Prepared Statement of
The Federal Trade Commission

Before the
United States Senate
Special Committee on Aging

on

Combatting Illegal Robocalls: Initiatives to End the Epidemic

Washington, DC
June 10, 2015

Chairman Collins, Ranking Member McCaskill, and members of the Committee, I am Lois Greisman, Associate Director of the Division of Marketing Practices, Bureau of Consumer Protection at the Federal Trade Commission ("Commission" or "FTC").[1] I appreciate the opportunity to appear before you today to discuss the Commission's initiatives to fight illegal robocalls, including those that target seniors.[2]

In 2003, the FTC responded to enormous public frustration with unsolicited sales calls and amended the Telemarketing Sales Rule ("TSR") to create a national Do Not Call Registry.[3] The Registry, which includes more than 217 million active telephone numbers,[4] has been tremendously successful in protecting consumers' privacy from the unwanted calls of tens of thousands of legitimate telemarketers who subscribe to the Registry each year.[5] More recently,

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[1] The views expressed in this statement represent the views of the Commission. My oral presentation and responses to questions are my own and do not necessarily reflect the views of the Commission or any individual Commissioner.

[2] *See, e.g.*, *FTC v. Worldwide Info. Servs., Inc.*, No. 14-cv-8-ORL-28DAB (M.D. Fla. Jan. 13, 2014), *available at* https://www.ftc.gov/enforcement/cases-proceedings/132-3175/worldwide-info-services-inc; *see generally FTC v. Inbound Call Experts, LLC, et al*, No. 14-cv-81395-KAM (S.D. Fla. Nov. 10, 2014), *available at* https://www.ftc.gov/enforcement/cases-proceedings/132-3135/inbound-call-experts-llc; *FTC v. Consumer Collection Advocates, Corp., et al*, No. 14-cv-62491-BB (S.D. Fla. Nov. 3, 2014), *available at* https://www.ftc.gov/enforcement/cases-proceedings/142-3082/consumer-collection-advocates-corp; *FTC v. Instant Response Sys. LLC, et al*, No. 113-cv-0976 (E.D.N.Y. Mar. 11, 2013), *available at* https://www.ftc.gov/enforcement/cases-proceedings/1223041/instant-response-systems-llc-et-al.

[3] 68 Fed. Reg. 4580 (Jan. 29, 2003); 16 C.F.R. Part 310. The FTC issued the TSR pursuant to the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101-6108. *See generally* The Telemarketing Sales Rule, 16 C.F.R. Part 310.

[4] *See* National Do Not Call Registry Active Registrations and Complaint Figures. National Do Not Call Registry Data Book FY 2014 at 4 (Nov. 2014), *available at* https://www.ftc.gov/reports/national-do-not-call-registry-data-book-fiscal-year-2014.

[5] For example, in fiscal year 2014, more than 26,000 telemarketers accessed the Do Not Call Registry. National Do Not Call Registry Data Book FY 2012 at 8 (Nov. 2014), *available at* https://www.ftc.gov/reports/national-do-not-call-registry-data-book-fiscal-year-2014.

changes in technology led to a new source of immense frustration – the blasting of prerecorded messages that primarily rely on Voice over Internet Protocol ("VoIP") technology.[6] In 2008, the Commission responded by amending the TSR to prohibit the vast majority of prerecorded sales calls.[7]

Illegal robocalls remain a significant consumer protection problem because they repeatedly disturb consumers' privacy and frequently peddle fraudulent goods and services that cause significant economic harm. The FTC is using every tool at its disposal to fight them.[8] This testimony describes the Commission's efforts to stop telemarketer violations, including our aggressive law enforcement, initiatives to spur technological solutions, and robust consumer and business outreach.

I. Law Enforcement

Since establishing the Do Not Call Registry in 2003,[9] the Commission has fought vigorously to protect consumers' privacy from unwanted calls. Indeed, since the Commission began enforcing the Do Not Call provisions of the TSR in 2004, the Commission has brought

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[6] *See* Section II(A), *infra*.

[7] 73 Fed. Reg. 51164 (Aug. 29, 2008); 16 C.F.R. Part 310.4(b)(1)(v).

[8] *See* FTC Robocall Initiatives, http://www.ftc.gov/robocalls (last visited June 2, 2015).

[9] In 2003, two different district courts issued rulings enjoining the Do Not Call Registry. *See* Press Release, FTC Files Motion to Stay Pending Appeal in Oklahoma DNC Ruling (Mar. 24, 2003), *available at* https://www.ftc.gov/news-events/press-releases/2003/09/ftc-files-motion-stay-pending-appeal-oklahoma-dnc-ruling; Press Release, Statement of FTC Chairman Timothy J. Muris (Sept. 26, 2003), *available at* https://www.ftc.gov/news-events/press-releases/2003/09/statement-ftc-chairman-timothy-j-muris. Congress addressed the first decision in summary fashion by enacting HR 3161 in one day. *See* "HR 3161 (108th) Do-Not-Call-Registry bill," http://www.govtrack.us/congress/bills/108/hr3161; Press Release, Statement of FTC Chairman Timothy J. Muris (Sept. 25, 2003), *available at* https://www.ftc.gov/news-events/press-releases/2003/09/statement-ftc-chairman-timothy-j-muris-0. The 10th Circuit reversed the second district court decision on February 17, 2004. *See* Press Release, Appeals Court Upholds Constitutionality of National Do Not Call Registry (Feb. 17, 2004), *available at* https://www.ftc.gov/news-events/press-releases/2004/02/appeals-court-upholds-constitutionality-national-do-not-call.

