COURT ORDERS.—The regulations required under subparagraph (A) shall exempt from the prohibition under paragraph (1) transmissions in connection with—

(I) any authorized activity of a law enforcement agency; or

(II) a court order that specifically authorizes the use of caller identification manipulation.

(5) PENALTIES.—

(A) CIVIL FORFEITURE.—

(i) IN GENERAL.—Any person that is determined by the Commission, in accordance with paragraphs (3) and (4) of section 503(b), to have violated this subsection shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this paragraph shall be in addition to any other penalty provided for by this Act. The amount of the forfeiture penalty determined under this paragraph shall not exceed \$10,000 for each violation, or 3 times that amount for each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$1,000,000 for any single act or failure to act.

(ii) RECOVERY.—Any forfeiture penalty determined under clause (i) shall be recoverable pursuant to section 504(a).

(iii) PROCEDURE.—No forfeiture liability shall be determined under clause (i) against any person unless such person receives the notice required by section 503(b)(3) or section 503(b)(4). *Paragraph (5) of section 503(b) shall not apply in the case of a violation of this subsection.*

(iv) **[2-YEAR]** 4-YEAR STATUTE OF LIMITATIONS.—No forfeiture penalty shall be determined or imposed against any person under clause (i) if the violation charged occurred more than **[2 years]** 4 years prior to the date of issuance of the required notice or notice or apparent liability.

(B) CRIMINAL FINE.—Any person who willfully and knowingly violates this subsection shall upon conviction thereof be fined not more than \$10,000 for each violation, or 3 times that amount for each day of a continuing violation, in lieu of the fine provided by section 501 for such a violation. This subparagraph does not supersede the provisions of section 501 relating to imprisonment or the imposition of a penalty of both fine and imprisonment.

(6) ENFORCEMENT BY STATES.—

(A) IN GENERAL.—The chief legal officer of a State, or any other State officer authorized by law to bring actions on behalf of the residents of a State, may bring a civil action, as *parens patriae*, on behalf of the residents of that State in an appropriate district court of the United States to enforce this subsection or to impose the civil penalties for violation of this subsection, whenever the chief legal officer or other State officer has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this subsection or a regulation under this subsection.

(B) NOTICE.—The chief legal officer or other State officer shall serve written notice on the Commission of any civil action under subparagraph (A) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the

State shall provide such notice immediately upon instituting such civil action.

(C) **AUTHORITY TO INTERVENE.**—Upon receiving the notice required by subparagraph (B), the Commission shall have the right—

- (i) to intervene in the action;
- (ii) upon so intervening, to be heard on all matters arising therein; and
- (iii) to file petitions for appeal.

(D) **CONSTRUCTION.**—For purposes of bringing any civil action under subparagraph (A), nothing in this paragraph shall prevent the chief legal officer or other State officer from exercising the powers conferred on that officer by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(E) **VENUE; SERVICE OR PROCESS.**—

(i) **VENUE.**—An action brought under subparagraph (A) shall be brought in a district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(ii) **SERVICE OF PROCESS.**—In an action brought under subparagraph (A)—

(I) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

(II) a person who participated in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(7) **EFFECT ON OTHER LAWS.**—This subsection does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

(8) **DEFINITIONS.**—For purposes of this subsection:

(A) **CALLER IDENTIFICATION INFORMATION.**—The term “caller identification information” means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or IP-enabled voice service.

(B) **CALLER IDENTIFICATION SERVICE.**—The term “caller identification service” means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or IP-enabled voice service. Such term includes automatic number identification services.

(C) **IP-ENABLED VOICE SERVICE.**—The term “IP-enabled voice service” has the meaning given that term by section 9.3 of the Commission’s regulations (47 C.F.R. 9.3), as

those regulations may be amended by the Commission from time to time.

(9) LIMITATION.—Notwithstanding any other provision of this section, subsection (f) shall not apply to this subsection or to the regulations under this subsection.

(f) EFFECT ON STATE LAW.—

(1) STATE LAW NOT PREEMPTED.—Except for the standards prescribed under subsection (d) and subject to paragraph (2) of this subsection, nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

- (A) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;
- (B) the use of automatic telephone dialing systems;
- (C) the use of artificial or prerecorded voice messages; or
- (D) the making of telephone solicitations.

(2) STATE USE OF DATABASES.—If, pursuant to subsection (c)(3), the Commission requires the establishment of a single national database of telephone numbers of subscribers who object to receiving telephone solicitations, a State or local authority may not, in its regulation of telephone solicitations, require the use of any database, list, or listing system that does not include the part of such single national database that relates to such State.

(g) ACTIONS BY STATES.—

(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of telephone calls or other transmissions to residents of that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or receive \$500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in

any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

(8) DEFINITION.—As used in this subsection, the term "attorney general" means the chief legal officer of a State.

