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Federal Trade Commission
Office of the Secretary, Room H-113, Annex Q
600 Pennsylvania Avenue, NW
Washington DC, 20580

Re: Comments on Advance Notice of Proposed Rulemaking
SR Caller-ID ANPRM; FTC File No. P104405

To the Commission:

This office represents direct marketers and marketing service organizations in their efforts to maintain compliance with applicable regulations, and I offer these responses to the Commission's recent request for comments on Caller-ID related issues.

At the outset, it is important that the Commission first take into consideration that enhanced regulations only affect those who choose to comply with them. Any increased compliance responsibilities will likely place an unwarranted burden on companies that comply with the rules by properly identifying themselves, while at the same time making it easier for criminals who employ technology to falsify Caller ID (aka "spoofing") to continue their illegal activities. It is therefore vital to address the difficulties associated with the enforcement of existing regulations before enacting further ones.

As the Commission is doubtless aware, the practice of Caller ID spoofing can make a call appear to have come from any phone number the caller chooses. Because of the high trust consumers appear to have in the Caller ID system, they believe without question that any number or other information that appears on their Caller ID accurately identifies the caller. Naturally, criminals will never identify who they are, and spoofing allows them to easily misdirect regulatory attention to the legitimate companies they may be impersonating via Caller ID. The practice of spoofing calls the entire system's value into question, and is now being used extensively to enhance the fraudulent efforts of scam artists.

Further, this insidious practice threatens to thwart the Commission's efforts to enforce the TSR. Should the Commission take Caller ID information as gospel, it runs the risk of initiating actions against blameless organizations, damaging their reputations and their businesses, without locating the true perpetrators.

Thus, Caller ID is virtually useless as an aid to law enforcement. Under the current system, spoofing has the very real potential for turning an enforcement agency such as the FTC into an unwitting accomplice of the very criminals it is charged with stopping. Until it is possible to prevent the subversion of the Caller ID system, Caller ID information should be completely disregarded as evidence of any violation.

That being said, please take into consideration the following specific comments:

Query: Would changes to the Telemarketing Sales Rule improve the ability of Caller ID services to accurately disclose the source of telemarketing calls or improve the ability of service providers to block calls in which information on the source of the call is not available, or has been spoofed?

Comment: To my knowledge, anyone with access to an automatic dialing device configured with free open source software (such as Asterisk and almost any VoIP service provide company) can spoof calls with minimal costs and effort. The benefits to scam artists are obvious and considerable. Like many other forms of identity theft, Caller ID spoofing is the “perfect” crime, in light of the enormous difficulties associated with tracking down those responsible for the practice.

Therefore, it is incumbent upon the government to clamp down on the practice at the source: the entities that provide Caller ID spoofing services. These companies should be required to register with the FTC and provide complete information on their activities and those of the organizations that utilize their services. Further, companies that provide spoofing services must be held liable for the actions of their clients.

In addition, I suggest that the Commission establish a mechanism to enable organizations that use Caller ID and spoofing technology for legitimate purposes to privately register their identities and whatever information that they provide via Caller ID (i.e., company name, DBA, phone numbers, etc.) with the FTC. When responding to complaints regarding a registered company, this information would better enable law enforcement to informally investigate whether a particular call was truly initiated by a registered organization.

Query: Should the FTC amend the Caller ID provisions of the Rule to further specify the characteristics of the phone number that a telemarketer must transmit to a Caller ID service?

Comment: It is essential that companies be able to utilize a unique caller ID with each campaign for tracking and compliance purposes. Many companies gauge the effectiveness of campaigns on how many consumers return calls to Caller ID numbers, and are better able to track removal requests. In the case of telemarketers calling on behalf of third party clients, assigning a specific Caller ID to their clients’ campaigns enables them to oversee compliance and customer service issues in a more effective manner.

From a practical standpoint, using the same Caller ID number on larger calling campaigns would likely overwhelm the lines pointing to that number, and render consumers unable to reach any living representative or automated service. Instead, a seller or telemarketer should be permitted to use any number that is registered in its name, regardless of whether the number is listed in phone directories.

Query: Should the FTC amend the Caller ID provisions to allow a seller or telemarketer to use trade names or product names, rather than the actual name of the seller or telemarketer, in the name information displayed by Caller ID services?

Comment: Using a trade or product name is often necessary, because technology limits the number of characters that can be included on Caller ID to fifteen.

This means that sellers or telemarketers, whose actual names are longer than 15 letters can not comply with the law unless they are permitted to use trade names, product names, or a brief description of the nature of the call. It should also be noted that names and other information sent via Caller ID often do not appear on cell phones, despite the fact that the caller did provide the information.

Thank you for considering these comments, and feel free to contact the undersigned should you require any further information.

Yours truly,
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