120 enforcement actions seeking civil penalties,[10] restitution for victims of telemarketing scams, and disgorgement of ill-gotten gains against 377 corporations and 298 individuals. From the 110 cases that have been resolved thus far, the courts have awarded judgments of over $1 billion in equitable monetary relief and civil penalties, of which the Commission has collected over $100 million.[11]

A. Robocall Law Enforcement

On September 1, 2009, new TSR provisions went into effect prohibiting the vast majority of robocalls selling a good or service.[12] The robocall provisions cover prerecorded calls to all consumers, including those who have not registered their phone number on the Do Not Call Registry. The Commission has been aggressive in enforcing prohibitions against robocalls, filing 37 cases against 121 companies and 90 individuals responsible for *billions of illegal robocalls*.[13] The 34 cases that have concluded thus far have resulted in judgments totaling more than $485 million in civil penalties, redress, or disgorgement.[14]

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[10] As is true of all TSR violations, telemarketers who violate the Do Not Call provisions are subject to civil penalties of up to $16,000 per violation. 15 U.S.C. § 45(m)(1)(A); 16 C.F.R. 1.98(d).

[11] We appreciate the significant difference between the amounts ordered and collected. Fraudsters tend to rapidly dissipate ill-gotten gains. We strive to locate as much money as practicable in each case.

[12] Like the other provisions of the TSR, the robocall provisions do not apply to non-sales calls, such as calls placed by charities or those that are purely political, informational, or survey calls. *See generally* "Complying with the Telemarketing Sales Rule" (Feb. 2011), *available at* https://www.ftc.gov/tips-advice/business-center/guidance/complying-telemarketing-sales-rule. Limited exceptions exist for calls that deliver a healthcare message made by an entity covered by the Health Insurance Portability and Accountability Act, 16 C.F.R. Part 310.4(b)(1)(v)(D), and for certain calls placed by telemarketers who solicit charitable contributions, 16 C.F.R. Part 310.4(b)(1)(v)(B).

[13] The FTC filed 12 of the 37 cases before the rule change went into effect on September 1, 2009.

[14] The agency has collected $28 million of the total judgments awarded. Some of the Commission's early robocall cases were against companies with household names such as Talbots, Dish Network, and DIRECTV. *See U.S. v. The Talbots, Inc.*, No. 10-cv-10698 (D. Mass. Apr. 27, 2010),

Yet increasingly, fraudsters, who often hide in other countries in an attempt to escape detection and punishment, make robocalls that harass and defraud consumers. For example, in *FTC v. Navestad*, the Commission successfully traced and sued robocallers even after they attempted to hide their identities through fake caller IDs, shifting foreign operations, and name changes. The court found that the defendants made in excess of eight million illegal robocalls and ordered them to pay $30 million in civil penalties and give up more than $1.1 million in ill-gotten gains.[15]

Accordingly, the Commission has sought to maximize the impact of its law enforcement efforts, and targeted those that facilitated the illegal conduct to strike a blow against many law-breakers. For example, the Commission has pursued actions against "autodialers" or companies that provide the equipment or software necessary to send out millions of calls.[16] The Commission has also filed suit against payment processors for assisting and facilitating robocallers by providing access to the financial networks.[17]

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available at https://www.ftc.gov/news-events/press-releases/2010/04/womens-clothing-retailer-talbots-its-telemarketer-pay-total; *U.S. v. Dish Network, LLC*, No. 3:09-cv-03073 (C.D. Ill. Feb. 4, 2010), *available at* https://www.ftc.gov/news-events/press-releases/2009/03/ftc-charges-dish-network-formerly-known-echostar-multiple-do-not; *U.S. v. DIRECTV, Inc.*, No. 09-02605 (C.D. Cal. Apr. 23, 2009), *available at* https://www.ftc.gov/news-events/press-releases/2009/04/directv-comcast-pay-total-321-million-entity-specific-do-not-call. Although the Dish case remains in litigation, the Court granted partial summary judgment against Dish in January 2015. Press Release, Court Grants Partial Summary Judgment in FTC Case Against Dish Network, Finding Company Liable for Tens of Millions of Telemarketing Violations (Jan. 21, 2015), *available at* https://www.ftc.gov/news-events/press-releases/2015/01/court-grants-partial-summary-judgment-ftc-case-against-dish.

[15] *FTC v. Navestad*, No. 09-CV-6329 (W.D.N.Y. Mar. 23, 2012), *available at* https://www.ftc.gov/news-events/press-releases/2012/04/ftc-case-against-deceptive-robocallers-leads-record-30-million.

[16] *See, e.g., FTC v. Asia Pac. Telecom, Inc.*, No. 1:10-3168 (N.D. Ill. Mar. 28, 2012), *available at* https://www.ftc.gov/news-events/press-releases/2012/03/ftc-action-puts-robocallers-out-telemarketing-business.

[17] In *FTC v. WV Universal Mgmt., LLC*, a Court held both the robocaller and its payment processor jointly liable for $1.7 million for peddling bogus credit card interest rate reduction services.

B. Coordination with Civil Law Enforcement Partners

As the law enforcement challenges associated with illegal telemarketing have increased, the FTC's relationships with other agencies have become increasingly important. The Commission has robust, collaborative relationships with state law enforcers, including through the National Association of Attorneys General Do Not Call working group. In addition, the FTC regularly works with the Federal Communications Commission ("FCC"), the Department of Justice, the U.S. Postal Inspection Service, and U.S. Attorneys' Offices across the country. The Commission also coordinates with its counterparts in other countries on particular cases and broader strategic matters such as caller ID "spoofing" – the practice of faking a call's identifying information. The FTC's collaboration with its partners takes many forms, including sharing information and targets, assisting with investigations, and working collaboratively on long-term policy initiatives.

