

amended Pub. L. 101-555, §4, Nov. 15, 1990, 104 Stat. 2760; Pub. L. 102-538, title II, §207, Oct. 27, 1992, 106 Stat. 3543; Pub. L. 103-414, title III, §§303(a)(10), 304(a)(8), Oct. 25, 1994, 108 Stat. 4294, 4297.)

### Editorial Notes

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (i), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

#### AMENDMENTS

1994—Subsec. (d)(2) to (4). Pub. L. 103-414, §303(a)(10), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out heading and text of former par. (2). Text read as follows: "The Commission shall initiate the proceeding required under paragraph (1) within 60 days after October 17, 1990, and shall prescribe regulations pursuant to the proceeding not later than 210 days after October 17, 1990. Such regulations shall take effect not later than 45 days after the date the regulations are prescribed."

Subsec. (e)(1). Pub. L. 103-414, §304(a)(8), struck out "within 9 months after October 17, 1990," after "The Commission," in introductory provisions.

1992—Subsec. (d)(4)(A). Pub. L. 102-538 inserted "and aggregators" after "operator services".

1990—Subsec. (b)(1). Pub. L. 101-555, §4(a), substituted "90 days" for "30 days".

Subsec. (b)(1)(J). Pub. L. 101-555, §4(b), struck out subpar. (J) which read as follows: "not bill an interexchange telephone call to a billing card number which—

"(i) is issued by another provider of operator services, and

"(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate."

Subsecs. (b)(2), (c)(1), (h)(1)(A). Pub. L. 101-555, §4(a), substituted "90 days" for "30 days".

### Statutory Notes and Related Subsidiaries

#### CONGRESSIONAL FINDINGS

Pub. L. 101-435, §2, Oct. 17, 1990, 104 Stat. 986, provided that: "The Congress finds that—

"(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

"(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

"(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

"(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those service providers;

"(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by using a telephone billing card, credit card, or prearranged access code number are blocked;

"(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

"(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 complaints from consumers about operator services;

"(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

"(9) the Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

"(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner."

### § 227. Restrictions on use of telephone equipment

#### (a) Definitions

As used in this section—

(1) The term "automatic telephone dialing system" means equipment which has the capacity—

(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and

(B) to dial such numbers.

(2) The term "established business relationship", for purposes only of subsection (b)(1)(C)(i), shall have the meaning given the term in section 64.1200 of title 47, Code of Federal Regulations, as in effect on January 1, 2003, except that—

(A) such term shall include a relationship between a person or entity and a business subscriber subject to the same terms applicable under such section to a relationship between a person or entity and a residential subscriber; and

(B) an established business relationship shall be subject to any time limitation established pursuant to paragraph (2)(G)).<sup>1</sup>

(3) The term "telephone facsimile machine" means equipment which has the capacity (A) to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

(4) The term "telephone solicitation" means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message (A) to any person with that person's prior express invitation or permission, (B) to any person with whom the caller has an established business relationship, or (C) by a tax exempt nonprofit organization.

<sup>1</sup>So in original. Second closing parenthesis probably should not appear.

(5) The term “unsolicited advertisement” means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person’s prior express invitation or permission, in writing or otherwise.

**(b) Restrictions on use of automated telephone equipment**

**(1) Prohibitions**

It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(i) to any emergency telephone line (including any “911” line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency);

(ii) to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call, unless such call is made solely to collect a debt owed to or guaranteed by the United States;

(B) to initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes, is made solely pursuant to the collection of a debt owed to or guaranteed by the United States, or is exempted by rule or order by the Commission under paragraph (2)(B);

(C) to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement, unless—

(i) the unsolicited advertisement is from a sender with an established business relationship with the recipient;

(ii) the sender obtained the number of the telephone facsimile machine through—

(I) the voluntary communication of such number, within the context of such established business relationship, from the recipient of the unsolicited advertisement, or

(II) a directory, advertisement, or site on the Internet to which the recipient voluntarily agreed to make available its facsimile number for public distribution,

except that this clause shall not apply in the case of an unsolicited advertisement that is sent based on an established business relationship with the recipient that

was in existence before July 9, 2005, if the sender possessed the facsimile machine number of the recipient before July 9, 2005; and

(iii) the unsolicited advertisement contains a notice meeting the requirements under paragraph (2)(D),

except that the exception under clauses (i) and (ii) shall not apply with respect to an unsolicited advertisement sent to a telephone facsimile machine by a sender to whom a request has been made not to send future unsolicited advertisements to such telephone facsimile machine that complies with the requirements under paragraph (2)(E); or

(D) to use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

**(2) Regulations; exemptions and other provisions**

The Commission shall prescribe regulations to implement the requirements of this subsection. In implementing the requirements of this subsection, the Commission—

(A) shall consider prescribing regulations to allow businesses to avoid receiving calls made using an artificial or prerecorded voice to which they have not given their prior express consent;

(B) may, by rule or order, exempt from the requirements of paragraph (1)(B) of this subsection, subject to such conditions as the Commission may prescribe—

(i) calls that are not made for a commercial purpose; and

(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

(I) will not adversely affect the privacy rights that this section is intended to protect; and

(II) do not include the transmission of any unsolicited advertisement;

(C) may, by rule or order, exempt from the requirements of paragraph (1)(A)(iii) of this subsection calls to a telephone number assigned to a cellular telephone service that are not charged to the called party, subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights this section is intended to protect;

(D) shall provide that a notice contained in an unsolicited advertisement complies with the requirements under this subparagraph only if—

(i) the notice is clear and conspicuous and on the first page of the unsolicited advertisement;

(ii) the notice states that the recipient may make a request to the sender of the unsolicited advertisement not to send any future unsolicited advertisements to a telephone facsimile machine or machines and that failure to comply, within the shortest reasonable time, as determined by the Commission, with such a request meet-

ing the requirements under subparagraph (E) is unlawful;