(h) JUNK FAX ENFORCEMENT REPORT.—The Commission shall submit an annual report to Congress regarding the enforcement during the past year of the provisions of this section relating to sending of unsolicited advertisements to telephone facsimile machines, which report shall include—

(1) the number of complaints received by the Commission during such year alleging that a consumer received an unsolicited advertisement via telephone facsimile machine in violation of the Commission's rules;

(2) the number of citations issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

(3) the number of notices of apparent liability issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

(4) for each notice referred to in paragraph (3)—

(A) the amount of the proposed forfeiture penalty involved;

(B) the person to whom the notice was issued;

- (C) the length of time between the date on which the complaint was filed and the date on which the notice was issued; and
- (D) the status of the proceeding;
- (5) the number of final orders imposing forfeiture penalties issued pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;
- (6) for each forfeiture order referred to in paragraph (5)—
 - (A) the amount of the penalty imposed by the order;
 - (B) the person to whom the order was issued;
 - (C) whether the forfeiture penalty has been paid; and
 - (D) the amount paid;
- (7) for each case in which a person has failed to pay a forfeiture penalty imposed by such a final order, whether the Commission referred such matter for recovery of the penalty; and
- (8) for each case in which the Commission referred such an order for recovery—
 - (A) the number of days from the date the Commission issued such order to the date of such referral;
 - (B) whether an action has been commenced to recover the penalty, and if so, the number of days from the date the Commission referred such order for recovery to the date of such commencement; and
 - (C) whether the recovery action resulted in collection of any amount, and if so, the amount collected.

(i) ANNUAL REPORT TO CONGRESS ON ROBOCALLS AND TRANSMISSION OF MISLEADING OR INACCURATE CALLER IDENTIFICATION INFORMATION.—

(1) REPORT REQUIRED.—Not later than 1 year after the date of the enactment of this subsection, and annually thereafter, the Commission, after consultation with the Federal Trade Commission, shall submit to Congress a report regarding enforcement by the Commission of subsections (b), (c), (d), and (e) during the preceding calendar year.

(2) MATTERS FOR INCLUSION.—Each report required by paragraph (1) shall include the following:

(A) The number of complaints received by the Commission during each of the preceding five calendar years, for each of the following categories:

(i) Complaints alleging that a consumer received a call in violation of subsection (b) or (c).

(ii) Complaints alleging that a consumer received a call in violation of the standards prescribed under subsection (d).

(iii) Complaints alleging that a consumer received a call in connection with which misleading or inaccurate caller identification information was transmitted in violation of subsection (e).

(B) The number of citations issued by the Commission pursuant to section 503(b) during the preceding calendar year to enforce subsection (d), and details of each such citation.

(C) *The number of notices of apparent liability issued by the Commission pursuant to section 503(b) during the preceding calendar year to enforce subsections (b), (c), (d), and (e), and details of each such notice including any proposed forfeiture amount.*

(D) *The number of final orders imposing forfeiture penalties issued pursuant to section 503(b) during the preceding calendar year to enforce such subsections, and details of each such order including the forfeiture imposed.*

(E) *The amount of forfeiture penalties or criminal fines collected, during the preceding calendar year, by the Commission or the Attorney General for violations of such subsections, and details of each case in which such a forfeiture penalty or criminal fine was collected.*

(F) *Proposals for reducing the number of calls made in violation of such subsections.*

(G) *An analysis of the contribution by providers of interconnected VoIP service and non-interconnected VoIP service that discount high-volume, unlawful, short-duration calls to the total number of calls made in violation of such subsections, and recommendations on how to address such contribution in order to decrease the total number of calls made in violation of such subsections.*

(3) **NO ADDITIONAL REPORTING REQUIRED.**—*The Commission shall prepare the report required by paragraph (1) without requiring the provision of additional information from providers of telecommunications service or voice service (as defined in section 7(d) of the Stopping Bad Robocalls Act).*

(j) **INFORMATION SHARING.**—

(1) **IN GENERAL.**—*Not later than 18 months after the date of the enactment of this subsection, the Commission shall prescribe regulations to establish a process that streamlines the ways in which a private entity may voluntarily share with the Commission information relating to—*

(A) *a call made or a text message sent in violation of subsection (b); or*

(B) *a call or text message for which misleading or inaccurate caller identification information was caused to be transmitted in violation of subsection (e).*

(2) **TEXT MESSAGE DEFINED.**—*In this subsection, the term “text message” has the meaning given such term in subsection (e)(8).*

(k) **ROBOCALL BLOCKING SERVICE.**—

(1) **IN GENERAL.**—*Not later than 1 year after the date of the enactment of this subsection, the Commission shall take a final agency action to ensure the robocall blocking services provided on an opt-out or opt-in basis pursuant to the Declaratory Ruling of the Commission in the matter of Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17-59; FCC 19-51; adopted on June 6, 2019)—*

(A) *are provided with transparency and effective redress options for both—*

(i) *consumers; and*

(ii) *callers; and*

(B) are provided with no additional line item charge to consumers and no additional charge to callers for resolving complaints related to erroneously blocked calls.

(2) TEXT MESSAGE DEFINED.—In this subsection, the term “text message” has the meaning given such term in subsection (e)(8).

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