



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 17-59; FCC 17-24]

Advanced Methods to Target and Eliminate Unlawful Robocalls

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission invites comment on proposed changes to its rules implementing the Telephone Consumer Protection Act and to its call completion rules. The Commission proposes rules to codify the clarification contained in the 2016 Guidance PN that providers may block calls when the subscriber to a particular telephone number requests that calls originating from that number be blocked; permit providers to block calls originating from invalid numbers; permit providers to block calls originating from valid numbers that are not allocated to a voice service provider; and permit providers to block calls originating from valid numbers that are allocated but not assigned to a subscriber. In addition, the Commission seeks comment on the possibility of permitting providers to block calls in other situations where the calls to be blocked are reasonably likely to be illegal based upon objective criteria.

DATES: Comments are due on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and reply comments are due on or before **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by CG Docket 17-59 by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's web site: <http://apps.fcc.gov/ecfs/>. Filers should follow the instructions provided on the web site

for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket No. 17-59.

- Mail: Parties who choose to file by paper must file an original and one copy of each filing. Filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jerusha Burnett, Consumer Policy Division, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554 by email at jerusha.burnett@fcc.gov or by phone at (202) 418-0526.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking and Notice of Inquiry in CG Docket No. 17-59, adopted on March 23, 2017, and released March 23, 2017. A copy of document FCC 17-24 and any subsequently filed documents in this matter will be available during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554, (202) 418-0270. The full text of document FCC 17-24 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. A copy of document FCC 17-24 and any subsequently filed documents in this matter may also be found by searching ECFS at: <http://apps.fcc.gov/ecfs/> (insert CG Docket No. 17-59 into the Proceeding block).

Pursuant to 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using ECFS. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington, DC 20554.

Pursuant to § 1.1200 of the Commission's rules, 47 CFR 1.1200, this matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). Document FCC 17-24 can also be downloaded in Word or Portable Document Format (PDF) at: <https://www.fcc.gov/document/robocall-blocking-nprm-and-noi>.

INITIAL PAPERWORK REDUCTION ACT OF 1995 ANALYSIS

Document FCC 17-24 seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish another notice in the Federal Register inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Pub. L. 104-13, 109 Stat.

163; 44 U.S.C. 3501-3520. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Pub. L. 107-198, 116 Stat. 729; 44 U.S.C. 3506(c)(4).

SYNOPSIS

1. In the document FCC 17-24₂, the Commission begins a process to facilitate voice service providers' blocking of illegal robocalls. Providers have been active in identifying such robocalls, and consumer groups and others have asked the Commission to encourage better call blocking.

NOTICE OF PROPOSED RULEMAKING

2. The Commission believes that it is in the best interest of achieving the goal of eliminating illegal robocalls to collaborate with industry—government can remove regulatory roadblocks and ensure that industry has the flexibility to use robust tools to address illegal traffic. It is also important for the Commission to protect the reliability of the nation's communications network and to protect consumers from provider-initiated blocking that harms, rather than helps, consumers. The Commission therefore must balance competing policy considerations—some favoring blocking and others disfavoring blocking—to arrive at an effective solution that maximizes consumer protection and network reliability. The Commission therefore seek comment on several proposals that the Commission believes strike the correct balance.

3. Specifically, the Commission proposes that voice service providers may block telephone calls in certain circumstances to protect subscribers from illegal robocalls. First, the Commission proposes to codify the clarification contained in the 2016 Guidance PN that providers may block calls when the subscriber to a particular telephone number requests that calls originating from that number be blocked. Second, the Commission seeks comment on proposed rules authorizing providers to block calls from three categories of numbers: invalid numbers, valid numbers that are not allocated to a voice service provider, and valid numbers that are allocated but not assigned to a subscriber.

