

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

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

REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. (“T-Mobile”)^{1/} submits these reply comments in response to the *Third Further Notice of Proposed Rulemaking* (“*Third FNPRM*”) in the above-referenced proceedings aimed at protecting consumers from illegal and unwanted robocalls.^{2/}

I. INTRODUCTION

As the first wireless provider to implement the STIR/SHAKEN framework on its network, T-Mobile continues to do its part to protect its customers against unwanted and illegal robocalls.^{3/} The record in this proceeding reflects broad agreement that the industry as a whole, in concert with the Commission, can do more to protect consumers from robocalls.^{4/} The

^{1/} T-Mobile USA, Inc. is a wholly-owned subsidiary of T-Mobile US, Inc., a publicly traded company.

^{2/} *Advanced Methods to Target and Eliminate Unlawful Robocalls, et al.*, Declaratory Ruling and Third Further Notice of Proposed Rulemaking, CG Docket No. 17-59 & WC Docket No. 17-97 (rel. June 7, 2019) (“*Declaratory Ruling*” and “*Third FNPRM*” respectively).

^{3/} Comments of T-Mobile, CG Docket No. 17-59, at 2 (filed July 24, 2019) (“T-Mobile Comments”).

^{4/} See, e.g., Comments of CTIA, CG Docket No. 17-59, at 1-6 (filed July 24, 2019) (“CTIA Comments”); Comments of USTelecom, CG Docket No. 17-59, at 1-6 (filed July 24, 2019) (“USTelecom Comments”); Comments of Verizon, CG Docket No. 17-59, at 1 (filed July 24, 2019). Even commenters who disagree with the approach the Commission pursues in the *Third FNPRM* agree that more must be done to achieve the broad goal of protecting consumers from unwanted robocalls. See also Comments of the Competitive Carriers Association, CG Docket No. 17-59, at 1-2 (filed July 24, 2019) (“CCA Comments”); Comments of Sirius XM, CG Docket No. 17-59, at 1 (filed July 24, 2019) (“Sirius XM Comments”); Comments of Twilio, CG Docket No. 17-59, at 1-5 (filed July 24, 2019).

Declaratory Ruling was an important step toward empowering voice service providers to better protect consumers by confirming that they may lawfully block unwanted and illegal robocalls on an opt-out basis.^{5/} And the *Third FNPRM* has the potential of promoting greater adoption of call blocking on an opt-out basis by establishing a safe harbor from liability for providers that incorrectly block calls in certain circumstances. To be most effective – and encourage providers to offer call blocking on an opt-out basis – the safe harbor should be broad enough to encompass carriers’ use of a combination of tools available to determine if a call originates from a scammer. The safe harbor should not be limited to carriers’ reliance on STIR/SHAKEN attestation. It should also be available to providers that block calls based on reasonable analytics including, but not limited, to STIR/SHAKEN.

II. FCC RULES PERMIT THE BLOCKING OF ILLEGAL CALLS

The comments of some parties question current call blocking practices and the Commission’s authority to permit call blocking by voice service providers.^{6/} But providers’ ability to block calls is firmly established and the Commission should reject requests to revisit the issue in the *Third FNPRM*. In the *2017 Call Blocking Report and Order and Further Notice*, the Commission concluded that the blocking of certain robocalls is “not, by definition, an unjust or unreasonable practice or unjustly or unreasonably discriminatory.”^{7/} The Commission reiterated that conclusion in the *Declaratory Ruling*.^{8/} In response to questions in the *Third*

^{5/} *Declaratory Ruling* at ¶¶ 31-32.

^{6/} See, e.g., Comments of the Credit Union National Association, CG Docket No. 17-59, at 10-12 (filed July 24, 2019) (“CUNA Comments”); Sirius XM Comments at 8-10.

^{7/} See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9706, 9726, ¶ 60 (2017) (“*2017 Call Blocking Report and Order and Further Notice*”).

