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Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59; *Call Authentication Trust Anchor*, WC Docket No. 17-97

Written Ex Parte Communication

Dear Secretary Dortch:

Securus Technologies, Inc. ("Securus"), by its undersigned counsel, submits this letter in response to the draft Declaratory Ruling and Third Further Notice of Proposed Rulemaking in the above-captioned proceedings regarding the Commission's efforts to combat unlawful robocalls.¹ Securus supports efforts by the Commission and industry to target and eliminate unlawful robocalls, but Securus has continued concerns regarding the potential for these efforts to result in the erroneous blocking of calls that may inadvertently cause harm to consumers.²

Securus applauds the Commission for proposing to require voice service providers to provide sufficient information for consumers to make an "informed choice" and requiring providers to disclose "the risks of blocking wanted calls" if they offer call blocking on an opt-out basis.³ However, Securus is concerned that the draft Declaratory Ruling does not specify how notices must be provided to consumers in a manner that confirms consumers have actual knowledge of the potential for opt-out call blocking to result in the blocking of wanted calls. The Commission should require that before voice service providers implement an opt-out blocking service, they (1) post their disclosure on a website, (2) provide the Commission with the address of that website so

¹ *Advanced Methods to Target and Eliminate Unlawful Robocalls; Call Authentication Trust Anchor*, Declaratory Ruling and Third Further Notice of Proposed Rulemaking, CG Docket No. 17-59 & WC Docket No. 17-97, FCC-CIRC1906-01 (circulated May , 2019) ("*Draft Ruling and Third FNPRM*").

² *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 17-59, 32 FCC Rcd 9706, 9757 (2017) (Statement of Commissioner Michael O'Rielly) (expressing concern that "real people will be hurt, be inconvenienced, or lose opportunities from overaggressive call blocking mechanisms" and that blocking "without adequate means to challenge 'false positives' ... serves as a potential recipe for future problems").

³ *Draft Ruling and Third FNPRM*, ¶ 32.

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that staff and interested third parties can evaluate the adequacy of the disclosure, and (3) ensure that consumers have actually received notice of this disclosure (which must include steps other than simply making the website available) in order to ensure that the choice to remain in the program is “informed.”

In addition, the Commission proposes to clarify that voice service providers may use “any reasonable analytics designed to identify unwanted calls.”⁴ Although Securus is not aware of the specific thresholds or triggers used by call-blocking programs today to identify robocalls, Securus is particularly concerned about the extent to which such programs may block calls solely based on large bursts of calls in a short time frame and low average call duration. This is because it is common for all calls placed by inmates in a particular correctional facility to originate from a single telephone number. This means that on any given day, hundreds, if not thousands, of inmate calls may inadvertently be blocked by call-blocking programs. This would leave inmates unable to place entirely lawful calls to their family members, friends, attorneys, and others. Securus is concerned about other metrics such as blocking calls due to low average call duration, about which little detail is known regarding the thresholds used to determine whether a call should be blocked. Securus is also concerned about potential inconsistencies in application of the call-blocking programs that may result in wanted calls being blocked. If outbound inmate calls are blocked based on inconsistent or unknown criteria, both the inmate and recipient of the call would be harmed. Before authorizing call-blocking on an opt-out basis, the Commission should ensure that permitting the use of analytics for call-blocking does not result in any negative effects on users and/or recipients of inmate calls.

Securus is also concerned about the extent to which the draft Declaratory Ruling would enable voice service providers to use contact lists as a means of offering an opt-in white list.⁵ It is unlikely that recipients of calls from facilities served by Securus will have the relevant phone number(s) saved in their contact lists and keep such lists updated appropriately. This is an especially severe problem in the case of persons who have just been arrested, since their family and other outside contacts would have no reason to have whitelisted the phone number of a detention facility if the person has just arrived there. Although the Commission proposes to require voice service providers to disclose the risks of blocking unwanted calls, as discussed above regarding the opt-in, the Commission declines to adopt any specific requirements regarding the method of notice or specifics regarding the content of the notice. The Commission should require these notices to specifically state that use of the contact list will result in all calls originating from *all* telephone numbers not identified in the contact list being blocked (if that is the case), and alert the consumer to the need to ensure that his/her contact list is updated on a regular basis.

