

**Before the
Federal Communications Commission
Washington, D.C.**

In the Matter of)
)
Advanced Methods to Target and Eliminate) CG Docket No. 17-59
Unlawful Robocalls)

**COMMENTS OF THE AMERICAN BANKERS ASSOCIATION, ACA
INTERNATIONAL, AMERICAN ASSOCIATION OF HEALTHCARE
ADMINISTRATIVE MANAGEMENT, AMERICAN FINANCIAL SERVICES
ASSOCIATION, CREDIT UNION NATIONAL ASSOCIATION, CONSUMER
BANKERS ASSOCIATION, MORTGAGE BANKERS ASSOCIATION, NATIONAL
ASSOCIATION OF FEDERALLY-INSURED CREDIT UNIONS, NATIONAL RETAIL
FEDERATION, AND STUDENT LOAN SERVICING ALLIANCE**

Jonathan Thessin
Vice President/Senior Counsel
American Bankers Association
1120 Connecticut Avenue, NW
Washington, DC 20036
(202) 663-5016

Leah Dempsey
Vice President and Senior Counsel, Federal
Advocacy
ACA International
509 2nd Street, NE
Washington, DC 20002
(410) 627-3899

Richard A. Lovich
General Counsel
American Association of Healthcare
Administrative Management
11240 Waples Mill Road, Suite 200
Fairfax, VA 22030
(703) 281-4043

Celia Winslow
Senior Vice President
American Financial Services Association
919 18th Street, NW
Washington, DC 20006
(202) 776-7300

Damon Smith
Senior Director of Advocacy and Counsel
Credit Union National Association
99 M Street, SE #300
Washington, DC 20003
(202) 235-3390

Stephen Congdon
Assistant Vice President, Regulatory Counsel
Consumer Bankers Association
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005
(202) 552-6381

Justin Wiseman
Associate Vice President, Managing
Regulatory Counsel
Mortgage Bankers Association
1919 M Street, NW
Washington DC 20036
(202) 557-2854

Elizabeth LaBerge
Senior Regulatory Counsel
National Association of Federally-Insured
Credit Unions
3138 10th St. N.
Arlington, VA 22201
(703) 842-2272

Paul G. Martino
Vice President, Senior Policy Counsel
National Retail Federation
1101 New York Ave., NW, Suite 1200
Washington, DC 20005
(202) 626-8104

Scott Buchanan
Executive Director
Student Loan Servicing Alliance
1100 Connecticut Avenue, NW
Suite 1200
Washington, DC 20036
(202) 262-8348

August 31, 2020

TABLE OF CONTENTS

INTRODUCTION AND SUMMARY	4
ARGUMENT	9
I. Lawful and Important Calls Continue to Be Blocked or Mislabeled.....	9
II. The Commission Should Require Immediate Notification When a Call Is Blocked, Including Blocking Based on STIR/SHAKEN Information, and a Remedy for Erroneous Blocking within 24 Hours.....	10
A. Immediate Notification Is a Necessary First Step to Effective Redress of Blocked Calls.....	11
B. The Commission Should Require Voice Service Providers and their Analytics Partners to Incorporate Information about Lawful Companies’ Numbers Into Their Call-blocking Analytics.....	13
C. The Commission Should Not Require Callers to Request Notification or Register with a Voice Service Provider in Order to Receive Notification that its Call Has Been Blocked	14
D. The Commission Should Require a Blocking Voice Service Provider to Remove an Erroneous Block as Soon as Possible, and No Longer Than 24 Hours After the Provider Learns of the Block.....	16
E. The Commission Should Require Voice Service Providers to Provide Immediate Notification to a Caller Whose Call Is Misidentified Through the STIR/SHAKEN Framework and Correct the Misidentification within 24 Hours	17
III. The Commission Should Prohibit Voice Service Providers from Blocking Unsigned or Unattested Calls Originating from Providers Unable to Implement the STIR/SHAKEN Framework	17
IV. The Commission Should Confirm that Voice Service Providers Must Provide Equivalent Redress to Mislabeled Outbound Calling Numbers.....	19
CONCLUSION.....	20
APPENDIX.....	23

INTRODUCTION AND SUMMARY

Congress was clear that the Commission’s rules should not result in the blocking of lawful calls. The Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) requires the Commission to “ensure [that] robocall blocking services . . . are provided with transparency and effective redress options for . . . callers.”¹ While the Commission has taken strides in recent months to begin implementing the TRACED Act, important, often time-sensitive, calls from legitimate callers continue to be frequently blocked and mislabeled. Important work remains to satisfy the Act’s statutory requirements.

