H. R. 116

To amend the Communications Act of 1934 to clarify the prohibitions on making robocalls, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Pallone (for himself and Mr. Walden) introduced the following bill; which was referred to the Committee on __________________________

A BILL

To amend the Communications Act of 1934 to clarify the prohibitions on making robocalls, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Stopping Bad Robocalls Act”.
6
7 SEC. 2. CONSUMER PROTECTION REGULATIONS RELATING
8 TO MAKING ROBOCALLS.
9 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, as necessary to clarify such descriptions of automatic telephone dialing systems and calls made using an artificial or prerecorded voice as will, in the judgment of the Commission, 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 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 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”;

(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 Commis-
mission, 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 Commission establishes 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).
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”.


1 SEC. 6. ANNUAL REPORT TO CONGRESS.

2 Section 227 of the Communications Act of 1934 (47
3 U.S.C. 227) is amended by adding at the end the fol-
4 lowing:

5 "(i) Annual Report to Congress on Robocalls
6 and Transmission of Misleading or Inaccurate
7 Caller Identification Information.—

8 "(1) Report required.—Not later than 1
9 year after the date of the enactment of this sub-
10 section, and annually thereafter, the Commission,
11 after consultation with the Federal Trade Commiss-
12 ion, shall submit to Congress a report regarding en-
13 forcement by the Commission of subsections (b), (c),
14 (d), and (e) during the preceding calendar year.

15 "(2) Matters for inclusion.—Each report
16 required by paragraph (1) shall include the fol-
17 lowing:

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

22 "(i) Complaints alleging that a con-
23 sumer received a call in violation of sub-
24 section (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 telecommunication 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.

(e) 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 permits outbound 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 WITH OPT-OUT CUSTOMER APPROVAL.—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 WITH OPT-OUT CUSTOMER APPROVAL.—
“(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 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.

“(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. COMMISSION DEFINED.

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