

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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

**INMATE CALLING SOLUTIONS, LLC’S COMMENTS IN REPLY**

Inmate Calling Solutions, LLC (“ICSolutions”) submits these comments in reply to others’ responses to the Declaratory Ruling and Third Further Notice of Proposed Rulemaking (“Declaratory Ruling and Third FNPRM”) proposing “to allow voice service providers to block calls based on caller ID authentication in certain instances,” the development of a critical calls list, as well as seeking comment on whether to require implementation of the SHAKEN/STIR protocols, among other proposals, as released in the above-captioned dockets on June 7, 2019 by the Federal Communications Commission (“FCC” or “Commission”), and published in the Federal Register on June 24, 2019 (84 Fed. Reg. 29387).

ICSolutions supports the FCC’s effort to eliminate illegal and unwanted robocalls. ICSolutions submits this Comment to implore the Commission to tailor the rules in a manner that will target only those illegal and unwanted robocalls, while still enabling and requiring carriers to allow legal calls using an automated voice response system. In addition, ICSolutions respectfully requests the FCC include in the rules a reasonable period of time to allow for the industry to develop processes, procedures, and technologies to discern between illegal robocalls

and legal automated voice calls, to the extent such processes, procedures, and systems do not currently exist.

ICSolutions currently provides our ENFORCER® calling system and outstanding customer service to hundreds of individual facilities, making up more than 275 agencies across the United States and providing calling services to a total of about **300,000 inmates**. Agencies using The ENFORCER® range in size from small city, county, and regional facilities, to large state DOCs housing as many as 44,000+ inmates. Our clients of every size rely on our proprietary ENFORCER® calling system to process calls. For health and safety reasons, all calls are placed by the inmate to the called party. No incoming calls are permitted. When the called party answers they are presented the following automated voice prompts:

- *“Hello, you have a call from (inmate’s name) an inmate at (facility name).”*
- *“To accept this call press or say 5”*
- *“To refuse this call hang up now”*
- *“To block this call and future calls from this facility, press or say 9”*
- *“To hear the charges for this call press or say 2”*
- *“This call will be recorded and is subject to monitoring at any time.”*
- *“Thank you for using I C Solutions. You may begin speaking now.”*

The inmate and called party are then connected and the call timer begins. It is important to note that, in addition to being able to refuse that single call, called parties have the option to block the current call, as well as all future calls from the facility without ever having to speak with the inmate. If the called party opts to block the call, no future calls will go through to that phone number from any inmate at the facility unless and until the called party calls ICSolutions’ customer service line to remove the block

While the called-party blocking feature may vary among inmate telephone providers, the use of automated voice prompts and phones that permit outgoing-only calls is in use at every jail and prison – regardless of the specific inmate telephone system providing the service. The

outgoing-only call restrictions and automated voice prompts are security controls utilized at every correctional agency that has inmate phones to help prevent the inmate telephone system from being used for criminal activity, such as inmate harassment, coded message exchanges, and more. Thus, while other entities affected by any FCC rule in this matter are driven primarily by the economic efficiencies of using legal robocalls to communicate with their customers, ICSolutions' use of automated voice prompts is necessary for the health and safety of the public, corrections officers, and the inmates themselves. It is the unavoidable use of automated voice prompts that puts these inmate calls at risk of being automatically blocked should any resulting FCC rule, including any safe harbors, fail to be narrowly tailored to target only illegal calls.

There are several problems with automatically blocking inmate calls and relying on an opt-out procedure. There could be issues with interfering with an inmate's constitutional rights if access to counsel is prevented in a timely manner to prevent unlawful detainment under the Fourth Amendment of the U.S. Constitution. Also, there may be issues with the statutory authority to automatically blocking inmate calls unless called parties opt out of the block. As the Court of Appeals of the D.C. Circuit recently pointed out, "[i]n § 276 [of The Communications Act], Congress clearly aimed to 'promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public.' Covered payphone services include 'inmate telephone service in correctional institutions, and any ancillary services.'" *Global Tel\*Link v. Federal Communications Comm'n*, 866 F.3d 397, 403-04 (2017) (citing 47 U.S.C. § 276(b)(1); (d))(internal citations omitted). The FCC would be hard pressed to deny the paramount importance of inmate telephone services, particularly given that the FCC has had a docket regarding the rates of such inmate calls open for more than a decade, since November 3, 2003, WC Docket No. 12-375. In supporting the need for rate

reform, the FCC referred to inmate calls as “benefits, which unquestionably are in the public interest and will not be accrued in the absence of ICS rate reform...” *Rates for Interstate Inmate Calling Services ("Interim Order")*, 28 FCC Rcd. 14107, ¶ 44 (2013),

