What Is Being Done to Combat Robocalls?

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Complaints over the number of unwanted telephone calls from solicitors and scammers are pushing the Federal Communications Commission (FCC), the Federal Trade Commission (FTC), and Congress all to act. For its part, the FCC is set to adopt a rule later this week on "Advanced Methods to Target and Eliminate Unlawful Robocalls." This rule isn't likely to be the last policy change on the issue, since Congress is teeing up a bill, the TRACED Act, that could give the agency more power. These efforts across the government to curtail robocalls are likely to mitigate, but not eliminate, the problem of unwanted calls.

By many accounts the problem of unwanted calls is increasing. According to one industry report, Americans received 26.3 billion robocalls in 2018, which represented a 46 percent increase from the 18 billion calls in 2017. YouMail, another third-party data provider, Official data, however, are slightly less clear. In 2018, the FTC received more than 3.8 million robocall complaints, a *decline* from nearly 4.5 million in 2017. The FCC, however, received 232,000 complaints over unwanted calls in 2018, an increase from 185,000 complaints the year before.

The FCC and the FTC actively work together on this issue, enabled by Congress through the Do-Not-Call Implementation Act of 2003. The two agencies coordinate to maintain the Do Not Call Registry, collect complaints, and prosecute operations found in violation of the act. The FTC has been active in using the Telemarketing Sales Rule, which contains Do Not Call provisions, to go after the worst offenders, but it is often a game of whack-a-mole. Back in March, the FTC announced that it secured agreements with four separate operations responsible for bombarding consumers nationwide with billions of unwanted and robocalls.

This week, the FCC will likely adopt a rule that would give room for telephone companies to be more active in blocking unwanted calls. If enacted, the change would,

- "Clarify that voice service providers may, as the default, block calls based on call analytics that target unwanted calls, as long as their customers are informed and have the opportunity to opt out of the blocking," and
- "Clarify that voice service providers may offer customers the option to block calls from any number that does not appear on a customer's 'white list' or contacts list, on an opt-in basis."

The change isn't without its critics. A coalition of trade groups recently took issue with the new rule, noting that, "Public safety alerts, fraud alerts, data security breach notifications, product recall notices, healthcare and prescription reminders, and power outage updates all could be inadvertently blocked under the draft Declaratory Order, among other time-sensitive calls." One would assume, however, that phone companies would be working with these industries to ensure that important time-sensitive information isn't blocked.

Further action could soon be in the works. Since the TRACED Act just passed the Senate and could soon move through the House, the FCC will likely take up the issue soon as the bill gives the agency more authority and

power to tackle the problem. First, the TRACED Act would push the adoption of the STIR/SHAKEN authentication framework, which the calling industry has developed to stop robocalls and spoofed calling numbers. Second, the bill would force the FCC to start a rulemaking procedure "to help protect a subscriber from receiving unwanted calls or text messages from a caller using an unauthenticated number." Finally, the TRACED Act would set up an interagency working group that would then report back to Congress on a number of issues, including barriers to prosecution, current coordination programs between agencies, and ways to improve working relationships further between the federal and state governments.

Many cellphone users have already turned to apps to help solve this problem, but the new California Consumer Privacy Act (CCPA) and other proposed privacy bills could frustrate those efforts. As Graham Dufault, the Senior Director for Public Policy of App Association, has explained, apps like Call Control would likely be considered to be "disclosing" incoming call numbers information "for a business purpose," which would trigger CCPA oversight. In turn, these companies would be required to give customers a method of accessing the incoming call records. As Dufault noted, "Although this sounds simple, it is not, because verifying a person's identity requires a set of steps Call Control will have to invest significant resources into developing."

What should be expected after all of these changes? The world after the FCC ruling and the passage of the TRACED Act will probably look something like email does now: Spam still exists, but consumers and email providers now have the tools to filter out unwanted messages. Robocalls might never be fixed, but it appears that consumers will soon be better able to manage the deluge.