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Via ECFS

May 31, 2019

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

**Re: Notice of *Ex Parte* Presentation, CG Docket No. 17-59,
WC Docket No. 17-97**

Dear Ms. Dortch:

On Thursday, May 30, 2019, Rebecca Murphy Thompson of Twilio Inc. (“Twilio”), and the undersigned, counsel to Twilio, met with Arielle Roth, Wireline Advisor to Commissioner O’Rielly, and separately with Michael Scurato, Legal Advisor for Media and Consumer Protection to Commissioner Starks. In each meeting, the Twilio representatives discussed the draft *Declaratory Ruling* in the above-referenced proceedings, which currently is scheduled to be considered by the Commission on June 6, 2019.¹

At the outset, Twilio emphasized its support for the Commission’s goal of combating unlawful robocalls. Twilio is an active participant in the fight against unlawful robocalls.² For example, Twilio has built multiple safeguards preventing unlawful robocalls into or coming from its platform, including by: billing by the minute rather than by the second, which thwarts the economics of robocalls; disabling calls to high-fraud destinations that are rarely used for legitimate use-cases; not allowing customers to use a number as “caller ID” if the customer cannot confirm ownership of that number; setting default throughput limits so that an entity that recently became a customer cannot immediately place a high volume of calls; and using artificial intelligence and data analytics to identify risk vectors, monitor trends, and respond to complaints. Moreover, Twilio is piloting know-your-customer policies, in partnership with two companies that carriers use for spam filtering, to help improve customer onboarding and

¹ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Declaratory Ruling and Third Further Notice of Proposed Rulemaking, FCC-CIRC1906-01, CG Docket No. 17-59, WC Docket No. 17-97 (May 16, 2019) (“draft *Declaratory Ruling*”).

² See Jeff Lawson, *Your Phone, Your Call - Part I - Eliminating Robocalls*, Twilio Blog (Mar. 18, 2019), <https://www.twilio.com/blog/your-phone-your-call-eliminating-robocalls>.

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remove abusive callers from its platform. Twilio also is a longtime partner of Nomorobo, which has helped consumers block over 1 billion robocalls.³

The Twilio representatives then urged that in pursuing this shared goal of eliminating unlawful robocalls, the Commission not inadvertently sacrifice the longstanding reliability and integrity of the public telephone network as a means of placing and receiving *lawful* calls. Put simply, consumers deserve a telephone network that is both reliable *and* free of unlawful robocalls. With that in mind, the Twilio representatives pointed out examples of how application of the “reasonable analytics” described in the draft *Declaratory Ruling* could result in the blocking or mislabeling of lawful every-day and emergency calls that Twilio’s platform supports.⁴

For example, ride-share passengers on Lyft and Uber are able to communicate safely with their drivers, without having to divulge their personal phone numbers, because these services use Twilio to mask their passengers’ phone numbers.⁵ Dating sites like eHarmony and home rental services like Airbnb also protect their users with this technology.⁶ Companies large and small confirm their customers’ phone numbers, emails and devices with a phone call to protect the customers’ security and privacy. However, these calls, which often are brief, could be blocked or mislabeled based on analytics described in the draft *Declaratory Ruling*, such as low average call duration.

Twilio’s platform also is used for crisis communications—supporting mass notification systems so that schools, businesses, governments, and other organizations can quickly and effectively communicate in a moment of crisis. For example, during an active shooter emergency on a school campus, administrators can use these systems to provide life-saving

³ Letter from Aaron Foss, Nomorobo, and Rebecca Murphy Thompson, Twilio, to Marlene H. Dortch, Federal Communications Commission, Office of the Secretary, WC Docket Nos. 11-39, 17-97, 18-335 (Apr. 22, 2019).

⁴ See draft *Declaratory Ruling* at para. 34 (suggesting that, among other methods, a call-blocking program could block calls based on large bursts of calls in a short timeframe, low average call duration, and low call completion ratios).

⁵ See Twilio, *Lyft Revved Up Real-Time Communications With Twilio*, <https://customers.twilio.com/249/lyft/>; Twilio, *Uber Built A Great Ridesharing Experience With SMS & Voice*, <https://customers.twilio.com/208/uber/>.

⁶ See Twilio, *eHarmony Improves Online Dating Experience with Twilio*, <https://www.twilio.com/conference/2013/videos/eharmony-improves-online-dating-experiences-with-twilio>; Twilio, *Airbnb Streamlined The Rental Experience For 60m Travelers Worldwide*, <https://customers.twilio.com/214/airbnb-streamlined-global-rental-experience/>.

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instructions to students, faculty, and staff.⁷ Again, these calls could be blocked or mislabeled if a carrier's call-blocking algorithm is based on large bursts of calls in a short timeframe, low average call duration, or low call-completion ratio.

In fact, one of Twilio's own anti-robocall measures, use of two-factor authentication (2FA) to confirm that a customer is the rightful user of a given number, could be blocked or mislabeled if a carrier's call-blocking algorithm is based on low average call duration.

These are just a few examples of the types of calls at risk without effective safeguards to prevent blocking of lawful calls. Since the release of the draft *Declaratory Ruling*, many parties have come forward with similar concerns.⁸

Even in the current regime, in which opt-out blocking is not allowed, calls have been erroneously blocked and/or mislabeled. For instance, Microsoft has reported that a major U.S. carrier blocked over 1.2 million legitimate Skype Out calls during a three-month period.⁹ Similarly, Numeracle has submitted evidence into the record explaining how "calls that consumers want to receive are frequently erroneously labeled as 'Scam' or 'Spam.'"¹⁰

As the Commission considers whether and in what form to adopt the *Declaratory Ruling*, Twilio encourages the Commission to take into account the well-documented potential for erroneous blocking of lawful calls. Further, Twilio supports the FCC's goal of stopping illegal robocalls while also preserving the reliability of the public telephone network.

Please direct any questions to the undersigned.

⁷ While paragraph 35 of the draft *Declaratory Ruling* refers to safeguarding calls from "emergency numbers," it is unclear whether emergency calls placed by private parties such as school administrators would be protected.

⁸ *E.g.*, Letter from John Bergmayer, Public Knowledge, to Chairman Ajit Pai, Federal Communications Commission, CG Docket No. 17-59, WC Docket No. 17-97 (May 29, 2019); American Bankers Association, *et al.*, Notice of *Ex Parte* Presentations, CG Docket Nos. 02-278, 17-59, 18-152, WC Docket No. 17-97 (May 28, 2019); NTCA—The Rural Broadband Association, *Ex Parte* Notice, CG Docket No. 17-59, WC Docket No. 17-97 (May 23, 2019); Numeracle, Notice of *Ex Parte* Communication, CG Docket No. 17-59, WC Docket No. 17-97 (May 22, 2019); Microsoft, Notice of *Ex Parte* Communication, CG Docket No. 17-59 and related proceedings (May 20, 2019).

⁹ Microsoft, Notice of *Ex Parte* Communication, CG Docket No. 17-59, WC Docket No. 17-97, at 2 (Feb. 8, 2019).

¹⁰ Numeracle, Notice of *Ex Parte* Communication, CG Docket No. 17-59, WC Docket No. 17-97 (May 22, 2019).

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Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Matthew S. DelNero", with a stylized flourish at the end.

Matthew S. DelNero
Counsel to Twilio Inc.

cc: meeting attendees