

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Advanced Methods to Target and Eliminate Unlawful Robocalls)	CG Docket No. 17-59
)	
Call Authentication Trust Anchor)	WC Docket No. 17-97

COMMENTS OF TCN INC.

TCN Inc. (“TCN”) respectfully submits these comments in response to the Federal Communications Commission’s *Declaratory Ruling and Third Further Notice of Proposed Rulemaking* (“*Declaratory Ruling*” and “*Third FNPRM*,” respectively) in the above-captioned proceedings.¹ As a leading provider of cloud-based call center technology, TCN supports the Commission’s efforts to protect consumers and eliminate scam, fraud, and other unlawful calls. TCN also commends the FCC for its efforts to facilitate implementation of SHAKEN/STIR, which “should establish a reliable authentication system that will help strengthen call-blocking services and unmask spoofed calls.”²

The Commission’s actions, however, also must continue to protect lawful calls from legitimate organizations. Any adopted rules should increase such lawful callers’ confidence that the successful verification of their numbers under SHAKEN/STIR will ensure call completion. Once SHAKEN/STIR is fully implemented, voice service providers should not have the discretion to block *lawful* calls that have successfully obtained a digital certificate under

¹ *Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59 and WC Docket No. 17-97, Declaratory Ruling and Third Further Notice of Proposed Rulemaking, FCC 19-51 (rel. June 7, 2019) (“*Declaratory Ruling and Third FNPRM*”).

² Federal Communications Commission, *Combating Spoofed Robocalls with Caller ID Authentication*, <https://www.fcc.gov/call-authentication> (last visited July 23, 2019).

SHAKEN/STIR. To enforce this basic principle, the Commission should adopt certain transparent processes that establish clear expectations for consumers and lawful callers while continuing to protect against scam and fraudulent calls.

I. ANY SAFE HARBOR SHOULD REQUIRE VOICE SERVICE PROVIDERS TO SEND AN INTERCEPT MESSAGE TO BLOCKED CALLERS.

In the *Third FNPRM*, the Commission asks whether it should “require voice service providers to send an intercept message to blocked callers . . . when calls are blocked.”³

The answer is “yes.” As the *Declaratory Ruling* makes clear, a “reasonable” call-blocking program includes a point of contact for legitimate callers to report erroneous blocking and a mechanism to resolve such complaints,⁴ and any reasonable implementation of SHAKEN/STIR would require similar processes. To take advantage of (and not abuse) this requirement, a legitimate caller must know that its calls are being blocked. If a legitimate caller does not know whether its calls are being blocked, it cannot reasonably be expected to reach out to the blocking voice service provider when appropriate. Without knowledge that its calls are being blocked, a legitimate caller may unduly refrain from contacting the blocking voice service provider; conversely, to overcompensate for its lack of knowledge, a legitimate caller may reach out to the blocking voice service provider too often.

Current labeling and call-blocking programs’ efficacy can suffer from voice service providers’ lack of communication about the blocking. The Commission may solve this issue by requiring voice service providers to send an intercept message with an SIP code to blocked callers. A legitimate caller’s receipt of an intercept message, complete with SIP code, will provide an important tool to more efficiently engage in any voice service provider’s redress

³ *Declaratory Ruling and Third FNPRM* ¶ 58.

⁴ *Id.* ¶ 38.

mechanism and resolve misunderstandings or mistakes. Meanwhile, requiring voice service providers to send an intercept message with an SIP code is unlikely to increase the number of illegal calls because illegal callers are unlikely to engage voice service providers' redress mechanisms, given the illicit nature of their calls.

II. ANY SAFE HARBOR SHOULD REQUIRE A PROCESS TO CORRECT ERRONEOUSLY BLOCKED CALLS.

In addition to seeking comment on whether it should require voice service providers to notify blocked callers, the Commission seeks comment on other issues related to any safe harbor that it adopts.⁵ While some voice service providers have begun implementing SHAKEN/STIR, full implementation – even among major voice service providers – is not complete.⁶ Voice service providers are still working through how they will determine whether a call is “appropriately signed.”⁷ Furthermore, to resolve this issue, voice service providers must answer the following questions: (1) How should calls be signed?; and (2) What service provider gets to sign a call?

Regardless of how these questions get answered, any adopted safe harbor should require a voice service provider to establish a process for correcting instances where calls are erroneously blocked within a reasonable timeframe. Requiring such a process would create clear expectations for all stakeholders and better ensure fair treatment for legitimate callers without

⁵ See, e.g., *id.* ¶¶ 54-56.

⁶ See, e.g., Letter from Joan Marsh, Executive Vice President, Regulatory & State External Affairs, AT&T Services, Inc., to Ajit V. Pai, Chairman, Federal Communications Commission, WC Docket No. 17-97 (Nov. 19, 2018) *attached to* Letter from Amanda E. Potter, Assistant Vice President-Senior Legal Counsel, AT&T Services, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 17-97 (Nov. 19, 2018) (showing that AT&T's implementation of SHAKEN/STIR began in late 2018 and will continue through 2019 into 2020, as additional voice service providers “become ready”).

