

August 23, 2019

Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: CG Docket 17-59, *Declaratory Ruling on Advanced Methods to Target and Eliminate Unlawful Robocalls*

Dear Chairman Pai,

Below are Wolters Kluwer's reply to comments on the Federal Communication Commission's (FCC) recently issued *Declaratory Ruling on Advanced Methods to Target and Eliminate Unlawful Robocalls* (CG Docket 17-59, hereinafter referred to as the *Declaratory Ruling*). While we generally support the *Declaratory Ruling*, we are concerned that implementation of new Call Authentication technology by voice service providers (VSP) will mistakenly block lawful interactive voice response (IVR) calls made to patients to help manage their health.

As way of background, Wolters Kluwer is a leading global provider of information, business intelligence and point-of-care solutions for the healthcare industry. Key solutions include UpToDate®, Medi-Span®, Lexicomp®, Facts & Comparisons®, Pharmacy OneSource®, Health Language®, Emmi® and POC Advisor®. Wolters Kluwer had annual revenue in 2018 of €4.2 billion.

Through our Emmi® brand of population health software solutions, Wolters Kluwer utilizes IVR technology to assist hospitals and health systems connect with their patients on preventative care or to help manage their care after discharge. EmmiPrevent® uses IVR calls to teach patients about health topics relevant to their condition, allows patients to update their medical records or schedule an appointment. Recently discharged patients participating in EmmiTransition® are asked self-reporting questions regarding their condition, given helpful tips on self-care and motivated to adopt healthy behaviors. Early results of EmmiTransition® show significant improvement in patient engagement, with one study of patients suffering from Congestive Heart Failure demonstrating a 35% increase in self-reporting daily weight after discharge. Other studies show Medicare patients who engaged with EmmiTransition® were associated with lower readmission rates than those who did not engage with the solution.

Both EmmiPrevent® and EmmiTransition® are currently utilized by more than 400 hospitals and health systems around the country. Providers that utilize EmmiPrevent® and EmmiTransition® must obtain the necessary authority or consent from patients required under applicable law before utilizing any of the outreach tools used by the programs, including IVR calls.

Wolters Kluwer generally supports the *Declaratory Ruling* and agrees with the FCC's observation that "reducing the number of unwanted calls that consumer receive will make it more likely that they will answer their phones, thus making it easier for legitimate callers to reach people." We believe careful

and deliberate implementation of SHAKEN/STIR Call Authentication technology that includes appropriate exemptions and safeguards for legitimate, patient-approved calls, will ultimately improve the overall effectiveness of our Emmi® offerings.

Our primary concern is that VSPs will move too quickly to implement SHAKEN/STIR, resulting in blocked calls that patients have consented to receive to help manage their health. We are troubled that the *Declaratory Ruling* did not include specific instructions and requirements for VSPs to identify and exempt legitimate callers prior to implementing SHAKEN/STIR. We fear this will put the burden on patients, many of whom are elderly, to notify VSPs of the legitimate calls they want to receive. Several organizations that previously commented on the *Declaratory Ruling* expressed similar concerns.

For example, AARP believes initial call blocking solutions will result in many legitimate callers being blocked, leading to service disruptions and customer confusion. We also agree with the American Dental Association that precipitous implementation of call blocking technology by VSPs would put the burden on consumers to unblock IVR calls they have already expressly or implicitly consented to receive.

In their comments, the American Association of Healthcare Administrative Management (AAHAM) made a compelling point about not providing VSPs with any call blocking safe harbor protection until after implementation of SHAKEN/STIR technology has been completed, and that specific policies and procedures for fixing erroneously blocked calls must be clearly established before any protection is granted. We also believe AARP's idea to establish a safe harbor "glide path" to initially discourage overly aggressive blocking has great merit and should be considered.

We strongly support AAHAM's proposal that healthcare-related calls and texts should automatically qualify for any "critical calls list" or carrier-provisioned "whitelists" that are developed. AAHAM noted that past FCC actions have provided special status to healthcare-related calls and texts, including the 2015 ruling that exempts calls from HIPAA-covered entities from Telephone Consumer Protection Act (TCPA) consent requirements, and the 2015 Omnibus TCPA order that provision of a phone number to a provider constitutes prior express consent to receive healthcare calls subject to HIPAA.

Finally, AAHAM observed that FCC rules must ensure that legitimate organizations may continue to place lawful calls without the threat of overbroad call blocking. We also agree with AARP's suggestion that the FCC establish mechanisms that provide prompt recourse for legal callers who have established prior consent with call recipients.

Thanks again for the opportunity to share our views. If you have questions, please contact Bob Hussey at bob@bobhussey.com or (612) 281-8741.

Sincerely,

A handwritten signature in black ink, appearing to read 'JV' followed by a horizontal line.

John Vivoda
Senior Director, Patient Strategy and Product Management
Clinical Effectiveness
Wolters Kluwer