(iii) the notice sets forth the requirements for a request under subparagraph (E);

(iv) the notice includes—

(I) a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender; and

(II) a cost-free mechanism for a recipient to transmit a request pursuant to such notice to the sender of the unsolicited advertisement; the Commission shall by rule require the sender to provide such a mechanism and may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, exempt certain classes of small business senders, but only if the Commission determines that the costs to such class are unduly burdensome given the revenues generated by such small businesses;

(v) the telephone and facsimile machine numbers and the cost-free mechanism set forth pursuant to clause (iv) permit an individual or business to make such a request at any time on any day of the week; and

(vi) the notice complies with the requirements of subsection (d);

(E) shall provide, by rule, that a request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if—

(i) the request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

(ii) the request is made to the telephone or facsimile number of the sender of such an unsolicited advertisement provided pursuant to subparagraph (D)(iv) or by any other method of communication as determined by the Commission; and

(iii) the person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine;

(F) may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, allow professional or trade associations that are tax-exempt nonprofit organizations to send unsolicited advertisements to their members in furtherance of the association's tax-exempt purpose that do not contain the notice required by paragraph (1)(C)(iii), except that the Commission may take action under this subparagraph only—

(i) by regulation issued after public notice and opportunity for public comment; and

(ii) if the Commission determines that such notice required by paragraph (1)(C)(iii) is not necessary to protect the

ability of the members of such associations to stop such associations from sending any future unsolicited advertisements;

(G)(i) may, consistent with clause (ii), limit the duration of the existence of an established business relationship, however, before establishing any such limits, the Commission shall—

(I) determine whether the existence of the exception under paragraph (1)(C) relating to an established business relationship has resulted in a significant number of complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines;

(II) determine whether a significant number of any such complaints involve unsolicited advertisements that were sent on the basis of an established business relationship that was longer in duration than the Commission believes is consistent with the reasonable expectations of consumers;

(III) evaluate the costs to senders of demonstrating the existence of an established business relationship within a specified period of time and the benefits to recipients of establishing a limitation on such established business relationship; and

(IV) determine whether with respect to small businesses, the costs would not be unduly burdensome; and

(ii) may not commence a proceeding to determine whether to limit the duration of the existence of an established business relationship before the expiration of the 3-month period that begins on July 9, 2005;

(H) may restrict or limit the number and duration of calls made to a telephone number assigned to a cellular telephone service to collect a debt owed to or guaranteed by the United States; and

(I) shall ensure that any exemption under subparagraph (B) or (C) contains requirements for calls made in reliance on the exemption with respect to—

(i) the classes of parties that may make such calls;

(ii) the classes of parties that may be called; and

(iii) the number of such calls that a calling party may make to a particular called party.

### (3) Private right of action

A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation,

(B) an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater, or

(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the

amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

**(4) Civil forfeiture**

**(A) In general**

Any person that is determined by the Commission, in accordance with paragraph (3) or (4) of section 503(b) of this title, to have violated this subsection shall be liable to the United States for a forfeiture penalty pursuant to section 503(b)(1) of this title. Paragraph (5) of section 503(b) of this title shall not apply in the case of a violation of this subsection. A forfeiture penalty under this subparagraph shall be in addition to any other penalty provided for by this chapter. The amount of the forfeiture penalty determined under this subparagraph shall be determined in accordance with subparagraphs (A) through (F) of section 503(b)(2) of this title.

**(B) Violation with intent**

Any person that is determined by the Commission, in accordance with paragraph (3) or (4) of section 503(b) of this title, to have violated this subsection with the intent to cause such violation shall be liable to the United States for a forfeiture penalty pursuant to section 503(b)(1) of this title. Paragraph (5) of section 503(b) of this title shall not apply in the case of a violation of this subsection. A forfeiture penalty under this subparagraph shall be in addition to any other penalty provided for by this chapter. The amount of the forfeiture penalty determined under this subparagraph shall be equal to an amount determined in accordance with subparagraphs (A) through (F) of section 503(b)(2) of this title plus an additional penalty not to exceed \$10,000.

**(C) Recovery**

Any forfeiture penalty determined under subparagraph (A) or (B) shall be recoverable under section 504(a) of this title.

**(D) Procedure**

No forfeiture liability shall be determined under subparagraph (A) or (B) against any person unless such person receives the notice required by section 503(b)(3) of this title or section 503(b)(4) of this title.

**(E) Statute of limitations**

Notwithstanding paragraph (6) of section 503(b) of this title, no forfeiture penalty shall be determined or imposed against any person—

(i) under subparagraph (A) if the violation charged occurred more than 1 year prior to the date of issuance of the required notice or notice of apparent liability; or

(ii) under subparagraph (B) if the violation charged occurred more than 4 years prior to the date of issuance of the required notice or notice of apparent liability.

**(F) Rule of construction**

Notwithstanding any law to the contrary, the Commission may not determine or im-

pose a forfeiture penalty on a person under both subparagraphs (A) and (B) based on the same conduct.