⁷ See *Declaratory Ruling and Third FNPRM* ¶ 55.

incentivizing illegal calls. By creating clear expectations among stakeholders, a requirement also would decrease the Commission's burden in resolving potential disputes by reducing the number of disputes filed with the Commission.

III. THE COMMISSION SHOULD PROVIDE A BACKSTOP FOR LEGITIMATE CALLERS WHEN VOICE SERVICE PROVIDERS' PROCESSES FOR CORRECTING ERRONEOUSLY BLOCKED CALLS FAIL TO RESOLVE THE PROBLEM.

In its proposal to require that voice service providers authenticate caller ID information, the Commission seeks comment on whether “there [are] any aspects of the governance authority that the Commission should handle itself or [whether] the Commission’s role [should] be limited to . . . formal oversight.”⁸ To successfully implement SHAKEN/STIR without sacrificing the interests of legitimate callers, the Commission must serve as a backstop to which legitimate callers can directly appeal if their efforts to resolve erroneously blocked calls with voice service providers fail.

To date, industry-led efforts to implement SHAKEN/STIR have been driven by voice service providers. ATIS’s Secure Telephone Identity Governance Authority (“STI-GA”) is solely composed of voice service providers,⁹ and the STI-GA selected iconectiv as the Policy Administrator to “apply and enforce the rules as defined by the STI-GA to operationalize the SHAKEN . . . framework.”¹⁰ A Commission-based enforcement process that serves as a venue of last resort will support the Commission’s current requirement that voice service providers

⁸ *Id.* ¶ 79.

⁹ See ATIS, *STI Governance Authority*, “Leadership,” <https://www.atis.org/sti-ga/leadership/> (last visited July 23, 2019).

¹⁰ Press Release, iconectiv, *Mitigating Illegal Robocalling Advances with Secure Telephone Identity Governance Authority Board’s Selection of iconectiv as Policy Administrator* (May 30, 2019), <https://iconectiv.com/news-events/mitigating-illegal-robocalling-advances-secure-telephone-identity-governance-authority>.

have a “point of contact” and resolution process for erroneously blocked calls,¹¹ a requirement that should also exist once SHAKEN/STIR is implemented.¹² The existence of an enforcement process will create incentives for voice service providers to timely resolve erroneously blocked calls without Commission intervention and, equally as important, will not unduly incentivize engagement by scammers and fraudsters, which (again) are highly unlikely to engage in such a process.

When serving as a backstop, the Commission must properly balance the burdens legitimate callers and voice service providers have when demonstrating that calls are improperly blocked. Accordingly, when the Commission resolves disputes over improperly blocked calls, it should require voice service providers to: (1) demonstrate that the call failed SHAKEN/STIR, and (2) disclose all criteria, metrics, or analytics relied upon to determine that the call was illegal. By adopting SHAKEN/STIR, legitimate callers are demonstrating good faith in the ecosystem’s collective effort to curb illegal calls but are ultimately beholden to voice service providers’ decisions whether to block a call. Therefore, legitimate callers participating in SHAKEN/STIR should not shoulder the burden of proving their calls were erroneously blocked.

IV. ONCE IT ADOPTS RULES FOR THE SHAKEN/STIR FRAMEWORK, THE COMMISSION SHOULD WITHDRAW THE *DECLARATORY RULING*’S STATEMENT THAT VOICE SERVICE PROVIDERS MAY BLOCK “UNWANTED” CALLS ON AN OPT-OUT BASIS.

With the Commission’s adoption of formal SHAKEN/STIR call blocking rules and processes for resolving disputes involving erroneously blocked calls, portions of the *Declaratory Ruling* will become obsolete. Accordingly, if such rules are adopted, the Commission should

¹¹ See *Declaratory Ruling and Third FNPRM* ¶ 38 (“[W]e believe that a reasonable call-blocking program instituted by default would include a point of contact for legitimate callers to report what they believe to be erroneous blocking as well as a mechanism for such complaints to be resolved.”).

¹² See *supra* Section I.

withdraw the *Declaratory Ruling*'s discussion on allowing voice service providers to block "unwanted" calls on an opt-out basis.¹³

Codifying the Commission's call-blocking policies in clear rules would simplify regulatory compliance burdens for all stakeholders. It would also reduce confusion over the Commission's expectations under SHAKEN/STIR and continue to protect consumers against unlawful calls.

V. CONCLUSION

TCN applauds the Commission's efforts to facilitate implementation of SHAKEN/STIR and protect consumers from scam, fraud, and other unlawful calls. Any efforts, however, should not come at the expense of lawful calls made by legitimate organizations. Accordingly, the FCC should adopt transparent processes that establish clear expectations for consumers and legitimate callers without advancing the interests of scammers and fraudsters.

Respectfully Submitted,

/s/ Darrin Bird

Darrin Bird
Executive Vice President

Jesse Bird
Chief Technology Officer & Co-Founder

TCN Inc.
162 North 400 East
Suite B-200
St. George, Utah 84770

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¹³ See, e.g., *Declaratory Ruling and Third FNPRM* ¶ 34 ("[W]e clarify that voice service providers may offer opt-out call-blocking programs based on any reasonable analytics designed to identify unwanted calls.").