The Commission also coordinates with various partners to bring law enforcement actions. For example, in March 2015, the FTC joined forces with ten state Attorneys General to file suit against Caribbean Cruise Lines and seven other companies for blasting billions of robocalls that attempted to sell consumers a cruise to the Bahamas.[18] In this ongoing suit, the FTC sued the telemarketer, the companies that placed the robocalls, and the companies that helped the telemarketer spoof its caller ID to hide its identity.

See Press Release, Court Finds Defendants in FTC's Treasure Your Success "Rachel Robocalls" Case Liable for $1.7 Million (May 20, 2015), *available at* https://www.ftc.gov/news-events/press-releases/2015/05/court-finds-defendants-ftcs-treasure-your-success-rachel; *see also FTC v. Innovative Wealth Builders, Inc.*, No. 13-cv-00123 (M.D. Fla. June 5, 2013), *available at* https://www.ftc.gov/enforcement/cases-proceedings/122-3127/innovative-wealth-builders-inc-et-al.

[18] Press Release, FTC and Ten State Attorneys General Take Action Against Political Survey Robocallers Pitching Cruise Line Vacations to the Bahamas (March 4, 2015), *available at* https://www.ftc.gov/news-events/press-releases/2015/03/ftc-ten-state-attorneys-general-take-action-against-political. The state co-plaintiffs are Colorado, Florida, Indiana, Kansas, Mississippi, Missouri, North Carolina, Ohio, Tennessee, and Washington.

The FTC also leads robocall law enforcement "sweeps" – coordinated, simultaneous law enforcement actions – in conjunction with state and federal partners.[19] In 2012, the FTC and its partners mounted a concerted attack on illegal robocalls purporting to be from "Cardholder Services," which falsely claimed they could reduce consumers' credit card interest rates in exchange for an up-front fee, often hundreds of dollars. The FTC brought five cases against companies that were allegedly responsible for millions of these illegal calls. The Commission simultaneously announced that state law enforcement partners in Arizona, Arkansas, and Florida had filed separate law enforcement actions as part of the sweep.[20]

C. Referrals for Criminal Prosecution

Although the Commission does not have criminal law enforcement authority, it recognizes the importance of criminal prosecution in deterrence. Accordingly, the Commission routinely works with federal and state criminal law enforcers through its Criminal Liaison Unit ("CLU"). Since CLU's launch in 2003, hundreds of fraudulent telemarketers have found

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[19] The following describe some of the telemarketing and robocall sweeps that the FTC and its law enforcement partners have conducted over the past several years: Press Release, FTC Leads Joint Law Enforcement Effort Against Companies that Allegedly Made Deceptive "Cardholder Services" Robocalls (Nov. 1, 2012), *available at* https://www.ftc.gov/news-events/press-releases/2012/11/ftc-leads-joint-law-enforcement-effort-against-companies; Press Release, FTC Settlements Put Debt Relief Operations Out of Business (May 26, 2011), *available at* https://www.ftc.gov/news-events/press-releases/2011/05/ftc-settlements-put-debt-relief-operations-out-business; Press Release, FTC Sues to Stop Robocalls with Deceptive Credit Card Interest-Rate Reduction Claims (Dec. 8, 2009), *available at* https://www.ftc.gov/news-events/press-releases/2009/12/ftc-sues-stop-robocalls-deceptive-credit-card-interest-rate; Press Release, FTC Cracks Down on Scammers Trying to Take Advantage of the Economic Downturn (July 1, 2009), *available at* https://www.ftc.gov/news-events/press-releases/2009/07/ftc-cracks-down-scammers-trying-take-advantage-economic-downturn; Press Release, FTC Announces "Operation Tele-PHONEY," Agency's Largest Telemarketing Sweep (May 20, 2008), *available at* https://www.ftc.gov/news-events/press-releases/2008/05/ftc-announces-operation-tele-phoney-agencys-largest-telemarketing.

[20] *See* Press Release, FTC Leads Joint Law Enforcement Effort Against Companies that Allegedly Made Deceptive "Cardholder Services" Robocalls (Nov. 1, 2012), *available at* https://www.ftc.gov/news-events/press-releases/2012/11/ftc-leads-joint-law-enforcement-effort-against-companies.

themselves facing criminal charges and prison time. In the *Voice Touch* case, for example, robocallers pitched an auto warranty scam. The FTC case shut down the scam and the Commission was able to provide almost $3.2 million in redress to consumers as a result of the litigation.[21] The Office of the U.S. Attorney for the Southern District of Illinois subsequently brought criminal charges; three of the fraud's principals have pleaded guilty and gone to prison, with the two leaders of the scheme sentenced to five years in prison.[22]

In *Economic Relief Technologies*, Kara Singleton Adams, the leader of a scam that used robocalls to sell worthless credit card interest rate reduction services, faced criminal prosecution from the Department of Justice after the Commission shut down her operation.[23] A federal jury in Atlanta convicted Adams on charges of wire fraud and conspiracy and the court sentenced her to more than 17 years of imprisonment in 2012. Three of her associates in the scheme also went to prison.[24]

II. Policy and Market Stimulation Initiatives

Despite the 2008 prohibition of unauthorized robocalls and the Commission's vigorous

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[21] Press Release, FTC Returns Almost $3.2 Million to Auto Warranty Robocall Victims (Aug. 31, 2011), *available at* https://www.ftc.gov/news-events/press-releases/2011/08/ftc-returns-almost-32-million-auto-warranty-robocall-victims; *FTC v. Voice Touch, Inc.*, No. 09CV2929 (N.D. Ill. Aug. 23, 2010), *available at* https://www.ftc.gov/news-events/press-releases/2010/08/auto-warranty-robocaller-pay-23-million-sell-mercedes-consumer.