For any redress mechanism to protect consumers and be “effective” under the TRACED Act, a business must know promptly that its calls are being blocked. We urge the Commission to require the blocking telephone company (Voice Service Provider, or the Provider) to notify businesses immediately that it is blocking their calls. Without a notification requirement, it will not be possible for a call-blocking service to provide “transparency . . . for . . . callers,” as the TRACED Act requires.²

The Commission also should require a Voice Service Provider to remove an erroneous block promptly — no later than 24 hours after the Provider learns of the block. A legitimate business whose call is erroneously blocked cannot receive “effective redress,” as required by the TRACED Act, if removal of the block takes weeks or months.

Congress and the Commission have required Providers to implement the “STIR/SHAKEN” call authentication framework — whereby a call is “signed” by the originating Provider and verified by intermediate Providers and the terminating Provider — but not all

¹ Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Pub. L. No. 116-105, 133 Stat. 3274, § 10(b) (2019) [hereinafter, TRACED Act].

² *Id.*

Providers have implemented this authentication process.³ The Commission should prohibit a Voice Service Provider from blocking a call that cannot be authenticated under the STIR/SHAKEN framework because the call originated from a Provider that cannot sign calls or the call traveled through a Provider that cannot transmit the call authentication information.

Once STIR/SHAKEN is fully implemented, where a Voice Service Provider blocks a call due to the lack of authentication information or an erroneously applied lower level of attestation, the Commission should require Providers to provide immediate notification to the caller that the call was not completed and correct the mishandling of the call within 24 hours.

The Commission also should require Voice Service Providers to apply the TRACED Act redress mechanisms to the third-party call-labeling services that Providers utilize. Many Voice Service Providers, including all of the major wireless Providers, partner with third-party call-labeling services to place a “label” on calls — such as “Potential Spam,” “Suspected Spam,” “Spam Number,” “Nuisance Label,” or other derogatory label — based on the third-party service’s analytics. We urge the Commission to require Voice Service Providers partnering with these call-labeling services to abide by the same redress requirements adopted for blocking when they apply a derogatory label to the call. Specifically, the Commissioner should require Voice Service Providers to notify a caller immediately when a derogatory label is placed on the caller’s call and remove an erroneous label within 24 hours of learning of the error.

³ See TRACED Act § 4; Report & Order & Third Further Notice of Proposed Rulemaking, *Advanced Methods To Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-97, WC Docket No. 20-67, 35 FCC Rcd 3241, § III.A (Mar. 31, 2020), https://docs.fcc.gov/public/attachments/FCC-20-42A1_Rcd.pdf [hereinafter, *Report and Order and Third Further Notice*]. Under the Report and Order, Voice Service Providers are required to implement the STIR/SHAKEN framework in the IP portions of their networks by June 30, 2021, unless granted an extension. *Id.* at 3252, ¶ 25.

**Before the
Federal Communications Commission
Washington, D.C.**

In the Matter of)	
)	
Advanced Methods to Target and Eliminate)	CG Docket No. 17-59
Unlawful Robocalls)	

**COMMENTS OF THE AMERICAN BANKERS ASSOCIATION, ACA
INTERNATIONAL, AMERICAN ASSOCIATION OF HEALTHCARE
ADMINISTRATIVE MANAGEMENT, AMERICAN FINANCIAL SERVICES
ASSOCIATION, CREDIT UNION NATIONAL ASSOCIATION, CONSUMER
BANKERS ASSOCIATION, MORTGAGE BANKERS ASSOCIATION, NATIONAL
ASSOCIATION OF FEDERALLY-INSURED CREDIT UNIONS, NATIONAL RETAIL
FEDERATION, AND STUDENT LOAN SERVICING ALLIANCE**

