

UNITED STATES OF AMERICA

telephone calls that impinge on consumers' right to privacy,<sup>3</sup> and call-blocking technology would satisfy strong consumer demand for a solution that will stop the barrage of unwanted calls.

An FCC ruling affirming that common carriers can offer call-blocking services to their customers without violating their common carriage obligations is likely to make call-blocking technology more widely available to consumers. Such a ruling will allow common carriers to be more responsive to consumer demand and join other entities that already offer these services; will increase the likelihood that major US telephone carriers develop and actively market call-blocking technology to their large customer bases; will allow consumers who value this option to select telephone providers that offer call-blocking services; and will facilitate competition and innovation among carriers, as well as non-carriers, for new and better call-blocking technologies. Ultimately, widespread availability and use of call-blocking technology will substantially reduce the number of unwanted and illegal telemarketing calls received by consumers.

### **I. Call-Blocking Technology Is Integral To Solving the Problem of Illegal Calls.**

The FTC's complaint data indicates that consumers are barraged with a large volume of unwanted telemarketing calls, many of which are calls that deliver a recorded message ("robocalls").<sup>4</sup> The volume of consumer complaints about illegal telemarketing calls, particularly illegal robocalls, has increased significantly in the past five years.<sup>5</sup> This increase is largely due to technological advancements. Although new technology has brought consumers lower cost telephone service and more advanced features for their telephones, these same advancements have allowed violators to use the Internet to place large volumes of illegal calls inexpensively, often from overseas, and in a manner that allows them to hide from law enforcement.

The FTC has undertaken vigorous law enforcement efforts against those making illegal calls. To date, the FTC has filed law enforcement actions against more than 600 companies and

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<sup>3</sup> See 15 U.S.C. 6102(a)(3) (directing the Federal Trade Commission to include in the Telemarketing Sales Rule provisions prohibiting telemarketers from "undertaking a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy").

<sup>4</sup> From October 2013 to September 2014, the FTC received an average of 261,757 do-not-call complaints per month, of which approximately 55% (144,550 per month) were complaints about robocalls. See National Do Not Call Registry Data Book FY 2014 at 5 (Nov. 2014), available at <http://www.ftc.gov/system/files/documents/reports/national-do-not-call-registry-data-book-fiscal-year-2014/dncdatabookfy2014.pdf>.

<sup>5</sup> For example, in the fourth quarter of 2009, the FTC received approximately 63,000 complaints about illegal robocalls each month. See National Do Not Call Registry Data Book FY 2010 at 5 (Nov. 2010), available at <http://www.ftc.gov/sites/default/files/documents/reports/national-do-not-call-registry-data-book-fiscal-year-2010/101206dncdatabook.pdf>. By the fourth quarter of 2012, robocall complaints had peaked at more than 200,000 per month. See National Do Not Call Registry Data Book FY 2012 at 5 (Oct. 2012), available at <http://www.ftc.gov/sites/default/files/documents/reports/national-do-not-call-registry-data-book-fiscal-year-2012/1210dnc-databook.pdf>.

individuals that were allegedly responsible for placing billions of unwanted telemarketing calls to consumers in violation of the Do-Not-Call provisions of the Telemarketing Sales Rule.<sup>6</sup> The FTC has obtained more than \$1 billion in judgments against these violators and intends to continue these law enforcement efforts.

Experience has shown, however, that the FTC's law enforcement efforts alone cannot stop the growing problem of illegal telemarketing calls because current technology makes it inexpensive and easy for callers to make lots of calls and effectively hide from law enforcement. Based on FTC staff's extensive study of the problem, the FTC has concluded that technological innovations are a critical component of the long-term solution to protecting consumers from such illegal telemarketing calls. Call-blocking technology – i.e., a “spam filter” for the phone – is an integral part of that technological solution.