^{8/} *Declaratory Ruling* at ¶ 23, n.53. (“We note that [] while voice service providers have a continuing obligation to transmit legal calls, that obligation does not extend to illegal calls, calls blocked with consumer choice, or calls for which the Commission has authorized blocking.”); see also *2017 Call*

FNPRM regarding carriers’ authority, AT&T pointed out that the “call completion rules do not apply to *illegal* calls,”^{9/} a conclusion the Commission similarly confirmed in the *Declaratory Ruling*.^{10/} The questions in the *Third FNPRM* do not relate to carriers’ confirmed authority to block calls, but the circumstances under which that authority may be used. Accordingly, the Commission should reject any recommendation that it revisit its determination that providers have the legal authority to block calls.

III. THE COMMISSION SHOULD ESTABLISH A SUFFICIENTLY BROAD SAFE HARBOR FOR CALL BLOCKING

The record supports T-Mobile’s request that the Commission establish a broad safe harbor for call blocking that includes decisions based on reasonable analytics.^{11/} Those reasonable analytics should include – but not be limited to – calls that fail the STIR/SHAKEN framework. Commenters agree that while a safe harbor will permit carriers to deploy the opt-out blocking tools necessary to promote wider adoption of call blocking, a safe harbor founded only on STIR/SHAKEN will fall short of this goal. That is true for at least two reasons.

First, as commenters pointed out, it will be years until STIR/SHAKEN is fully implemented (if ever) among certain segments of voice providers.^{12/} Smaller and rural carriers may not have the resources to test and adopt the requisite protocols, and some providers will

Blocking Report and Order and Further Notice, 32 FCC Rcd 9706, 9709, ¶ 9 (specifying the “specific, well-defined circumstances” where call blocking is permitted without consumer consent).

^{9/} Comments of AT&T, CG Docket No. 17-59, at 15-16 (filed July 24, 2019) (“AT&T Comments”) (emphasis in original).

^{10/} See *supra* note 8.

^{11/} T-Mobile Comments at 5-9.

^{12/} See CCA Comments at 2; Comments of West Telecom Services, LLC, CG Docket No. 17-59, at 18-20 (filed July 24, 2019); WTA – Advocates for Rural Broadband, CG Docket No. 17-59, at 2-4 (filed July 24, 2019) (“WTA Comments”).

continue to provide TDM-based services that cannot support STIR/SHAKEN.^{13/} A significant number of calls will be handled by those providers. This means using STIR/SHAKEN authentication as the only factor on which calls can be blocked under a safe harbor leaves unaddressed the treatment of calls from providers that are not STIR/SHAKEN compliant. Major carriers, alternative voice service providers, and technology companies agree that to fill this gap, a safe harbor should also apply to carrier blocking decisions based on reasonable analytics.^{14/}

Second, even in a world where STIR/SHAKEN is more widely deployed, carriers need the ability to rely on reasonable analytics to make the most informed decision regarding whether, in fact, they are dealing with an illegal robocall. Some calls that may be authenticated under STIR/SHAKEN may be illegal. USTelecom reminds the Commission that because the “[STIR/SHAKEN] framework does not provide insight to the nature or content of a call..., it is an insufficient basis alone for voice providers to determine whether to block a call.”^{15/} Thus, a safe harbor for voice service providers that choose to block calls based solely on failed STIR/SHAKEN attestation is both “too narrow” and “very problematic and ill-advised” because “properly authenticated calls may in fact be illegal robocalls.”^{16/} This is consistent with First Orion’s proposal, which T-Mobile supports, that the Commission adopt a broad safe harbor

^{13/} See CCA Comments at 2; WTA Comments at 2-4.

