

TCPA Legislative Update: Congress Continues Work on Robocalls



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Wednesday, May 15, 2019

On Tuesday, April 30, the House Subcommittee on Communications and Technology held a hearing aimed at curbing illegal robocalls. The subcommittee considered seven bills, including House Commerce Committee Chairman Frank Pallone's (D-NJ) Stopping Bad Robocalls Act (H.R. 946) and the Support Tools to Obliterate Pesky (Stop) Robocalls Act (H.R. 2386). The Stopping Bad Robocalls Act would also create a national database of reassigned phone numbers and require the Federal Communications Commission (FCC) and Federal Trade Commission (FTC) to work together to reduce robocalls by at least 50 percent every year. It would also clarify the definition of robocalls and exemptions to the Telephone Consumer Protection Act (TCPA). The Support Tools to Obliterate Pesky (Stop) Robocalls would allow carriers to provide robocall-blocking technology to consumers on an opt-out basis.

Also considered at the hearing were the Spam Calls Task Force Act (H.R. 721), the Robocall Enforcement Enhancement Act (H.R. 1575), the Regulatory Oversight Barring Obnoxious (Robo) Calls and Texts Act (H.R. 2355), the Repeated Objectionable Bothering of Consumers on Phones (Robocop) Act (H.R. 2298), and the

Help Americans Never Get Unwanted Phone Calls (HANGUP) Act (H.R. 1421). The HANGUP Act would eliminate the FCC's 2016 Broadnet ruling, which would exempt robocalls by federal contractors from TCPA limitations. Meanwhile, the Regulatory Oversight Barring Obnoxious (Robo) Calls and Texts Act would require the FCC to establish a Robocalls Division and for the FCC to implement regulations to force carriers to adopt standards for preventing robocalls. The Spam Calls Task Force Act would require the attorney general to convene an interagency working group to study TCPA enforcement and ways to improve coordination among federal and state agencies. The Robocall Enforcement Enhancement Act would increase the statute of limitations for illegal spoofing to three years and increase the FCC's ability to impose fines on illegal robocallers. The Repeated Objectionable Bothering of Consumers on Phones (Robocop) Act would force all telecom companies to install free telemarketing blockers and verify the numbers on caller IDs.

The hearing featured representatives from Nomorobo, the Institute for Critical Infrastructure Technology, the National Consumer Law Center, and USTelecom - The Broadband Association. At the hearing, subcommittee members broadly agreed that there is significant support for all the bills aimed at combatting abusive robocalls. While it is still unclear how these bills may be packaged for the House floor or when the full committee may mark up the bills, they are tentatively expected to move in June. House Communications Chairman Mike Doyle (D-PA) told reporters after the hearing, "I think there is strong bipartisan support for getting a bill out of the Committee and onto the floor."

On the Senate side, lawmakers continue to advocate for movement on robocall legislation. Recently, Senate Minority Leader Chuck Schumer (D-NY) endorsed the Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED) Act (S. 151) saying the measure, "is just the antidote we need, which is why I'm urging Congress to pass this landmark legislation ASAP to give the feds new powers to track, prosecute and fine these nasty robocall scammers and bolster caller identification technology." Recently, Sen. Bernie Sanders (I-VT) became the measure's 68th cosponsor. The bill's sponsors Sens. John Thune (R-SD) and Ed Markey (D-MA) have expressed their desire to hotline the bill, which would advance the bill by unanimous consent. However, despite overwhelming Senate support, House Energy and Commerce lawmakers decided not to consider the House's companion measure in their recent hearing on robocalls. Instead, staffers mentioned that House members favor a broader Democratic bill that would go beyond the provisions of TRACED.

Other Senate lawmakers continue to introduce legislation aimed at tackling illegal robocalls. Recently, Sen. Dick Durbin introduced the Protecting American Consumers from Robocalls Act (S. 1241), which would give landline and cellular consumers the ability to petition for statutory damages for all "unconsented-to" telemarketing calls immediately after the first violation of TCPA rules. Sen. Durbin's office released a statement saying, "consumers don't deserve to be preyed upon by scammers that are just trying to undermine someone's personal privacy and financial information. It's time to put an end to this." Current Senate cosponsors include Sens. Tammy Duckworth (D-IL), Mazie Hirono (D-HI), Amy Klobuchar (D-MN), Ed Markey (D-MA), and Tina Smith (D-MN).

Discussions on how to combat illegal robocalls also continue in hearings outside the Senate Commerce Committee. On Tuesday, May 7, the Senate Appropriations Committee's Subcommittee on Financial Services and General Government heard from FCC Chairman Ajit Pai and FTC Chairman Joseph Simons on the FCC and FTC fiscal year 2020 budget requests. During the hearing, Chairman Pai endorsed the TRACED Act as a piece of legislation that would increase the FCC's authority to act against robocalls that violate the TCPA. Chairman Simons also called on Congress to give the agency authority to go after common carriers that aid foreign-based robocall operations. Senate Appropriations Financial Services Chairman John Kennedy (R-LA) asked the FTC to provide lawmakers with a list identifying bad actors. At the hearing, Democratic lawmakers questioned whether the agencies have enough resources to do their jobs and combat robocalls given that the FCC requested a budget reduction and the FTC asked for a budget increase of less than 1 percent. Kennedy wrapped up the hearing saying, "it seems to me it's real simple. The American people are being inundated with these calls. Many of them are coming from foreign countries. In order for them to do it, they have to use carriers in the United States that, for money, are helping them do it. And you can stop them."

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