[22] Department of Justice ("DOJ") Press Release, "Auto Warranty" Telemarketer Pleads Guilty (June 15, 2012), *available at* http://www.justice.gov/sites/default/files/usao-sdil/legacy/2014/12/10/Auto%20Warranty%20Telemarketer%20Pleads%20Guilty.pdf; DOJ Press Release, Update on Transcontinental Warranty Case (Oct. 31, 2011), *available at* http://www.justice.gov/usao/ils/Programs/VWA/transcontinental.html.

[23] *FTC v. Econ. Relief Techs., LLC*, No. 09-CV-3347 (N.D. Ga. July 22, 2010), *available at* https://www.ftc.gov/news-events/press-releases/2012/09/ftc-sends-refunds-victims-robocall-credit-card-interest-rate.

[24] DOJ Press Release, Adams Sentenced to Over 17 Years in Prison for Multi-Million Dollar Telemarketing Fraud Scheme (Feb. 9, 2012), *available at* http://www.justice.gov/archive/usao/gan/press/2012/02-09-12.html.

enforcement efforts, technological advances have permitted law-breakers to make more robocalls for less money with a greater ability to hide their identity. For example, at the end of 2009, the FTC received approximately 63,000 complaints about illegal robocalls each month.[25] That number has now more than doubled - the FTC currently receives approximately 150,000 robocall complaints per month.[26]

A. Understanding the Landscape of the Robocall Problem

Recognizing that law enforcement, while critical, is not enough to solve the problem, FTC staff has aggressively sought new strategies in ongoing discussions with academic experts, telecommunications carriers, industry coordinating bodies, technology and security companies, consumers, and counterparts at federal, state, and foreign government agencies. These efforts were ramped up on October 18, 2012, when the Commission hosted a public summit on robocalls to explore these issues (the "Robocall Summit").[27] Since then, as discussed below, the Commission has spurred the creation of specific groups of experts and industry members to work together and with international law enforcers to tackle this vexing consumer protection issue.

Speakers at the Robocall Summit made clear that convergence between the legacy telephone system and the Internet has allowed robocallers to engage, at very little cost, in massive, unlawful robocall campaigns that cross international borders and hide behind spoofed

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[25] National Do Not Call Registry Data Book FY 2010 at 5 (Nov. 2010), *available at* https://www.ftc.gov/reports/national-do-not-call-registry-data-book-fiscal-year-2010. Since that time, the FTC began separately tracking Do Not Call complaints and robocall complaints based on information provided by the consumer.

[26] National Do Not Call Registry Data Book FY 2014 at 5 (Nov. 2014), *available at* https://www.ftc.gov/reports/national-do-not-call-registry-data-book-fiscal-year-2014.

[27] *See generally* FTC Workshop, *Robocalls: All the Rage* (Oct. 18, 2012), *available at* https://www.ftc.gov/news-events/events-calendar/2012/10/robocalls-all-rage-ftc-summit. A transcript of the workshop (hereinafter "Tr.") is available at https://www.ftc.gov/sites/default/files/documents/public_events/robocalls-all-rage-ftc-summit/robocallsummittranscript.pdf.

caller ID information. The telephone network has its origins in a manual switchboard that allowed a human operator to make connections between two known entities.[28] A small group of well-known carriers were in control and were highly regulated.[29] Placing calls took significant time and money, and callers could not easily conceal their identities.[30]

Now, anyone can build a viable telephone services business wherever there is an Internet connection.[31] As a result, the number of service providers has grown exponentially and now includes thousands of small companies all over the world.[32] In addition, VoIP technology allows consumers to enjoy high-quality phone calls with people on the other side of the globe for an affordable price.[33] With this efficiency came other changes: instead of a voice path between one wire pair, the call travels as data; identifying information can be spoofed; many different players are involved in the path of a single call; and the distance between the endpoints is not particularly important.[34] As a result, it is not only much cheaper to blast out robocalls; it is also easier to hide one's identity when doing so.

1. New Technologies Have Made Robocalls Extremely Inexpensive

Until recently, telemarketing required significant capital investment in specialized hardware and labor.[35] Now, robocallers benefit from automated dialing technology, inexpensive

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28 Bellovin, Tr. at 12.