The American Bankers Association, ACA International, American Association of Healthcare Administrative Management, American Financial Services Association, Consumer Bankers Association, Credit Union National Association, Mortgage Bankers Association, National Association of Federally-Insured Credit Unions, National Retail Federation, and Student Loan Servicing Alliance (the Associations)⁴ appreciate the opportunity to comment on the Federal Communications Commission’s (Commission) Fourth Further Notice of Proposed Rulemaking (Further Notice) in the above-captioned proceeding.⁵

⁴ A description of each trade association is provided in the Appendix.

⁵ Third Report and Order, Order on Reconsideration, and Fourth Further Notice of Proposed Rulemaking, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, FCC 20-96 (rel. July 31, 2020) [hereinafter, *Third Report and Order* or *Further Notice*].

The TRACED Act mandates that the Commission take specified steps to prevent illegal calls from being completed and to provide redress for lawful calls that are erroneously blocked.⁶ The Further Notice seeks comment on how the Commission can further implement the TRACED Act's requirements, including how quickly Voice Service Providers should be required to notify the caller of an erroneously blocked call and how quickly Providers should be required to remove the block.⁷

The Associations share the Commission's twin goals of protecting consumers from illegal automated calls while ensuring that consumers continue to receive important, often time-sensitive, calls from lawful businesses, including health care providers, pharmacies, electric utility companies, grocers, retailers, banks, credit unions, student loan and mortgage servicers, collection agencies, and other financial services providers. Consumers are harmed when outbound calling numbers used by lawful businesses are mislabeled, or calls from those numbers are blocked, because they may not receive lawful calls affecting their health, safety, or financial well-being. These calls include, for example, safety alerts, fraud alerts, data security breach notifications, product safety recall notices, healthcare and prescription reminders, power outage updates, and other necessary account updates and reminders needed to maintain financial health.⁸ Some calls placed to consumers are required by federal or state regulators, such as certain mortgage servicing calls.⁹ It is critical for consumers that these calls be completed without delay.

⁶ See TRACED Act § 4 (requiring the Commission to require Voice Service Providers to implement the STIR/SHAKEN call authentication framework); *id.* § 10 (requiring the Commission to provide redress for erroneously blocked calls).

⁷ See *Further Notice*, ¶ 107-09.

⁸ The Senate Report to the TRACED Act describes how automated calls placed by lawful businesses — including the types of calls that our members place — “can benefit consumers.” S. Rep. No. 116-41, at 2-3 (2019).

⁹ Following the 2008 financial crisis, federal and state regulators have required mortgage servicers to place outbound telephone calls to borrowers that fall behind on their mortgage

For some calls, whether the call is completed “can have life or death consequences for the intended recipient,” as the Senate’s report on the TRACED Act concluded.¹⁰

As discussed below, the Associations request that the Commission continue its work in implementing the TRACED Act and protect consumers and callers by:

- (1) requiring Voice Service Providers to notify callers immediately when a call is blocked;
- (2) requiring Voice Service Providers to remove erroneous blocks promptly — no later than 24 hours after the Provider learns of the block;
- (3) prohibiting a Voice Service Provider from blocking a call that cannot be authenticated under the STIR/SHAKEN call authentication framework because the call originated from a Provider that cannot sign calls or the call traveled through a Provider that is unable to transmit the authentication information; and
- (4) requiring Voice Service Providers to apply the TRACED Act redress mechanisms to the third-party call-labeling services that Providers utilize.

payments to advise the borrower about options to avoid foreclosure and the potential loss of their home. *See, e.g.*, 12 C.F.R. § 1024.39(a) (2019) (CFPB Mortgage Servicing Rules requiring telephone or in-person contact by the 36th day of delinquency). For a more comprehensive list of federal and state requirements to place mortgage servicing calls, see Letter from Jonathan Thessin, Am. Bankers Ass’n, *et al.* to Marlene H. Dortch, Sec., Fed. Comm’n Comm’n, 8 n.31 (July 24, 2019), <https://www.aba.com/advocacy/policy-analysis/joint-trades-letter-to-fcc-on-third-notice-of-proposed-rulemaking-re-tcpa-call-blocking>.

