

**Before the
Federal Communications Commission
Washington, D.C. 20544**

In the Matter:)	
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Advanced Methods to Target and)	CG Docket No. 17-59
Eliminate Unlawful Robocalls)	
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**Comment of Professional Association for Customer Engagement
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I. Introduction

The Professional Association for Customer Engagement (“PACE”) submits these comments in response to the Third Report and Order, Order on Reconsideration, and Fourth Further Notice of Proposed Rulemaking in the Matter of Advanced Methods to Target and Eliminate Unlawful Robocalls, et al. (the “R&O”).¹ The FCC specifically requests comment on how it can build on its prior work and further implement the TRACED Act. PACE has submitted comments on this topic previously.² Those comments focus on the following four guidelines for facilitating reasonable analytics for blocking calls without consumer opt-out. Specifically, PACE advocated:

- 1) notification to the calling party that the call(s) were blocked,
- 2) effective carrier redress mechanisms to handle reports from callers alleging erroneously blocked calls,
- 3) fully authenticated calls should not be blocked, and
- 4) authorized numbers should receive a “Full” or “A” level attestation. PACE reiterates the importance of the first three of these guiding principles herein.

II. The TRACED Act Mandates That The Commission Develop Regulations Ensuring Transparency Is Provided To Callers

PACE is particularly concerned about redressability for callers who have been wrongfully blocked or blocked because of reasonable analytics that are flawed. In order to satisfactorily

¹ In the Matter of Advanced Methods to Target and Eliminate Unlawful Calls, et al., Third Report and Order, Order on Reconsideration, and Fourth Further Notice of Proposed Rulemaking, CG Docket No. 17-59, FCC 20-96 (July 17, 2020).

² PACE incorporates by reference its comments filed in CG Docket No. 17-59 on January 29, 2020 ; CG Docket No. 17-59 on July 24, 2019 ; and CG Docket No. 17-59 on July 20, 2018.

protect lawful callers with adequate means of redress for wrongful and flawed analytics-based blocking, PACE believes:

1) callers should receive a clear and specific real-time indicator that a call is being or has been blocked,

2) voice service providers (“VSPs”) should maintain and provide identifying information about all calls which were blocked because of reasonable analytics for a given caller if the caller credibly asserts that its calls were blocked wrongfully,³ and,

3) VSPs should be required to maintain a central point of contact with whom callers interact to identify and rectify wrongful blocking.

The TRACED Act mandates that the Commission develop regulations ensuring transparency is provided to callers.⁴ TRACED Act, Pub. Law 116-105, §10(b). Explicit carrier notification must be required to inform the caller when a call is blocked and to satisfy the TRACED Act mandate. Transparency should include providing both an audio intercept and a SIP error code to the caller. Regardless of whether the caller is a human or computer dialer, both need to be informed when a call is blocked because otherwise, the caller is unaware of a problem. The notification should provide the caller with information about how to contact the terminating service provider in some manner to obtain redress for erroneously blocked calls. Further, the ability to point to comprehensive data for a caller’s blocked calls will be crucial to determining if reasonable

³ As indicated in a previous comment, PACE noted its members experience reduced contact rates likely due to blocked and erroneously labeled calls every day, with some members experiencing reductions of call answer rates of 20% - 30%. Many members are also noticing a sudden and dramatic increase in calls returning a busy signal – a condition nearly eliminated when calling mobile phones due to the provision of voicemail. Members need a means to identify, both internally to analyze what is happening and later externally if there is an objection, which of these busy signals are in fact blocked by “reasonable analytics.”

⁴ “In general.--Not later than 1 year after the date of the enactment of this subsection, the Commission shall take a final agency action to ensure the robocall blocking services provided on an opt-out or opt-in basis pursuant to the Declaratory Ruling of the Commission in the matter of Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17-59; FCC 19-51; adopted on June 6, 2019)- (A) are provided with transparency and effective redress options for both (i) consumers; and (ii) callers” 47 U.S.C. § 227(j)(1).

analytics are unreasonably and systemically blocking calls. Access to such data will be necessary not only for callers but also for the Commission in its evaluation of the reasonableness of analytics.

These recommendations are even more pressing when it comes to calls rated “A” as fully attested through STIR/SHAKEN. Fully attested calls can be easily traced back to the caller, thus severely mitigating any concern about harm to consumers from bad actors. Fully attested calls should not be blocked.

PACE recognizes that determining whether the blocking of a given call through “reasonable analytics” was “flawed” raises the question about what flawed blocking means in this context. For example, if an analytics engine blocks calls that are legal and wanted but does so in accordance with its programming, is such blocking truly “flawed”? What tolerance for blocked legal and wanted calls should be permitted before the analytics are considered “flawed”? PACE does not have answers to these questions; however, PACE believes a human review of the disposition of calls will be necessary. It should not be a foregone conclusion that blocking was reasonable simply because the blocking resulted from an analytics engine as programmed. Further, once a VSP has been put on actual notice that its “reasonable analytics” are blocking legal and wanted calls, the VSP should not be permitted to rely on a safe harbor for future blocking of those calls by its analytics engine. When a VSP has notice that legal and wanted calls are being blocked, the analytics are not “reasonable”.

III. Need for Availability of Outside Review

If allegations of flawed “reasonable analytics” are not resolved through the VSP point of contact, a method of third-party review should be available. As recently reported in an ACA International article, when callers learn their calls are being blocked, “there is often limited

recourse. As one example, an ACA member reported that a voice service provider and its call-blocking partner mislabeled outbound calls and then requested a \$500 monthly fee to fix the issue in violation of the TRACED Act's directive that callers and consumers should not be charged for unblocking calls."⁵ While VSPs are obligated to connect their customers with desired and lawful calls, we cannot ignore the temptation an unregulated safe harbor provides to over-block. Callers should have a recourse mechanism when a VSP refuses to act or to consider that their "reasonable analytics" could be flawed.

IV. Conclusion

Just as unwanted calls are a problem, so too is overbroad call blocking based on "reasonable analytics." Per-call blocking notification and access to individualized information about analytics-based call blocking must be readily available to callers. Until there are uniform standardized requirements and procedures for "unblocking", including an opportunity for independent review, the implementation of the safe harbor for VSPs has the potential to create over-blocking to the detriment of callers and consumers.

Respectfully submitted,



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⁵ By the Numbers: ACA International Comments Show Impact of Call Blocking and Labeling (March 2, 2020), <https://www.acainternational.org/news/by-the-numbers-aca-international-comments-show-impact-of-call-blocking-and-labeling>.