

August 17, 2018

Via ECFS

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

Re: Public Notice, Consumer and Governmental Affairs Bureau Seeks Input for Report on Robocalling, CG Docket No. 17-59, Advanced Methods to Target and Eliminate Unlawful Robocalls (released June 20, 2018)

Dear Ms. Dortch,

The American Bankers Association¹ (ABA) appreciates the opportunity to comment in response to the request by the Federal Communications Commission's (Commission) Consumer and Governmental Affairs Bureau (Bureau) for "input" for a report that the Bureau is preparing on the "progress made by industry, government, and consumers" in combatting illegal automated calls.² Among other topics, the Bureau seeks input on the "kinds of blocking"³ that companies that provide telephone service (Voice Service Providers) are performing as a result of the Commission's Report and Order, released in November 2017 (Report and Order).⁴ In that Report and Order, the Commission permitted (but did not require) Voice Service Providers to block calls at the request of the subscriber of the number and calls purporting to originate from a number that is invalid, has not been allocated to any Provider, or is unassigned to any user.

ABA supports the Commission's efforts to eliminate illegal automated calls. We appreciate that, in the Report and Order, the Commission authorized the blocking of calls by Voice Service Providers only under "well-defined circumstances" that suggest that the blocked calls are "highly

¹ The American Bankers Association is the voice of the nation's \$17 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard \$13 trillion in deposits, and extend nearly \$10 trillion in loans.

² Public Notice, Consumer and Governmental Affairs Bureau Seeks Input for Report on Robocalling, CG Docket No. 17-59, Advanced Methods to Target and Eliminate Unlawful Robocalls (released June 20, 2018).

³ *Id.* at 1.

⁴ Report and Order and Further Notice of Proposed Rulemaking, Advanced Methods to Target and Eliminate Unlawful Robocalls, CG Docket No. 17-59 (released Nov. 17, 2017) [hereinafter, Report and Order].

likely to be illegitimate.”⁵ The Commission’s authorization of call blocking under these circumstances—where the call purports to originate from an invalid or unassigned number—demonstrates that the Commission can take action to address illegal automated calls while minimizing the risk that financial institutions and other legitimate businesses and their customers will be harmed.

We also appreciate the Commission’s recognition that legitimate calls may be blocked.⁶ In prior comment letters, we described the inadvertent blocking of phone numbers belonging to ABA members.⁷ In this letter, we seek to underscore the problem of inadvertent blocking and provide additional information on how that blocking prevents customers from receiving important and time-sensitive information from their banks.

A call from a bank may be incorrectly “labeled” as “possible fraud,” “scam,” or “debt collector,” either by the customer’s Voice Service Provider or by a third-party mobile application downloaded by the customer. When a call is incorrectly labeled, the customer is discouraged from answering the phone and may decide to block the call (and subsequent calls from the same number) based on the erroneous label. In other instances, the customer’s Voice Servicer Provider may impose the blocking directly, based on an incorrect understanding of the origin of the call. When a call is blocked, no notification is provided to the caller. Consequently, a key challenge facing banks and other legitimate businesses is determining whether the business’ calls are being blocked and whether the blocking is being performed by a Voice Service Provider or third-party application.

When a bank’s call is incorrectly labeled and/or blocked, the customer is prevented from receiving information concerning the customer’s account. Banks use automated voice calls and text messages for such purposes as providing notifications of suspicious activity on the customer’s account, data security breaches, low account balances, and delinquent accounts. Banks may also use automated calling and text messages to provide confirmations of customer-initiated servicing requests and account changes, such as a change of address. It is critical that such calls be completed without delay.

As Commissioner O’Rielly has recognized, “it can be difficult and time consuming [for callers] to dispute and remove inappropriate blocks.”⁸ Several ABA members have reported that their calls are being incorrectly labeled as “possible fraud,” “scam,” or “debt collector” (or with a

⁵ *Id.* ¶ 9.

⁶ Proposed Rule, Advanced Methods to Target and Eliminate Unlawful Robocalls, 82 Fed. Reg. 22,625, 22,630 (May 17, 2017) (“The Commission seeks to avoid the blocking of such legitimate calls and, instead, seek[s] to ensure that legitimate calls are completed.”).

⁷ See Letter from Jonathan Thessin, Am. Bankers Ass’n, to Marlene H. Dortch, Fed. Commc’ns Comm’n 5-6 (June 30, 2017), <http://www.aba.com/Advocacy/commentletters/Documents/cl-FCC-Robocalls2017.pdf> [hereinafter, ABA 2017 Letter]; Letter from Jonathan Thessin, Am. Bankers Ass’n, to Marlene H. Dortch, Fed. Commc’ns Comm’n 2 (Feb. 2, 2018), <https://www.aba.com/Advocacy/commentletters/Documents/cl-TCPA20180202.pdf>.

⁸ Report and Order (statement of Michael O’Rielly, Comm’r).

similar label), and blocked. For example, one large bank ABA member reported that a phone number from which the member places calls to 60,000 customers per month has been labeled as “scam or fraud” by a popular third-party service. The bank then asked an external vendor to review how Voice Service Providers label nine phone numbers from which the bank makes outbound calls. The vendor’s research revealed that eight of those nine phone numbers are labeled as “spam likely,” “suspected spam,” or “spam number” by at least one of the four largest Voice Service Providers.

To address inadvertent blocking, ABA continues to support the Commission’s earlier suggestion that the Commission or a third party create a single list of numbers provided by legitimate businesses that should not be blocked (a White List).⁹ It is also important that numbers on the White List not be labeled incorrectly, to avoid customer-initiated blocking based on erroneous information about the number. Both Voice Service Providers and third-party call labeling services should have access to, and use, the White List.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Thessin". The signature is written in a cursive style with a large initial "J".

Jonathan Thessin
Senior Counsel, Center for Regulatory Compliance

⁹ 82 Fed. Reg. at 22,630; *see* ABA 2017 Letter, *supra* note 7, at 6 (expressing support for creation of a single White List).