¹⁰ S. Rep. No. 116-41, at 3.

ARGUMENT

I. Lawful and Important Calls Continue to Be Blocked or Mislabeled

The Associations and numerous other commenters have individually and collectively submitted extensive data demonstrating that many phone numbers used by companies to place lawful and important outbound calls are frequently being labeled as “Potential Spam,” “Suspected Spam,” “Spam Number,” “Nuisance Label,” or other derogatory label, and that calls from those numbers are also frequently being blocked.¹¹ We appreciate that the Commission, in its latest order, recognized that callers have “raised valid concerns about overbroad blocking” and has begun to impose the TRACED Act’s requirements for Voice Service Providers to provide redress for erroneously blocked calls.¹²

Even so, extensive problems persist to this day. Although the Commission has urged Voice Service Providers to develop a mechanism for notifying callers that their calls have been blocked,¹³ many of our members report that they continue to experience improper, error-prone labeling of outbound calling numbers, blocking of legitimate calls, and difficulty identifying and remedying blocked calls. In some instances, lawful calls are being blocked erroneously solely due of the volume of calls initiated within a defined period of time.¹⁴ For example, one large bank reported that calls from six of its phone numbers used for collections-related calls were

¹¹ The numerous comment letters from financial trade associations and individual companies describing examples of mislabeled outbound calling numbers and erroneously blocked calls are listed in the letter that the signatories to this letter submitted to the Commission on July 2, 2020. *See* Letter from Credit Union Nat’l Ass’n *et al.* to Marlene H. Dortch, Sec., Fed. Comm’n, 2-3 n.4 (July 2, 2020), <https://www.aba.com/advocacy/policy-analysis/aba-urges-fcc-to-require-notification-when-bank-calls-are-blocked>.

¹² *Third Report and Order*, ¶ 50.

¹³ *See* Declaratory Ruling and Third Further Notice of Proposed Rulemaking, *Advanced Methods To Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, 34 FCC Rcd 4876, 4889, ¶ 38 (2019) [hereinafter, *Declaratory Ruling and Third Notice*].

¹⁴ *Id.* ¶ 35 (observing that a “call-blocking program might block calls based on a combination of factors, such as: large bursts of calls in a short timeframe . . .”).

blocked because of the volume of calls placed from those numbers. When the bank appealed to the Voice Service Provider, the appeal was denied with respect to five of those numbers, despite the lawful purpose for which each number was used. The bank continues to urge the Provider to remove the erroneous blocks.

In the Third Report and Order, the Commission adopted safe harbors for Voice Service Providers that block calls based on “reasonable analytics designed to identify unwanted calls,” as long as the analytics incorporates call authentication information.¹⁵ The Commission acknowledges that these safe harbors will increase the use of blocking tools — which we expect will result in a concomitant increase in the incidence of erroneously blocked lawful calls.¹⁶

The example of erroneous blocking described above — and those examples described below — illustrate that the Commission has not fully discharged the TRACED Act’s mandates to provide “effective redress” and “transparency . . . for . . . callers.”¹⁷ It also underscores the need for additional Commission action to effectuate Congress’ intent that lawful calls be protected.

II. The Commission Should Require Immediate Notification When a Call Is Blocked, Including Blocking Based on STIR/SHAKEN Information, and a Remedy for Erroneous Blocking within 24 Hours

As stated earlier, the TRACED Act mandates that the Commission “ensure [that] robocall blocking services . . . are provided with transparency and effective redress options” for both consumers and callers.¹⁸ This provision encapsulates two core requirements.

First, callers are entitled to “transparency.” Transparency, in turn, requires notification. We urge the Commission to require the Voice Service Provider to notify the caller immediately

¹⁵ *Third Report and Order*, ¶ 21.

