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October 2, 2018

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Erratum for *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59

Dear Ms. Dortch,

On September 24, 2018, the Voice on the Net Coalition (“VON”) timely filed comments in response to the Consumer and Governmental Affairs Bureau’s Public Notice seeking to refresh the record on methods to eliminate illegal robocalls.¹

In that filing, VON inadvertently omitted the following from footnote 1: “AT&T does not support the position taken in these comments.”

Enclosed please find the corrected version of the comments that replaces, in its entirety, the comments filed previously.

Respectfully submitted,

/s/ Glenn S. Richards

Glenn S. Richards
Counsel to the VON Coalition

¹ Consumer and Governmental Affairs Bureau Seeks to Refresh the Record on Advanced Methods to Target and Eliminate Unlawful Robocalls, Public Notice, CG Docket No. 17-59 (rel. Aug. 10, 2018).

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Advanced Methods to Target and Eliminate
Unlawful Robocalls

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CG Docket No. 17-59

COMMENTS OF THE VOICE ON THE NET COALITION

The Voice on the Net Coalition (“VON”)¹ respectfully files these comments in response to the Commission’s Public Notice seeking to refresh the record regarding the ability of voice service providers to block illegal robocalls.² VON supports efforts to eliminate illegal robocalls but reiterates³ its concerns about a safe harbor for voice service providers that block legal calls.⁴

The establishment of a safe harbor for erroneous call blocking would represent a significant reversal of longstanding FCC policy, and the absence of such a provision has already advanced the “development of better call blocking tools.”⁵ Further, without a safe harbor, the FCC can and should exercise prosecutorial discretion in cases of over-blocking.

1. A safe harbor for call blocking would be an unwarranted change in longstanding FCC policy.

The FCC has resisted giving voice service providers free reign in determining which calls they can block. In last year’s Report and Order and Further Notice of Proposed Rulemaking,

¹ The VON Coalition works to advance regulatory policies that enable Americans to take advantage of the promise and potential of IP-enabled communications, including interconnected Voice over Internet Protocol (“VoIP”). For more information, see www.von.org. AT&T does not support the position taken in these comments.

² *Consumer and Governmental Affairs Bureau Seeks to Refresh the Record on Advanced Methods to Target and Eliminate Unlawful Robocalls*, Public Notice, CG Docket No. 17-59 (rel. Aug. 10, 2018).

³ See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, VON Coalition Comments, CG Docket No. 17-59 (filed June 30, 2017) (“2017 VON Comments”).

⁴ See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Notice of Proposed Rulemaking and Notice of Inquiry, 32 FCC Rcd 2306, ¶ 34 (2017).

⁵ *Id.* at ¶ 4.

while outlining the limited circumstances in which providers may block calls, the FCC specifically declined to adopt a safe harbor for lack of a “sufficiently developed record on the subject.”⁶ Since then, nothing has changed that would warrant a shift from this approach. Instead, the FCC should defer judgment on a safe harbor until SHAKEN/STIR⁷ is fully implemented and its results studied. SHAKEN/STIR may be a more effective solution, and, unlike a broad safe harbor approach, does not degrade the utility of the voice network.

2. Absence of a safe harbor pushes carriers to improve their call blocking techniques.

Without a safe harbor for overly-broad and potentially clumsy call blocking techniques, carriers are rightfully under pressure to improve their current call screening measures. The FCC’s deferral on a safe harbor has already led to the advent and implementation of advanced call screening approaches and more agile algorithms from voice service providers. Without a safe harbor, call blocking solutions will continue to improve while still defaulting to allow legitimate calls to reach their intended recipients.

3. The public is better served by the exercise of prosecutorial discretion.

The FCC holds broad prosecutorial discretion in enforcement proceedings.⁸ As new call blocking strategies enter the marketplace, the FCC can and should reasonably exercise its discretion. However, this prosecutorial discretion may not be available under a safe harbor regime. The FCC would not be able to protect legitimate callers and their intended recipients against a voice provider with a proclivity for overzealous blocking if that provider’s actions technically fall within safe harbor parameters.

⁶ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9706, ¶ 9, n .28 (2017).

⁷ SHAKEN/STIR refers to the Signature-based Handling of Asserted information using toKENs (SHAKEN) and the Secure Telephone Identity Revisited (STIR) standards.

⁸ See *Heckler v. Chaney*, 470 U.S. 821, 831 (1985) (“[A]n agency’s decision not to prosecute or enforce ... is a decision generally committed to an agency’s absolute discretion.”).

CONCLUSION

Over-blocking has serious consequences: “[R]eal people will be hurt, be inconvenienced, or lose opportunities from overaggressive call blocking mechanisms.”⁹ The VON Coalition supports the Commission’s efforts to eliminate illegal robocalls but remains concerned about the potential negative outcomes of a call blocking safe harbor.

Respectfully submitted,

VOICE ON THE NET COALITION

/s/ Glenn S. Richards

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September 24, 2018

⁹ 32 FCC Rcd at 9757 (Statement of Commissioner Michael O’Rielly).