



May 30, 2019

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20054

Re: *In the Matter of Advanced Methods to Target and Eliminate Unlawful*, CG Docket  
No. 17-59

Dear Ms. Dortch:

PACE supports the Commission's efforts to address the problem of robocalls, focusing the remedy on preventing illegal automated calls. However, consistent with the May 28, 2019 notice of *ex parte* presentation filed on behalf of PACE and other associations (Associations)<sup>1</sup> and PACE's May 29, 2019 letter,<sup>2</sup> PACE is concerned that the call blocking draft *Declaratory Ruling*<sup>3</sup> could inadvertently harm consumers through the erroneous and unnecessary blocking of lawful calls, without sufficient protections for legal callers or adequate notice to consumers. PACE also agrees with the Associations that the draft *Declaratory Ruling* is contrary to the Communications Act and Commission precedent.<sup>4</sup> Accordingly, rather than adopt the draft *Declaratory Ruling*, PACE believes that the Commission should issue a Notice of Proposed Rulemaking (NPRM) to allow industry and consumer input on the issues presented in the draft *Declaratory Ruling* and to avoid broadening carriers' call blocking authority prior to deciding on and implementing necessary protections.<sup>5</sup>

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<sup>1</sup> Notice of Ex Parte Presentation of the American Bankers Association, American Association of Healthcare Administrative Management, National Association of Federally Insured Credit Unions, U.S. Chamber of Commerce Institute for Legal Reform, ACA International, American Financial Services Association, PRA Groups, PACE, and Credit Union National Association, CG Docket No. 17-59 (filed May 28, 2019) (Associations May 28, 2019 Ex Parte).

<sup>2</sup> Letter from Michelle A. Shuster, Esq., General Counsel, Professional Association for Customer Engagement, Partner, Mac Murray & Shuster LLP, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 17-59 (filed May 29, 2019) (PACE May 29, 2019 Letter).

<sup>3</sup> *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Draft *Declaratory Ruling* and Third Further Notice of Proposed Rulemaking, CG Docket No. 17-59, WC Docket No. 17-97, FCC-CIRC1906-01 (May 16, 2019) (draft *Declaratory Ruling*).

<sup>4</sup> Associations May 28, 2019 Ex Parte at 2.

<sup>5</sup> PACE May 29, 2019 Letter at 4.

Should the Commission decide to move forward with the draft *Declaratory Ruling* at its upcoming June 6, 2019 open meeting, it should provide clear guidance as to how carriers should distinguish between wanted and unwanted calls, establishing uniform nationwide standards that allow callers to know whether carriers will block their lawful calls.<sup>6</sup> Moreover, the Commission should ensure that carriers have suitable tools to mitigate against and remediate blocking calls from legal callers.<sup>7</sup> Finally, the FCC should make clear that before carriers can block calls on an opt-out basis, carriers must provide all consumers with comprehensive disclosures describing the call types being blocked by the carrier, how the carrier distinguishes between wanted and unwanted calls, and the likelihood the carrier's methodology will inadvertently block wanted calls.<sup>8</sup>

If the Commission proceeds with the Declaratory Ruling, one way it can do so while still providing the necessary guidance to carriers and callers alike – and therefore ensure that there are uniform approaches to call blocking – is to simultaneously direct its Technological Advisory Council, Consumer Advisory Committee or another advisory body to develop criteria and standards that carriers must use to determine what constitutes “unwanted calls” and “reasonable analytics,” including what mechanisms and tools carriers must use to identify and mitigate overblocking. The Commission (or the Consumer and Governmental Affairs Bureau under delegated authority) could then seek comment on the advisory body's recommendations before adopting them for carriers to implement in connection with opt-out call blocking. At the very minimum, such recommendations would serve as guidance that encourages carriers to adopt fair and uniform blocking practices to help ensure that call blocking is implemented in a manner that is “reasonable” and consistent with the Communications Act.

Please do not hesitate to contact me with any questions.

Sincerely,



Michele A. Shuster, Esq.  
General Counsel,  
Professional Association for Customer Engagement  
Partner, Mac Murray & Shuster LLP

cc: Zenji Nakazawa, Office of Chairman Ajit Pai  
Arielle Roth, Office of Commissioner Michael O'Rielly  
Jamie Susskind, Office of Commissioner Brendan Carr  
Travis Litman, Office of Commissioner Jessica Rosenworcel  
Michael Scurato, Office of Commissioner Geoffrey Starks

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<sup>6</sup> *Id.* at 2.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*