

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)
	) CG Docket No. 17-59
Advanced Methods to Target and Eliminate	)
Unlawful Robocalls	)
	)

**REPLY COMMENTS OF FIRST ORION CORP.**

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## INTRODUCTION

The Commission's attention to addressing the scourge of illegal and unwanted calls has bolstered industry efforts to solve this complex problem. First Orion's efforts have rightly focused first and foremost on protecting consumers so that they can both avoid illegal and unwanted calls and have the opportunity to answer any legal calls. This the only way to truly rebuild trust in the voice channel—a channel that many consumers avoid today by simply never answering their phones unless a call is coming from a number they recognize. The Commission should continue to encourage the industry to take such a balanced approach and to continue to develop innovative call protection solutions.

### **I. The Commission Should Not Unnecessarily Regulate Call Protection Solutions that Do Not Involve Call Blocking**

There are several distinct weapons that the industry uses to fight illegal calls, including call blocking and call labeling. Carrier-initiated call blocking does not give consumers the opportunity to know when or if they have missed calls. However, call labeling is a more nuanced approach that arms consumers with additional information to enable them to make more informed decisions about when and whether to answer calls from unknown numbers. Call labeling solutions allow subscribers to receive all calls and decide for themselves whether to answer a call.

Of course, the industry should focus on improving the accuracy of call labeling in order to protect the interests of legitimate callers. But call labeling technology is not the boogeyman some call originators make it out to be. Moreover, protecting consumers should be the top priority of both the Commission and the industry. In order to best protect consumers, the Commission should avoid imposing regulations that would inhibit call labeling solutions or the development of new call protection technology beyond carrier-initiated blocking.

### **A. Unnecessary Regulation Would Harm Consumers**

Despite recent industry efforts, consumers continue to receive increasing numbers of illegal and unwanted calls.<sup>1</sup> The record in this proceeding is replete with calls from consumer groups to empower carriers and their partners to better protect their customers and evidence that consumers find call labeling and call blocking to be valuable practices.<sup>2</sup> Consumers are encouraged by the reduction in email spam over the past decade and want similarly effective solutions in the voice call context. Like automated solutions that label email as “bulk” or “marketing,”<sup>3</sup> call labeling provides consumers with additional information that enables them to navigate the universe of unwanted and unidentifiable communications.

In contrast, there is no commentary from consumers or consumer groups complaining about any detrimental impact caused by existing tools and services. Instead, consumer advocates want existing services to be deployed more widely.<sup>4</sup> The record also shows how the industry is aggressively cooperating to minimize any unintended ripple effects on the call originator

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<sup>1</sup> See, e.g., First Orion Corp., *Report Summary: Scam Call Trends and Projections Report*, (Sept. 12, 2018), available at <https://firstorion.com/nearly-50-of-u-s-mobile-traffic-will-be-scam-calls-by-2019/>.

<sup>2</sup> See generally Comments of Consumers Union on Call Blocking at 3, 5 (Sept. 24, 2018); Comments of CITA re FCC Call Blocking at 3-5, 8 (Sept. 24, 2018). Additionally, every month, hundreds of consumers take the time to Tweet their support and appreciation for *Scam Likely*, providing anecdotal evidence of support.

<sup>3</sup> The Federal Trade Commission encourages adoption of such solutions. See, e.g., Federal Trade Commission, *Announced Action for June 22, 2005* (June 5, 2005), <https://www.ftc.gov/news-events/press-releases/2005/06/announced-action-june-22-2005>.

<sup>4</sup> See generally Comments of Consumers Union on Call Blocking at 8 (Sept. 24, 2018); Comments of CTIA re FCC Call Blocking PN at 2-4, 8 (Sept. 24, 2018); Comments of the USTelecom Ass’n at 3-4 (July 3, 2017).

industry.<sup>5</sup> Accordingly, the Commission should encourage the industry to offer services and tools to target and eliminate unlawful calls. The Commission can also improve adoption and use rates by reassuring the industry that the current rules allow deployment of non-blocking-based solutions on an opt-in basis and encouraging subscriber education about how to use those services and tools.

