

August 23, 2019

Via ECFS

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

Re: Third Further Notice of Proposed Rulemaking, Advanced Methods to Target and Eliminate Unlawful Robocalls, CG Docket No. 17-59, WC Docket No. 17-97, 84 Fed. Reg. 29,478 (June 24, 2019)

Dear Ms. Dortch:

The American Financial Services Association (AFSA)¹ appreciates the opportunity to comment on the Federal Communications Commission's (Commission) Third Further Notice of Proposed Rulemaking (Notice).² On July 24, AFSA joined other trade associations in a letter in response to the Notice. The letter expressed support of the Commission's goal to eliminate illegal automated calls, but emphasized that important, and often time-sensitive, calls that legitimate businesses place to their customers should not be blocked by voice service providers. We hope the Commission gives that letter, which was signed by organizations representing a variety of industries, every consideration.

In the Notice, the Commission states that it is considering requiring any voice service provider that offers call-blocking to maintain a "Critical Calls List" of numbers it may not block. Such a list would include at least the outbound numbers of 911 call centers (*i.e.*, PSAPs) and government emergency outbound numbers. The Commission is seeking comment on what numbers should be required on a Critical Calls List.³

As part of its rulemaking process, the Commission provides stakeholders with an opportunity to submit reply comments. Our reply comment consists of one request—we urge the Commission to either: (1) designate account servicing calls from financial institutions as critical calls; or (2) designate certain types of businesses as critical callers whose communications with their customers may not be blocked. We applaud the Commission for recognizing that certain calls must never be blocked, but believe that list of calls or callers should be expanded.

¹ Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

² Third Further Notice of Proposed Rulemaking, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, 84 Fed. Reg. 29478-29482 (June 24, 2019).

³ *Id.* at 29480.

I. The Commission should designate account servicing calls from financial institutions as critical calls.

AFSA asks that the Commission expand the categories of calls that should be included on a Critical Calls List. In addition to emergency service numbers, the list should include account servicing calls made by financial institutions. Consumers are harmed when they do not receive important calls from their financial institutions and voice service providers should facilitate these lawful calls.

The creation of a list of numbers from which outbound calls may not be blocked would protect important, time-critical, non-telemarketing communications between businesses and their customers. A non-exclusive list of types of time-sensitive, account servicing calls includes: fraud alerts, data security breach notifications, payment reminders, return calls requested by the customer, loan modification or extension offers, information about insurance or title matters, responses to complaints, failed payment notifications, and lost payment alerts. Being able to reach their customers is crucial to both financial institutions and customers. These calls should not be restricted.

II. The Commission should designate certain types of businesses as critical callers whose communications with their customers may not be blocked.

Alternatively, AFSA requests that the Commission consider allowing certain types of callers to be able to communicate with their customers in a fashion that is mutually agreed upon by the two parties. If only certain types of call are included on a Critical Calls List (*e.g.*, calls regarding identity theft, security breaches, etc.), it would be difficult for organizations, voice service providers, and regulators to establish and police a framework that categories such calls by type. Moreover, it will likely spur unnecessary and costly litigation for those organizations.

It would be much easier for all parties involved if the Commission identified types of organizations whose calls cannot be blocked. This Critical Caller List would include organizations such as financial institutions, pharmacies, hospitals, schools, etc. These types of organizations should be able to communicate key information to their customers without having to jump over telecommunications-related hurdles.

Organizations on the Critical Caller List could offer their customers various communication options, some of which may be required by the caller to enter into a relationship. For example, a financial institution may require a valid phone number as part of its lending criteria. A school may ask for a phone number to provide immediate notice regarding matters such as school closings or a child not attending school. Other organizations may need phone numbers in order to contact customers in the case of product recalls that could affect the health of the customer. It would be incumbent on the organization and the customer to agree on the type and channel of the communication. There would be no need for voice service providers to be a part of the equation. Considering the volume of calls that voice service providers furnish, they may err on the side of caution in making these determinations, and a large number of calls could be unnecessarily blocked to the detriment of both customers and organizations alike. Voice service providers should be able to focus on ensuring that calls can be completed, not attempting to police them.

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If calls from financial institutions are blocked, those financial institutions may not be able to offer solutions to their customers who are experiencing difficulty making payments. In order to offer these solutions, financial institutions must be able to reach their customers and reach them within a short timeframe, particularly if the customer has initially contacted the institution and a call back is expected by the customer. These solutions are beneficial to customers—they save them money, allow them to keep their vehicles, avoid foreclosure, and prevent further reporting of potentially negative events to their credit reports.

We look forward to our continued work with Commission in this area. If you have any questions, please do not hesitate to contact me by phone at 202-776-7300 or e-mail at cwinslow@afsamail.org.

Sincerely,

A handwritten signature in cursive script that reads "Celia Winslow".

Celia Winslow

Vice President, Legal & Regulatory Affairs
American Financial Services Association