**(c) Protection of subscriber privacy rights**

**(1) Rulemaking proceeding required**

Within 120 days after December 20, 1991, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

(A) compare and evaluate alternative methods and procedures (including the use of electronic databases, telephone network technologies, special directory markings, industry-based or company-specific "do not call" systems, and any other alternatives, individually or in combination) for their effectiveness in protecting such privacy rights, and in terms of their cost and other advantages and disadvantages;

(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

(C) consider whether different methods and procedures may apply for local telephone solicitations, such as local telephone solicitations of small businesses or holders of second class mail permits;

(D) consider whether there is a need for additional Commission authority to further restrict telephone solicitations, including those calls exempted under subsection (a)(3) of this section, and, if such a finding is made and supported by the record, propose specific restrictions to the Congress; and

(E) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

**(2) Regulations**

Not later than 9 months after December 20, 1991, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

**(3) Use of database permitted**

The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, and to make that compiled list and parts thereof available for purchase. If the Commission determines to require such a database, such regulations shall—

(A) specify a method by which the Commission will select an entity to administer such database;

(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone ex-

change service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

(D) specify the methods by which such objections shall be collected and added to the database;

(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the telephone numbers of subscribers included in such database; and (ii) the costs to be recovered from such persons;

(H) specify the methods for recovering, from persons accessing such database, the costs involved in identifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with the regulations prescribed under this subsection;

(J) be designed to enable States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

**(4) Considerations required for use of database method**

If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

(ii) reflect the relative costs of providing such lists on paper or electronic media; and

(iii) not place an unreasonable financial burden on small businesses; and

(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

**(5) Private right of action**

A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State bring in an appropriate court of that State—

(A) an action based on a violation of the regulations prescribed under this subsection to enjoin such violation,

(B) an action to recover for actual monetary loss from such a violation, or to receive up to \$500 in damages for each such violation, whichever is greater, or

(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations prescribed under this subsection. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

**(6) Relation to subsection (b)**

The provisions of this subsection shall not be construed to permit a communication prohibited by subsection (b).

**(d) Technical and procedural standards**

**(1) Prohibition**

It shall be unlawful for any person within the United States—

(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system, that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards; or

(B) to use a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on

the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual.

**(2) Telephone facsimile machines**

The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after one year after December 20, 1991, clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business, other entity, or individual sending the message, and the telephone number of the sending machine or of such business, other entity, or individual.

**(3) Artificial or prerecorded voice systems**

The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business, other entity, or individual; and

(B) any such system will automatically release the called party's line within 5 seconds of the time notification is transmitted to the system that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

**(e) Prohibition on provision of misleading or inaccurate caller identification information**

**(1) In general**

It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States, in connection with any voice service or text messaging service, to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value, unless such transmission is exempted pursuant to paragraph (3)(B).

**(2) Protection for blocking caller identification information**

Nothing in this subsection may be construed to prevent or restrict any person from blocking the capability of any caller identification service to transmit caller identification information.

**(3) Regulations**

**(A) In general**

The Commission shall prescribe regulations to implement this subsection.

**(B) Content of regulations**

**(i) In general**

The regulations required under subparagraph (A) shall include such exemptions

from the prohibition under paragraph (1) as the Commission determines is appropriate.

**(ii) Specific exemption for law enforcement agencies or court orders**

The regulations required under subparagraph (A) shall exempt from the prohibition under paragraph (1) transmissions in connection with—

(I) any authorized activity of a law enforcement agency; or

(II) a court order that specifically authorizes the use of caller identification manipulation.

**(4) Repealed. Pub. L. 115-141, div. P, title IV, § 402(i)(3), Mar. 23, 2018, 132 Stat. 1089**

**(5) Penalties**

**(A) Civil forfeiture**

**(i) In general**

Any person that is determined by the Commission, in accordance with paragraphs (3) and (4) of section 503(b) of this title, to have violated this subsection shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this paragraph shall be in addition to any other penalty provided for by this chapter. The amount of the forfeiture penalty determined under this paragraph shall not exceed \$10,000 for each violation, or 3 times that amount for each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$1,000,000 for any single act or failure to act.

**(ii) Recovery**

Any forfeiture penalty determined under clause (i) shall be recoverable pursuant to section 504(a) of this title. Paragraph (5) of section 503(b) of this title shall not apply in the case of a violation of this subsection.

**(iii) Procedure**

No forfeiture liability shall be determined under clause (i) against any person unless such person receives the notice required by section 503(b)(3) of this title or section 503(b)(4) of this title.

**(iv) 4-year statute of limitations**

No forfeiture penalty shall be determined or imposed against any person under clause (i) if the violation charged occurred more than 4 years prior to the date of issuance of the required notice or notice of apparent liability.

**(B) Criminal fine**

Any person who willfully and knowingly violates this subsection shall upon conviction thereof be fined not more than \$10,000 for each violation, or 3 times that amount for each day of a continuing violation, in lieu of the fine provided by section 501 of this title for such a violation. This subparagraph does not supersede the provisions of section 501 of this title relating to imprisonment or the imposition of a penalty of both fine and imprisonment.

**(6) Enforcement by States****(A) In general**

The chief legal officer of a State, or any other State officer authorized by law to bring actions on behalf of the residents of a State, may bring a civil action, as *parens patriae*, on behalf of the residents of that State in an appropriate district court of the United States to enforce this subsection or to impose the civil penalties for violation of this subsection, whenever the chief legal officer or other State officer has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this subsection or a regulation under this subsection.

**(B) Notice**

The chief legal officer or other State officer shall serve written notice on the Commission of any civil action under subparagraph (A) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

**(C) Authority to intervene**

Upon receiving the notice required by subparagraph (B), the Commission shall have the right—

- (i) to intervene in the action;
- (ii) upon so intervening, to be heard on all matters arising therein; and
- (iii) to file petitions for appeal.

**(D) Construction**

For purposes of bringing any civil action under subparagraph (A), nothing in this paragraph shall prevent the chief legal officer or other State officer from exercising the powers conferred on that officer by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

**(E) Venue; service or process****(i) Venue**

An action brought under subparagraph (A) shall be brought in a district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28.

**(ii) Service of process**

In an action brought under subparagraph (A)—

- (I) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and
- (II) a person who participated in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

**(7) Effect on other laws**

This subsection does not prohibit any lawfully authorized investigative, protective, or

intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

**(8) Definitions**

For purposes of this subsection:

**(A) Caller identification information**

The term “caller identification information” means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a voice service or a text message sent using a text messaging service.

**(B) Caller identification service**

The term “caller identification service” means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a voice service or a text message sent using a text messaging service. Such term includes automatic number identification services.

