

**BEFORE THE GENERAL ASSEMBLY OF MARYLAND PUBLIC
HEARING ON THE MD HOUSE BILL 1278 - VOIP ROBOCALLS**

March 11, 2020

Annapolis, Maryland

Written Testimony of USTelecom – The Broadband Association in Opposition to
MD House Bill 1278

USTelecom appreciates the opportunity to submit written comments to the Economic Matters Committee concerning MD House Bill 1278. We support the objectives of the legislation, but respectfully oppose its passage. Congress and multiple federal agencies are actively working to address illegal robocalls at the national level and “know your customer” requirements like those proposed in House Bill 1278 are best addressed at the national level.

USTelecom and its members, ranging from large global communications providers to small broadband companies and cooperatives, understand that our customers and your constituents are fed up with receiving illegal and unwanted robocalls. Illegal robocallers are abusing our networks and our customers and we are committed to doing everything possible to restore public trust in the phone system. Through USTelecom’s nationally recognized Industry Traceback Group (ITG), we are working tirelessly to determine the source of these harassing calls and coordinating with providers and government to shut them down. USTelecom members are also empowering consumers with advanced call labeling and blocking solutions and deploying call authentication technology to prevent illegal caller ID spoofing.

Together, industry and government – through enforcement and significant recent policy actions – are actively collaborating at the national level to address this issue head on. USTelecom understands and appreciates the interest of the Maryland General Assembly to take action to protect its citizens, and we agree with the objectives of House Bill 1278. It is essential that VoIP providers, or any voice service providers, have sufficient information about the customers they sign up before allowing them to launch robocalls. However, this topic is currently being addressed at the federal level and we encourage the Maryland General Assembly to not to duplicate the active federal policymaking efforts in this space or, worse, adopt conflicting state rules and regulations.

Last summer, USTelecom was pleased to join the stage with three Attorneys General in Washington, D.C. to announce the adoption of anti-robocall principles by twelve national voice service providers along with every state Attorney General, including Maryland Attorney General Brian Frosh. The agreement adopted eight principles that these voice service providers, and hopefully others, will implement to protect consumers and empower federal and state enforcement authorities to identify and prosecute bad actors. For example, the agreement includes a commitment from providers to “communicate and cooperate with state Attorneys General about recognized scams and trends in illegal robocalling” and to “dedicate sufficient resources to provide prompt and complete responses to traceback requests from law enforcement and from USTelecom’s Industry Traceback Group.”¹ Directly relevant to this hearing, the principles also include a commitment to “confirm the identity of new commercial VoIP customers by collecting information such as physical business location, contact person(s), state or

country of incorporation, federal tax ID, and the nature of the customer’s business.” Thus, the industry has already publicly committed to take these important actions. USTelecom members are not only taking actions themselves, but they are demanding the same of their upstream partners from whom they receive voice traffic.

In addition to this state leadership, significant bipartisan efforts at the federal level are also being taken to prevent illegal and unwanted calls. For example, last June, the FCC approved new rules providing greater flexibility for voice service providers to block illegal and unwanted calls on behalf of their customers.² Also in June, building off of prior industry commitments to implement call authentication technology, the FCC proposed to require the adoption of such capabilities and just this week released the details of an Order that would require the implementation of such a capability for calls delivered over the IP portion of provider networks by June 30, 2021.³ Notably, attached to the recently released draft order is a Further Notice of Proposed Rulemaking that includes questions on the implementation of “know your customer” requirements for any providers that would have access to telephone numbers. Thus, the FCC is on the cusp of considering rules on the topic of the issue being addressed by House Bill 1278. Finally, in August, the FCC adopted new rules banning malicious caller ID spoofing of text messages and foreign robocalls.⁴ Such policy steps are in addition to the FCC’s ongoing enforcement efforts.

The FTC is also an active cop on the beat, coordinating with the states and industry. In December, for the first time, the FTC joined with the Ohio Attorney General to shut down the operations of a VoIP provider responsible for enabling the origination of millions of illegal calls. And just this month the FTC announced that it put 19 additional VoIP providers on notice that they could be next. These actions built on enforcements taken last year. For example, in June, the agency announced a major crackdown on illegal robocalls, including 94 actions targeting operations around the country that are responsible for more than one billion calls.⁵ And in January, the DOJ filed civil actions against two companies and individuals allegedly responsible for carrying hundreds of millions of fraudulent robocalls to American consumers. USTelecom’s ITG assisted both the DOJ and FTC with these cases by providing critical data to track down the scammers behind these calls.