29 Schulzrinne, Tr. at 22; Rupy, Tr. at 46-47; Diggs, Tr. at 55.

30 Bellovin, Tr. at 12-17.

31 Herrman, Tr. at 60-61; Maxson, Tr. at 96.

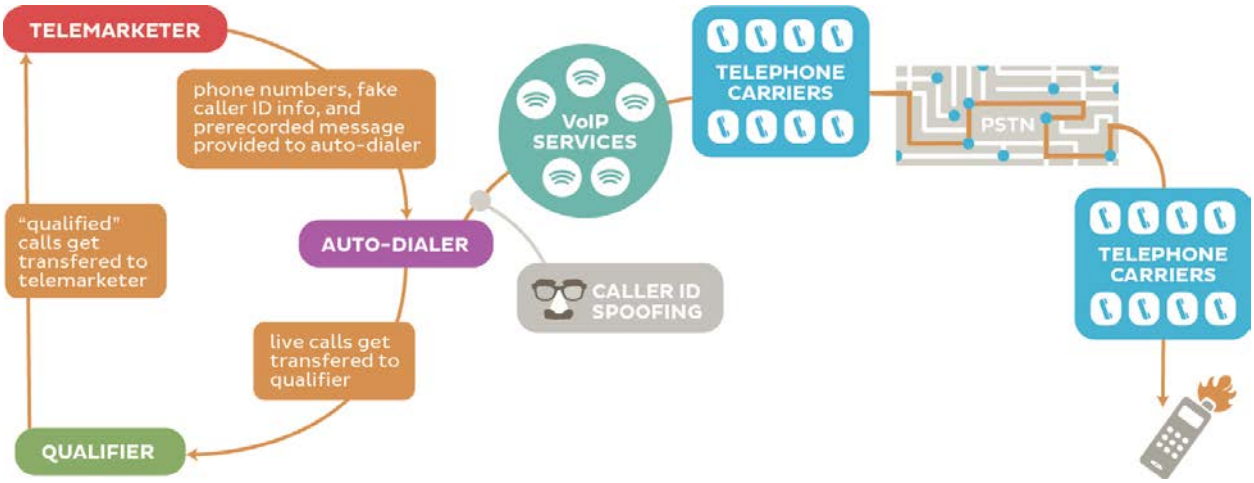
32 Schulzrinne, Tr. at 22.

33 *See, e.g.*, Bellovin, Tr. at 16-17.

34 *Id*. at 17.

35 Herrmann, Tr. at 58-59; Schulzrinne, Tr. at 24.

long distance calling rates, and the ability to move internationally and employ cheap labor.[36] The only necessary equipment is a computer connected to the Internet.[37] The result: law-breaking telemarketers can place robocalls for less than one cent per minute. In addition, the cheap, widely available technology has resulted in a proliferation of entities available to perform any portion of the telemarketing process, including generating leads, placing automated calls, gathering consumers' personal information, or selling products.[38] Because of the dramatic decrease in upfront capital investment and marginal cost, robocallers – like email spammers – can make a profit even if their contact rate is very low.[39]



Technology enables a cheap and scalable model for robocalls. [40]

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[36] Schulzrinne, Tr. at 24.

[37] Herrmann, Tr. at 59-61.

[38] Schulzrinne, Tr. at 20-21; Maxson, Tr. at 95-98.

[39] Schulzrinne, Tr. at 21; Bellovin, Tr. at 16-17.

[40] The PSTN is the "Public Switched Telephone Network." It consists of transmission facilities (e.g., phone lines, fiber optic cables, microwave transmission links, cellular radios, communication satellites, etc.) and switching facilities (central office switches, databases for 800 number translation, gear for cellular handoffs, multiplexors, etc.).

2. New Technologies Have Made It Easier for Robocallers to Hide

Technological changes have also affected the marketplace by enabling telemarketers to conceal their identities when they place calls. First, direct connections do not exist between every pair of carriers, so intermediate carriers are necessary to connect the majority of calls. Thus, the typical call now takes a complex path, traversing the networks of multiple VoIP and legacy carriers before reaching the end user.[41] Each of these carriers knows which carrier passed a particular phone call onto its network, but likely knows little else about the origin of the call.[42] Such a path makes it cumbersome to trace back to a call's inception.[43] All too often, this process to trace the call fails completely because one of the carriers in the chain has not retained the records that would further an investigation.[44]

Second, new technologies allow callers to easily manipulate the caller ID information that appears with an incoming phone call.[45] While "caller ID spoofing" has some beneficial uses,[46] it also allows robocallers to deceive consumers by pretending to be an entity with a local phone number or a trusted institution such as a bank or government agency.[47] In addition, robocallers can change their phone numbers frequently in an attempt to avoid detection.[48]

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[41] Panagia, Tr. at 130-32; Bellovin, Tr. at 17.

[42] Panagia, Tr. at. 132; Maxson, Tr. at 100.

[43] Schulzrinne, Tr. at 24-25; Maxson, Tr. at 100; Bash, Tr. at 104.

[44] Panagia, Tr. at 160-61; *see also id*. at 132-133; Schulzrinne, Tr. at 21.