**(C) Text message**

The term “text message”—

- (i) means a message consisting of text, images, sounds, or other information that is transmitted to or from a device that is identified as the receiving or transmitting device by means of a 10-digit telephone number or N11 service code;
- (ii) includes a short message service (commonly referred to as “SMS”) message and a multimedia message service (commonly referred to as “MMS”) message; and
- (iii) does not include—

(I) a real-time, two-way voice or video communication; or

(II) a message sent over an IP-enabled messaging service to another user of the same messaging service, except a message described in clause (ii).

**(D) Text messaging service**

The term “text messaging service” means a service that enables the transmission or receipt of a text message, including a service provided as part of or in connection with a voice service.

**(E) Voice service**

The term “voice service”—

- (i) means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1) of this title; and
- (ii) includes transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine.

**(9) Limitation**

Notwithstanding any other provision of this section, subsection (f) shall not apply to this

subsection or to the regulations under this subsection.

**(f) Effect on State law**

**(1) State law not preempted**

Except for the standards prescribed under subsection (d) and subject to paragraph (2) of this subsection, nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

(A) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;

(B) the use of automatic telephone dialing systems;

(C) the use of artificial or prerecorded voice messages; or

(D) the making of telephone solicitations.

**(2) State use of databases**

If, pursuant to subsection (c)(3), the Commission requires the establishment of a single national database of telephone numbers of subscribers who object to receiving telephone solicitations, a State or local authority may not, in its regulation of telephone solicitations, require the use of any database, list, or listing system that does not include the part of such single national database that relates to such State.

**(g) Actions by States**

**(1) Authority of States**

Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of telephone calls or other transmissions to residents of that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or receive \$500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

**(2) Exclusive jurisdiction of Federal courts**

The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

**(3) Rights of Commission**

The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

**(4) Venue; service of process**

Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

**(5) Investigatory powers**

For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

**(6) Effect on State court proceedings**

Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

**(7) Limitation**

Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

**(8) "Attorney general" defined**

As used in this subsection, the term "attorney general" means the chief legal officer of a State.

**(h) Annual report to Congress on robocalls and transmission of misleading or inaccurate caller identification information**

**(1) Report required**

Not later than 1 year after December 30, 2019, and annually thereafter, the Commission, after consultation with the Federal Trade Commission, shall submit to Congress a report regarding enforcement by the Commission of subsections (b), (c), (d), and (e) during the preceding calendar year.

**(2) Matters for inclusion**

Each report required by paragraph (1) shall include the following:



(A) The number of complaints received by the Commission during each of the preceding 5 calendar years, for each of the following categories:

(i) Complaints alleging that a consumer received a call in violation of subsection (b) or (c).

(ii) Complaints alleging that a consumer received a call in violation of the standards prescribed under subsection (d).

(iii) Complaints alleging that a consumer received a call in connection with which misleading or inaccurate caller identification information was transmitted in violation of subsection (e).

(B) The number of citations issued by the Commission pursuant to section 503(b) of this title during the preceding calendar year to enforce subsection (d), and details of each such citation.

(C) The number of notices of apparent liability issued by the Commission pursuant to section 503(b) of this title during the preceding calendar year to enforce subsections (b), (c), (d), and (e), and details of each such notice including any proposed forfeiture amount.

(D) The number of final orders imposing forfeiture penalties issued pursuant to section 503(b) of this title during the preceding calendar year to enforce such subsections, and details of each such order including the forfeiture imposed.

(E) The amount of forfeiture penalties or criminal fines collected, during the preceding calendar year, by the Commission or the Attorney General for violations of such subsections, and details of each case in which such a forfeiture penalty or criminal fine was collected.

(F) Proposals for reducing the number of calls made in violation of such subsections.

(G) An analysis of the contribution by providers of interconnected VoIP service and non-interconnected VoIP service that discount high-volume, unlawful, short-duration calls to the total number of calls made in violation of such subsections, and recommendations on how to address such contribution in order to decrease the total number of calls made in violation of such subsections.

### (3) No additional reporting required

The Commission shall prepare the report required by paragraph (1) without requiring the provision of additional information from providers of telecommunications service or voice service (as defined in section 227b(a) of this title).

### (i) Information sharing

#### (1) In general

Not later than 18 months after December 30, 2019, the Commission shall prescribe regulations to establish a process that streamlines the ways in which a private entity may voluntarily share with the Commission information relating to—

(A) a call made or a text message sent in violation of subsection (b); or

(B) a call or text message for which misleading or inaccurate caller identification information was caused to be transmitted in violation of subsection (e).

### (2) Text message defined

In this subsection, the term “text message” has the meaning given such term in subsection (e)(8).

### (j) Robocall blocking service

#### (1) In general

Not later than 1 year after December 30, 2019, the Commission shall take a final agency action to ensure the robocall blocking services provided on an opt-out or opt-in basis pursuant to the Declaratory Ruling of the Commission in the matter of Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17-59; FCC 19-51; adopted on June 6, 2019)—

(A) are provided with transparency and effective redress options for both—

- (i) consumers; and
- (ii) callers; and<sup>2</sup>

(B) are provided with no additional line item charge to consumers and no additional charge to callers for resolving complaints related to erroneously blocked calls; and

(C) make all reasonable efforts to avoid blocking emergency public safety calls.

### (2) Text message defined

In this subsection, the term “text message” has the meaning given such term in subsection (e)(8).

