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Submitted via <http://apps.fcc.gov/ecfs/>

Federal Communications Commission
445 12th St., SW, Room TW-A325
Washington, DC 20554
ATTN: Jerusha Burnett
Consumer Policy Division,
Consumer and Governmental Affairs Bureau

**Re: Call Blocking Fourth Further Notice of Proposed Rulemaking (CG
Docket No. 17-59, FCC 20-96)**

To Whom It May Concern:

On behalf of Encore Capital Group, Inc. and its subsidiaries, including Midland Credit Management, Inc. (“MCM”) (collectively, “Encore” or the “company”), we appreciate the opportunity to submit comments to the Federal Communications Commission (the “FCC” or “Commission”) on the above-referenced Fourth Further Notice of Proposed Rulemaking (“FFNPRM”).

Encore supports the Commission’s significant efforts, including its Third Report and Order adopted concurrently with the FFNPRM, to protect consumers from illegal robocalls. At the same time, as the Commission has recognized, our industry and many other industries still have substantial concerns of legitimate, time-sensitive calls to consumers being improperly blocked by voice service providers (“VSPs”). This is happening already *en masse*, and will likely increase in frequency as the VSPs march forward under the protection of a safe harbor for erroneously blocking legitimate calls.

The VSPs’ safe harbor is contingent upon their using reasonable analytics, but the use of reasonable analytics is not enough to protect against widespread blocking of legitimate calls. The safe harbor must also be dependent upon the VSPs implementing and adhering to strong safeguards to prevent the blocking of legitimate callers, and providing appropriate redress when erroneous blocking does occur.

As the Commission seeks input on how it can build on its prior work and further implement the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (“TRACED Act”), our comments focus on how VSPs can implement and adopt safeguards to significantly mitigate the scourge of erroneous call blocking. This mitigation would serve to create transparency in what is currently a black box



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environment, in which legitimate callers are routinely blocked without even being told that blocking has occurred, why blocking was done, or how to explain to the VSPs that the calls are indeed legitimate. While consumers are benefitting from fewer illegal robocalls, consumers are concurrently being deprived of calls regarding important account information, fraud alerts, and other time-sensitive information. To fix this unintended consequence of overzealous call blocking, it is critical that VSPs provide transparency to callers, including:

- **Advance notice** when a number is flagged as suspicious and may be blocked;
- When a number is blocked, **immediate notification** that blocking has occurred;
- An explanation of **why** blocking has occurred; and
- **Prompt redress** when a caller asserts its calls have been erroneously blocked.

As described further below, these items should be part of required standards that VSPs must adopt and implement to enjoy safe harbor protection for erroneously blocking legitimate calls.

Robust Telephone Communications Are Critical to Provide Time-Sensitive Account Information to Consumers

Encore is the largest debt purchaser in the country, and we have an account with one out of five American consumers. Many of the accounts we take ownership of are charged-off credit card accounts that consumers were unable to repay due to a short-term crisis, but which our consumers genuinely do want to repay in order to improve their credit, avoid litigation, and fulfill the contractual agreement they entered into.

For many of our consumers, communication by telephone is essential. By having the ability to reach our consumers by phone, we are able to provide them with workable solutions that allow them to progress onto the road of financial recovery. When we call our consumers, we inform them that we purchased their account, listen to their individual financial situation, are often able to negotiate a flexible repayment plan, and give updates on payments received and the status of their account.

These calls can be highly valuable to our consumers, and are often time-sensitive. Frequently, our consumers are not aware they even have outstanding debt until they



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speak with us. Until we have that vital telephone communication, consumers often don't realize that they can negotiate flexible and discounted repayment plans to resolve their debt and help clear up their credit reports.

It is also worth noting that many of our calls are at our consumers' request. For example, consumers will often ask for a call back from the Account Manager they are working with, or will ask us to call them in response to a dispute or questions they have about their account.

To Prevent Erroneous Call Blocking of Legitimate Calls, VSPs Should Be Required to Provide Callers with Advance Notice of Blocking

While call blocking and the associated safe harbor will be based on reasonable analytics, those analytics are unfortunately vulnerable to errors that may identify legitimate calls as unlawful. To help address this problem, to obtain the safe harbor, VSPs should be required to provide advance notification to callers whose numbers have been identified as suspicious before blocking or labeling.

A window of opportunity *before* calls are blocked, for callers to demonstrate to VSPs that a caller ID is legitimate, is an efficient way to avoid the multi-step process of undoing erroneous blocking. By VSPs notifying potentially suspicious callers in advance, before calls are blocked, the caller would have the opportunity to promptly submit proof of being a legitimate caller. Callers that do not respond with appropriate information could go on to be blocked. Such advance pre-blocking notice would be an important preventative tool to mitigate the widespread problem of blocking and mislabeling legitimate calls.

When Call Blocking Does Occur, the VSPs Should Provide Immediate Notification of the Blocking to Callers, as Well as the Reason for Blocking

The VSPs' decision to block calls, and the reasons for such blocking, is to legitimate callers a veritable black box. Legitimate callers do not know if calls that are not getting through to consumers are being blocked by the VSPs or, if so, what the basis is for such blocking. The lack of transparency is a huge problem for legitimate callers and consumers who count on calls getting through with important account information, fraud alerts, and other time-sensitive phone communications.