^{14/} See, e.g., AT&T Comments at 3, 5-9; Comments of Comcast Corporation, CG Docket No. 17-59, at 7 (filed July 24, 2019) (“Comcast Comments”); CTIA Comments at 7,10; Comments of NCTA – The Internet & Television Association, CG Docket No. 17-59, at 3, 8-10 (filed July 24, 2019) (“NCTA Comments”); USTelecom Comments at 2, 6-9; Verizon Comments at 11-12; Comments of ACT, The App Association, CG Docket No. 17-59, at 5 (filed July 24, 2019) (“ACT Comments”); Comments of First Orion, CG Docket No. 17-59, at 14 (filed July 24, 2019) (“First Orion Comments”); Comments of Numeracle, CG Docket No. 17-59, at 3 (filed July 24, 2019) (“Numeracle Comments”); Comments of TNS, CG Docket No. 17-59, at 3, 7 (filed July 24, 2019) (“TNS Comments”).

^{15/} USTelecom Comments at 7.

^{16/} *Id.*

based on a “holistic analytic assessment,” of which STIR/SHAKEN authentication results can be one of many inputs.^{17/}

ACA International disagrees, asserting that there should be no safe harbor for calls that pass STIR/SHAKEN but are otherwise blocked because a provider deems them to be “unwanted” based on reasonable analytics.^{18/} This outcome is contrary to the public interest. As noted above some calls that may be authenticated under STIR/SHAKEN may nonetheless be unwanted robocalls – a distinction that reasonable analytics may be able to determine. Requiring providers to allow those calls to go through to take advantage of a safe harbor, and limiting the use of all of the tools available to make knowledgeable blocking decisions, will dissuade carriers from offering call blocking on an opt-out basis.

The Alarm Industry Communications Committee also argues against a safe harbor – even for calls that fail STIR/SHAKEN attestation – because providers cannot guarantee with 100% certainty that legitimate calls will never be blocked.^{19/} The Alarm Industry Communications Committee would reject the good in pursuit of the unattainable perfect. This approach is unrealistic and, like the approach ACA International proposes, would result in thwarting the Commission’s goal of widespread adoption and deployment of blocking tools. The lack of *any* safe harbor – even an imperfect safe harbor that relies only on calls that fail the STIR/SHAKEN

^{17/} First Orion Comments at 9-14. As First Orion points out, although a holistic approach could include call signaling data, machine learning, and publicizing and correcting blocking errors in a timely manner, it should not include a real time notification to calling parties that they have been blocked. First Orion Comments at 10-11. T-Mobile agrees that such a notice would simply alert bad actors that they should immediately modify their tactics.

^{18/} Comments of ACA International, CG Docket No. 17-59, at 5-6 (filed July 24, 2019); Comments of Capio Partners, LLC, CG Docket No. 17-59, at 3 (filed July 24, 2019); Comments of Professional Association of Customer Engagement, CG Docket No. 17-59, at 2-3 (filed July 24, 2019).

^{19/} Comments of the Alarm Industry Communications Committee, CG Docket No. 17-59, at 3 (filed July 24, 2019) (“AICC Comments”).

requirements – may inhibit voice service providers from utilizing call-blocking tools on an opt-out basis to promote wider adoption by consumers.

Verizon proposes that the Commission establish registration and reporting obligations and require providers originating unsigned traffic to certify that they follow reasonable robocall mitigation procedures.^{20/} If the Commission adopts T-Mobile’s approach and establishes a safe harbor that permits providers to block robocalls on an opt-out basis using reasonable analytics, the data that Verizon would develop – a list of carriers that providers find non-objectionable based on past behavior and/or traceback history – can be part of the formulas used by voice providers. The certification that Verizon proposes would then be a factor in a carrier’s call blocking analysis based on reasonable analytics.

IV. THE COMMISSION MUST DEVELOP A LIST OF CRITICAL CALLERS

There is broad agreement that critical calls should not be blocked.^{21/} Many commenters also agree that a Critical Calls List should be centrally maintained.^{22/} However, the record demonstrates little agreement on which callers should be considered critical. While some commenters believe that a Critical Calls List should include a more limited set of numbers such

^{20/} Verizon Comments at 6.

