



May 30, 2019

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

Submitted electronically via: <http://www.fcc.gov/ecfs/>

RE: CG Docket No. 17-59 & WC Docket No. 17-97

Dear Ms. Dortch,

The Minnesota Credit Union Network (MnCUN) represents the interests of Minnesota's 106 credit unions and their more than 1.7 million members. On behalf of Minnesota credit unions, please accept this correspondence in response to the Federal Communications Commission's (FCC) Declaratory Ruling and Third Further Notice of Proposed Rulemaking (Proposal) in the matter of Advanced Methods to Target and Eliminate Unlawful Robocalls. MnCUN thanks you for the opportunity to comment on this matter.

Minnesota credit unions support the FCC's efforts to stop illegal robocalls. However, we are extremely concerned regarding the unintended negative effects the Proposal will have on our credit unions' ability to communicate with their members.

Credit Unions Have Legitimate and Important Reasons to Communicate with Members

Credit unions are member-owned financial cooperatives. Not only does a member hold financial accounts at their credit union, they also have a voice in the credit union's governance. Because of these relationships, a member expects and needs to receive communications from their credit union. This includes text and telephone communications containing critical information on things such as fraud alerts, account alerts, notifications regarding governance matters and other important notifications. The FCC's Proposal could, and very likely will, frustrate wanted and legal communications between credit unions and their members.

Default Blocking Strips Consumers of Choice

Allowing voice service providers (as a default and without an opt-in by consumers) to block communications, strips consumers of their right to choose. Because the blocking is by default, and



without consumer input, consumers will not even be aware that otherwise wanted and important communications are being blocked. Furthermore, when a legitimate caller is blocked, they won't even have the option to leave a voicemail, so that the consumer can decide whether or not the call was legitimate or important.

As irritating as illegal robocalls and unwanted telemarketing calls are, at least right now consumers have choices. They can choose to opt-in to call blocking programs; they can choose to not answer the phone; and on many cell phones consumers have the option to block numbers with a few simple clicks on the phone. Currently consumers have a choice; default blocking takes that choice away. We understand, based upon the information provided in the Proposal, only a small percentage of consumers choose to opt-in to call blocking programs.¹ But again - that is their choice.

The Proposed Safety Nets are Not Sufficient

The FCC proposes to allow consumers to "opt-out" of default blocking or to create "white lists" for phone numbers the consumer does not want blocked. However, these are not sufficient methods to mitigate the risk of wanted and important calls being blocked.

The opt-out approach is not a sound method to give consumers a choice in the matter. The FCC assumes that consumers will be sufficiently informed of the default blocking and the consequences of not opting-out. However, part of the FCC's justification for the Proposal is that consumers were not sufficiently aware of their right to opt-in to call blocking programs.² That same problem exists for the proposed opt-out method. It's unlikely consumers will have enough information to motivate them to opt-out of default blocking. The same "inertia" that the FCC refers to as an obstacle to consumers for opting-in to call-blocking programs³ is likely to be an obstacle keeping them from opting-out of default blocking.

The FCC cites to the fact that anti-spam technology is provided as a default service by email providers as a reason to allow default blocking.⁴ However, this is not a valid comparison. With email a user has the ability to view the emails suspected to be spam and retrieve any emails misclassified by the spam filter. This option will not be available for voice calls or texts. Consumers will not be able to retrieve blocked communications to determine whether or not they were misclassified as illegal or unwanted. Furthermore, anti-spam technology is not 100% effective. It is not uncommon for my spam folder to contain emails that should not have been marked as spam. The default blocking proposed by the FCC will have this same issue; the analytics will not be 100% accurate. In fact, one of the analytical factors given as an example by the FCC is likely to block

¹ Proposal at p. 10, para. 27.

² *Id.* at para. 28.

³ *Id.*

⁴ *Id.* at para. 29.



otherwise wanted and important communications. The FCC gives as an example, an analytical factor that would “block calls based on large bursts of calls in a short timeframe.”⁵ That describes communications for fraud alerts, account alerts and data breach notifications, which are large bursts of communications sent all at once or in a very short timeframe. Default blocking will result in consumers not receiving wanted and important and sometimes urgent communications.

We are also concerned that the proposed “white list” will not be an effective method for consumers to identify numbers that should not be blocked. It’s highly unlikely that a consumer will know and remember every potential phone number from which they would like to be contacted. In fact, I think it’s impossible. Consider a financial institution with which a consumer has a relationship. Most financial institutions have multiple phone numbers by which they may contact a consumer for various and legitimate reasons. Does the FCC really expect a consumer to have knowledge of, and to list, all of those phone numbers on the consumer’s “white list?” What will be the result when a consumer forgets to list a phone number? The “white list” is not a sufficient safety net to mitigate the risk of otherwise wanted communications from being blocked.

MnCUN supports the FCC’s efforts to protect consumers and we don’t question your intent. However, we are very concerned about the unintentional, but none the less negative, consequences that are likely to come from the Proposal. Thank you for the opportunity to comment on this matter. Please consider our concerns when making your decision. If you have any questions about our comments, please do not hesitate to contact me at (651) 288-5517.

Sincerely,

A handwritten signature in blue ink that reads 'Tim Tacheny'. The signature is written in a cursive, flowing style.

Tim Tacheny
General Counsel
Minnesota Credit Union Network

⁵ *Id.* at para. 34.