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SCAM ROBOCALLS: TELECOM PROVIDERS PROFIT

<https://bit.ly/Rpt-ScamRobocalls>

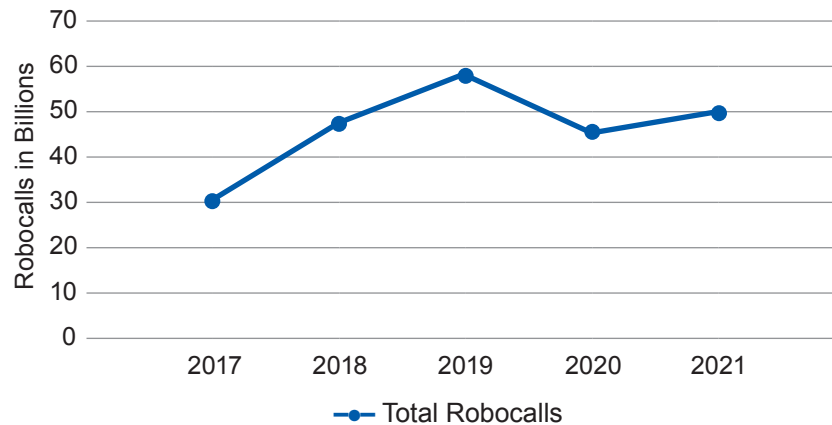
APPENDIX 1

OTHER INVASIVE ROBOCALLS

Over Four Billion Robocalls Every Month. In the United States, there are more than 1,300 robocalls answered every second.¹ (See Appendix 2 for a breakdown of the number of robocalls by state.) Indeed, the number of robocalls per year has grown in the past five years. As Table A1-1 illustrates, the number of robocalls increased from a low of 30 billion in 2017 to over 50 billion in 2021.

TABLE A1-1

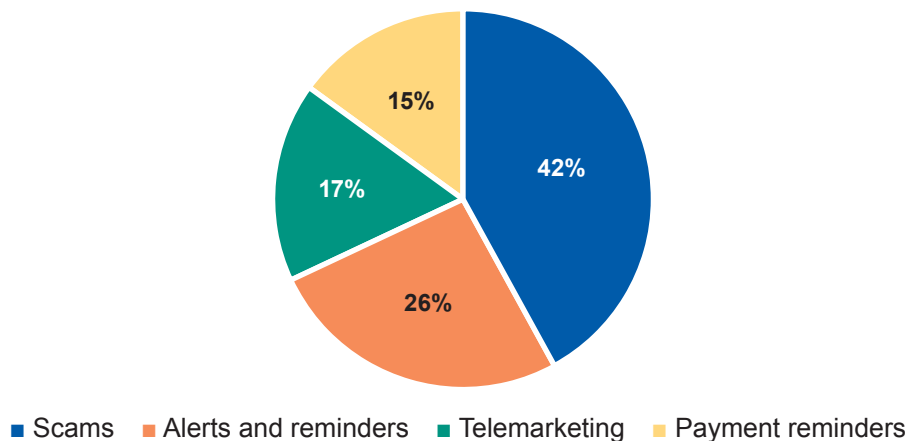
Total Robocalls 2017 Through 2021²



1. There were 1.6 thousand robocalls placed every second in February 2022 (YouMail, [February 2022 Nationwide Robocall Data](#); 1.5 thousand every second in January 2022 (YouMail, [January 2022 Nationwide Robocall Data](#); 1.3 thousand every second in December 2021 (YouMail, [December 2021 Nationwide Robocall Data](#), and 1.6 thousand every second in November 2021 (YouMail, [November 2021 Nationwide Robocall Data](#)).

2. YouMail estimates that there were 30.5 billion robocalls placed in 2017, 47.8 billion calls placed in 2018, 58.5 billion placed in 2019, 45.8 billion placed in 2020, and 50.5 billion placed in 2021. YouMail, [Historical Robocalls By Time](#).

TABLE A1-2

Breakdown of Types of Robocalls in 2021³

Wanted Robocalls. Many robocalls are perfectly legal—indeed many robocalls are appreciated by recipients, particularly the 26% of robocalls that are alerts and reminders.⁴ These desired calls include:

- Calls regarding emergencies
- Medical appointment reminders
- Prescription drug reminders
- Financial institution alerts about low balances, potential frauds, or scheduled payments
- Airline updates

Robocalls about emergencies are always legal.⁵ And many non-emergency alerts and reminders provided by either robocall or automated texts have been consented to by the recipients, so are legal. In addition, some informational alerts, including certain messages sent by financial institutions and health services providers, are permitted without consent by exemptions provided by the FCC.⁶

3. PR Newswire, [Americans Hit by Just Under 46 Billion Robocalls in 2020, Says YouMail Robocall Index](#) (Jan. 26, 2021).

4. *See id.*

5. 47 U.S.C. § 227(b); 47 C.F.R. § 64.1200(a)(3)(i).