¹⁶ *Id.*, ¶ 3 (“[W]e adopt rules that further encourage call blocking”); *id.* ¶ 23 (“These new safe harbors will encourage voice service providers to block calls in certain defined situations.”).

¹⁷ TRACED Act § 10(b).

¹⁸ *Id.*

whenever the Provider or its third-party call-labeling service provider engages in blocking. Immediate means concurrent with the blocking of the call. Moreover, the notification is adequate only if it informs the caller that the Provider has blocked, or is blocking, calls placed by the caller. The Commission will not have implemented sections 4(c) or 10 of the TRACED Act until it has mandated notification of call blocking. Similarly, we urge the Commission to require Voice Service Providers to provide immediate notification to a caller whose call is misidentified through the STIR/SHAKEN call authentication framework.¹⁹

Second, callers are entitled to “effective redress.” To satisfy that statutory prerequisite, we recommend that the Commission require the blocking Voice Service Provider to remove the block within 24 hours of learning of the erroneous block. In addition, redress cannot be effective unless callers receive a written explanation of why a call is blocked or labeled.

A. Immediate Notification Is a Necessary First Step to Effective Redress of Blocked Calls

The lawful calls that companies seek to place — safety alerts, fraud alerts, data security breach notifications, product safety recall notices, healthcare and prescription reminders, power outage updates, and other account updates and reminders — must be completed immediately if the call is to have its full, intended benefit to the call recipient. Therefore, any block on a number used to place the outbound call must be removed expeditiously. Immediate notification of the block is the first step toward ensuring the call can be completed. As Commissioner O’Rielly

¹⁹ The Associations thus respectfully disagree with the Commission’s tentative conclusion that it has implemented the relevant provisions of the TRACED Act that require the Commission to establish a process to permit a caller whose calls are misidentified under the STIR/SHAKEN framework to correct the misidentification, without first requiring Voice Service Providers to provide notification. *See Further Notice*, ¶ 82.

stated, “callers clearly cannot effectively seek redress for erroneously blocked calls if they lack the knowledge that their calls are being blocked or by whom.”²⁰

The Associations appreciate that the notification requirement should strive to be technologically neutral and that Voice Service Providers should have appropriate flexibility in how these time-sensitive notifications are made. For example, notification could be made through use of a response code, intercept message, or special information tone that conveys that the call has been blocked.²¹

The means by which notification is provided could vary by Voice Service Provider, so long as the notification conveys sufficient information. Regardless of how it is provided, the notification should identify the Voice Service Provider that has blocked the call. It also should include a phone number or website address for the caller to seek information about why the call was blocked, to request removal of the block, and to learn how to prevent such blocking in the future. Transparency also requires that Voice Service Providers provide callers with a written reason(s) why its call has been blocked. The Further Notice proposes only to require Voice Service Providers to provide a list of individually blocked calls that were placed to a particular number at the request of the subscriber to that number.²² Requiring written explanations for why a call is blocked or labeled can improve the accuracy of Providers’ blocking decisions, provide accountability for those decisions, and serve as useful information for callers and the Commission going forward.

²⁰ *Third Report and Order* (statement of Michael O’Rielly, Comm’r), <https://ecfsapi.fcc.gov/file/0717278127042/FCC-20-96A3.pdf>.

²¹ The Internet Engineering Task Force, a standards body composed of network designers, operators, vendors, and researchers, is reviewing a proposal to include a “Session Initiation Protocol” (SIP) response code that would alert the caller that the call has been blocked. *Declaratory Ruling and Third Notice*, ¶ 58 n.106.

²² *Further Notice*, ¶ 110.

B. The Commission Should Require Voice Service Providers and their Analytics Partners to Incorporate Information about Lawful Companies' Numbers Into Their Call-blocking Analytics

Once an outbound calling number is identified as belonging to a legitimate company, the Commission should require Voice Service Providers and their analytics partners to incorporate that information into their call-blocking analytics. In other words, a telephone number confirmed by a legitimate company should effectively be whitelisted so that calls from that number are not blocked or derogatorily labeled in the future. The Commission also should consider mechanisms that would enable sharing of such information with other Providers or analytics engines to ensure uniform treatment and prevent renewed blocking of the same number in the future — at least in the absence of authentication information indicating that the number is being spoofed.