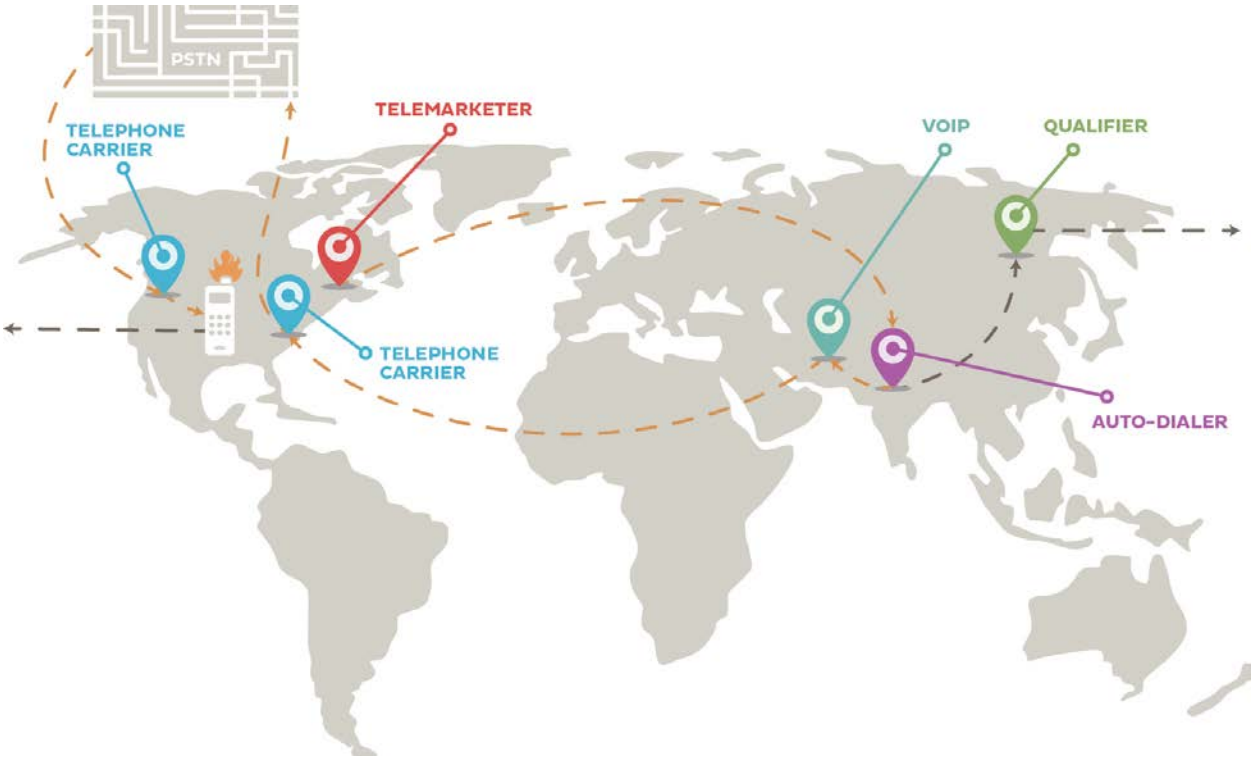
[45] Schulzrinne, Tr. at 24-26.

[46] *See, e.g.*, Panagia, Tr. at 129 (AT&T allows the third party that performs AT&T's customer service to "spoof" AT&T's customer service line).

[47] Schulzrinne, Tr. at 21-22.

[48] *Id.* at 24-26; Maxson, Tr. at 97; Bash, Tr. at 103. Under the Truth in Caller ID Act, it is generally illegal to transmit misleading or inaccurate caller ID information with intent to defraud. *See*

Finally, new technologies allow robocallers to operate outside of jurisdictions where they are most likely to face prosecution.[49] Indeed, all of the many different entities involved in the path of a robocall can be located in different countries, making investigations even more challenging.



The path of a robocall can span the globe.

Truth in Caller ID Act, 47 U.S.C.§ 227(e); *cf.* 16 C.F.R. Part 310.4(a)(8) (the Telemarketing Sales Rule requires that sellers and telemarketers transmit or cause to be transmitted the telephone number and, when made available by the telemarketer's carrier, the name of the telemarketer, to any caller identification service in use by a recipient of a telemarketing call, or transmit the customer service number of the seller on whose behalf the call is made and, when made available by the telemarketer's seller, the name of the seller. Under this provision, it is not necessary to prove intent to defraud.).

[49] Schulzrinne, Tr. at 21; Bellovin, Tr. at 16-17.

B. Need to Stimulate Technological Solutions

1. Robocall Contests

Recognizing the need to spur the marketplace into developing technical solutions that protect American consumers from illegal robocalls, the FTC held its first public contest in October 2012, offering a $50,000 prize to the individual or small team who proposed the best technological solution that blocks robocalls on consumers' landlines and mobile phones. After reviewing 798 submissions, the FTC announced three winning solutions on April 2, 2013.[50] Six months later, one of the solutions, Nomorobo, was made available to consumers, and it now reports having over 170,000 subscribers[51] and has blocked over 24 million robocalls.[52] Following on the success of the first challenge, the FTC conducted its second contest, "Zapping Rachel," in August 2014, offering $17,000 in prizes focused on the open source advancement of honeypot design.[53] Zapping Rachel challenged contestants to build a more advanced honeypot, identify vulnerabilities in an existing honeypot, and analyze data from a honeypot. The FTC

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[50] *See* Press Release, FTC Announces Robocall Challenge Winners; Proposals Would Use Call Filter Software to Reduce Illegal Calls (Apr. 2, 2013), *available at* http:/www.ftc.gov/opa/2013/04/robocall.shtm.

[51] *See* Alina Tugend, *A Year Fighting Robocalls, and Finding the Right Parts*, N.Y. TIMES, Dec. 26, 2014, *available at* http://www.nytimes.com/2014/12/27/your-money/a-year-of-shortcuts-the-fight-against-robocalls-gains-ground.html?_r=0.

[52] *See* Nomorobo Home Page, https://www.nomorobo.com/ (last visited June 2, 2015).

[53] In 2012, the FTC launched its robocall honeypot – a group of phone lines that amasses information on robocalls, such as the date and time the honeypot receives the robocall and a recording of the robocall. The FTC utilizes the honeypot to collect evidence against robocallers and facilitate a more rapid law enforcement response.

held Zapping Rachel at DEF CON 22, one of the most established conferences for information security experts, and announced five winners on August 28, 2014.[54]

The FTC is conducting two new robocall contests this summer: DetectaRobo and Robocalls: Humanity Strikes Back. DetectaRobo was held in conjunction with the 2015 National Day of Civic Hacking on June 6-7, 2015, and asked contestants to analyze data from a honeypot and create predictive algorithms that identify robocalls.[55] Robocalls: Humanity Strikes Back will be held in two phases with the final phase taking place at DEF CON 23, August 5-9, 2015. It challenges contestants to build solutions that not only block robocalls from reaching consumers, but enable consumers to forward those unwanted robocalls to a crowd-source honeypot so that law enforcement and industry stakeholders can use the data collected.[56] The FTC anticipates that the 2015 robocall contests will continue to encourage private sector development of new technologies that will advance the fight against robocalls and foster new industry partners.

