



MORTGAGE BANKERS ASSOCIATION

May 15, 2020

Via ECFS

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

Re: Further Notice of Proposed Rulemaking; Call Authentication Trust Anchor; Implementation of TRACED Act-Knowledge of Customers by Entities with Access to Numbering Resources; WC Docket Nos. 17-97, 20-67; FCC 20-4; (March 31, 2020)

Ms. Dortch,

The Mortgage Bankers Association (MBA) appreciates the opportunity to comment on the Federal Communication Commission's (Commission or FCC) recent Call Authentication Further Notice of Proposed Rulemaking (Notice). MBA strongly supports the FCC's goal of protecting consumers from illegal and fraudulent phone calls. MBA members depend on the ability to effectively communicate with consumers, and therefore recognize that such calls erode the effectiveness of communication channels to the detriment of all. We appreciate the Commission's efforts to combat illegal calls by continuing to implement the provisions of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act.

MBA agrees that facilitating the creation and widespread adoption of an effective system for caller authentication and verification is a critical component of the Commission's initiative to eliminate illegal and fraudulent phone calls. Given its importance, it is understandable that much of the FCC's TRACED Act rulemaking efforts, including the current rulemaking, have focused on SHAKEN/STIR implementation. While MBA applauds these efforts, we urge the FCC to address outstanding issues related to call blocking and the harms that inappropriate blocking can impose on consumers and legitimate businesses.

Overbroad Call Blocking

As many have noted, the gradual implementation of the SHAKEN/STIR framework has resulted in overbroad call blocking. Such a result was widely anticipated by commenters,

including MBA and other financial trade associations in various comment letters¹; by the Commission²; and, importantly, by Congress in the TRACED Act.³ Understanding that legitimate callers may have their numbers incorrectly blocked, Congress directed the FCC to “*take a final agency action*” to ensure call blocking services provided to consumers “*are provided with transparency and effective redress options*” for consumers and callers. The statute continues by stating that there should be “*no additional charge to callers for resolving complaints related to erroneously blocked calls ... [.]*”⁴

Need for Transparency and Effective Redress Mechanisms

Unfortunately, the Commission has yet to act on these provisions of the TRACED Act. Thus, to date, many aspects of call blocking remain unclear, including how to determine whether a number is being blocked, how to determine which provider or vendor is blocking a number, and how a caller can establish that a number should be unblocked. More fundamentally, callers are often unaware as to the basis for a number being blocked. This seems contrary to Congressional intent. The Senate Report on the TRACED Act explicitly notes that Congress’s interest in transparency stems from a desire to ensure callers had access to sufficient information to determine why a call was blocked.⁵

In addition to problems with transparency, legitimate callers are often left without “effective redress options” with which to respond to an inappropriately blocked call. This has proven to be particularly problematic. In the absence of clear FCC direction on this matter, callers seeking to address overbroad call blocking are frequently referred to outside vendors. While arrangements differ, in general MBA members report such vendors offering various levels of service to correct incorrectly blocked numbers. Using a tiered service model common with many “free” web-based services, these vendors offer free assistance that’s much less effective than their paid services. Given the importance of effective and timely communication in the financial services space, MBA members who are inappropriately blocked are effectively forced to pay for appropriate remedial services. Such a result seems wholly inconsistent with the TRACED Act’s requirement that there be “*no additional charge to callers for resolving complaints related to erroneously blocked calls[.]*”⁶

For these reasons, MBA urges the Commission to effectuate the TRACED Act’s directive for a final rule ensuring call blocking transparency and effective redress options for inappropriately blocked calls. The ongoing COVID-19 pandemic only underscores the importance of this issue. As mortgage lenders and servicers seek to implement various

¹ See Letter from Pete Mills, Mortgage Bankers Association *et al.*, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 17-59 (filed July 24, 2019) (comment letter submitted by 11 industry trade associations urging Commission not to permit Voice Service Providers to block unsigned calls until the STIR/SHAKEN framework has been fully implemented).

² Advanced Methods to Target and Eliminate Unlawful Robocalls, CG Docket No. 17-59, ¶ 70 (June 7, 2019).

³ 47 U.S.C. § 227(j).

⁴ *Id.*

⁵ S. REP. NO. 116-41, at 14-15 (2019).

⁶ 47 U.S.C. § 227(j)(1)(b).

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measures aimed at providing assistance to borrowers facing hardship, timely, effective communication is critical. MBA therefore asks that the Commission act urgently and release a rule that –

- Provides transparency in call blocking and labeling so as to ensure callers have access to information needed to determine why a call is being blocked;
- Provides callers with prompt notification of call blocking;
- Creates effective redress options so as to allow callers to unblock calls in a reasonably timely and efficient manner;
- Ensures such redress options are provided with no additional charge to callers.

Conclusion

MBA appreciates the opportunity to comment on this Further Notice of Proposed Rulemaking and commends the Commissions leadership in the implementation of SHAKEN/STIR. If you have any question or concerns, please do not hesitate to contact my colleague Justin Wiseman at (202) 557-2854 or JWiseman@mba.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Mills". The signature is fluid and cursive, with a large initial "P" and "M".

Pete Mills
Senior Vice President Residential Policy & Member Engagement
Mortgage Bankers Association