(June 19, 1934, ch. 652, title II, §227, as added Pub. L. 102-243, §3(a), Dec. 20, 1991, 105 Stat. 2395; amended Pub. L. 102-556, title IV, §402, Oct. 28, 1992, 106 Stat. 4194; Pub. L. 103-414, title III, §303(a)(11), (12), Oct. 25, 1994, 108 Stat. 4294; Pub. L. 108-187, §12, Dec. 16, 2003, 117 Stat. 2717; Pub. L. 109-21, §§2(a)-(g), 3, July 9, 2005, 119 Stat. 359-362; Pub. L. 111-331, §2, Dec. 22, 2010, 124 Stat. 3572; Pub. L. 114-74, title III, §301(a), Nov. 2, 2015, 129 Stat. 588; Pub. L. 115-141, div. P, title IV, §402(i)(3), title V, §503(a)(1)-(4)(A), Mar. 23, 2018, 132 Stat. 1089, 1091, 1092; Pub. L. 116-105, §§3(a), 8(a), 10(a), (b), Dec. 30, 2019, 133 Stat. 3274, 3283, 3284.)

### Editorial Notes

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(4)(A), (B) and (e)(5)(A)(i), was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

#### CONSTITUTIONALITY

For information regarding constitutionality of provisions of subsection (b)(1)(A)(iii) of this section, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court.

#### AMENDMENTS

2019—Subsec. (b)(2)(I). Pub. L. 116-105, §8(a), added subpar. (I).

<sup>2</sup> So in original. The word “and” probably should not appear.

Subsec. (b)(4). Pub. L. 116-105, §3(a)(1), added par. (4).  
 Subsec. (e)(5)(A)(ii). Pub. L. 116-105, §3(a)(2)(A), inserted at end “Paragraph (5) of section 503(b) of this title shall not apply in the case of a violation of this subsection.”

Subsec. (e)(5)(A)(iv). Pub. L. 116-105, §3(a)(2)(B), substituted “4-year” for “2-year” in heading and “4 years” for “2 years” in text.

Subsec. (h). Pub. L. 116-105, §3(a)(3), added subsec. (h) and struck out former subsec. (h) which related to annual junk fax enforcement report.

Subsec. (i). Pub. L. 116-105, §10(a), added subsec. (i).  
 Subsec. (j). Pub. L. 116-105, §10(b), added subsec. (j).

2018—Subsec. (e). Pub. L. 115-141, §503(a)(3), inserted “misleading or” before “inaccurate” in heading.

Subsec. (e)(1). Pub. L. 115-141, §503(a)(1), substituted “or any person outside the United States if the recipient is within the United States, in connection with any voice service or text messaging service” for “in connection with any telecommunications service”.

Subsec. (e)(3)(A). Pub. L. 115-141, §503(a)(4)(A), substituted “The Commission” for “Not later than 6 months after December 22, 2010, the Commission”.

Subsec. (e)(4). Pub. L. 115-141, §402(i)(3), struck out par. (4). Text read as follows: “Not later than 6 months after December 22, 2010, the Commission shall report to Congress whether additional legislation is necessary to prohibit the provision of inaccurate caller identification information in technologies that are successor or replacement technologies to telecommunications service or IP-enabled voice service.”

Subsec. (e)(8)(A), (B). Pub. L. 115-141, §503(a)(2)(A), (B), substituted “voice service or a text message sent using a text messaging service” for “telecommunications service or IP-enabled voice service”.

Subsec. (e)(8)(C) to (E). Pub. L. 115-141, §503(a)(2)(C), added subpars. (C) to (E) and struck out former subpar. (C) which defined IP-enabled voice service.

2015—Subsec. (b)(1)(A)(iii). Pub. L. 114-74, §301(a)(1)(A), inserted “, unless such call is made solely to collect a debt owed to or guaranteed by the United States” after “charged for the call”.

Subsec. (b)(1)(B). Pub. L. 114-74, §301(a)(1)(B), inserted “, is made solely pursuant to the collection of a debt owed to or guaranteed by the United States,” after “emergency purposes”.

Subsec. (b)(2)(H). Pub. L. 114-74, §301(a)(2), added subpar. (H).

2010—Subsecs. (e) to (h). Pub. L. 111-331 added subsec. (e) and redesignated former subsecs. (e) to (g) as (f) to (h), respectively.

2005—Subsec. (a)(2) to (4). Pub. L. 109-21, §2(b), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 109-21, §2(b)(1), (g), redesignated par. (4) as (5) and inserted “, in writing or otherwise” before period at end.

Subsec. (b)(1)(C). Pub. L. 109-21, §2(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine; or”.

Subsec. (b)(2)(D) to (G). Pub. L. 109-21, §2(c)-(f), added subpars. (D) to (G).

Subsec. (g). Pub. L. 109-21, §3, added subsec. (g).

2003—Subsec. (b)(1). Pub. L. 108-187 inserted “, or any person outside the United States if the recipient is within the United States” after “United States” in introductory provisions.

1994—Subsec. (b)(2)(C). Pub. L. 103-414, §303(a)(11), substituted “paragraph” for “paragraphs”.

Subsec. (e)(2). Pub. L. 103-414, §303(a)(12), substituted “national database” for “national datebase” after “such single”.

1992—Subsec. (b)(2)(C). Pub. L. 102-556 added subpar. (C).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2019 AMENDMENT; APPLICABILITY

Pub. L. 116-105, §3(b), Dec. 30, 2019, 133 Stat. 3276, provided that: “The amendments made by this section

[amending this section] shall not affect any action or proceeding commenced before and pending on the date of the enactment of this Act [Dec. 30, 2019].”

##### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-141, div. P, title V, §503(a)(5), Mar. 23, 2018, 132 Stat. 1092, provided that: “The amendments made by this subsection [amending this section] shall take effect on the date that is 6 months after the date on which the Commission [Federal Communications Commission] prescribes regulations under paragraph (4) [set out as a note under this section].” [Regulations adopted by Order of Federal Communications Commission released Aug. 5, 2019, with final rule effective Feb. 5, 2020, see 84 F.R. 45669.]

##### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-187 effective Jan. 1, 2004, see section 16 of Pub. L. 108-187, set out as an Effective Date note under section 7701 of Title 15, Commerce and Trade.