These modest reforms are consistent with the TRACED Act's effective redress requirements, in that callers should not have to expend the resources to keep reminding Providers that a calling number is legitimate. These reforms also are feasible and not overly burdensome. For additional context, at least one Provider already offers businesses the opportunity to purchase a service provided by its third-party call-labeling service provider that "guarantees" that the business' outbound calling numbers will not be illegally spoofed by bad actors and that provides access to a portal where the business can review feedback that customers leave regarding the business' numbers. Voice Service Providers should be required to offer these services free to all callers. Over the longer term, Voice Service Providers working together could provide businesses, at no charge, with access to a secure database that includes all of the business' outbound calling numbers and the status of each number according to the Provider. Through such a database, businesses also could receive notification that its outbound calling number is being blocked.

The lack of notification to businesses when their call is erroneously blocked makes it enormously difficult for the caller to learn that its call has been blocked and lengthens the time required to remove the block. For example, one large bank reported that, in May 2020, a Voice Service Provider’s third party call-labeling service provider mislabeled a phone number used by the bank’s automobile lending division as spam, resulting in the blocking of collections-related calls from that number. The bank learned about the mislabeling and erroneous blocking indirectly, not from the Voice Service Provider or third-party provider. The bank then had to investigate why the calls were not being completed. It took the bank over a week to resolve the mislabeling and erroneous blocking with the third-party provider.

C. The Commission Should Not Require Callers to Request Notification or Register with a Voice Service Provider in Order to Receive Notification that its Call Has Been Blocked

The Commission asks whether a caller should be *required* to register with a Voice Service Provider or affirmatively request notification in order to receive notification that its call has been blocked.²³ A caller should not be required to register or request notification. Such a requirement is contrary to the TRACED Act and the Commission’s authority under that Act, and is not necessary to identify the recipient of the notification. That information should be ascertainable from the calling number in the call detail record and, for STIR/SHAKEN-capable calls, the originating Provider should be identifiable from the “origID” identifier required in the protocol.

More fundamentally, a requirement to request notification is inconsistent with the TRACED Act’s requirement that the Commission take final agency action to ensure that call-blocking services are provided with “transparency and effective redress options for . . . callers . .

²³ *Further Notice*, ¶ 107.

.”²⁴ Congress did not impose any registration or notification conditions on callers’ right to transparency and effective redress. In addition, it is impractical and burdensome to require all callers nationwide to make such requests of every Voice Service Provider. Registration and other requirements also may disproportionately burden callers of small businesses. No lawful caller wants its outbound calls to be blocked. As notification is a necessary step in obtaining redress, all legitimate callers would like to receive notice of call blocking.

Voice Service Providers and third-party call-labeling services can readily provide immediate notification of blocking without experiencing undue burden, as demonstrated by the fact that some Providers already provide immediate notification. For example, AT&T sells an AT&T-branded phone that, when it blocks an incoming call to a customer, sends an intercept message to the caller in real time.²⁵ The Commission’s recently released call-blocking report also demonstrated that most Providers offer notification, often through the use of Anonymous Call Rejection, a long-established feature that provides an audio intercept message that informs callers that their call will be blocked and steps necessary to unblock the call.²⁶ Moreover, the Internet Engineering Task Force has released a proposed specification to notify callers that their calls are being blocked in the network and by whom. This specification, SIP response code 608, also would be interoperable with non-IP networks and proposes security safeguards using encryption technology similar to that used in the STIR/SHAKEN framework.

²⁴ TRACED Act § 10(b).

²⁵ See Comments of AT&T, *Advanced Methods To Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, at 6 (Jan. 29, 2020), <https://ecfsapi.fcc.gov/file/1013013483922/1.29.2020%20Comments%20for%20Call%20Blocking%20Report.pdf>.

²⁶ Internet Engineering Task Force, RFC 8688, *A Session Initiation Protocol (SIP) Response Code for Rejected Calls* (Dec. 2019), (IETF RFC 8688), <https://tools.ietf.org/html/rfc8688>.

