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21 December 2018

Via ECFS

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

Re: Notice of *Ex Parte* Communication  
*Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59

Dear Ms. Dortch:

On 20 December 2018, the undersigned, along with Gunnar Halley and Russ Penar, all from Microsoft Corporation, spoke by phone with Eric Burger, the Commission's Chief Technology Officer to discuss matters pertaining to efforts to combat unlawful robocalls and caller ID fraud.

Microsoft is committed to battling and eliminating unlawful robocalls and caller ID fraud. We explained, for example, the significant efforts that Microsoft has undertaken and continues to undertake in cooperation with law enforcement officials around the world to combat and seek prosecution of those engaged in tech support fraud and IRS call scams. We also outlined Microsoft's participation in the development of the SHAKEN/STIR caller authentication standard.

We noted that while there are a number of promising and effective tools available and under development to blunt caller ID scams and illegal robocalls, adopting a safe harbor for blocking legitimate voice calls is not one of those ways and we discouraged the Commission from doing so.<sup>1</sup>

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<sup>1</sup> Microsoft understands that carriers might be concerned about liability for inadvertently blocking legitimate calls in an effort to stop illegal robocalls. In such circumstances, Microsoft encourages the FCC to utilize common sense and prosecutorial discretion when making enforcement decisions and

We shared that in its history, the FCC has never before authorized a voice provider to block a legitimate voice call without first obtaining customer consent to do so. The voice network was developed and operated based on a carrier having a duty to deliver the signal, without regard for the contents of that signal or the identity of the sender. Reliable operation of the network has always been of paramount importance. The unprecedented step of authorizing legitimate calls to be blocked without customer consent would reduce the effectiveness of the voice network. Eventually, as users of the network experience a blocked outgoing call, or missed an important incoming call, they would begin to lose confidence in the operation of the voice network more generally. An effort designed to improve the calling experience for the public would, ironically, undermine public confidence in the voice network.

We explained that unconventional calling technologies such as Skype's outbound-only Skype to Phone calling feature (formerly known as Skype Out) are likely to be disproportionately affected by authorized blocking of legitimate calls. We reminded Dr. Burger that a major U.S. carrier blocked over 1.2 million legitimate Skype Out calls during a three-month period last year. We understand that some carriers employ a variety of factors to determine which calls to block, including callback. We are concerned that reliance on mechanisms such as callback overlooks the fact that outbound-only callers do not have an originating telephone number<sup>2</sup> and evidences a systemic albeit unintentional bias against legitimate, but unconventional calling technologies.

We noted that call filtering driven by consumer preference is a better approach. For decades, consumers have filtered their calls, either by "disconnecting the phone" when they didn't want to be interrupted, or by screening calls by using external answering machines, or via caller ID. Unfortunately, caller ID fraud has shaken consumer confidence and trust in the validity of caller ID. We are hopeful that SHAKEN/STIR will restore that confidence so that, once again, consumers will be able to determine for themselves, based upon reliable information, who is calling them and whether to answer the call. SHAKEN/STIR is not available yet for implementation, but we are encouraged by industry's progress.

We explained that adopting a safe harbor to allow blocking of legitimate calls would constitute an unprecedented move in the wrong direction made worse by the fact that a technological means of restoring confidence in caller ID (and identifying those who misuse the voice network) is close at hand. We respectfully encourage the Commission to refrain from implementing any

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respectfully suggests that, instead of a safe harbor, the Commission should take into consideration a carrier's level of care in assessing liability for blocking legitimate calls.

<sup>2</sup> Skype provides Skype to Phone users in the United States with the option of populating caller ID with their Skype Number or with their mobile telephone number which Skype authenticates, but most Skype to Phone users do not populate their CLI.

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so-called safe harbor and, instead, to give the SHAKEN/STIR framework a chance to combat caller ID fraud, in conjunction with the other measures currently being utilized – an approach that would maintain confidence in the voice network and would not necessitate overturning nearly a century’s worth of principled FCC jurisprudence.

Respectfully submitted,

/s/ Paula Boyd

Paula Boyd

Senior Director, Government and Regulatory Affairs

cc (via e-mail): Dr. Eric Burger