### **B. Regulation Is Not Necessary to Protect Call Originators' Interests**

First Orion agrees wholeheartedly with CTIA that “[the] Commission should not take a regulatory approach to solve the perceived problem of erroneous labeling and blocking which still needs to be better contextualized and understood.”<sup>6</sup> First, there is no reliable evidence that erroneous call labeling is responsible for any drop in call originators’ rates of having their calls answered. Most claims about drops in contact rates being caused by erroneous labeling and blocking are anecdotal in nature. Further, substantial evidence suggests that call labeling cannot be the primary factor behind any such drop. Consumer feedback and survey data show that most people simply do not answer the phone from unknown callers.<sup>7</sup>

Moreover, the alleged drops in contact rates far exceed the consumer adoption rate of call labeling and call blocking solutions. To date, these solutions have not been deployed to anywhere near their maximum potential. CTIA argues that alleged drops in contact rates cannot be attributed to carrier-initiated blocking:

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<sup>5</sup> See, e.g., Reply Comments of First Orion on FNPRM at 6-7 (Feb. 2, 2018).

<sup>6</sup> Comments of CTIA re FCC Call Blocking PN at 2 (Sept. 24, 2018).

<sup>7</sup> An online survey just conducted by First Orion found that 72% of consumers do not answer calls when they cannot identify the calling party number; See also First Orion Corp., *Report Summary: Scam Call Trends and Projections Report*, (Sept. 12, 2018), available at <https://firstorion.com/nearly-50-of-u-s-mobile-traffic-will-be-scam-calls-by-2019/>. A different study found that 84% of unknown calls go unanswered. Software Advice, *Local Presence Dialing Survey* (Aug. 28, 2014), available at <https://www.softwareadvice.com/resources/local-presence-dialingsurvey/>.

“The Commission should keep in mind that the carrier-initiated blocking it already permitted is quite limited. Carrier-initiated blocking under the 2017 Call Blocking Order is limited to (1) calls purporting to originate from invalid numbers, (2) calls purporting to originate from numbers not allocated to any provider, and (3) calls purporting to originate from numbers that are allocated but unused. This is unlikely to be the source of significant false positive errors. Indeed, the carrier-initiated blocking statistics from AT&T and T-Mobile cited above suggest that the modest blocking authorized by the FCC is not capable of having the sort of impact claimed by PACE.”

The same is true with respect to the broader universe of available call treatment services, including third-party blocking and labeling services for wireless subscribers, wireless customer opt-in services, and blocking and labeling solutions for fixed line consumers.

Most consumers still do not receive significant levels of protection from any of these call protection services. For example, fixed line providers have been slow to offer labeling and blocking solutions.<sup>8</sup> Verizon has deployed a recent service for Fios customers that overlays Caller ID Name data with analytics data (“Spam?”), and Nomorobo has partnered with other VoIP companies but deployment and adoption of fixed line solutions have been modest. As for wireless, T-Mobile is the only wireless carrier to have deployed call labeling broadly.<sup>9</sup> As explained in First Orion’s prior comments, approximately 58 Million T-Mobile subscribers

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<sup>8</sup> American Cable Association comments that “[t]he knowledge that opt-in rates for such [call blocking and labeling] technologies are currently low is a factor that deters some providers from investing resources to deploy these services more widely as part of their own offerings.” Comments of the Am. Cable Ass’n at 3 (Sept. 24, 2018).

<sup>9</sup> Verizon Wireless and Sprint make call management solutions available on a per subscription basis at \$2.99 per line per month. Verizon, *Caller Name ID FAQs*, <https://www.verizonwireless.com/support/caller-name-id-faqs/> (last accessed Oct. 9, 2018); Sprint, *Sprint Provides Protection from Unwanted Robocalls with Availability of Premium Caller ID – Find Out How it Works!*, <https://newsroom.sprint.com/sprint-provides-protection-from-unwanted-robocalls-with-availability-of-premium-caller-id-find-out-how-it-works.htm> (Nov. 30, 2016). AT&T reported that it has blocked or flagged more than 636 million calls through AT&T Call Protect since the service launched in December 2016. Comments of AT&T at 2 (Sept. 24, 2018). There are hundreds of apps available to consumers, including First Orion’s PrivacyStar, but adoption rates would lead to the conclusion that current consumer use of these apps are not causing the decline in contact rates that certain call originators cite.

receive the Scam ID service (*Scam Likely* labeling) and approximately 6% have opted to have Scam Likely calls blocked. While T-Mobile's actions are significant, a majority of wireless customers use other wireless carriers who do not offer similar levels of protection.

