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April 30, 2021

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, NE
Washington, D.C. 20554

Re: Comments of the Credit Union National Association, CG Docket No. 17-59, Second Staff Report on Call Blocking

Dear Ms. Dortch:

The Credit Union National Association (“CUNA”) submits these comments in response to the Consumer and Governmental Affairs’ public notice seeking input for the second staff report on call blocking.¹ CUNA applauds the tremendous work the Federal Communications Commission (“Commission”) has undertaken in the past year to implement the TRACED Act, and its actions to identify and stem scam calls. At the same time, the Commission has recognized that call blocking efforts lead to the erroneous blocking of legitimate and, at times, critical calls, and it has adopted policies designed to address those concerns.

The Public Notice requests information regarding the effectiveness of call blocking tools and in particular the extent to which legitimate calls are being blocked, or “false positives.” Historically, some service providers and analytics companies have suggested that rate of false positives is de minimis, which conflicts with the reports of numerous entities reporting a sharp increase in legitimate calls being blocked as the Commission has expended call blocking authority and safe harbors. CUNA looks forward to the information submitted by providers and analytics companies as they detail the rate of false positives, how those rates are determined, and what steps they have taken to minimize false positives and afford redress.

Credit unions share in the experience of many callers that have experienced increased rates of call blocking or mislabeling, although determining that such activities have occurred in the absence of notification has been challenging. It is especially challenging for smaller credit unions that lack the resources to track down calling data or to hire third parties to help mitigate blocking of their legitimate calls. One credit union stated that without sophisticated calling analytics, discovering blocked calls is “essentially impossible.”

¹ *Consumer and Governmental Affairs Bureau Seeks Input For Second Staff Report on Call Blocking*, GN Docket No. 17-59, WC Docket No. 17-97, DA-21-420 (rel. April 13, 2020).

Over the past year, a small number of larger credit unions were able to identify that their calls were being blocked and/or attempted to work with providers to resolve the blocking. That calls were being blocked was primarily discovered through the use of calling technologies that report an increase in busy signals. Upon investigation, these calls were identified as having been blocked by service providers. One large credit union identified over 100,000 blocked calls. Where downstream service providers could be identified, redress mechanisms and time frames were inconsistent from service provider to service provider. One credit union was able to have a number white listed with a service provider to resolve future call blocking, however, other service providers did not offer a long-term solution.

A few credit unions have also discovered, through conversations with their members, that their calls are being labeled as potential or suspected spam. One credit union reported that one of its members refused to confirm their identity or engage with the credit union on the call believing they were fraudsters. That credit union attempted to address the mislabeling with their own service provider but was unable to identify all the relevant downstream service providers and ultimately the issue was unresolved. In the absence of notification that their calls were being blocked or mislabeled, the sole method of discovery of this was through affirmative reporting by members credit unions were attempting to reach.

Credit unions also consistently report that when they speak with service providers about erroneous call blocking and call labeling, service providers indicate that analytic tools identify these credit union calls as potential spam based solely on the quantity of outbound calls being placed by the credit union. Reliance solely on call volume to decide to block calls does not constitute “reasonable analytics” and is a recipe for erroneous call blocking.

The experience of these credit unions is, unfortunately, consistent with that of numerous other industries that have reported that legitimate and often critical calls were being blocked or mislabeled as spam or scam calls, and that callers were not afforded a reasonable or timely remedy, including:

- Calls made on behalf of the Centers for Disease Control for its annual National Immunization Survey;²
- Calls from banks, including calls attempting to alert customers of potential fraud or to conduct “wellness checks” during the COVID pandemic;³
- Calls from correctional facilities by incarcerated persons to their families;⁴

² Letter from Laura Phillips, counsel to the National Opinion Research Center, to Marlene Dortch, Secretary, FCC, CG Docket No. 17-59 (filed Dec. 21, 2020).

³ Letter from Michael Pryor, counsel to CUNA, to Marlene Dortch, Secretary, FCC, CG Docket No. 17-59 (filed Nov. 23, 2020) (submitted on behalf of a number of trade associations who reported that their members “continue to experience widespread improper labeling of outbound calling numbers, blocking of calls, lack of notification . . . and lengthy delays in remedying blocked calls.”).

⁴ Reply Comments of Securus Technologies, LLC, CG Docket No. 17-59 (filed Sept. 29, 2020)

- Calls from alarm companies to customers or public safety agencies in response to an alarm signal;⁵ and (perhaps most concerning)
- Calls to alert homeowners of approaching wildfires.⁶

In light of these and numerous other examples in the record, CUNA commends the Commission for strengthening the redress requirements as adopted in the Third Report and Order⁷ by establishing a blocking notification requirement, effective on January 1, 2022, and requiring terminating providers to give a status update within 24 hours.⁸ Particularly, once the notification requirement becomes effective, the Commission should continue to assess the efficacy of blocking regimes as well as the efficacy of the redress mechanisms to promptly reverse erroneous call blocking.

Additionally, CUNA respectfully urges the Commission to continue to evaluate the need to extend redress mechanisms to call labeling. As CUNA and others have explained, erroneously labeling a legitimate call as spam or scam is tantamount to blocking and can cause harm by misleading consumers to reject important or critical calls. As described above, mislabeling also causes customer confusion and undermines the reputation of legitimate businesses. CUNA remains concerned that providers are not required to notify callers when they label their calls.

Conclusion

On behalf of America's credit unions and their more than 120 million members, thank you for your consideration. If you have questions or require additional information, please do not hesitate to contact me at (202) 503-7184 or elaberge@cuna.coop.

Sincerely,



Elizabeth M. Young LaBerge
Senior Director of Advocacy & Counsel

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⁵ Reply Comments of the Alarm Industry Communications Committee, CG Docket No. 17-59 (Sept. 29, 2020).

⁶ Reply Comments of the Professional Association for Customer Engagement, CG Docket No. 17-59 (Sept. 29, 2020) (describing reports from the Associated Press that, during the California wildfires, some consumers did not receive emergency alerts on their phones); Reply Comments of Noble Systems Corp., CG Docket No. 17-59 (Sept. 29, 2020).

⁷ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Third Report and Order, Order on Reconsideration, and Fourth Further Notice of Proposed Rulemaking, 35 FCC Rcd 7614, 7634-35 (2020) (Third Call Blocking Order) (requiring voice service providers that block calls to designate a single point of contact for disputing blocks, resolve disputes within a reasonable period of time at no cost to the caller, and promptly lift blocks upon receipt of a credible claim of erroneous blocking).

⁸ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Fourth Report and Order, ___ FCC Rcd 15221, 15238 (2020).