

July 24, 2019

Via Electronic Submission

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

Re: Comments on Third Further Notice of Proposed Rulemaking, Regarding Advanced Methods to Target and Eliminate Unlawful Robocalls, CG Docket No. 17–59 and WC Docket No. 17-97

The Electronic Transactions Association (“ETA”) respectfully submits these comments in response to the Federal Communications Commission’s (“FCC”) Third Further Notice of Proposed Rulemaking (“Third FNPRM”) in the above-referenced proceeding.

Introduction

ETA is the leading trade association for the payments industry, representing over 500 companies worldwide involved in electronic transaction processing products and services. ETA’s membership spans the breadth of the payments industry to include independent sales organizations, payments networks, financial institutions, transaction processors, mobile payments products and services, payments technologies, software providers, and hardware suppliers. ETA member companies touch, enrich and improve the lives of every consumer by making the global flow of commerce possible.

ETA continues to applaud and support the FCC’s efforts to combat illegal robocalls through this proceeding. In particular, ETA applauds the thoughtful and thorough approach the FCC has taken in carefully considering the public comments submitted during the proceeding and engaging with stakeholders and industry to collaborate on this important issue.

ETA understands and agrees that robocalls from fraudulent sources are a nuisance, or even worse, predatory, for many consumers, and efforts to detect and eliminate these calls are important for consumer protection. Equally as important, consumers expect and have a right to demand that their personal financial information is protected by the businesses with which they have relationships.

This includes an open, clear, and trusted communication channel to alert consumers to information regarding the security of their account. As ETA pointed out in its June 30, 2017, July 6, 2017, and January 23, 2018 comments, efforts to combat illegal robocalls must take into account the difference between calls from a merchant attempting to sell a product or service to a potential customer and purely informational calls and other communications between businesses and their existing customers. Indeed, ETA’s member companies must be permitted to contact their customers efficiently and quickly in order to provide them with important and vital information about their accounts. ETA contends that illegal robocalls made with the intent to defraud consumers, (e.g. IRS scam), damage the trusted communication channels between customers and businesses. ETA supports many of the efforts by the FCC to target and eliminate unlawful calls in order to distill these communication channels so that customers can trust and receive the calls about their personal financial information.

In the Third FNPRM, the FCC seeks comment on a potential safe harbor for call-blocking programs targeting unauthenticated calls, which may be potentially spoofed and safeguards to ensure that the most important calls are not blocked. ETA and its members support the approach of the FCC and have suggestions for the FCC to consider as a part of this rulemaking.¹

Safe Harbor for Call-Blocking Programs Based on Potentially Spoofed Calls

ETA strongly supports the adoption of a safe harbor to protect callers acting in good faith to comply with the Telephone Consumer Protection Act (“TCPA”). Indeed, ETA recommends that a safe harbor permits a good faith caller the opportunity to show compliance at the pleading stage in private litigation in order to achieve early dismissal of claims that lack merit. Further, if a safe harbor is adopted, it would only make sense that callers should demonstrate their attempt to comply with the TCPA by following the guidance of whatever reporting requirement the FCC adopts.

ETA believes that it is important for the FCC to facilitate a favorable environment for industry to work together to combat illegal robocalls and protect consumers while simultaneously protecting legitimate business-customer communications. In instances where legitimate callers and businesses have their numbers incorrectly blocked, it is important for there to be a formal mechanism for legitimate businesses to challenge the blocked call and that such a challenge be resolved expeditiously. It would be appropriate for the FCC to establish a challenge mechanism.

It is important for legitimate callers to have a mechanism to challenge their calls blocked in error. Additionally, ETA believes that swift resolution is important in an effort to minimize disruption of communication between legitimate businesses and their customers. When developing the resolution process, the FCC should consider the provider process and ability to “immediately cease” call-blocking. While swift resolution is important, so is protecting providers that are responding to feedback from both the call recipients and those who place the calls.

ETA believes that strong self-regulation is an effective tool to provide a valuable service to consumers. Indeed, the PCI standards, which are used by participants in the payments ecosystem are a good example of effective industry self-regulation. However, the FCC can play a valuable role in the facilitation of communication between the parties involved in call placement, connection, and completion or blocking. Removing any roadblocks in federal regulations and developing a streamlined process for challenged calls is a vital step in removing friction in communication between providers and businesses.

Protections for Critical Calls

ETA agrees certain emergency calls must never be blocked and supports voice service providers that offers call-blocking to maintain a “Critical Calls List” of numbers it may not block.

Many of the informational communications that ETA members place are time-sensitive. They require that calls be placed immediately and for only a limited duration of time. Placing informational calls through automated means provides significant advantages to both customers and their financial institution. Efficient, effective communications are essential if the payments industry is to serve their customers and comply with their regulatory obligations.

¹ *Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59 (June 24, 2019).

Financial institutions regularly seek to send time-critical, non-telemarketing communications to large numbers of customers promptly, including:

- Suspicious fraud activity alerts;
- Data security breach notifications;
- Verification of a consumer's identity prior to the establishment of a new credit plan;
- Notices of address discrepancies or reminders to activate a new account; and
- Alerts to promote fee avoidance, including low balance, overdraft, and over-limit transaction alerts.

Again, ETA applauds and supports the FCC's interest in and pursuit of solutions to combat illegal robocalls and any efforts should focus on bad actors who intentionally flout laws but still allow businesses and their customers feel confident that important, time-sensitive communication will be permissible. ETA member companies are not telemarketers; they are financial services companies who have a business relationship with their customers. The information ETA companies communicate to their customers is related to customer financial accounts and oftentimes time sensitive.

It is important for FCC the to facilitate a favorable environment for industry to work together to combat illegal robocalls and protect consumers and for there to be a mechanism or intermediary to monitor any improper blocking of calls, or to challenge if a call from a legitimate business is blocked in error. While ETA supports the concept of a self-regulated industry, it recognizes the importance of having an intermediary to resolve any disputes, whether intentional or not.

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We look forward to working together with the FCC and other stakeholders to find reasonable solutions to achieve this important consumer protection goal. If you have any questions or wish to discuss any issues, please contact me at stalbott@electran.org.

Sincerely,



Scott Talbott
Senior Vice President of Government Relations
Electronic Transactions Association