4. The Commission's legal authority for these rules stems from sections 201 and 202 of the

Communications Act (the Act), which prohibit unjust and unreasonable practices and unjust and unreasonable discrimination—and thus have formed the basis for the Commission’s historic prohibitions on call blocking. Here, the Commission believes that blocking a call from a spoofed number is not, by definition, an unjust or unreasonable practice or unjustly or unreasonably discriminatory practice, and the Commission invokes authority stemming from sections 201 and 202 of the Act in making that determination. The Telephone Consumer Protection Act of 1991 (TCPA), as codified in section 227(b)(2) of the Act, also states that the Commission “shall prescribe regulations to implement” the TCPA’s restrictions on robocalls in subsection 227(b) of the Act. As discussed below, the Commission’s proposed rules are intended to facilitate blocking of illegal robocalls by voice service providers, with the ultimate goal of ensuring that consumers receive fewer robocalls that violate section 227(b) of the Act, while also preserving effective call completion obligations. In addition, the Commission is charged with prescribing regulations to implement the Truth in Caller ID Act, which made unlawful the spoofing of Caller IDs “in connection with any telecommunications service or IP-enabled voice service . . . with the intent to defraud, cause harm, or wrongfully obtain anything of value” Given the continuing and ever-evolving schemes by illegitimate callers to harm and defraud consumers using spoofed Caller IDs, these proposals are necessary to allow service providers to help prevent these unlawful acts and protect voice service subscribers. Finally, section 251(e) of the Act gives the Commission authority over the use and allocation of numbering resources in the United States, including the use of the unassigned numbers at issue in the proposed rules. The Commission seeks comment on the nature and scope of the Commission’s authority to adopt rules as proposed herein.

5. As a threshold matter, the Commission seek comment on how to define the term “illegal robocall” for purposes of this proceeding. Based on the Strike Force’s recommendation, the Commission tentatively concludes that an “illegal robocall” is one that violates the requirements of the TCPA, the related Commission regulations implementing the Act, or the Telemarketing Sales Rule, as well as any call made for the purpose of defrauding a consumer, as prohibited under a variety of federal and state

laws and regulations, including the federal Truth in Caller ID Act. Is this definition sufficient to capture all robocalls that should be subject to provider-initiated blocking? If not, how might the definition be expanded to serve the Commission's goals in this proceeding? For example, would this definition preclude voice service providers from blocking calls that are not lawful for other reasons, such as calls prohibited by an anti-stalking law or a court order, or preclude providers from blocking calls that violate a law but are not autodialed or prerecorded? Conversely, is this definition insufficiently precise so that it could lead to lawful calls being blocked? If so, what types of calls and how should the Commission change this definition?

A. Blocking at the Request of the Subscriber to the Originating Number

6. The 2016 Guidance PN made clear that voice service providers (whether providing such service through Time-Division Multiplexing, Voice over Internet Protocol (VoIP), or Commercial Mobile Radio Service) may block calls from a number if the subscriber to that telephone number requests such blocking in order to prevent its telephone number from being spoofed. The Bureau concluded that, where the subscriber did not consent to the number being spoofed, the call was very likely made with the intent to defraud, and therefore that no reasonable consumer would wish to receive such a call. Such calls are deemed to be presumptively spoofed and likely to violate the Commission's anti-spoofing rules, and have the potential to cause harm both to the called party and to the subscriber who uses the number. The Commission agrees with the Bureau's conclusions and propose to amend the Commission's rules to codify them, so as to provide increased certainty to providers. The Commission seeks comment on this proposal.

7. The 2016 Guidance PN did not directly address issues related to providers sharing information about such subscriber requests. The Commission seeks comment on whether there are roadblocks to sharing information among providers necessary to effectuate subscriber requests for blocking and what, if any, rule changes or other measures are needed to ensure that such requests can be honored efficiently and effectively. Particularly, the Commission seeks comment on what measures, if any, the Commission

should consider to facilitate the sharing of such requests among providers where, for example, the subscriber asks the provider that serves the number at issue to disseminate its request throughout the industry. The Commission notes that subscribers might not be readily able to identify each and every provider and to submit such a request to each provider individually. Although such information sharing at the subscriber's request appears to be consistent with the Commission's Customer Proprietary Network Information (CPNI) rules, the Commission seeks comment on whether there are remaining concerns that have not already been adequately addressed. Would such concerns, if any, be resolved by further clarification about the lawfulness of disclosing information to protect consumers and the network, and to prevent fraud? Are subscribers who request such blocking, absent instructions to the contrary, inherently requesting that that information be shared among providers, and does such sharing occur routinely, or are subscribers making multiple individual requests to multiple providers? Are there any particular concerns regarding the entity through which sharing occurs? For example, are there any specific concerns regarding sharing through an industry information or an entity involved in administering telephone numbers? The Commission notes especially that by seeking comment on these issues, and during the pendency of this proceeding, the Commission does not stall, interrupt, or prevent information sharing that is already occurring lawfully. Instead, the Commission asks whether the Commission can provide a better framework to facilitate and encourage sharing, and if so, how the Commission might do so.