##### EFFECTIVE DATE; DEADLINE FOR REGULATIONS

Pub. L. 102-243, §3(c), Dec. 20, 1991, 105 Stat. 2402, as amended by Pub. L. 102-556, title I, §102, Oct. 28, 1992, 106 Stat. 4186, provided that:

“(1) REGULATIONS.—The Federal Communications Commission shall prescribe regulations to implement the amendments made by this section [enacting this section and amending section 152 of this title] not later than 9 months after the date of enactment of this Act [Dec. 20, 1991].

“(2) EFFECTIVE DATE.—The requirements of section 227 of the Communications Act of 1934 [this section] (as added by this section), other than the authority to prescribe regulations, shall take effect one year after the date of enactment of this Act [Dec. 20, 1991].”

##### REGULATIONS

Pub. L. 116-105, §3(c), Dec. 30, 2019, 133 Stat. 3276, provided that: “The Commission [Federal Communications Commission] shall prescribe regulations to implement the amendments made by this section [amending this section] not later than 270 days after the date of the enactment of this Act [Dec. 30, 2019].”

Pub. L. 116-105, §8(b), Dec. 30, 2019, 133 Stat. 3283, provided that: “In the case of any exemption issued under subparagraph (B) or (C) of section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) before the date of the enactment of this Act [Dec. 30, 2019], the Commission [Federal Communications Commission] shall, not later than 1 year after such date of enactment, prescribe such regulations, or amend such existing regulations, as necessary to ensure that such exemption contains each requirement described in subparagraph (I) of such section, as added by subsection (a). To the extent such an exemption contains such a requirement before such date of enactment, nothing in this section [amending this section] or the amendments made by this section shall be construed to require the Commission to prescribe or amend regulations relating to such requirement.”

Pub. L. 115-141, div. P, title V, §503(a)(4)(B), Mar. 23, 2018, 132 Stat. 1092, provided that: “The Commission [Federal Communications Commission] shall prescribe regulations to implement the amendments made by this subsection [amending this section] not later than 18 months after the date of enactment of this Act [Mar. 23, 2018].”

Pub. L. 114-74, title III, §301(b), Nov. 2, 2015, 129 Stat. 588, provided that: “Not later than 9 months after the date of enactment of this Act [Nov. 2, 2015], the Federal Communications Commission, in consultation with the Department of the Treasury, shall prescribe regulations to implement the amendments made by this section [amending this section].”

Pub. L. 109-21, §2(h), July 9, 2005, 119 Stat. 362, provided that: “Except as provided in section 227(b)(2)(G)(ii) of the Communications Act of 1934 [47

U.S.C. 227(b)(2)(G)(ii)] (as added by subsection (f)), not later than 270 days after the date of enactment of this Act [July 9, 2005], the Federal Communications Commission shall issue regulations to implement the amendments made by this section.”

#### SEPARABILITY

Pub. L. 116-105, §15, Dec. 30, 2019, 133 Stat. 3290, provided that: “If any provision of this Act [see Short Title of 2019 Amendment note set out under section 609 of this title], the amendments made by this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act, the amendments made by this Act, and the application of such provision to other persons or circumstances shall not be affected thereby.”

#### CONSTRUCTION

Pub. L. 115-141, div. P, title V, §503(d), Mar. 23, 2018, 132 Stat. 1094, provided that: “Nothing in this section [enacting section 227a of this title, amending this section, and enacting provisions set out as notes under this section], or the amendments made by this section, shall be construed to modify, limit, or otherwise affect any rule or order adopted by the Commission [Federal Communications Commission] in connection with—

“(1) the Telephone Consumer Protection Act of 1991 (Public Law 102-243; 105 Stat. 2394) [see Short Title of 1991 Amendment note set out under section 609 of this title] or the amendments made by that Act; or

“(2) the CAN-SPAM Act of 2003 (15 U.S.C. 7701 et seq.).”

#### PROTECTIONS FROM SPOOFED CALLS

Pub. L. 116-105, §7, Dec. 30, 2019, 133 Stat. 3282, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Dec. 30, 2019], and consistent with the call authentication frameworks under section 4 [47 U.S.C. 227b], the Commission [Federal Communications Commission] shall initiate a rulemaking to help protect a subscriber from receiving unwanted calls or text messages from a caller using an unauthenticated number.

“(b) CONSIDERATIONS.—In promulgating rules under subsection (a), the Commission shall consider—

“(1) the Government Accountability Office report on combating the fraudulent provision of misleading or inaccurate caller identification information required by section 503(c) of division P of the Consolidated Appropriations Act, 2018 (Public Law 115-141) [132 Stat. 1093];

“(2) the best means of ensuring that a subscriber or provider has the ability to block calls from a caller using an unauthenticated North American Numbering Plan number;

“(3) the impact on the privacy of a subscriber from unauthenticated calls;

“(4) the effectiveness in verifying the accuracy of caller identification information; and

“(5) the availability and cost of providing protection from the unwanted calls or text messages described in subsection (a).”

#### TRANSITIONAL RULE REGARDING DEFINITION OF TEXT MESSAGE

Pub. L. 116-105, §10(d), Dec. 30, 2019, 133 Stat. 3285, provided that: “Paragraph (2) of subsection (i) of section 227 of the Communications Act of 1934 (47 U.S.C. 227), as added by subsection (a) of this section, and paragraph (2) of subsection (j) of such section 227, as added by subsection (b) of this section, shall apply before the effective date of the amendment made to subsection (e)(8) of such section 227 by subparagraph (C) of section 503(a)(2) of division P of the Consolidated Appropriations Act, 2018 (Public Law 115-141) [see 2018 Amendment and Effective Date of 2018 Amendment notes set out above] as if such amendment was already in effect.”