In 2012, the FTC hosted a Robocall Summit on the problem of illegal robocalls that brought technical experts together to discuss the challenges and potential solutions to the problem.<sup>7</sup> To spur innovation and potential technological solutions, the FTC sponsored a Robocall Challenge at the 2012 Summit,<sup>8</sup> in which the FTC offered prizes to innovators who could develop technology that could analyze and block illegal robocalls. The FTC announced three winners in 2013,<sup>9</sup> and one of those winners has already launched a service that is providing free call blocking for consumers.<sup>10</sup> The 2012 Robocall Challenge demonstrated that call-blocking technology is viable, scalable, and can work in a real-world setting to protect consumers from unwanted calls.

Consumer demand for call-blocking technology is high. In the past year, the FTC received an average of 261,757 complaints per month about unwanted telephone calls,<sup>11</sup> which indicates substantial consumer frustration with the problem. Since launching in October 2013, Nomorobo, one of the winners of our 2012 Robocall Challenge, reports that it already has

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<sup>6</sup> A listing of recent actions the FTC has taken against illegal telemarketers can be found at [http://www.ftc.gov/tips-advice/business-center/legal-resources?title=&type=case&field\\_consumer\\_protection\\_topics\\_tid=236&field\\_industry\\_tid=All&field\\_date\\_value\[min\]=&field\\_date\\_value\[max\]=&sort\\_by=field\\_date\\_value](http://www.ftc.gov/tips-advice/business-center/legal-resources?title=&type=case&field_consumer_protection_topics_tid=236&field_industry_tid=All&field_date_value[min]=&field_date_value[max]=&sort_by=field_date_value).

<sup>7</sup> Materials, agendas, and presentations from the 2012 FTC Robocall Summit can be found at <http://www.ftc.gov/news-events/events-calendar/2012/10/robocalls-all-rage-ftc-summit>.

<sup>8</sup> Press Release, FTC, *FTC Challenges Innovators to Do Battle With Robocallers* (Oct. 18, 2012), <http://www.ftc.gov/pressroom/2012/10/121018robocall>.

150,000 subscribers for its free call-blocking service.<sup>12</sup> Primus, a Canadian telephone carrier that offers a free call-blocking service to its customers, reports that the service is extremely popular with its customers and is “one of the leading reasons that customers choose to keep their phone service with Primus.”<sup>13</sup> Simply put, call blocking is a service consumers want.

The widespread availability of call-blocking technology to consumers will make a significant dent in the problem of unwanted telephone calls. First and foremost, the availability of the technology will give consumers the opportunity to be free from unwanted calls. Consumers have already registered over 217 million telephone numbers on the National Do Not Call Registry and expressed their affirmative choice to stop unsolicited telemarketing calls.<sup>14</sup> Call blocking technology would go further by giving frustrated consumers a technological tool they can use to stop unwanted calls. In addition, call-blocking technology has the potential to drive up costs for illegal telemarketing operations and thus reduce the economic incentive to make illegal calls. Currently, the cost of placing large volumes of calls is so low that illegal calling operations can blast out millions of calls but still make a profit by making sales to the small fraction of call recipients who agree to purchase the goods or services offered. Call-blocking technology, if implemented on a widespread basis, has the potential to drive up costs or reduce revenues for illegal telemarketing operations, which may, in turn, drive some illegal calling operations out of business.<sup>15</sup>

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<sup>12</sup> Ben Fisher, *Nomorobo: A Tiny Long Island Startup Call blocking , call blothe po.00*

**II. Carriers Can Offer Call-Blocking To Customers Who Request the Service Without Violating Their Common Carriage Obligations.**

Despite the strong consumer interest in call-blocking and the promise it shows in combatting the problem of unwanted calls, to date carriers have resisted offering call-blocking services to their large customer bases. As indicated in the NAAG letter, US Telecom, the trade association that represents land-line carriers, has stated in cong

their customers, and none of those services have been deemed by the FCC to be unlawful. For

typically blocks calls based, in part, on the caller ID information that is presented with the call. Under existing caller ID technology, however, illegal callers can falsify the caller ID number that accompanies their outbound calls in order to bypass call-blocking filters, which allow

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