Preventing illegal and unwanted calls has also received bipartisan interest in Congress. In December, Congress approved S.151, the Pallone-Thune TRACED Act,⁶ which was signed into

¹ See Press Release, USTelecom, State Attorneys General Anti-Robocall Principles, (rel. Aug. 22, 2019) <https://www.ustelecom.org/wp-content/uploads/2019/08/State-AGs-Providers-AntiRobocall-Principles-With-Signatories.pdf>.

² See *Advanced Methods to Target and Eliminate Unlawful Robocalls; Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Declaratory Ruling and Third Further Notice of Proposed Rulemaking, FCC 1951 (rel. June 7, 2019) (Call Blocking Declaratory Ruling & Third Further Notice).

³ *Id.*; *Implementation of TRACED Act Section 6(a)—Knowledge of Customers by Entities with Access to Numbering Resources; Call Authentication Trust Anchor*, WC Docket Nos. 17-97, 20-67, Draft Report and Order and Further Notice of Proposed Rulemaking, available at <https://docs.fcc.gov/public/attachments/DOC-362932A1.pdf>.

⁴ FCC Bans Malicious Caller ID Spoofing of Text Messages & Foreign Robocalls, FCC (Aug. 01, 2019), available at <https://docs.fcc.gov/public/attachments/DOC-358841A1.pdf>.

⁵ See Press Release, FTC, FTC Law Enforcement Partners Announce New Crackdown on Illegal Robocalls, (rel. June 25, 2019) available at, <https://www.ftc.gov/news-events/press-releases/2019/06/ftc-law-enforcement-partners-announce-new-crackdown-illegal>

⁶ Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, S.151, 116th Cong.

law by the President in January. Among other things, the TRACED Act requires the FCC to mandate the implementation of call authentication technology, requires providers to provide free call blocking tools, increase penalties for illegal calls, and facilitates stronger enforcement efforts. Relevant to this hearing, the Act also requires the FCC to consider “know your customer” requirements which the FCC is preparing to seek comment on in a rulemaking it is considering this month as described above.

Industry has been actively engaged with the FCC as it moves forward with the implementation of the TRACED Act. Among other things, just last week, USTelecom submitted a detailed proposal to the FCC identifying steps that voice providers should be required to take in order to meet the law’s requirement for the implementation of call authentication technology to prevent illegal spoofing. Included in that proposal is a framework whereby all voice service providers (not just VoIP providers) would be required to implement and to certify that it has a robust “robocall mitigation program” that includes “know your customer” best practices to prevent the origination of illegal robocalls on their networks. The proposal includes a non-exhaustive list of activities that a voice service provider could take to ensure it does not enable illegal robocalls. For example, a provider would be required to confirm that it takes reasonable steps to avoid originating illegal robocall traffic and is committed to cooperating with law enforcement and industry traceback efforts to investigate and stop any illegal robocallers that it learns are using its service to originate calls. Included in the proposal is a suggestion that providers could take reasonable steps to confirm the identity of new commercial VoIP customers by collecting information such as physical business location, contact person(s), state or country of incorporation, federal tax ID, and the general nature of the customer’s business.

In short, the FCC, FTC, DOJ and Congress – in partnership with industry – are actively engaged at the federal level in a multi-pronged effort to protect consumers and prevent illegal robocalls, and are actively addressing the issue addressed in House Bill 1278. These efforts provide a robust national framework to which all voice service providers are subject. Combined with stepped up enforcement efforts by state Attorneys General, there has never been a greater focus on this critical consumer protection issue. It will truly take an all of the above approach to tackle this problem, and states can play an important role, particularly on the enforcement front. USTelecom has been pleased to closely coordinate with state Attorneys General on this issue. At the same time, no matter how well intentioned, USTelecom urges state lawmakers not to adopt overlapping and potentially conflicting state requirements before allowing the important federal activities described above to take root. The potential for a patchwork of competing state laws governing robocalls would be unnecessarily burdensome for providers and would also be confusing for consumers. As discussed above, states can and do play an important role in anti-robocall efforts, but given the very active effort at the national level, this is an area where duplicative or conflicting state laws is unnecessary and potentially harmful.

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There is no single solution to ending the scourge of robocalls, but progress is being made every day. USTelecom and our members are up to the challenge and are strongly committed to continue working together with government at all levels to substantially reduce, and ultimately eliminate, this problem. Thank you.