



July 24, 2019

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

Federal Communications Commission
445 12th St., SW, Room TW-A325
Washington, DC 20554
ATTN: Commission's Secretary
Office of the Secretary

**Re: Declaratory Ruling and Third Further Notice of Proposed Rulemaking
(CG Docket No. 17-59; WC Docket No. 17-97)**

To Whom It May Concern:

On behalf of Encore Capital Group, Inc. and its subsidiaries, including Midland Credit Management, Inc. ("MCM") (collectively, "Encore" or the "company"), we appreciate the opportunity to submit comments to the Federal Communications Commission (the "FCC" or "Commission") on the above-referenced Declaratory Ruling and Third Further Notice of Proposed Rulemaking. Our comments reiterate concerns and suggestions we have previously submitted to the FCC, and specifically address how the FCC can create protections and remedies for legitimate callers whose calls are erroneously blocked.

Encore supports the Commission's Declaratory Ruling as a necessary step to allow voice service providers to help protect consumers from unwanted robocalls. The FCC has done important work towards reducing illegal robocalls to consumers, with the ultimate goal of stopping such calls altogether. Voice service providers have started to offer free call blocking, automatic call blocking, and other services aimed at stopping illegal robocalls.

As the FCC has recognized, our industry and many other industries still have extremely significant concerns that legitimate, time-sensitive calls to consumers will be improperly blocked by voice service providers. The proposed safe harbor for voice service providers augments our concerns, as the safe harbor makes improper call blocking of legitimate calls far more likely to occur.

As outlined below, we urge the FCC to mandate specific processes and procedures that voice service providers must take to prevent improper call blocking and, should improper call blocking occur, to expeditiously unblock the calls.



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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 Term “Robocalls” Is Often Misapplied to Both Legitimate and Illegitimate Calls, and We Urge the FCC to Address This Misapplication

In its Declaratory Ruling, the FCC has made clear that its intent is to stop “illegal robocalls.” Unfortunately, the term “robocalls” is commonly used in both news media and even federal and state legislation to refer to not just illegal calls, but also to legitimate calls made to large numbers of consumers. Our company is a perfect example of a legitimate caller that makes millions of outbound calls per week. A portion of those calls are made using predictive dialing technology. Given the large volume of the calls we make, voice service providers routinely and improperly block our calls as robocalls. The problem is only becoming worse as the FCC's very well-intended rulings are being implemented by voice service providers that cast an unduly wide net over what constitutes a suspected robocall. In part because of the broad misapplication of the term “robocall,” normal, expected and desired communications are being swept into the same bucket as fraudulent, spoofed and other spam calls.

To address this, we urge the FCC to caution voice service providers against blocking legitimate calls, and to mandate that voice service providers take specific steps to safeguard against inappropriate blocking of legitimate calls. We also oppose a safe



harbor for voice service providers that block calls for which Caller ID authentication fails. Such a safe harbor will incentivize voice service providers from using an overly wide net to capture “robocalls,” whether legitimate or not. We respectfully ask the FCC to ensure that, while quickly moving towards an end to illegal robocalls, it creates sufficient safeguards to ensure that legitimate calls get through to consumers.

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 strongly support a white list with legitimate caller numbers that voice service providers must refer to as part of their analysis on whether a call is an illegal robocall. As mentioned above, because 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 all applicable federal and state laws, 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.



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

We have substantial concerns that, under the Declaratory Ruling, 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 Expeditiously 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.¹ 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.

¹ Our company does 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.midlandcreditonline.com/wp-content/uploads/2015/08/Consumer-Bill-of-Rights.pdf>), go well beyond federal and state law requirements and are industry-leading standards.



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Thank you for your efforts to protect consumers from unwanted illegal calls, and at the same time to ensure that consumers continue to receive legitimate calls made not to defraud the consumer, but to provide important account information. Please don't hesitate to contact us (858) 560-3504 with any questions about our comments and suggestions, or for further information.

Respectfully submitted,

/s/ Sheryl A. Wright
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