6. 47 C.F.R. § 64.1200(a)(9)(iii) (financial institution calls), (a)(9)(iv) (health care provider calls).

Debt Collection Robocalls. Another 15% of robocalls are calls made by creditors or debt collectors attempting to collect debts—meaning that over 560 million robocalls are made each month to collect debts. Indeed, nine of the top fifteen robocallers in March 2022 made debt collection calls.⁷

If the collection calls are robocalls sent to cell phones, these calls are legal only if they are made to recipients who have provided consent for the calls.⁸ (Debt collection robocalls to landlines are currently legal without consent, but a pending FCC regulation will limit debt collection robocalls to residential lines to three per month once it goes into effect.⁹) Most courts have held that a consumer who has given a creditor consent to be contacted by a robocall can revoke that consent at any time.¹⁰ The high number of cases filed regarding these debt collection calls in the past few years indicates that many of these debt collection robocalls are made without consent, or after consent has been withdrawn.¹¹

Telemarketing Robocalls. Nearly one fifth of all robocalls¹²—approximately 1 billion—made each month are telemarketing robocalls, which are illegal to cell phones and to residential landlines unless the recipient has provided prior express *written* consent.¹³ Unwanted telemarketing calls are annoying and invasive. In this report we distinguish between telemarketing calls and scam calls because telemarketers are selling real products—although this is not a bright line, as many telemarketing calls sell products that are worthless.

Charitable, Political, Informational and Survey Robocalls. Unless an emergency is involved, prerecorded calls to cell phones are legal only with the prior consent of the called party—and as this rule applies regardless of the content of the call, it applies to charitable, political, survey, and informational calls.¹⁴ The FCC has announced limits to these prerecorded calls to residential landlines, but implementation has been delayed.¹⁵

7. See YouMail, [Top 100 Volume Robocallers Nationwide in March 2022](#) (last visited on Apr. 5, 2022).

8. 47 U.S.C. § 227(b)(1)(A).

9. See *In re* Rules and Regulations Implementing the Tel. Consumer Prot. Act of 1991, [Report and Order, CG Docket No. 02-278, FCC 20-186](#) (Dec. 30, 2020) [hereinafter TRACED Act Section 8 Report and Order].

10. See National Consumer Law Center, *Federal Deception Law* § 6.3.6.5.3 (4th ed. 2022).

11. See *id.* at § 6.3.6.5.

12. PR Newswire, *50 Billion Robocalls in 2021*, *supra* note 4.

13. See 47 C.F.R. § 64.1200(a)(2). Additionally, live telemarketing calls are illegal when made to a residential line (whether landline or cell phone) that has been registered on the Do Not Call Registry, unless the recipient has provided prior express written consent. 47 C.F.R. § 64.1200(c)(2)(ii).

14. See 42 U.S.C. § 227(b)(1).

15. See TRACED Act Section 8 Report and Order, *supra* note 9.

Robot Calls. Many people believe that when they receive a call that begins with “May I speak with ‘caller’s name’. . .” the call is not a robocall because the recipient’s name is included and there appears to be some conversation with the caller. However, many of these personalized calls are indeed robocalls, as robocalls often are keyed to information provided from the dark web, and modern robocalling equipment now includes “soundboard technology” that allows a human operator to manipulate the prerecorded clips.¹⁶ As soundboard calls use prerecorded voices they are considered robocalls that are covered by the consent requirements for prerecorded calls.¹⁷ Indeed, according to YouMail, soundboard technology has been increasingly used in robocalls, including scam robocalls, in the past three years, beginning with fewer than 50,000 per month in early 2019 and rising to around 450,000 per month in March 2022, an increase of more than 750% in three years.¹⁸

16. Calls using soundboard technology such as Yodel’s are often referred to as “robot calls.” See Lexology, [Robot Calling? Better Have Consent](#).

17. See *Braver v. NorthStar Alarm Servs., L.L.C.*, 2019 WL 3208651, at *5–6 (W.D. Okla. July 16, 2019). (“The soundboard software (referred to by Yodel as ‘the Yodel Dialer’) required Yodel’s soundboard agents, located in a call center in India, to follow a script which instructed them to press buttons in a certain order thereby delivering prerecorded audio clips to the called party.”), reconsideration denied, 2019 WL 5722207 (W.D. Okla. Nov. 5, 2019). Also see [Staff Opinion Letter from Lois Greisman, Associate Director, Division of Marketing Practices, Federal Trade Commission, to Michael Bills, CEO, Call Assistant, L.L.C.](#) (Nov. 10, 2016), (“[O]utbound telemarketing calls that utilize soundboard technology are subject to the TSR’s prerecorded call provisions because *such calls do, in fact, ‘deliver a prerecorded message’* as set forth in the plain language of the [Telemarketing Sales Rule.]”) (emphasis added).

18. Email from Mike Rudolph, YouMail Chief Technology Officer, to Margot Saunders (Apr. 1, 2022).