

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<i>In the Matter of</i>	)	
	)	
Call Authentication Trust Anchor	)	WC Docket No. 17-97
	)	
Implementation of TRACED Act	)	WC Docket No. 20-67
Section 6(a)—Knowledge of Customers by	)	
Entities with Access to Numbering Resources	)	
	)	

**Reply Comments of the Credit Union National Association, ACA International, the  
American Bankers Association, the American Financial Services Association, the  
Consumer Bankers Association and the National Association of Federally-Insured Credit  
Unions**

The Credit Union National Association (“CUNA”), ACA International (“ACA”), the American Bankers Association (“ABA”), The American Financial Services Association (“AFSA”), the Consumer Bankers Association (“CBA”) and the National Association of Federally-Insured Credit Unions (“NAFCU”) file these reply comments in response to the Further Notice of Proposed Rulemaking implementing the STIR/SHAKEN call authentication framework and certain provisions of the TRACED Act.<sup>1</sup> We write to urge the Commission to promptly initiate a rulemaking to implement other, critically important provisions of the TRACED Act that require the Commission to address erroneous blocking or mislabeling of legitimate calls.<sup>2</sup>

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<sup>1</sup> *Call Authentication Trust Anchor; Implementation of TRACED Act Section 6(a)—Knowledge of Customers by Entities with Access to Numbering Resources*, WC Docket Nos. 17-97 & 20-67, Report and Order and Further Notice of Proposed Rulemaking, FCC 20-42 (rel. Mar. 31, 2020) (“*Further Notice*”).

<sup>2</sup> Pallone-Thuse TRACED Act, s. 151, 116<sup>th</sup> Cong. (2019) (“TRACE Act”) at §§ 4(c), 10(b).

We and other trade associations representing customer-facing businesses, the “Joint Trades,” strongly support efforts to curb illegal robocalls. At the same time, the Joint Trades have written extensively regarding the need to ensure that implementation of STIR/SHAKEN and related efforts to combat illegal automated calls through authorized call blocking and labeling do not adversely affect the delivery of important and often time-critical legitimate calls. As we have previously stressed, “[w]hen outbound calling numbers used by legitimate businesses are mislabeled, or calls from those numbers are blocked, consumers are harmed because they may not receive lawful calls affecting their health, safety, or financial well-being.”<sup>3</sup> This is not an abstract concern. The Joint Trades have highlighted numerous instances of erroneous call blocking or mislabeling of critically important communications.<sup>4</sup> Some of the Joint Trades have reiterated those concerns in their initial comments in response to the *Further Notice*.<sup>5</sup>

Our concern that opaque and non-uniform call analytics used by carriers and call blocking application providers lead to erroneous blocking or mislabeling of important communications is powerfully substantiated by Twilio’s comments.<sup>6</sup> Twilio reports that “[c]alls and texts from healthcare providers and government entities with critical and time sensitive COVID-19 information have been mislabeled as spam.”<sup>7</sup> These include communications from

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<sup>3</sup> Letter from Am. Bankers Ass’n *et al.* to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 17-97, 20-67, CG Docket No. 17-59 (filed March 18, 2020).

<sup>4</sup> *See, e.g.*, Letter from Am. Bankers Ass’n *et al.* to Marlene H. Dortch, Secretary, FCC, WC Docket No. 19-97, CG Docket 17-59 (filed Mar. 4, 2020).

<sup>5</sup> *See* Comments of American Financial Services Association, WC Docket Nos. 17-97, 20-67 (filed May 15, 2020); Comments of Mortgage Bankers Assoc., WC Docket Nos. 17-97, 20-67 (filed May 15, 2020); Comments of National Assoc. of Federally-Insured Credit Unions, WC Docket Nos. 17-97, 20-67 (filed May 14, 2020).

<sup>6</sup> Comments of Twilio Inc., WC Docket Nos. 17-97, 20-67 (filed May 15, 2020) (“*Twilio’s Comments*”).

<sup>7</sup> *Id.* at 3.

the D.C. Mayor’s office relaying information on stay-in-place requirements, which were labeled as “likely spam,” and from the San Francisco School District whose COVID-19 calls were mislabeled as “Telemarketer” calls.<sup>8</sup> Twilio notes that 30% of numbers used by one of its customers were mislabeled, as were calls or communications from various businesses ranging from IT support and security services to food delivery.<sup>9</sup> These calls are being mislabeled because, as the Joint Trades previously pointed out and as Twilio also notes, they share the same characteristics such as high volume and short call duration that analytics companies use as indicia of illegal or unwanted robocalls.<sup>10</sup>

Over a year ago, the Joint Trades began urging the Commission to require carriers and call blocking providers to implement effective redress mechanisms that include immediate notification of blocking or mislabeling, readily ascertainable contact information for the blocking carrier, and prompt reversal (within 24 hours) of erroneous blocks or mislabeling.<sup>11</sup> Twilio’s comments urge the Commission to take the same actions, including removing mislabeling within three hours.<sup>12</sup>

The staggered adoption of STIR/SHAKEN further amplifies the need for effective redress mechanisms, particularly as providers begin to label authenticated calls as valid. Despite a mandated implementation date for STIR/SHAKEN of June 30, 2021, implementation will be far from universal by that date. Providers relying on non-IP enabled networks, either in their own networks or to interconnect with the public switched telephone network (PSTN), will not be able to authenticate calls in the near future, at least in the absence of alternative solutions. The

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<sup>8</sup> *Id.* at 3, 5-8.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 6-7.