D. The Commission Should Require a Blocking Voice Service Provider to Remove an Erroneous Block as Soon as Possible, and No Longer Than 24 Hours After the Provider Learns of the Block

We urge the Commission to require a blocking Voice Service Provider to remove an erroneous block as soon as possible, and no longer than 24 hours after the Provider learns of the block. After 24 hours (if not earlier), many lawful and time-critical calls that consumers desire — such as fraud alerts, product safety recall notices, healthcare appointment and prescription reminders, emergency school notifications — are received too late for their intended purpose.

Removing an erroneous block within 24 hours is reasonable. The third-party call-labeling service providers that support the major Voice Service Providers can override the provider's label assigned to a particular outbound call that resulted in the block, effectively removing the block immediately. Therefore, if a Voice Service Provider cannot investigate the block before the 24-hour period expires, it can (and should be required to) override the erroneous label and allow calls from that number to be completed while the Provider conducts further investigation. This approach also would encourage Providers to reach a resolution expeditiously on the caller's complaint of erroneous blocking and reduce the risk that customers are deprived of the important and time-sensitive information.

Moreover, the Provider's determination of whether to remove (or continue) the block should be based on clearly defined, objective, and published criteria regarding the circumstances under which the Provider blocks a call. If, after an investigation, the Voice Service Provider determines not to remove the block, it should provide a written explanation for the continued block to the caller. This requirement will ensure that Providers apply objective criteria to their blocking decisions.

E. The Commission Should Require Voice Service Providers to Provide Immediate Notification to a Caller Whose Call Is Misidentified Through the STIR/SHAKEN Framework and Correct the Misidentification within 24 Hours

Real-time notification and prompt remedial measures to correct erroneously blocked or mislabeled calls also will provide a mechanism for a caller whose call is misidentified through the STIR/SHAKEN framework. Congress recognized that the caller ID authentication framework required by the TRACED Act could result in the misidentification of the level of trust of lawful calls placed by legitimate businesses — i.e., that lawful calls may not be “signed” when the call is initiated or transmitted through the call’s pathway to the recipient, as described in the next section of this Comment below. Consequently, Congress directed the FCC to establish a process for businesses whose calls are misidentified to seek redress.²⁷ That redress should parallel the redress provided for erroneously blocked calls — i.e., immediate notification of the misidentification and correction of the misidentification within 24 hours.

III. The Commission Should Prohibit Voice Service Providers from Blocking Unsigned or Unattested Calls Originating from Providers Unable to Implement the STIR/SHAKEN Framework

In the Further Notice, the Commission tentatively concluded that, “because we do not permit blocking based solely on caller ID authentication information, voice service providers subject to a delay in compliance will not [have calls they originate] be blocked because their calls cannot be authenticated.”²⁸ We ask that the Commission expressly prohibit blocking based on the lack of call authentication information for calls originating from Voice Service Providers that cannot implement STIR/SHAKEN and have thus been granted an extension of the implementation deadline.

²⁷ TRACED Act § 4(c)(4).

²⁸ *Further Notice*, ¶ 86.

Congress and the Commission have recognized that some Providers will likely not be able to implement STIR/SHAKEN by the June 30, 2021 deadline.²⁹ Providers that utilize non-IP based networks or that would incur undue hardship in attempting to implement STIR/SHAKEN by that date will be granted an extension of the deadline. Moreover, the Commission has recognized that calls from businesses may not be able to receive the highest level of attestation — an “A-level” attestation. Although industry is reviewing a number of potential solutions that would allow A-level attestation for calls from enterprises authorized to utilize the calling number, it is unclear whether such solutions can be effectuated by the June 30 implementation deadline. Thus, STIR/SHAKEN implementation will continue to be inconsistent for the foreseeable future. The Commission should therefore ensure that terminating Voice Service Providers do not block calls based solely on the lack of, or level of, attestation. Moreover, the Commission should ensure that Voice Service Providers’ analytic partners do not factor lack of attestation into their “reasonable analytics” for calls originating from Providers granted an extension of the implementation deadline.

