



July 3, 2017

Submitted via <http://apps.fcc.gov/ecfs/>

Commission's Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**RE: CG Docket No. 17-59  
Advanced Methods to Target and Eliminate Unlawful Robocalls**

To Whom It May Concern:

Encore Capital Group, Inc. (along with its subsidiaries, collectively referred to as "Encore") applauds the Commission's efforts to target and eliminate unlawful robocalls. It is essential to protect consumers from spoofed or otherwise fraudulent calls, and at the same time to ensure that valid consumer communications are protected. As such, Encore supports the Commission's Notice of Proposed Rulemaking (proposed rule) that would allow providers to block illegal robocalls. With regard to the Commission's request for more information in its Notice of Inquiry (NOI), we generally support the concept of a white list, but we have several concerns and recommendations that are outlined below.

**Robust Telephone Communications Are Critical to Provide Time-Sensitive Account Information to Consumers**

Encore is the largest debt purchaser in the country, and we have an account with one out of five American consumers. For our company and our consumers, communication by telephone is essential. It is imperative to have the ability to reach our consumers by phone, in order to provide them with workable solutions that allow our consumers to progress onto the road of financial recovery. When we call our consumers, we inform them that we purchased their account, negotiate a flexible repayment plan, and give updates on payments received and the status of their account.



These calls are often time-sensitive. Frequently, our consumers are not aware they even have outstanding debt until they speak with us. Until we have that vital telephone communication, consumers often don't realize that they can negotiate flexible and discounted repayment plans to resolve their debt and help clear up their credit reports.

It is also worth noting that many of our calls are at our consumers' request. For example, consumers will often ask for a call back from the Account Manager they are working with, or will ask us to call them in response to a dispute or questions they have about their account.

### **The Proposed Rule Will Provide Consumers With Important Protections Against Robocalls – But it is Imperative That The Term “Robocalls” Does Not Capture Legitimate Calls**

Encore supports the Commission's proposed rule as a necessary step to allow providers to help protect consumers from unwanted robocalls. It is essential, however, that the FCC clarify that the definition of “illegal robocall” does not capture legitimate calls. Unfortunately, valid debt collection calls often get lumped into the same category of “robocall” as *any* call made to a wireless number using a dialer. The overly broad term “robocall” sweeps in normal, expected and desired communications into the same bucket as telemarketing and scam calls, and is an impediment to much-needed clarification under the TCPA.

To that end, we urge the Commission to clarify the definition of illegal robocall. The words in the definition “as well as any call” should be replaced with “and is,” so as to read:

“A call that violates the requirements of the TCPA, the related FCC regulations implementing the TCPA, or the Telemarketing Sales Rule, ~~as well as any call~~ and is made for the purpose of defrauding a consumer, as prohibited under a variety of federal and state laws and regulations, including the federal Truth in Caller ID Act.”

With such clarification, valid debt collection calls will be less likely to be lumped together with illegitimate calls as “robocalls,” which is an overly-broad word that we fear stands in the way of common-sense TCPA clarification.



## **A White List Will Provide Important Protections for Legitimate Callers, but Needs to Have a Clear Process and Enforcement Mechanism to Ensure that Legitimate Callers are not Inappropriately Blocked**

- **A FCC White List is Critical for Large-Scale Callers, And There Should Be a Clear Approval Process**

We appreciate the Commission's efforts in the NOI to provide protections for legitimate callers by suggesting a white list. As we have an account with one out of five American consumers, we make a high volume of outgoing phone calls. We use approximately five to eight outbound phone numbers to connect with our consumers on a routine basis, which can give the impression of a robocall. However, these are not robocalls – they are legitimate calls made in compliance with the TCPA, and are in no way intended to defraud consumers. Indeed, our calls provide critical, time-sensitive information to consumers to help them resolve their outstanding debt obligations. There should therefore be a clear and efficient approval process to appropriately place white list approval with the FCC.

- **FCC Should Have Process to Place For Legitimate Callers to Upload Numbers to White List With Ease**

It is imperative that legitimate callers like Encore, which the FCC would presumably place on the white list, should be able to upload legitimate numbers with relative ease, and update numbers regularly as needed. This should be accomplished through a clear, efficient process, such as a hotline or email. As stated above, we routinely have multiple numbers in use at any given time, and those numbers may change on a periodic basis. Service providers should be required to upload legitimate numbers submitted by companies on the white list within five business days of their submission. There should be a penalty assessed to service providers that fail to appropriately upload legitimate numbers within five business days.

- **It is Essential That Legitimate Callers Be Able to Quickly Notify Service Providers of Inadvertent Blocking**

We have substantial concerns that, under the proposed rule, valid debt collection phone calls will be inadvertently blocked by service providers. This can create significant harm to our operations and, ultimately, our consumers. Specifically, collectors' important communications with consumers to resolve outstanding debt obligations will be further hampered, in an environment in which there are already onerous restrictions on valid debt collection calls.



To protect legitimate callers and their consumers, there should be a mechanism – through a dedicated email or hotline number – to immediately notify service providers of inadvertent blocking. It is important that there be enforcement mechanisms around this process. To that end, there should be a penalty assessed to service providers that mistakenly block numbers on the white list.

- **It is Imperative That, When a Legitimate Call is Mistakenly Blocked, It is Unblocked Expediently Upon Notice by a Legitimate Caller**

As mentioned above, many debt collection calls are time-sensitive, given federally-governed validation and dispute periods, statute of limitations timetables, credit reporting time frames, and the fact that many collection agencies cause interest and fees to accrue on a consumer’s account with each passing day.<sup>1</sup> Indeed, even with just 24 hours of our calls being improperly blocked, the result would be harmful to thousands of consumers with whom we were unable to make contact. It is therefore critical that there be an expedited process for service providers to unblock legitimate calls, upon notice by a legitimate caller on the white list. Should a service provider mistakenly block a legitimate number, it is vital that unblocking take place within 24 hours of the error. If a service provider does not timely unblock a legitimate number as directed, a penalty should be assessed to the service provider.

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Thank you for your efforts to protect consumers from unwanted robocalls, and at the same time to ensure that consumers continue to receive legitimate calls made not to

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<sup>1</sup> At Encore, we do not charge consumers any new interest or fees on debt we purchase. However, this policy, and other consumer protections set forth in our Consumer Bill of Rights (<https://www.encorecapital.com/about/consumer-bill-of-rights-english>), go well beyond federal and state law requirements and are industry-leading standards.



defraud the consumer, but to provide important account information. Please don't hesitate to let us know if you have any questions about our comments and suggestions, or need further information.

Respectfully submitted,

/s/ Sheryl A. Wright

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