2. Coordinating with Technical Experts, Industry, and Other Stakeholders

Since 2012, in addition to stimulating technological developments through public challenges, the FTC also has engaged with technical experts, academics, and others through industry groups, such as the Messaging, Malware and Mobile Anti-Abuse Working Group

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[54] *See* Press Release, FTC Announces Winners of "Zapping Rachel" Robocall Contest (Aug. 28, 2014), *available at* https://www.ftc.gov/news-events/press-releases/2014/08/ftc-announces-winners-zapping-rachel-robocall-contest.

[55] *See* Fed. Trade Comm'n, DetectaRobo, https://www.ftc.gov/detectarobo (last visited June 2, 2015); Press Release, FTC Announces New Robocall Contests to Combat Illegal Automated Calls (Mar. 4, 2015), *available at* https://www.ftc.gov/news-events/press-releases/2015/03/ftc-announces-new-robocall-contests-combat-illegal-automated.

[56] *See* Fed. Trade Comm'n, Robocalls: Humanity Strikes Back, https://www.ftc.gov/strikeback (last visited June 2, 2015); Press Release, FTC Announces New Robocall Contests to Combat Illegal Automated Calls (Mar. 4, 2015), *available at* https://www.ftc.gov/news-events/press-releases/2015/03/ftc-announces-new-robocall-contests-combat-illegal-automated.

("M^{3}AAWG"). M^{3}AAWG is a consortium of industry, regulators, and academics focused on developing solutions to mitigate various forms of messaging abuse such as email spam.[57] After discussions with the FTC and others, M^{3}AAWG leadership formed the Voice and Telephony Abuse Special Interest Group ("VTA SIG") in 2014, a subgroup formed to apply M^{3}AAWG's expertise on messaging abuse to voice spam, such as robocalls.[58]

Through the VTA SIG, the FTC coordinates with experts working on industry standards that will combat caller ID spoofing by enabling the authentication of VoIP calls, such as the Internet Engineering Task Force's working group called "STIR" – Secure Telephone Identity Revisited.[59] The FTC further promotes technical advancements by collaborating with its counterparts in other countries, through its leadership in the London Action Plan ("LAP"), an international syndicate of government agencies and private sector representatives focused on international spam enforcement cooperation.[60] In fact, LAP, M^{3}AAWG, and VTA SIG are currently meeting in Dublin, Ireland. The FTC is taking a leadership role in facilitating LAP's enforcement initiatives and organizing and running these conferences.

3. Policies to Facilitate Market Solutions

The Commission has long recognized the need for policies that facilitate the development of technological products. In January 2015, FTC staff submitted a response to the FCC's request for public comment on whether there are legal or regulatory prohibitions that prevent telephone

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[57] *See* M^{3}AAWG, Activities, https://www.m3aawg.org/ (last visited June 2, 2015).

[58] *See* M^{3}AAWG, Voice and Telephony Abuse Special Interest Group, https://www.m3aawg.org/vta-sig#About_VTASIG (last visited June 2, 2015).

[59] *See* Internet Eng'g Task Force, Secure Telephone Identity Revisited (STIR), https://datatracker.ietf.org/wg/stir/charter/ (last visited June 2, 2015).

[60] *See* London Action Plan, http://londonactionplan.org/ (last visited June 2, 2015).

carriers from offering call-blocking technology.[61] The FTC staff comment outlined the vital need for call-blocking technologies as an integral component to providing subscribers with relief from illegal unwanted calls, and indicated its view that no legal impediments existed to prevent the provision of such services to subscribers.[62]

III. Consumer Education

Public education is also an essential tool in the FTC's consumer protection and fraud prevention work. The Commission's education and outreach program reaches tens of millions of people a year through our website, the media, and partner organizations that disseminate consumer information on the FTC's behalf.

The FTC delivers practical, plain language information on numerous issues. The Commission also uses law enforcement announcements as opportunities to remind consumers how to recognize a similar situation and report it to the FTC. In the case of robocalls, whether the offer involves fraudulent credit card services, so-called auto warranty protection plans, or bogus vacation travel packages, the FTC's message to consumers is simple: if you answer a call and hear an unwanted recorded sales message – hang up. Period. Other key messages to

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[61] Fed. Commc'n Comm'n, Consumer and Governmental Affairs Bureau Seeks Comment on Robocalls and Call-Blocking Issues Raised by the National Association of Attorneys General on Behalf of Thirty-Nine Attorneys General, DA 14-1700 (Nov. 24, 2014), *available at* https://www.fcc.gov/document/cgb-seeks-comment-call-blocking-letter-attorneys-general.