Indeed, while the FCC has worked for years to increase the affordability of inmate calls and to increase their accessibility,<sup>1</sup> the calls could be free and they would still be unavailable to inmates if the calls are allowed to be automatically blocked unless called parties opt-out. First, an opt-out process would be ineffective for inmate phone calls. For example, in the case of jails where the incarcerated are initially detained prior to trial, the inmate’s loved ones will unlikely be notified that they have a loved one in jail unless and until they receive a call from the inmate and, therefore, be unaware that they even need to opt-out from blocking that number. If these numbers are automatically blocked and treated as an opt-out number, inmates may never be able to complete phone calls with their loved ones. Second, an opt-out feature would impose great burdens on loved ones during a time that is already likely stressful. Indeed, the FCC noted that one purpose of reducing interstate inmate phone rates, was to “help to eliminate an unreasonable burden on some of the most economically disadvantaged people in our nation.” *Rates for Interstate Inmate Calling Services ("Interim Order")*, 28 FCC Rcd. 14107, ¶ 2 (2013). Subjecting inmate calls to opt-out procedures from automatic blocking will increase the burden to all those people affected by incarceration, and not just the economically disadvantaged.

Therefore, as a threshold issue, when the FCC is determining the rules for changing blocks of robocalls to opt-out, the timing of implementation when considering the ability of the industry technology to discern between illegal robocalls and calls using automated voice prompts

---

<sup>1</sup> The FCC said in ¶ 2 of its 2013 Order in WC Docket No. 12-375: “This Order will promote the general welfare of our nation by making it easier for inmates to stay connected to their families and friends while taking full account of the security needs of correctional facilities.” *Rates for Interstate Inmate Calling Services ("Interim Order")*, 28 FCC Rcd. 14107, ¶ 2 (2013).

that serve the public interest, and when designing any related safe harbors, it needs to consider whether it has the statutory authority to issue rules that, by design, automatically block inmate calls in light of its Congressional directive to promote the widespread deployment of payphone services, like inmate telephone services. For it is beyond reasonable dispute that inmate telephone payphones will naturally be discouraged from use if phone calls cannot be completed and the service providers are unable to collect compensation. Moreover, the FCC should consider whether an overbroad rule that allows the automatic blocking of inmate calls through an opt-out process would encroach on both the Federal and the States' interests in promoting communication between inmates and their loved ones. Thus, to avoid exceeding its statutory authority and unnecessarily infringing States' rights, the FCC should issue a rule that carves out exceptions to allow inmate calls with automated voice prompts.

With the FCC's statutory obligation to support the widespread deployment of payphones and fair compensation of providers in mind, ICSolutions respectfully requests that any rules permitting telephone providers to automatically block robocalls exclude inmate phone calls in the definition of a robocall. The rule should also address how inmate calls are treated differently in that the carriers shall not be allowed to automatically block inmate phone calls using the opt-out process, but that these numbers remain using the opt-in blocking process, whereby , the telephone owner (i.e., the called party) can block the specific number either through their telephone provider or via the automated voice prompts available from the inmate telephone service provider. The inmate phone calls can be identified by allowing inmate telephone service providers to submit the originating phone numbers of all inmate calls to the FCC as excluded from those permitted to be automatically blocked by telephone companies using an opt-out feature. This list is similar to the "white list" or "Critical Calls' List" suggested by Securus in