#### PROTECTION FROM ONE-RING SCAMS

Pub. L. 116-105, §12, Dec. 30, 2019, 133 Stat. 3286, provided that:

“(a) INITIATION OF PROCEEDING.—Not later than 120 days after the date of the enactment of this Act [Dec. 30, 2019], the Commission [Federal Communications Commission] shall initiate a proceeding to protect called parties from one-ring scams.

“(b) MATTERS TO BE CONSIDERED.—As part of the proceeding required by subsection (a), the Commission shall consider how the Commission can—

“(1) work with Federal and State law enforcement agencies to address one-ring scams;

“(2) work with the governments of foreign countries to address one-ring scams;

“(3) in consultation with the Federal Trade Commission, better educate consumers about how to avoid one-ring scams;

“(4) incentivize voice service providers to stop calls made to perpetrate one-ring scams from being received by called parties, including consideration of adding identified one-ring scam type numbers to the Commission’s existing list of permissible categories for carrier-initiated blocking;

“(5) work with entities that provide call-blocking services to address one-ring scams; and

“(6) establish obligations on international gateway providers that are the first point of entry for these calls into the United States, including potential requirements that such providers verify with the foreign originator the nature or purpose of calls before initiating service.

“(c) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Commission shall publish on its website and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the status of the proceeding required by subsection (a).

“(d) DEFINITIONS.—In this section:

“(1) ONE-RING SCAM.—The term ‘one-ring scam’ means a scam in which a caller makes a call and allows the call to ring the called party for a short duration, in order to prompt the called party to return the call, thereby subjecting the called party to charges.

“(2) STATE.—The term ‘State’ has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

“(3) VOICE SERVICE.—The term ‘voice service’ has the meaning given such term in section 227(e)(8) of the Communications Act of 1934 (47 U.S.C. 227(e)(8)). This paragraph shall apply before the effective date of the amendment made to such section by subparagraph (C) of section 503(a)(2) of division P of the Consolidated Appropriations Act, 2018 (Public Law 115-141) [see 2018 Amendment and Effective Date of 2018 Amendment notes set out above] as if such amendment was already in effect.”

#### ANNUAL ROBOCALL REPORT

Pub. L. 116-105, §13, Dec. 30, 2019, 133 Stat. 3287, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Dec. 30, 2019], and annually thereafter, the Commission [Federal Communications Commission] shall make publicly available on the website of the Commission, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report on the status of private-led efforts to trace back the origin of suspected unlawful robocalls by the registered consortium and the participation of voice service providers in such efforts.

“(b) CONTENTS OF REPORT.—The report required under subsection (a) shall include, at minimum, the following:

“(1) A description of private-led efforts to trace back the origin of suspected unlawful robocalls by

the registered consortium and the actions taken by the registered consortium to coordinate with the Commission.

“(2) A list of voice service providers identified by the registered consortium that participated in private-led efforts to trace back the origin of suspected unlawful robocalls through the registered consortium.

“(3) A list of each voice service provider that received a request from the registered consortium to participate in private-led efforts to trace back the origin of suspected unlawful robocalls and refused to participate, as identified by the registered consortium.

“(4) The reason, if any, each voice service provider identified by the registered consortium provided for not participating in private-led efforts to trace back the origin of suspected unlawful robocalls.

“(5) A description of how the Commission may use the information provided to the Commission by voice service providers or the registered consortium that have participated in private-led efforts to trace back the origin of suspected unlawful robocalls in the enforcement efforts by the Commission.

“(c) ADDITIONAL INFORMATION.—Not later than 210 days after the date of the enactment of this Act [Dec. 30, 2019], and annually thereafter, the Commission shall issue a notice to the public seeking additional information from voice service providers and the registered consortium of private-led efforts to trace back the origin of suspected unlawful robocalls necessary for the report by the Commission required under subsection (a).

“(d) REGISTRATION OF CONSORTIUM OF PRIVATE-LED EFFORTS TO TRACE BACK THE ORIGIN OF SUSPECTED UNLAWFUL ROBOCALLS.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Commission shall issue rules to establish a registration process for the registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls. The consortium shall meet the following requirements:

“(A) Be a neutral third party competent to manage the private-led effort to trace back the origin of suspected unlawful robocalls in the judgement of the Commission.

“(B) Maintain a set of written best practices about the management of such efforts and regarding providers of voice services’ participation in private-led efforts to trace back the origin of suspected unlawful robocalls.

“(C) Consistent with section 222(d)(2) of the Communications Act of 1934 (47 U.S.C. 222(d)(2)), any private-led efforts to trace back the origin of suspected unlawful robocalls conducted by the third party focus on ‘fraudulent, abusive, or unlawful’ traffic.

“(D) File a notice with the Commission that the consortium intends to conduct private-led efforts to trace back in advance of such registration.

“(2) ANNUAL NOTICE BY THE COMMISSION SEEKING REGISTRATIONS.—Not later than 120 days after the date of the enactment of this Act, and annually thereafter, the Commission shall issue a notice to the public seeking the registration described in paragraph (1).

“(e) LIST OF VOICE SERVICE PROVIDERS.—The Commission may publish a list of voice service providers and take appropriate enforcement action based on information obtained from the consortium about voice service providers that refuse to participate in private-led efforts to trace back the origin of suspected unlawful robocalls, and other information the Commission may collect about voice service providers that are found to originate or transmit substantial amounts of unlawful robocalls.

“(f) DEFINITIONS.—In this section:

“(1) PRIVATE-LED EFFORT TO TRACE BACK.—The term ‘private-led effort to trace back’ means an effort

made by the registered consortium of voice service providers to establish a methodology for determining the origin of a suspected unlawful robocall.

“(2) REGISTERED CONSORTIUM.—The term ‘registered consortium’ means the consortium registered under subsection (d).