[62] *See* Fed. Trade Comm'n, FTC Staff Comment Before the Federal Communications Commission on Public Notice DA 14-1700, Regarding the Issues Relating to Carrier Implementation of Call-Blocking Technology (Jan. 23, 2015), *available at* https://www.ftc.gov/policy/policy-actions/advocacy-filings/2015/01/ftc-staff-comment-federal-communications-commission. On May 27, 2015, FCC Chairman Wheeler announced a proposal for the FCC to crack down on unwanted robocalls and text messages, which will be voted on by the FCC Commission on June 18. The proposal encourages robocall-blocking technologies and clarifies that carriers can, and should, offer consumers robocall-blocking tools. Fed. Commc'n Comm'n, Another Win For Consumers, https://www.fcc.gov/blog/another-win-consumers (May 27, 2015, 14:28 EDT); Fed. Commc'n Comm'n, Fact Sheet on Consumer Protection Proposal (May 27, 2015), *available at* https://www.fcc.gov/document/fact-sheet-consumer-protection-proposal.

consumers include how to place a phone number on the Do Not Call Registry, what to consider before asking a phone carrier to block calls, and how and where to report illegal robocalls.[63] The FTC's education materials also explain how robocallers use technology to make thousands of calls at minimal cost, send fake caller ID information, and conceal their locations. The FTC disseminates these tips through articles,[64] blog posts,[65] social media,[66] infographics,[67] videos,[68] audio,[69] and campaigns such as "Pass It On" – an innovative means of arming older consumers with information about scams that they can "pass on" to their friends and family members.[70]

The FTC updates its consumer education whenever it has new information to share. The Commission's library of articles on robocall scams in English and Spanish also includes pieces describing credit card interest rate reduction scams, auto service contract and warranty fraud, and

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[63] *See, e.g.*, National Do Not Call Registry, http://www.consumer.ftc.gov/articles/0108-national-do-not-call-registry (last visited June 2, 2015).

[64] *See, e.g.*, FTC Robocall Microsite, http://www.consumer.ftc.gov/features/feature-0025-robocalls (last visited June 2, 2015).

[65] *See, e.g.*, FTC Consumer Information Blog, http://www.consumer.ftc.gov/blog (last visited June 2, 2015); Bikram Bandy, Your top 5 Questions about unwanted calls and the National Do Not Call Registry (Mar. 9, 2015), http://www.consumer.ftc.gov/blog/your-top-5-questions-about-unwanted-calls-and-national-do-not-call-registry.

[66] *See, e.g.*, FTC Robocalls Facebook Q&A Transcript (Oct. 25, 2012), https://www.ftc.gov/sites/default/files/attachments/ftc-facebook-chats/1210robocallschallenge-fb.pdf.

[67] *See, e.g.*, FTC Robocalls Infographic, https://www.ftc.gov/sites/default/files/documents/public_events/robocalls-all-rage-ftc-summit/pdf-0113-robocalls-infographic.pdf.

[68] *See, e.g.*, FTC Video and Media, http://www.consumer.ftc.gov/media (last visited June 2, 2015).

[69] *See, e.g.*, FTC Consumer Information Audio, "Hang Up on Robocalls," http://www.consumer.ftc.gov/media/audio-0045-hang-robocalls (last visited June 2, 2015).

[70] *See* Pass It On, http://www.consumer.ftc.gov/features/feature-0030-pass-it-on#identity-theft (last visited June 2, 2015).

travel-related schemes.[71] When Robocall Challenge participants submitted to the Commission techniques they were using to successfully reduce illegal robocalls, the GSA and FTC used these tips in a video with consumer suggestions about stopping unwanted robocalls.[72]

IV. Next Steps and Conclusion

The Do Not Call Registry remains enormously successful in protecting consumers against unsolicited calls from legitimate telemarketers. But, as technology changes and fraudsters exploit those changes, we must remain agile and creative. The Commission will continue its multifaceted efforts to fight illegal robocalls, including the following actions:

- Continue Aggressive Law Enforcement
    - We will maintain our enforcement efforts, in coordination with state, federal, and international partners, to target high-volume offenders and pursue robocall gatekeepers in order to stop the largest number of illegal calls.
    - We will work with the telecommunications industry, encouraging carriers to be proactive in monitoring for illegal robocalls and securing the information necessary for prosecutions.
- Spur Innovation
    - We will work with industry leaders and other experts to further stimulate the development of technological solutions to protect consumers from illegal robocalls.
    - We will continue to encourage industry-wide coordination to create and deploy VoIP standards that incorporate robust authentication capabilities. Such

[71] *See* FTC Consumer Information, "Travel Tips" (May 2013), http://www.consumer.ftc.gov/articles/0046-travel-tips; FTC Consumer Information, "Auto Service Contracts and Warranties" (Aug. 2012), http://www.consumer.ftc.gov/articles/0054-auto-service-contracts-and-warranties; FTC Consumer Information, "Credit Card Interest Rate Reduction Scams" (Feb. 2011), http://www.consumer.ftc.gov/articles/0131-credit-card-interest-rate-reduction-scams; *see generally* FTC Robocall Microsite, http://www.consumer.ftc.gov/features/feature-0025-robocalls (last visited June 2, 2015); FTC Robocall Microsite in Spanish, "Llamadas automáticas pregrabadas o robocalls," http://www.consumidor.ftc.gov/destacado/destacado-s0025-llamadas-automaticas-pre-grabadas-o-robocalls (last visited June 2, 2015).

[72] Robocall Challenge: Consumer Tips & Tricks (Apr. 2, 2013), http://www.consumer.ftc.gov/media/video-0086-robocall-challenge-consumer-tips-tricks.

coordination is the only way to ensure a future phone system with accurate and truthful calling information.

- Engage in Ongoing Consumer Education
    - We will continue our broad outreach to consumers regarding the Do Not Call Registry as well as illegal robocalls and how best to fight them.
- Work with Congress
    - We stand ready to assist in your efforts to protect consumers.

Thank you for the opportunity to share some of the highlights regarding the FTC's battle against illegal robocalls. We look forward to working with you on this important issue.