B. Calls Originating from Unassigned Numbers

8. In the Strike Force Report, the Strike Force asked the Commission to further clarify that provider-initiated blocking is permissible where the call purports to originate from a number that the provider knows to be unassigned. As discussed in more detail below, use of an unassigned number is a strong indication that the calling party is spoofing the Caller ID to potentially defraud and harm a voice service subscriber. The Commission can readily identify three categories of unassigned numbers. Those categories are: 1) numbers that are invalid under the North American Numbering Plan (NANP), including numbers with unassigned area codes; 2) numbers that have not been allocated by the North

American Numbering Plan Administrator (NANPA) or the National Number Pool Administrator (PA) to any provider; and 3) numbers that the NANPA or PA has allocated to a provider, but are not currently assigned to a subscriber. The Commission seeks comment on rules to codify that providers may block numbers that fall into each of these three categories. The Commission seeks comment on how and when such blocking should be permitted and on whether there are other categories of numbers that should be considered to be unassigned.

C. Calls Originating from Invalid Numbers

9. The Commission proposes to adopt a rule allowing provider-initiated blocking of calls purportedly originating from numbers that are not valid under the NANP. Examples of such numbers include numbers that use an unassigned area code; that use an N11 code, such as 911 or 411, in place of an area code; that do not contain the requisite number of digits; and that are a single digit repeated, such as 000-000-0000. Can providers, because of their intimate knowledge of the North American Numbering Plan, easily identify numbers that fall into this category? Further, because these numbers are not valid, there is no possibility that a subscriber legitimately could be originating calls from such numbers. Nor do the Commission foresee any reasonable possibility that a caller would spoof such a number for any legitimate, lawful purpose; for example, unlike a business spoofing Caller ID on outgoing calls to show its main call-back number, invalid numbers cannot be called back. The Commission therefore does not see a significant risk to network reliability in allowing providers to block this category of calls. The Commission seeks comment on this proposal.

10. More generally, the Commission seeks comment on whether, for purposes of this rule, to define invalid numbers more specifically than already described above. Further, the Commission seeks comment on what, if anything, the Commission can do to assist providers in correctly identifying invalid numbers. With regard to smaller providers, are there any particular measures the Commission or the numbering administrators can implement to assist them in more readily identifying or blocking calls

originating from invalid numbers? Finally, the Commission seeks comment on any additional issues concerning the blocking of calls purportedly originating from invalid numbers.

D. Calls Originating From Numbers Not Allocated to Any Provider

11. The Commission also proposes to allow provider-initiated blocking of calls from numbers that are valid but have not yet been allocated by NANPA or the PA to any provider. Though these numbers are valid under the North American Numbering Plan, the Commission believes that they are similar to invalid numbers in that no subscriber can actually originate a call from any of them, and the Commission can foresee no legitimate, lawful reason to spoof such a number because they cannot be called back. The Commission seeks comment on this proposal.

12. Unlike the category of calls described above, numbers in this category are not presumptively invalid. Instead, the provider must have knowledge that a certain block of numbers has not been allocated to any provider and therefore that the number being blocked could not have been assigned to a subscriber. The Commission seeks comment on whether providers can readily identify numbers that have yet to be allocated to any provider and, if not, whether the NANPA or PA could assist by providing this information in a timely, effective way. If there are difficulties in identifying unallocated numbers, the Commission asks commenters to provide specific descriptions and/or examples of any of those difficulties, and to offer any proposed solutions to overcome these difficulties. Can providers identify a subset of such number blocks, e.g., those shown as “available” by the PA? If providers can identify these number blocks, is there any delay in that information being updated or other factors that likely would result in calls from allocated numbers being blocked? If so, the Commission seeks comment on what steps are necessary to mitigate or eliminate the possibility of such calls being blocked. The Commission seeks comment on what further steps the Commission can take to assist providers, especially small providers, in identifying and blocking calls originating from numbers that have not been allocated to any provider and on any other relevant issues.

E. Calls Originating From Numbers that Are Allocated to a Provider, But Not Assigned to a

Subscriber

13. The Commission proposes to allow provider-initiated blocking of calls from numbers that have been allocated to a provider but are not assigned to a subscriber at the time of the call. Like the two categories of unassigned numbers discussed above, a subscriber cannot originate a call from such a number, and the Commission foresees no legitimate, lawful purpose for intentionally spoofing a number that is not assigned to a subscriber and thus cannot be called back. The Commission seeks comment on this proposal.