^{21/} See, e.g., *id.* at 12-13; CTIA Comments at 18-22; Comments of Voice on the Net Coalition, CG Docket No. 17-59, at 3 (filed July 24, 2019); Comments of Boulder Regional Emergency Telephone Service Authority, CG Docket No. 17-59, at 4-8 (filed July 24, 2019); Comments of Electronic Transactions Association, CG Docket No. 17-59, at 2-3 (filed July 24, 2019); Comments of Larimer Emergency Telephone Authority, CG Docket No. 17-59, at 2-3 (filed July 23, 2019) (“LETA Comments”).

^{22/} See, e.g., Comcast Comments at 11-13; CTIA Comments at 22-24; NCTA Comments at 11-12; Comments of Sprint, CG Docket No. 17-59, at 5 (filed July 24, 2019); LETA Comments at 2-5; Comments of PRA Group, Inc., CG Docket No. 17-59, at 3 (filed July 24, 2019); ACT Comments at 6; First Orion Comments at 11; TNS Comments at 11; and Comments of RingCentral, Inc., CG Docket No. 17-59, at 8 (filed July 24, 2019) (pointing out that if required on a per-provider basis, creation of a Critical Calls List would be financially crippling for smaller voice service providers.).

as Public Safety Answering Points and other government entities,^{23/} others argue that the list should be broad – including numbers from numerous other constituencies of “wanted” callers.^{24/} This disagreement underscores why T-Mobile urged the Commission, with input from all industry stakeholders, to determine which calls constitute critical calls.^{25/} The Commission should resolve this issue and establish and maintain a database upon which providers can rely.

Of course, the callers on the Commission-directed list need not be the only critical calls that providers may decline to block. Consumers should always have the option of designating callers important to them – whether or not they are designated critical by the Commission. T-Mobile consumers already enjoy this power through the Name ID application, which can accommodate a customer’s decision to always receive calls from a particular list of callers that present a profile that may otherwise trigger blocking, including schools, alarm companies, and other institutions.^{26/} This approach, which allows consumers to white-list specific callers, strikes the proper balance.

^{23/} See, e.g., Comcast Comments at 11-13; NCTA Comments at 11-12; Comments of INCOMPAS, CG Docket No. 17-59, at 11 (filed July 24, 2019); T-Mobile Comments at 9-10; Comments of Consumer Reports *et al.*, CG Docket No. 17-59, at 8-9 (filed July 24, 2019).

^{24/} See, e.g., Numeracle Comments at 2; AICC Comments at 4 (arguing the Critical Calls List should include calls from alarm companies); Comments of the American Association of Healthcare Administrative Management, CG Docket No. 17-59, at 8 (filed July 24, 2019) (arguing the Critical Calls List should include health-related calls and texts); Comments of the American Bankers Association, *et al.*, CG Docket No. 17-59, at 6-9 (filed July 24, 2019) (arguing the Critical Calls List should include fraud and identify theft, data security breach notifications, and messages related to other financial products); CUNA Comments (arguing the Critical Calls List should include calls related to fraudulent activity and time-sensitive financial information); Comments of Securus Technologies, Inc., CG Docket No. 17-59, at 6 (filed July 24, 2019) (arguing the Critical Calls List should include calls from correctional facilities).

^{25/} T-Mobile Comments at 9-10.

^{26/} *Id.* at 10.

V. CONCLUSION

The Commission has long permitted the blocking of some categories of calls on an opt-in basis and in the *Declaratory Ruling* confirmed that calls may also be blocked on an opt-out basis. The Commission should make opt-out call blocking even more effective by establishing a robust safe harbor based on reasonable analytics, which includes STIR/SHAKEN attestation as a factor. Finally, the Commission should establish and maintain a centralized Critical Calls List, with input from industry stakeholders.

Respectfully submitted,

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