When a legitimate caller is blocked, the VSPs should be required to notify the caller immediately that the caller ID is being blocked, and explain why it is being blocked. In today's murky environment of call blocking, callers are unable to determine



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why calls are being blocked. There may be various reasons why VSPs flag and ultimately block or label a call, such as if the caller is making a high volume of dials, or the caller is dialing disconnected numbers. While these reasons may sometimes give the VSPs a reasonable basis for blocking calls, this is an imperfect process at best and often leads to erroneous call blocking. For legitimate callers to effectively understand why their calls are being blocked, and notify the VSPs of erroneous blocking, callers must understand why their calls are being flagged and blocked in the first place.

There Should Be a Uniform Language For VSPs to Notify Callers Why Calls are Being Blocked

The lack of transparency in the call blocking process is compounded by the fact that there is no uniform language on whether, or why, calls are being blocked. Today, when a call doesn't go through, legitimate callers like us receive varied terminology from various VSPs – such as “caller ID has been restricted on this network,” “dial cannot go through,” or “disconnected.” However, it is unclear if the cause of our calls not going through are due to VSP blocking and, if so, the specific reason for such blocking. A uniform language across VSPs notifying callers when calls are blocked, and why calls are blocked, is critical to effectively address the widespread problem of VSPs blocking legitimate callers.

Blocked Callers Should Be Able to Promptly Dispute Inappropriate Blocking, and Provide Appropriate Information to the VSPs Demonstrating the Calls are Legitimate

To protect legitimate callers and their consumers, there should be a mechanism – through a dedicated email, web portal or hotline number – to immediately notify VSPs of inadvertent blocking. It is important that there be enforcement mechanisms around this process.

Once notified of blocking, and the reason that calls are being blocked, legitimate callers should be able to promptly provide information to the VSPs to show the calls are legitimate. For example, a company may have documented consent to call consumer, may be calling to notify the consumer that an account has fraudulent activity, or may be calling with other important account information regarding the balance, payment information, or other key account details. These are calls that many consumers would want to receive, but may be erroneously blocked by VSPs. For the benefit of the callers, consumers and the VSPs themselves, it is important that callers be able to demonstrate to the VSPs why the calls are legitimate and should not be blocked.



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It is Imperative That, When a Legitimate Call is Mistakenly Blocked, It is Unblocked Expeditiously Upon Notice by a Legitimate Caller

In our industry, many debt collection calls are time-sensitive as a result of strict validation and dispute periods, statutes of limitation, credit reporting time frames, and the fact that many collection agencies cause interest and fees to accrue on a consumer's account with each passing day.¹ Some calls are made by attorneys to offer resolution to an account balance before an upcoming court date. Indeed, even with just 24 hours of our calls being improperly blocked, the result would be harmful to thousands of consumers with whom we were unable to make contact. It is therefore critical that there be an expedited process for service providers to unblock legitimate calls, upon notice by a legitimate caller. Should a service provider mistakenly block a legitimate number, it is vital that unblocking take place within 24 hours of the error. If a service provider does not timely unblock a legitimate number as directed, a penalty should be assessed to the service provider.

Currently, when we submit a dispute ticket to a VSP, we do typically receive a response that the VSP is investigating the issue within a 24-hour time frame (and the VSP often responds to us in significantly less than 24 hours). However, the real challenge is for the VSPs to investigate and resolve the dispute within 24 hours. Based on the current response times we receive, we believe this is certainly feasible. It is critical that the VSPs develop a uniform and streamlined process to provide legitimate callers with prompt relief and ensure that consumers are receiving important, time-sensitive calls that may be blocked.

The VSPs' Ability to Enjoy Safe Harbor Protection Must be Contingent on Their Adopting and Implementing the Standards Outlined Above to Prevent and Address Erroneous Call Blocking

Without the safe harbor as an incentive to adopt and implement these standards to protect legitimate callers, it is unlikely that the VSPs will appropriately address caller blocking in a consistent manner. Unfortunately, our experience today is that the call

¹ Our company does not charge consumers any new pre-judgment interest or fees on debt we purchase. However, this policy, and other consumer protections set forth in our Consumer Bill of Rights (<https://www.midlandcreditonline.com/wp-content/uploads/2015/08/Consumer-Bill-of-Rights.pdf>), go well beyond federal and state law requirements and are industry-leading standards.



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blocking disputes we submit to the VSPs often go unanswered or denied without any explanation or opportunity to appeal a VSP's refusal to unblock a legitimate number. It is therefore critical that the VSPs' ability to enjoy the safe harbor be contingent on their adopting and implementing advance notice when a number is flagged as suspicious and may be blocked; when a number is blocked, immediately notifying the blocked caller that the number was blocked and why the blocking occurred; and providing prompt redress when a caller asserts its calls have been erroneously blocked.

* * *

Thank you for your efforts to ensure fairness and transparency in protecting consumers from illegal robocalls, while working to prevent a wholesale blocking of legitimate calls that can likewise be harmful to consumers. Should you have any questions about our comments, please don't hesitate to contact us at tamar.yudenfrend@mcmcg.com.

Respectfully submitted,

/s/ Sheryl A. Wright
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