14. Specifically, the Commission seeks comment on the ability of providers to accurately and timely identify numbers that fall within this category. The Commission believes that the provider to which a telephone number is allocated will know whether that telephone number is currently assigned to a subscriber. The Commission seeks comment on whether other providers can also determine, in a timely way, whether a specific telephone number is assigned to a subscriber at the time a specific call is made. Do providers currently share information about which numbers are assigned to a subscriber, and, if so, is such information shared in close to real time? Can the number portability database administered by the Number Portability Administration Center (NPAC) provide such information for a subset of numbers? Are there ways the Commission can facilitate or improve the sharing of information about numbers in this category? Should the Commission mandate the sharing of information about unassigned numbers to facilitate appropriate robocall blocking? If so, what is the most appropriate means to facilitate such information sharing?

15. If there are reasons that information about such numbers cannot be shared in an accurate and timely way, the Commission also seeks comment on whether a rule explicitly authorizing provider-initiated blocking of calls purportedly from numbers that are allocated to a provider but not assigned to a subscriber should apply only to the provider to which the number is allocated. Are there other factors that support or disfavor explicitly authorizing all providers to block calls purporting to originate from numbers in this category? Are there concerns for small providers, which presumably have a smaller set of

allocated numbers than the larger providers? Finally, the Commission seeks comment on any issues not already raised that may arise by allowing providers to block allocated, but unassigned, telephone numbers.

F. Related Issues

16. Internationally Originated Calls. The Commission notes that internationally originated calls may require special treatment. The Commission seeks comment on whether an internationally originated call purportedly originated from a NANP number should be subject to these rules, whereas an internationally originated call showing an international number would be beyond the scope of this rule. Are there any other special rules the Commission should consider with respect to internationally originated calls?

17. Subscriber Consent. The Commission believes that no reasonable consumer would want to receive these calls. As a result, the Commission proposes not to require providers to obtain an opt-in from subscribers in order to block calls as described above. Obtaining opt-in consent from subscribers would add unnecessary burdens and complexity, and may not be technically feasible for some providers. The Commission seeks comment on this issue.

18. Call Completion Rates. The Strike Force specifically requested that the Commission amend its rules to ensure that providers can block illegal calls without violating the call completion rules. Specifically, the Strike Force asked that these blocked calls not be counted for purposes of calculating a providers' call completion rate. The Commission proposes to exclude calls blocked in accordance with the rules the Commission adopts in this proceeding from calculation of providers' call completion rates and seek comment on that proposal.

NOTICE OF INQUIRY

19. In the Strike Force Report, the Strike Force asked the Commission to clarify that providers are permitted to block "presumptively illegal" calls. Although the Commission agrees that no reasonable consumer would want to receive calls that are illegal, the Commission's call completion policies demand

care in identifying such calls. The Commission believes that the criteria used to identify such calls must be objective, minimally intrusive on the legitimate privacy interests of the calling party, and must indicate with a reasonably high degree of certainty that a particular call is illegal. The Commission therefore seeks information on explicitly authorizing providers to block calls that are reasonably likely to be illegal based upon objective criteria in addition to the categories of unassigned numbers discussed above.

20. The Commission believes that the categories of unassigned numbers discussed above exemplify objective standards for determining whether a specific call is illegal to a reasonably high degree of certainty. The Commission is aware, however, that there could be a variety of other objective standards that could indicate to a reasonably high degree of certainty that a call is illegal. Consequently, the Commission seeks comment on objective standards that would indicate to a reasonably high degree of certainty that a call is illegal and whether to adopt a safe harbor to give providers certainty that they will not be found in violation of the call completion and other Commission rules when they block calls based upon an application of objective standards. The Commission also seeks comment on ways that callers who make legitimate calls can guard against being blocked and to ensure that legitimate callers whose calls are blocked by mistake can prevent further blocking.

A. Objective Standards to Identify Illegal Calls

21. The Commission seeks comment on provider-initiated blocking based on objective criteria. The Commission seeks comment on what methods providers and third-party call blocking service providers employ in order to determine that a certain call is illegal. The Strike Force Report states that “[e]xamples of reasonable efforts include but are not limited to, soliciting and reviewing information from other carriers, performing historical and real time call analytics, making test calls, contacting the subscriber of the spoofed number, inspecting the media for a call (audio play back of the Real Time Protocol stream to understand the context of the call), and checking customer complaint sites.” The Commission seeks more specific information regarding these and other methods or standards that can be used to identify illegal calls to a reasonably high degree of certainty.