Moreover, call originators provide no reliable evidence that the error rates associated with such services are high. First Orion calculates its false positive rate as significantly less than 1%. Factoring in the fairly limited deployments of call blocking and labeling services among other wireless carriers, the call originators' insistence that the impact on their businesses is due to erroneous blocking and labeling is unsupported. The numbers do not validate their claim that call protection services—rather than consumers being fed up with unwanted and illegal calls—are a meaningful contributor to allegedly huge drops in call answer rates.

Second, the industry is already working collaboratively to mitigate harm to call originators. Rather than calling for unnecessary and innovation-stifling regulation on call labeling solutions, call originators should continue to work with other industry players, including carriers and analytics companies, to reach the shared goal of improving labeling accuracy and determining the cause of any drops in contact rates.

In short, urging more regulation is misguided. Call originators do not provide evidence of substantial harm associated with call protection solutions, much less that regulation ameliorating this “harm” is warranted in light of the substantial consumer benefits call protection solutions offer and in light of the legitimate First Amendment interests that carriers and call labeling providers have.

### **C. Specific Regulatory Proposals Raise Serious Concerns**

Imposing any new regulations on call labeling and other non-blocking solutions would harm consumers and is unnecessary. A number of commenters also make specific proposals that would be harmful.

The Retail Energy Supply Association has proposed that all providers be required to display Calling Party Number and SS7 signaling information “first and foremost on any call.”<sup>10</sup> However, this argument is inapt. SS7 signaling information does not directly provide the name of a caller; rather, call terminating providers can use SS7 signaling information to query a centralized database in order to obtain the Caller ID Name (“CNAM”). There is a cost associated with querying the database, and terminating carriers are not required to display CNAM.<sup>11</sup>

As a practical matter, requiring providers to display CNAM if they choose to deploy call labeling would impose undue costs on providers. To date, call labeling has been available primarily in the wireless space. The vast majority of wireless providers do not offer CNAM display as part of their standard service, presumably because most frequent and wanted calls to wireless subscribers are from numbers the subscribers have added to their address book. Instead, customers wishing to view the CNAM on all incoming calls would need to subscribe to a third-party app for a monthly fee. Therefore, such a requirement would impose an unnecessary cost on wireless providers that choose to employ call labeling solutions. Such a rule would encourage wireless providers to present subscribers with less information, not more.

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<sup>10</sup> Comments of Retail Energy Supply Ass’n at 3 (Sept. 24, 2018).

<sup>11</sup> See 47 C.F.R. § 64.1601(a)(2) (requiring transmission but not display of calling party number and SS7 signaling information).

While fixed line subscribers by and large receive the CNAM as a part of Caller ID services, and thus would not incur additional cost, deployment of call labeling services in the fixed line context has been extremely modest. Accordingly, any decrease in call answer rates in the fixed line context is not the result of a failure to display CNAM.

Additionally, various commenters continue to call for so-called “white lists” and a mandated indicator tone which would alert call originators when their calls are being blocked or labeled. As First Orion stated in its earlier comments, these proposals would harm consumers and make call labeling and blocking less effective.<sup>12</sup> We reiterate that the Commission should reject these proposals.

## **II. The Commission Should Encourage Development of Innovative Call Protection Solutions**

The Commission should support the efforts of service providers to help stop illegal calls at the source with methods such as traceback, and the “Know Your Customer” discussions. First Orion’s [www.calltransparency.com](http://www.calltransparency.com) website can serve as a template for the industry for not only identifying illegal calls but helping call originators understand how to actually improve their answer rates with better calling practices. First Orion currently has over 275,000 telephone numbers that have been registered and verified, contributed by over 500 entities of all sizes. Only a handful of service providers and analytics companies make up the vast majority of deployed call treatment solutions, so engagement by the call originators with providers of advanced methods should be fairly convenient. The Commission should encourage call originators to do so. Fraudsters in any industry exact a cost on all the players in the ecosystem they are attacking, so we must all work together to fend them off.

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<sup>12</sup> See, e.g., Reply Comments of First Orion on FNPRM at 2-4 (Feb. 2, 2018); Comments of First Orion at 14-15 (July 3, 2017).



## CONCLUSION

The Commission should ensure that it promotes, rather than inhibits, innovative solutions that empower consumers to better manage the problem of illegal and unwanted calls. Imposing regulation on call labeling would be anti-consumer, unnecessary, and counterproductive.

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Respectfully submitted,

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