its Comment dated July 24, 2019 (pp. 5-6). Such a blanket list is necessary to ensure calls can be completed when an inmate is making his or her first call to the number. While ICSolutions understands the risk that the inmate telephone numbers may be spoofed, and therefore converted into an illegal robocall, the harm to the public interest caused by these numbers being spoofed is far outweighed by preventing these calls altogether.<sup>2</sup> The FCC could further encourage the industry as a whole to develop technologies or processes to prevent or detect spoofing by including in its rules that carriers have a process for telephone owners to report illegal robocalls, such as by automatically generating a text to their customer asking if it was an improper robocall when a call is made from a number on the inmate telephone call list. In addition, the rules should require that carriers who receive notification that an inmate telephone number has been spoofed, the carrier should be required to notify the inmate telephone service provider so it can be aware that its number has been spoofed and take corrective action like changing the originating phone number. The carrier may be notified that spoofing has occurred if one of their customers reports to them that the inmate telephone number was in fact a robocall.

Unless the rules specifically exclude inmate phone call origination numbers from automatic blocking on an opt-out basis, as well as from any safe harbor protections, inmate calls will be significantly reduced and could even lead to inmate call providers leaving the industry for the inability to be compensated for the calls that can be completed. T-Mobile has commented:

Carriers, including T-Mobile, are already highly incentivized to make sure that all wanted and legitimate calls are not subject to blocking, including *bona fide*

---

<sup>2</sup> For the benefits recognized by the FCC of inmate calls, please refer to the FCC Orders issued in 2013, 2015, and 2016 in WC Docket No. *See, e.g., Rates for Interstate Inmate Calling Services ("Interim Order")*, 28 FCC Rcd. 14107, ¶ 2 (2013) (“Studies have shown that family contact during incarceration is associated with lower recidivism rates. Lower recidivism means fewer crimes, decreases the need for additional correctional facilities, and reduces the overall costs to society. More directly, this helps families and the estimated 2.7 million children of incarcerated parents in our nation, an especially vulnerable part of our society.... We also recognize that inmate calling services (ICS) systems include important security features . . . Our Order ensures that security features that are part of modern ICS continue to be provided and improved.”).

emergency calls. But the question of what constitutes ‘critical calls’ and how they are identified is one that should be decided by the Commission with input from all industry stakeholders.... In the meanwhile, T-Mobile continues to develop its network-based tools to ensure that wanted and legitimate calls are not inadvertently blocked.

Comments of T-Mobile USA, Inc., CG Docket No. 17-59, GN Docket No. 17-59, WC Docket No. 17-97, pg. 11 (July 24, 2019). Any incentive to complete calls that T-Mobile references must not apply to inmate calls because T-Mobile has been blocking inmate calls for more than a year. ICSolutions became aware of it only from the customer service calls inquiring why telephone owners were not able to receive calls. Now our customer service team has to walk through T-Mobile phone owners about how to unblock the numbers. This process presents significant delays in communication between the inmate and the called party because it can only be done for the phone owners after they become aware that they are not receiving calls and, then, notify us. While inmates can currently call someone else who does not have a T-Mobile phone, the call completion process would be all but deadlocked if every phone carrier automatically blocked inmate phone calls. It will certainly result in increased costs for calls to ensure inmate phone providers can earn the revenue to cover the costs of their equipment, if possible under such a new regime. Thus, ICSolutions wholeheartedly agrees that the FCC needs to make clear what is considered a legal call that will be excluded from an opt-out process for automatic blocking and any related safe harbors.

In summary, ICSolutions fully supports the FCC’s goal to eliminate unlawful robocalls, so long as such rules clarify that inmate telephone calls are not unlawful robocalls protected by any safe harbors and provide a mechanism to ensure that inmate telephone calls can be completed without automatic blocking. Only by narrowly tailoring the rule for automatic blocking to excluding inmate telephone numbers will the public interest be served and calls between inmates and their loved ones be protected.

By: /s/Charlena S. Aumiller  
Charlena S. Aumiller, BPR No. 31465  
Attorney for ICSolutions  
TN State Bar No. 31465  
2200 Danbury Street  
San Antonio, TX 78217  
210-572-9552  
caumiller@icsolutions.com

*Attorney for Inmate Calling Solutions, LLC*

Dated: August 21, 2019