22. What other methods can be or are used? In particular, the Commission seeks comment on the extent to which information obtained through traceback efforts is, can, and should be used to identify future calls that are illegal to a reasonably high degree of certainty? The Commission asks commenters to submit information on whether some methods more accurately identify illegal calls in comparison to other methods, and whether some methods can identify unwanted calls but are less accurate in identifying illegal calls. Do certain methods work best in combination? Are some methods acceptable when used in the context of an informed consumer choosing to implement call blocking with knowledge of the risks of false positives, but might be less acceptable when used in the context of provider-initiated blocking? What can the Commission do to help providers minimize the possibility for false positives when blocking calls based on such methods?

23. Does provider size, geographic location, or other factors have an impact on which methods provide the most accurate results or which methods are feasible? What can the Commission do to provide support for smaller providers that wish to adopt these methods? Are some methods more likely to result in providers blocking legitimate calls in a manner that might violate the Act or the Commission's rules or polices related to call completion or that are more likely to contravene the policy goals underlying those rules? Calls that originate domestically may have differences from those which originate internationally, thus requiring consideration of different objective criteria. Are there any differences in how providers do, or should, handle calls originating outside of the United States in comparison to those originating domestically? If so, are there any limitations to a provider's ability to accurately identify the true origination point of a call?

24. The Commission recognizes that standards bodies have made significant progress on Caller ID Authentication Standards. The Commission applauds this progress, and encourages the industry to implement these standards as soon as they are capable of doing so. The Commission seeks comment on whether, once there is wide adoption of the protocols and specifications established by the Internet Engineering Task Force's (IETF) Secure Telephony Identity Revisited (STIR) working group and the

Signature-based Handling of Asserted information using toKENs (SHAKEN) framework established in the joint Alliance for Telecommunications and Industry Solutions (ATIS) and Session Initiation Protocol (SIP) forum Network-to-Network Interconnection (NNI) Task Force, providers should then be permitted to block calls for which the Caller ID has not been authenticated. Should unauthenticated Caller ID alone be sufficient grounds for a provider to block a call, or should it be used only in combination with other methods? To what extent can these standards be implemented on networks using various types of technology? For example, will these standards work on VoIP calls and traditional wireline calls equally well? If not, how does that impact the propriety of blocking calls based on whether the Caller ID has been authenticated in accordance with these standards? Would it be possible to consider the lack of authenticated Caller ID only for those calls to which these industry standards can be applied? Are there special considerations related to implementing these standards on networks operated by small providers or in rural areas? What other factors should the Commission consider with regard to blocking calls based upon whether Caller ID has been authenticated in accordance with these standards?

25. The Commission seeks comment on whether sharing of information among providers can increase the effectiveness of call blocking methodologies and could enable small providers to benefit from the greater resources of larger providers that might be better able to create and implement more sophisticated methods of identifying illegal calls. The Commission seeks comment on these and any other impacts, positive and negative, of such information sharing and on what the Commission can do to encourage and facilitate such sharing of information in a manner most likely to result in accurate and timely identification of illegal calls. Again, the Commission notes that by seeking comment on these issues, the Commission does not stall, interrupt, or prevent information sharing that is already occurring lawfully. The Commission notes that section 222(d)(2) of the Act makes clear that CPNI may be shared “to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of . . . such services.” The Commission seek comment on what other clarifications or rules changes, if any, would help to improve industry efforts to combat illegal robocalls and improve traceback efforts.

B. Safe Harbor for the Blocking of Calls Identified Using Objective Standards

26. The Commission also seeks comment on a broader safe harbor to provide certainty to providers that blocking calls in accordance with the rules the Commission adopts in this proceeding will not be deemed a violation of the Commission's rules and the Act, or counted for purposes of evaluating a provider's call completion rates. The Commission seeks comment on the appropriate scope of such a safe harbor.

27. The Commission seeks comment on what blocking practices and objective standards should be covered by any safe harbor. Are there any methods, practices, or objective standards that should expressly be excluded from the safe harbor? Are there methods, practices, or objective standards that warrant some protection, such as a rebuttable presumption that their use does not violate the call completion rules, but do not warrant the full protection of a safe harbor? What are they?

