



Strategies for Reducing Scam Calls and Texts by Holding Providers Accountable

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The proliferation of scam robocalls and texts is largely due to changes in telecommunications technology and business models that have facilitated placing high volumes of scam calls and texts anonymously. Internet-based phone calls, commonly called Voice over Internet Protocol (VoIP) calls, cost fractions of a penny, and allow scammers to maintain their anonymity. Because the caller-ID on VoIP calls can easily be faked, Federal Communication Commission (FCC) rules require the service providers that facilitate VoIP calls to collect information about their calling customers. These rules have clearly not been sufficient to prevent these VoIP providers from knowingly transmitting scam calls.

However, there are strategies that would reduce or even eliminate harmful scam calls by holding the VoIP providers liable for their failure to police their own businesses. Federal legislation or FCC regulations should:

Restrict access to U.S. telephone networks by imposing requirements on VoIP providers.

- 1.** Require VoIP providers to obtain a bond before they are permitted to transmit VoIP calls into U.S. phone networks.
 - Originating VoIP providers will risk losing their bond if they provide false attestations that caller IDs are legitimate, or if they allow unknown entities to place calls through their network.
 - Bond amounts would ensure that there are funds available to satisfy judgments obtained in government or private enforcement actions related to illegal calls.
 - Bond issuers would have an economic incentive to vet bond applicants thoroughly to make sure they are identifiable and unlikely to transmit illegal calls that would result in damages that the bond issuer would have to pay out of the bond amount.
- 2.** Require rigorous know-your-customer and know-your-traffic procedures that force VoIP providers to vet callers and calls that are transmitted through their service.
 - Require VoIP providers to investigate and block call traffic that displays suspicious characteristics, such as a high percentage of short-duration calls and other indicia of fraud.
 - Require record-keeping for call originators to ensure that information about callers is available for government or private enforcement efforts.

Expand enforcement of existing laws like the Telephone Consumer Protection Act (TCPA) and the Federal Trade Commission's (FTC) Telemarketing Sales Rule (TSR).

- 1.** Strengthen the TCPA to encourage robust private enforcement against providers who facilitate scam calls by transmitting them into the telephone network.
 - Include an explicit cause of action against providers who assist or facilitate illegal calls.

- Amend the definition of “telephone solicitation” and telemarketing in the TCPA to cover scam calls and texts, by explicitly extending the definitions to cover calls that attempt to defraud, cause harm, or wrongfully obtain anything of value.
 - Extend the existing cause of action for violation of the TCPA’s do-not-call regulations to allow individuals to bring a suit after receiving one illegal call.
 - Create a private cause of action for violations of the technical and procedural restrictions imposed by the FCC pursuant to the TCPA.
- 2. Strengthen the TSR to expand enforcement.**
- Reduce or remove the requirement of \$50,000 in individual damages for private suits under the TSR.
 - Expand the definition of “telemarketing” in the TSR to cover scam calls, as proposed for the TCPA.

Amend State laws to better address scam calls.

- 1. Strengthen state telemarketing and robocall statutes.**
- Broaden their scope to cover all attempts to wrongfully obtain things of value, including personal information.
 - Ensure that they apply to those who assist or facilitate fraudulent or illegal calls.
 - Ensure that consumers have the right to enforce all provisions of these laws, with treble damages, significant statutory damages such as \$1,000 per call, and attorney fees.
- 2. Strengthen state laws on unfair or deceptive acts and practices (UDAP).**
- Amend UDAP laws to prohibit unfairness, not just deception.
 - Provide explicitly that a violation of another consumer protection law—specifically including the TCPA and the FTC’s telemarketing sales rule—is a UDAP violation.
 - Allow consumers to recover for a deceptive act without showing reliance on the scammer’s misrepresentations.

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