<sup>11</sup> *See, e.g.*, Letter from Joint Trades to Marlene Dortch, Secretary, FCC, CG Docket No. 17-59, WC Docket No.17-97 (filed July 24, 2019) (*2019 Joint Trades Letter*).

<sup>12</sup> Twilio Comments at 11-13.

inability of such providers to participate in the STIR/SHAKEN ecosystem will affect many of the Joint Trades' members that operate in more rural areas where end-to-end IP transmission is not currently available. More universally, many of the outgoing calls placed by the members of the Joint Trades cannot be signed, or at least signed at the highest level of authentication, because there are no standards yet adopted for many common business calling scenarios, as numerous commenters note.<sup>13</sup> The piecemeal roll-out of STIR/SHAKEN means many legitimate calls will not be authenticated and may be adversely labelled and likely go unanswered or even blocked by consumers or their voice providers. For this reason, the Joint Trades have urged the Commission to preclude blocking based in whole or in part on STIR/SHAKEN information until the framework has been fully implemented.<sup>14</sup>

The TRACED Act directs the Commission to address these issues. Section 4(c) requires the Commission to issue rules by December 30, 2020 that establish when a voice service provider may block calls based in whole or in part on information provided by the STIR/SHAKEN authentication framework and that establish a safe harbor for unintended or inadvertent blocking of legitimate calls. The Act further requires that these rules create a process to ensure that legitimate callers adversely affected by the information provided by the STIR/SHAKEN framework have a way to “verify the authenticity” of [their] calls.”<sup>15</sup> It also directs the Commission to ensure that calls are not “unreasonably blocked” because a voice

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<sup>13</sup> See, e.g., Comments of AT&T WC Docket Nos. 17-97, 20-67, at 16-18 (filed May 15, 2020); Comments of Verizon WC Docket Nos. 17-97, 20-67, at 16-17 (filed May 15, 2020); Comments of USTelecom-The Broadband Assoc., WC Docket Nos. 17-97, 20-67, at 20 (filed May 15, 2020). See also, *2019 Joint Trades Letter* at 3.

<sup>14</sup> Letter from Am. Bankers Ass'n *et al.* to Marlene H. Dortch, Secretary, FCC, CG Docket No. 17-59 (filed Mar. 13, 2020).

<sup>15</sup> TRACED Act § 4(c)(1)(C).

provider has been unable to implement STIR/SHAKEN.<sup>16</sup> Section 10 of the TRACED Act requires the Commission, also by December 30, 2020, to mandate that call blocking services include “transparen[t] and effective redress options” for callers at no charge.<sup>17</sup> Any safe harbor provided to voice providers that block calls must also be accompanied by the same transparent, effective and free redress mechanism.<sup>18</sup>

These TRACED Act provisions are not directly addressed in this proceeding. Given that rules regarding blocking, safe harbors and redress are interrelated and, under the TRACED Act, must be adopted by the end of the year, we urge the Commission to address these issues simultaneously. We respectfully urge the Commission to promptly initiate a rulemaking to implement these requirements to provide reasonable opportunity for meaningful feedback before the statutory deadline.

Respectfully submitted,

/s/ Leah Dempsey  
Leah Dempsey  
Vice President and Senior Counsel  
Federal Advocacy  
ACA International

s/ Elizabeth A. Eurgubian  
Elizabeth A. Eurgubian  
Deputy Chief Advocacy Officer & Senior  
Counsel  
Regulatory & Executive Branch Relations  
Credit Union National Association  
[EEurgubian@cuna.coop](mailto:EEurgubian@cuna.coop)  
202-638-5777

s/ Jonathan J. Thessin  
Jonathan J. Thessin  
Vice President/Senior Counsel  
Regulatory Compliance and Policy  
American Bankers Association

s/ Celia Winslow  
Celia Winslow  
Senior Vice President  
American Financial Services Association

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<sup>16</sup> *Id.* at § 4(c)(1)(D).

<sup>17</sup> TRACED Act § 10(b) (adding new section J to 47 U.S.C. § 227, the Telephone Consumer Protection Act.)

<sup>18</sup> TRACED Act § 4(c)(2).

s/ Stephen E. Congdon

Stephen E. Congdon  
Assistant Vice President & Regulatory  
Counsel  
Consumer Bankers Association

May 29, 2020

s/ Carrie R. Hunt

Carrie R. Hunt  
Executive Vice President of Government  
Affairs & General Counsel  
National Association of Federally-Insured  
Credit Unions