28. The Commission further seeks comment on how to formulate a safe harbor that avoids providing a roadmap enabling makers of illegal robocalls to circumvent call blocking by providers. Are there ways to provide both certainty to providers without providing a level of detail that would enable makers of illegal robocalls to circumvent blocking efforts? Should the Commission distinguish between standards that are general, e.g., regarding the presence or absence of Caller ID signatures, versus standards that involve patterns and statistics? Would it be workable to provide a safe harbor covering specific objective standards or specific objective standards implemented at some high threshold level but only a rebuttable presumption covering other objective standards or objective standards implemented at some low threshold? For example, what if the safe harbor applied when a provider blocks calls originating from a single number when the calls originating from that number per minute exceed a fairly high threshold, while a provider that applies a lower, non-public threshold would qualify only for a rebuttable presumption? Finally, should the safe harbor be the same for both large and small providers, and are there any considerations specific to small providers?

C. Protections for Legitimate Callers

29. Even if providers use objective standards, there might be some situations in which legitimate calls would be blocked. For example, high-volume callers that properly obtain prior express consent might run afoul of call-per-minute restrictions even though all calls made are legal. This might occur if a call center lawfully spoofs the Caller ID on outgoing calls to utilize the business's toll-free number that consumers can use to call back or that might be familiar to consumers in a way that helps to identify the caller. The Commission seeks to avoid the blocking of such legitimate calls and, instead, seek to ensure that legitimate calls are completed. The Commission thus seeks comment on protections for legitimate callers. Specifically, should the Commission require providers to "white list" legitimate callers who give them advance notice? Should the Commission establish a challenge mechanism for callers who may have been blocked in error?

30. First, the Commission seeks comment on establishing a mechanism, such as a white list, to enable legitimate callers to proactively avoid having their calls blocked. Should the Commission specify the mechanism or mechanisms to be used or administrative details, such as the type of evidence providers might require of such legitimate callers? If so, what should the Commission require? Should the Commission specify a timeframe within which providers must add a legitimate caller to its white list? How should white list information be shared by providers? Is there anything the Commission can do to ensure that white list information is shared in a timely fashion such that legitimate callers need not contact each and every provider separately? Is Commission action needed to guard against white lists being accessed or obtained by makers of illegal robocalls? What is the risk that a caller could circumvent efforts to block illegal robocalls by spoofing numbers on the white list? Is this risk mitigated by the SHAKEN and STIR standards for authenticating Caller ID if, for example, the white list requires that all calls from the white listed telephone number be signed—once those standards have been implemented? Finally, the Commission seeks comment on any other relevant issues.

31. Second, the Commission seeks comment on implementing a process to allow legitimate callers to

notify providers when their calls are blocked and to require providers immediately to cease blocking calls when they learn that the calls are legitimate. How rapidly must a provider respond to a request to cease blocking, and should the Commission specify the information that providers must accept as proof that a caller is legitimate? Should the Commission require specific procedures, or allow providers discretion in how to develop processes, including processes for sharing and safeguarding this information? If provider discretion is allowed, should the Commission require providers to submit their procedures for staff review along with their objective standards? Are there procedures that would reduce any potentially undue burdens on smaller providers? The Commission believes most callers will contact their own provider first when their calls are being blocked. That provider, however, may not be the provider that is actually blocking the calls. The Commission seeks comment on how to facilitate information sharing so that the challenge reaches the provider actually blocking the calls. Finally, the Commission seeks comment on any other relevant issues.

Lastly, the Commission seeks comment on whether providers should designate an officer or other authorized point of contact for legitimate callers seeking to proactively avoid having their calls blocked or to stop blocking of their calls. Would such a requirement represent an undue burden on smaller providers and, if so, what alternative should be available to legitimate callers?

INITIAL REGULATORY FLEXIBILITY ANALYSIS

32. As required by the Regulatory Flexibility Act of 1980, as amended, (RFA) the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in document FCC 17-24.

Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified in the DATES section. The Commission will send a copy of document FCC 17-24, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

A. Need for, and Objectives of, the Proposed Rules

33. Document FCC 17-24 begins a process to facilitate voice service providers' blocking of illegal robocalls, which represent an annoyance—and often worse—for consumers. Document FCC 17-24 proposes rules that would allow providers to—on their customers' behalf—block the illegal robocalls that can bombard their phones at all hours of the day. Providers have been active in identifying such robocalls, and consumer groups and others have asked the Commission to encourage better call blocking. Document FCC 17-24 suggests it is in the best interest of achieving the goal of eliminating illegal robocalls for government to collaborate with industry to crack the problem of illegal robocalling—government can remove regulatory roadblocks and ensure that industry has the flexibility to use robust tools to address illegal traffic. It is also important for the Commission to protect the reliability of the nation's communications network and to protect consumers from provider-initiated blocking that harms, rather than helps, consumers. The Commission therefore must balance competing policy considerations—some favoring blocking and others disfavoring blocking—to arrive at an effective solution that maximizes consumer protection and network reliability. Document FCC 17-24 seeks comment on several proposals that the Commission believes strikes the correct balance.

34. Document FCC 17-24 seeks comment on proposed rules to codify that voice service providers may block telephone calls in certain circumstances to protect subscribers from illegal robocalls. First, document FCC 17-24 proposes to codify the clarification contained in the 2016 Guidance PN that providers may block calls when the subscriber to a particular telephone number requests that calls originating from that number be blocked. Second, the document FCC 17-24 seeks comment on proposed rules authorizing providers to block calls from three categories of numbers: invalid numbers, valid numbers that are not allocated, and valid numbers that are allocated but not assigned. Third, document FCC 17-24 seeks comment on related issues, such as the treatment of internationally originated calls, subscriber consent to call blocking, and the impact on call completion rate rules. The document FCC 17-24 also includes a Notice of Inquiry that seeks comments on further actions that may be taken in the

future, including establishment of objective standards to indicate that a call is likely to be illegal, creation of a safe harbor for providers, and creation of safeguards to minimize blocking of lawful calls.

B. Legal Basis

35. The proposed and anticipated rules are authorized under sections 201, 202, 227, 251(e) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 201, 202, 227, 251(e), 403.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

36. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that will be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. Under the Small Business Act, a “small business concern” is one that: 1) is independently owned and operated; 2) is not dominant in its field of operation; and 3) meets any additional criteria established by the Small Business Administration (SBA). Nationwide, there are a total of approximately 28.8 million small businesses, according to the SBA.

37. Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities

and infrastructure that they operate are included in this industry.” The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

38. Local Exchange Carriers (LECs). Neither the Commission nor the SBA has developed a small business size standard specifically for local exchange services. The closest applicable size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of local exchange service are small businesses.

39. Incumbent Local Exchange Carriers (Incumbent LECs). Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the

transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses.

40. Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most

providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and other local service providers are small entities.

41. The Commission has included small incumbent LECs in this present RFA analysis. As noted above, a “small business” under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and “is not dominant in its field of operation.” The SBA’s Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not “national” in scope. The Commission has therefore included small incumbent LECs in this RFA analysis, although the Commission emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

42. Interexchange Carriers. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that the majority of IXCs are small entities.

43. Cable System Operators (Telecom Act Standard). The Communications Act also contains a size

standard for small cable system operators, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.” There are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Based on available data, the Commission finds that all but nine incumbent cable operators are small entities under this size standard. The Commission notes that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

44. Other Toll Carriers. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities

and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small.

45. Wireless Telecommunications Carriers (except Satellite). Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services. Of this total, an estimated 261 have 1,500 or fewer employees. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

46. Satellite Telecommunications Providers. The category of Satellite Telecommunications “comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.” This category has a small business size standard of \$32.5 million or less in average annual receipts, under SBA rules. For this category, Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of under \$25 million. Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are

small entities.

47. All Other Telecommunications. All Other Telecommunications comprises, *inter alia*, “establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or VoIP services via client-supplied telecommunications connections are also included in this industry.” For this category, Census Bureau data for 2012 show that there were a total of 1,442 firms that operated for the entire year. Of this total, 1,400 had annual receipts below \$25 million per year. Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities.

48. Toll Resellers. The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

49. Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities.

50. Prepaid Calling Card Providers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

51. As indicated above, document FCC 17-24 seeks comment on proposed rules to codify that voice service providers may block telephone calls in certain circumstances to protect subscribers from illegal robocalls. Until these requirements are defined in full, it is not possible to predict with certainty whether the costs of compliance will be proportionate between small and large providers. The Commission seeks

to minimize the burden associated with reporting, recordkeeping, and other compliance requirements for the proposed rules, such as modifying software, developing procedures, and training staff.