“(3) SUSPECTED UNLAWFUL ROBOCALL.—The term ‘suspected unlawful robocall’ means a call that the Commission or a voice service provider reasonably believes was made in violation of subsection (b) or (e) of section 227 of the Communications Act of 1934 (47 U.S.C. 227).

“(4) VOICE SERVICE.—The term ‘voice service’—

“(A) means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1) of the Communications Act of 1934 (47 U.S.C. 251(e)(1)); and

“(B) includes—

“(i) transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine; and

“(ii) without limitation, any service that enables real-time, two-way voice communications, including any service that requires internet protocol-compatible customer premises equipment (commonly known as ‘CPE’) and permits out-bound calling, whether or not the service is one-way or two-way voice over internet protocol.”

#### HOSPITAL ROBOCALL PROTECTION GROUP

Pub. L. 116-105, §14, Dec. 30, 2019, 133 Stat. 3288, provided that:

“(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 30, 2019], the Commission [Federal Communications Commission] shall establish an advisory committee to be known as the ‘Hospital Robocall Protection Group’.

“(b) MEMBERSHIP.—The Group shall be composed only of the following members:

“(1) An equal number of representatives from each of the following:

“(A) Voice service providers that serve hospitals.

“(B) Companies that focus on mitigating unlawful robocalls.

“(C) Consumer advocacy organizations.

“(D) Providers of one-way voice over internet protocol services described in subsection (e)(3)(B)(ii).

“(E) Hospitals.

“(F) State government officials focused on combating unlawful robocalls.

“(2) One representative of the Commission.

“(3) One representative of the Federal Trade Commission.

“(c) ISSUANCE OF BEST PRACTICES.—Not later than 180 days after the date on which the Group is established under subsection (a), the Group shall issue best practices regarding the following:

“(1) How voice service providers can better combat unlawful robocalls made to hospitals.

“(2) How hospitals can better protect themselves from such calls, including by using unlawful robocall mitigation techniques.

“(3) How the Federal Government and State governments can help combat such calls.

“(d) PROCEEDING BY FCC.—Not later than 180 days after the date on which the best practices are issued by the Group under subsection (c), the Commission shall conclude a proceeding to assess the extent to which the voluntary adoption of such best practices can be facilitated to protect hospitals and other institutions.

“(e) DEFINITIONS.—In this section:

“(1) GROUP.—The term ‘Group’ means the Hospital Robocall Protection Group established under subsection (a).

“(2) STATE.—The term ‘State’ has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

“(3) VOICE SERVICE.—The term ‘voice service’—

“(A) means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1) of the Communications Act of 1934 (47 U.S.C. 251(e)(1)); and

“(B) includes—

“(i) transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine; and

“(ii) without limitation, any service that enables real-time, two-way voice communications, including any service that requires internet protocol-compatible customer premises equipment (commonly known as ‘CPE’) and permits outbound calling, whether or not the service is one-way or two-way voice over internet protocol.”

#### CONGRESSIONAL STATEMENT OF FINDINGS

Pub. L. 102-243, § 2, Dec. 20, 1991, 105 Stat. 2394, provided that: “The Congress finds that:

“(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

“(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

“(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

“(4) Total United States sales generated through telemarketing amounted to \$435,000,000,000 in 1990, a more than four-fold increase since 1984.

“(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and, when an emergency or medical assistance telephone line is seized, a risk to public safety.

“(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

“(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

“(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

“(9) Individuals’ privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

“(10) Evidence compiled by the Congress indicates that residential telephone subscribers consider automated or prerecorded telephone calls, regardless of the content or the initiator of the message, to be a nuisance and an invasion of privacy.

“(11) Technologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer.

“(12) Banning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

“(13) While the evidence presented to the Congress indicates that automated or prerecorded calls are a nuisance and an invasion of privacy, regardless of the type of call, the Federal Communications Commission should have the flexibility to design different rules for those types of automated or prerecorded calls that it finds are not considered a nuisance or invasion of privacy, or for noncommercial calls, con-

sistent with the free speech protections embodied in the First Amendment of the Constitution.

“(14) Businesses also have complained to the Congress and the Federal Communications Commission that automated or prerecorded telephone calls are a nuisance, are an invasion of privacy, and interfere with interstate commerce.

“(15) The Federal Communications Commission should consider adopting reasonable restrictions on automated or prerecorded calls to businesses as well as to the home, consistent with the constitutional protections of free speech.”

#### DEFINITION

Pub. L. 116-105, § 2, Dec. 30, 2019, 133 Stat. 3274, provided that: “In this Act [see Short Title of 2019 Amendment note set out under section 609 of this title], the term ‘Commission’ means the Federal Communications Commission.”

### § 227a. Consumer education materials on how to avoid scams that rely upon misleading or inaccurate caller identification information

#### (1) Development of materials

Not later than 1 year after March 23, 2018, the Commission, in coordination with the Federal Trade Commission, shall develop consumer education materials that provide information about—

(A) ways for consumers to identify scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information; and

(B) existing technologies, if any, that a consumer can use to protect against such scams and other fraudulent activity.

#### (2) Contents

In developing the consumer education materials under paragraph (1), the Commission shall—

(A) identify existing technologies, if any, that can help consumers guard themselves against scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information, including—

(i) descriptions of how a consumer can use the technologies to protect against such scams and other fraudulent activity; and

(ii) details on how consumers can access and use the technologies; and

(B) provide other information that may help consumers identify and avoid scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information.

#### (3) Updates

The Commission shall ensure that the consumer education materials required under paragraph (1) are updated on a regular basis.

#### (4) Website

The Commission shall include the consumer education materials developed under paragraph (1) on its website.

(Pub. L. 115-141, div. P, title V, § 503(b), Mar. 23, 2018, 132 Stat. 1092.)

#### Editorial Notes

##### CODIFICATION

Section was enacted as part of the Repack Airwaves Yielding Better Access for Users of Modern Services