The Third FNPRM would propose to create a safe harbor for providers that block certain calls.⁶ As the record shows, the Commission’s informal complaint procedures are inadequate to address erroneous call-blocking,⁷ and a mechanism for remedying the blocking of wanted calls is critically important to ensure that consumers are not inadvertently harmed by overly aggressive

⁴ *Id.*, ¶ 33.

⁵ *Id.*, ¶ 44.

⁶ *Id.*, ¶¶ 46-48.

⁷ See Comments of The USTelecom Association, WC Docket No. 17-59, at 6-9 (filed Jan. 23, 2018) (explaining why the Commission’s complaint framework would not be sufficiently timely or accurate for resolving legitimate false positives in call blocking).

call blocking practices.⁸ Securus applauds the Commission for considering need for protections to ensure that wanted calls are not blocked if the Commission were to provide a safe harbor for voice service providers.⁹ However, in addition to the general questions already asked in the Third FNPRM, the Commission should also seek comment on proposing a timeframe within which safe harbor providers must unblock lawful calls following receipt of a facially valid challenge, in order to prevent unnecessary harm to consumers that would result from erroneous blocking.

Finally, Securus appreciates the Commission's proposal to seek comment on developing a "Critical Calls" List of numbers that providers must not block.¹⁰ From Securus' perspective, this proposal is vitally important and has the potential to ensure that good faith efforts to address unlawful and unwanted robocalls do not inadvertently cause other harms. The Commission is aware of the importance of communications between inmates and their friends and families to the rehabilitation process. An inability for inmates to successfully place outbound calls to friends and family is likely to increase behavioral issues during incarceration thereby jeopardizing the safety and security of inmates and correctional officers alike. Inadvertent blocking of inmate calls also could very likely result in increased safety and security issues including less successful assimilation back into society and increased recidivism following incarceration. Absent inclusion on a Critical Calls List or similar protections, there is a risk that inmate calls may be blocked on a wholesale basis due to the unique nature of inmate calls discussed above.¹¹ Unlike most systems, outbound inmate calling systems already include built-in call-blocking features that enable the called party to block the call. As a result, concerns that including calls originating from correctional facilities' numbers on the Critical Calls List will result in abuse from unscrupulous callers should not apply.¹²

Securus looks forward to working with the Commission and industry to protect consumers from unlawful and annoying robocalls while at the same time protecting callers from having wanted calls erroneously blocked.

⁸ Comments of INCOMPAS, CG Docket No. 17-59, at 3 (filed Jan. 23, 2018) (stating that "[e]nsuring that erroneous blocking can be quickly fixed is critical to preventing undue harm to consumers and their voice providers that originate these calls on their behalf"); Comments of CTIA-The Wireless Association, CG Docket No. 17-59, at 3 (filed Jan. 23, 2018) (conceding that call-blocking technology could "inadvertently sweep-in calls from legitimate numbers"); Comments of Noble Systems Corporation, CG Docket No. 17-59, at 8 (filed Jan. 22, 2018) (stating that "it is necessary to offer a mechanism for called parties to review which calls have been blocked and a mechanism for call originators as to which numbers are presently tagged as being blocked"); Comments of the American Bankers Association, CG Docket No. 17-59, at 2 (filed Feb. 2, 2018) (expressing support for a challenge mechanism for banks and other callers whose lawful calls are erroneously blocked).

⁹ *Draft Ruling and Third FNPRM*, ¶ 55 (seeking comment on whether to require providers seeking a safe harbor to provide a mechanism for identifying and remedying the blocking of wanted calls).

¹⁰ *Id.*, ¶ 59.

¹¹ *Id.*, ¶ 61 (seeking comment on "what numbers should be required on a Critical Calls List").

¹² *Id.*, ¶ 64.

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Please do not hesitate to contact the undersigned if you have questions about this submission.

Sincerely yours,

/s/ Andrew D. Lipman

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