



November 8, 2017

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

Re: Advanced Methods to Target and Eliminate Unlawful Robocalls, CG Docket No. 17-59; Call Authentication Trust Anchor, WC Docket No. 17-79

Dear Ms. Dortch:

On September 19, 2017, at a meeting with members of the Federal Communication Commission's ("FCC" or "Commission") Consumer and Governmental Affairs Bureau and of several consumer advocacy groups, representatives from Consumers Union¹ and the National Consumer Law Center² promised to provide more information about the process through which legitimate calls should be unblocked, if they are incorrectly blocked by phone providers. This has particular relevance as the Commission is considering proposed rules that would clarify the phone companies' legal right to block certain categories of clearly illegally spoofed calls.³

Since then, the Commission has released a proposed Report and Order addressing these subjects.⁴ The report states that "A challenge mechanism may be needed for voice providers that block calls given the small possibility of blocking legitimate calls" and that:

¹ Consumers Union is the public policy and mobilization division of Consumer Reports. Consumers Union works for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves, focusing on the areas of telecommunications, health care, food and product safety, energy, and financial services, among others. Consumer Reports is the world's largest independent product testing organization. Using its more than 60 labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications.

² National Consumer Law Center (NCLC) is a non-profit corporation founded in 1969 to assist legal services, consumer law attorneys, consumer advocates and public policy makers in using the powerful and complex tools of consumer law for just and fair treatment for all in the economic marketplace. NCLC has expertise in protecting low-income customer access to telecommunications, energy and water services in proceedings at the FCC and state utility commissions and publishes Access to Utility Service (5th edition, 2011) as well as NCLC's Guide to the Rights of Utility Consumers and Guide to Surviving Debt.

³ In the Matter of Advanced Methods to Target and Eliminate Unlawful Robocalls, Notice of Proposed Rulemaking and Notice of Inquiry, CG Docket No. 17-59 (Rel. March 23, 2017), *available at* https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-24A1.pdf.

⁴ Advanced Methods to Target and Eliminate Unlawful Robocalls, FCC Fact Sheet, Report and Order, CG Docket No. 17-59 (Oct. 26, 2017), *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db1026/DOC-347448A1.pdf.

We encourage providers who block calls to establish a means for a caller whose number is blocked to contact the provider and remedy the problem. Specifically, we encourage providers that block calls in accordance with these rules provide a way for subscribers to challenge a blocked number using a simple method that is easy for the average subscriber to understand. We also encourage providers to quickly resolve the matter so subscribers making legitimate calls may resume doing so speedily.⁵

The Report and Order provides a good framework for addressing the problem of blocked legitimate calls. However, while it is important for phone companies to provide an opportunity for truly legitimate calls to be unblocked, we encourage the FCC to provide appropriate limits on the suggested “challenge mechanism.”

Even “legitimate” callers may make calls in violation of the Telephone Consumer Protection Act’s consent requirements for some calls or the Do Not Call Registry. As a result, phone companies should be required to verify that callers do not have a history of making calls in violation of these consumer protections before they are unblocked. We also urge considerable caution in considering any universal whitelist. If a whitelist is adopted, it should be limited to calls that are clearly true emergency calls. And, the Commission should remain aware of the threat that fraudulent actors may attempt to spoof whitelisted numbers.

Even more caution should be exercised in unblocking calls where a consumer has opted into a more aggressive call-blocking tool or service. As we pointed out in our original comments in this proceeding, the FCC should continue to encourage phone companies to provide to all of their customers the opportunity to opt in to a free, advanced robocall-blocking system that automatically identifies and, if the consumer would prefer, automatically blocks unwanted calls.⁶ Because these tools may block legitimate calls, consumers should be advised of that in a meaningful disclosure, and be allowed to make their own decisions about the risks. Ideally, consumers would also have the opportunity to create their own custom whitelists and blacklists, at no charge, to further exercise their preferences with respect to incoming calls. Additionally, callers should never be allowed to override a block specifically placed on a number by an individual consumer.

To make these call-blocking technologies safer and more fool-proof, phone companies should be required to implement Caller ID authentication as soon as possible. This technology will allow callers to confirm the validity of their Caller ID information, thereby addressing the problem of fraudulent call spoofing and improving call-blocking mechanisms. We have previously urged the FCC to require phone companies to implement this technology, in response to a separate Notice of Inquiry.⁷

⁵ *Id.* at ¶ 54.

⁶ Comments of Consumers Union et al., Advanced Methods to Target and Eliminate Unlawful Robocalls, CG Docket No. 17-59 at 9 (June 30, 2017), *available at* <https://ecfsapi.fcc.gov/file/10630190057273/Robocalls%20NPRM%20and%20%20NOI%20final.pdf>.

⁷ Reply Comments of Consumers Union et al., Call Authentication Trust Anchor, CG Docket No. 17-79 (Sept. 13, 2017), *available at* <https://ecfsapi.fcc.gov/file/10914174999079/Reply%20Comments%20Caller%20ID%20NOI%20final.pdf>.

Above all, consumers' preferences must be paramount. Due to consumers' interest in having viable options to easily protect themselves from the billions of robocalls placed each month,⁸ we urge the Commission to place appropriate limits on the ability of telemarketers and other call originators to override call-blocking systems. We appreciate the Commission's continued interest in stopping unwanted and illegal robocalls, which continue to be a top source of complaints among consumers.

Respectfully submitted,

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⁸ YouMail, Robocall Index (Nov. 1, 2017), <https://robocallindex.com/>.