52. Under the proposed rules, providers may need to record requests from subscribers to block certain numbers, as well as identify invalid numbers, valid numbers that are not allocated, and valid numbers that are allocated but not assigned. In addition, they may need to set up communication with other providers to share information about numbers to be blocked. Finally, providers may need to exclude calls that are blocked pursuant to the proposed rules when calculating their call completion rates.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

53. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

54. It should be noted that these proposed rules to codify that voice service providers may block telephone calls in certain circumstances to protect subscribers from illegal robocalls are permissive and not mandatory. Small businesses may avoid compliance costs entirely by declining to block robocalls, or may delay their implementation of robocall blocking to allow for more time to come into compliance with the rules. However, the Commission intends to craft rules that encourage all carriers, including small businesses, to block illegal robocalls and therefore seeks comment from small businesses on how to minimize costs associated with implementing the proposed rules. Document FCC 17-24 poses specific requests for comment from small businesses regarding how the proposed rules affect them and what could be done to minimize any disproportionate impact on small businesses.

55. The Commission has proposed rules regarding blocking calls at the request of the subscriber to the originating number and blocking calls originating from unassigned numbers. The Commission has requested feedback from small businesses in the Notice and seek comment on ways to make the proposed rules less costly. The Commission has proposed not to require providers to obtain an opt-in from subscribers in order to block calls as a way of reducing costs to all providers, including small businesses. The Commission seeks comment on how to minimize the economic impact of the Commission's proposals.

56. The Commission has also initiated a Notice of Inquiry in document FCC 17-24 to consider a range of alternatives to expand the proposed rules, including establishment of objective standards to indicate that a call is likely to be illegal, creation of a safe harbor for providers, and creation of safeguards to minimize blocking of lawful calls. These are not yet proposed rules. They show the Commission is proceeding with caution and seeking comment from small businesses and others before developing rules in this complex area. The Commission will assess how to proceed in light of the record in response to the document FCC 17-24, including any comments from small businesses.

57. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the document FCC 17-24 and this IRFA, in reaching its final conclusions and taking action in this proceeding.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

58. None.

List of Subjects in 47 CFR Part 64

Claims, Communications common carriers, Computer technology, Credit, Foreign relations,
Individuals with disabilities, Political candidates, Radio, Reporting and recordkeeping requirements,
Telecommunications, Telegraph, Telephone.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,
Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 225, 254(k), 403(b)(2)(B), (c), 715, Pub. L. 104-104, 110 Stat. 56.

Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, unless otherwise noted.

2. Amend § 64.1200 by adding and reserving paragraphs (i) and (j), and adding paragraph (k) to read as follows:

§ 64.1200 Delivery restrictions.

* * * * *

(i) [Reserved]

(j) [Reserved]

(k) Voice service providers may block calls so that they do not reach a called party as follows:

(1) Providers may block calls when the subscriber to which the originating number is assigned has requested that calls originating from that number be blocked. Calls may be blocked based upon the originating number shown in the Caller ID without regard to whether the calls in fact originate from that number.

(2) Providers may block calls originating from the following numbers:

(i) A number that is not a valid North American Numbering Plan number;

(ii) A valid North American Numbering Plan number that is not allocated to a provider by the North American Numbering Plan Administrator or the Pooling Administrator; and

(iii) A valid North American Numbering Plan number that is allocated to a provider by the North American Numbering Plan Administrator or Pooling Administrator, but is not assigned to a subscriber.

(3) For purposes of blocking calls based upon the originating number under this paragraph (k), a provider may rely on Caller ID information to determine the originating number.

3. Amend § 64.2103 by revising paragraph (e) to read as follows:

§ 64.2103 Retention of call attempt records.

* * * * *

(e) The following calls are excluded from these requirements:

(1) IntraLATA toll calls carried entirely over the covered provider's network or handed off by the covered provider directly to the terminating local exchange carrier or directly to the tandem switch that the terminating local exchange carrier's end office subtends (terminating tandem); and

(2) Calls blocked pursuant to § 64.1200(k) of the Commission's rules.

* * * * *

4. Amend § 64.2105 by revising paragraph (e) to read:

§ 64.2105 Reporting requirements.

* * * * *

(e) The following calls are excluded from these requirements:

(1) intraLATA toll calls carried entirely over the covered provider's network or handed off by the covered provider directly to the terminating local exchange carrier or directly to the tandem switch that the terminating local exchange carrier's end office subtends (terminating tandem); and

(2) calls blocked pursuant to § 64.1200(k) of the Commission's rules.

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