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The Honorable Roger Wicker
Chairman
Committee on Commerce, Science, and
Transportation
United States Senate
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science, and
Transportation
United States Senate
Washington, DC 20510

Dear Chairman Wicker and Ranking Member Cantwell:

On behalf of America's credit unions, thank you for holding the hearing entitled, "Oversight of the Federal Communications Commission." The Credit Union National Association (CUNA) represents America's credit unions and the 115 million members that they serve.

As part of your oversight of the Federal Communications Commission, CUNA and our members believe that it is imperative that the Committee devote some attention to the Commission's recent efforts relating to call-blocking services of robocalls. Specifically, approximately three weeks ago, FCC Chairman Ajit Pai announced that the Commission would consider a draft Declaratory Ruling (the Ruling) and Third Further Notice of Proposed Rulemaking (FNPRM) (CG Docket No 17-59, WC Docket No. 17-97) at its June 6, 2019, open meeting that would, among other things:

- (1) "clarify that voice providers may, as the default, block calls based on call analytics that target unwanted calls, as long as their customers are informed and have the opportunity to opt out of the blocking;" and also
- (2) "clarify that voice service providers may offer customers the option to block calls from any number that does not appear on a customer's 'white list' or contact list, on an opt-in basis."

More than one thousand credit unions independently voiced their serious concerns regarding the impact that FCC's proposed draft ruling would have on their ability to effectively communicate with member-owners. Specifically, credit unions noted that the draft order's failure to distinguish between legal and illegal automated calls and choice to, instead, grant voice service providers the authority to block all "unwanted calls,"—a term not previously found in statute or regulation—could significantly impede credit unions' ability to provide their member-owners with wanted, necessary, and, at times, legally required telephonic communications.

This concern was acknowledged by this Committee as part of its consideration and report on the Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (the TRACED Act).¹ In adopting the bill on an overwhelming bipartisan basis, the Senate Report acknowledges that "not all robocalls are illegal or unwanted" and that when made by "legitimate companies" "valid robocalls can benefit consumers."² As the Senate Report goes on to note, "[m]any important services are carried out via robocalls when institutions and call recipients have established a prior relationship." Some of these messages "can have life or death consequences for the intended recipient."³

Given these concerns, the Senate Report directs the Commission, when establishing rules for when a voice provider may block calls, to consider not just the benefits to consumers, but also "the burden on callers and consumers in allowing

¹ TRACED Act, S. 151, 116th Cong. (2019). The Senate adopted the Act 97 to 1. 165 Cong. Rec. S.151, S3073-3075.

² S. REP. No. 116-41, at 2 (2019).

³ S. REP. No.116-41, at 2-3 (2019).

voice service providers to block calls without providing prior or contemporary notice to the caller and an opportunity for the caller to rebut a blocking determination.”⁴ It also directs the Commission to require voice providers to “unblock improperly blocked calls in as timely and efficient a manner as reasonable” and to consult with call originators.⁵ These directives evidence a clear Congressional concern regarding the blocking of legitimate and often critical messages and the need for the Commission to address that concern with an appropriate challenge mechanism.

After significant advocacy efforts from multiple stakeholders and industries, the Commission amended its initial draft call-blocking ruling to include the following language:

“a reasonable call-blocking program instituted by default would include a point of contact for legitimate callers to report what they believe to be erroneous blocking as well as a mechanism for such complaints to be resolved. Further, callers who believe their calls have been unfairly blocked may seek review of a call-blocking program they believe to be unreasonable by filing a petition for declaratory ruling with the Commission.”⁶

While the Commission’s last-minute decision to revise the Declaratory ruling to include this language represents an important step in the right direction, we remained concerned that the discretion left to voice service providers under this revised language is too ambiguous to provide credit unions with the certainty needed to ensure that they can provide member-owners with the information that they need regarding their financial accounts. Accordingly, we encourage the Committee to press the Commission on what specific actions and rulemakings, if any, they intend to undertake, to ensure that legally permissible calls are not impacted by the order granting voice service providers opt-out, call-blocking authority.

Thank you for considering our concerns and request that the Committee seek additional information from the Commission regarding this matter as part of its’ upcoming Oversight hearing. On behalf of America’s credit unions and their 115 million members, we appreciate the opportunity to share our views.

Sincerely,



Jim Nussle
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⁴ S. Rep. No. 116-41, at 15 (2019).

⁵ S. REP. No. 116-41, at 15 (2019).

⁶ Final Declaratory Ruling at para. 38.