Until the STIR/SHAKEN framework is universally implemented by Voice Service Providers, the Commission should ensure that calls that are originated by, or pass through, Providers that are unable to fully implement that framework are not blocked due to the lack of authentication.

²⁹ TRACED Act § 4(b)(5); *Report and Order and Third Further Notice*, ¶ 25.

IV. The Commission Should Confirm that Voice Service Providers Must Provide Equivalent Redress to Mislabeled Outbound Calling Numbers

As described at the outset of this letter, the record in this proceeding provides ample evidence that legitimate calling numbers are routinely mislabeled as “spam,” “likely spam,” or “scam.”³⁰ Each of the major Voice Service Providers (and some smaller Providers) partners with a third-party service provider.³¹ Under these arrangements, the Voice Service Provider may attach a label to the call based on the third-party service provider’s determination, or it may direct the third-party service provider to place labels on calls to recipients who are customers of the Provider. Depending on the arrangement, the Provider may block the call without customer input, or the customer may choose not to answer the call, which is tantamount to block, or to block the call based on the label. Indeed, the mislabeling of an outbound calling number is often tantamount to blocking calls placed from that number, as very few calls will be answered with such adverse labels.³² No consumer who uses a call-blocking service would instruct its service to connect a call that is spam or a scam. Therefore, the mislabeling of an outbound calling number can significantly impair a lawful company’s ability to communicate with its customers.

For example, a large bank reported an increase in the number of outbound fraud-prevention, servicing, and collections-related calls being mislabeled as fraudulent in the recipient’s caller ID display. As a result, many customers chose to block these calls. The bank

³⁰ See footnote 11 and accompanying text; Comments of Numeracle, CG Docket No. 17-59, WC Docket No. 17-97 at 11 (filed Jan. 29, 2020).

³¹ As the Commission observed in its recent report on call blocking, AT&T partners with Hiya; T-Mobile partners with First Orion; Sprint, U.S. Cellular, Verizon, and other Voice Service Providers partner with TNS; and CenturyLink, Cox, and Comcast offer their customers a third-party call-blocking program from Nomorobo. Report, Fed. Comm’n’s Comm’n, Cons. & Gov’t Affairs Bureau, Call Blocking Tools Now Substantially Available to Consumers: Report on Call Blocking, CG Docket No. 17-59, at 10-11 (2020), <https://ecfsapi.fcc.gov/file/062561010723/DOC-365152A1.pdf>.

³² See *Third Report and Order* n. 8 (noting that consumers only answer calls 9% of the time if labeled spam).

reported that 85% of its outbound call volume across multiple divisions was impacted. Significantly, the service provider did not notify banks or other businesses whose calls were being blocked. When the bank learned that its calls were blocked, the bank contacted the Voice Service Provider. Although the inaccurate labels were removed, the numbers were labeled accurately for only a brief period of time. The algorithm soon re-applied the incorrect label to the numbers, because the bank initiates a large volume of outbound calls from each number in a short period of time. It took the bank over two months to obtain a permanent solution to address the mislabeling of its outbound calling numbers.

Because the adverse labeling of a call often leads directly to the blocking of that call, the Commission should confirm that the obligation of Voice Service Providers to provide callers with effective redress options applies equally to outbound calling numbers that are mislabeled by the Provider or its third-party service provider. Specifically, the Provider (or its third-party service) should provide notification whenever a derogatory label is placed on a call and provide the caller with an opportunity to dispute that label, consistent with the protections for erroneously blocked calls described in these Comments.

CONCLUSION

We share the Commission's goal to protect consumers from illegal automated calls. We believe that goal can be achieved while ensuring that the important, and often time-sensitive, calls that our members place to their customers are completed.

Consistent with the TRACED Act's requirements, we urge the Commission to require immediate notification when a call is blocked or not completed under the STIR/SHAKEN framework and provide redress within 24 hours of learning of the blocking. Because the mislabeling of an outbound calling number is tantamount to blocking calls from that number, the

Commission should impose the same requirements for notification and effective redress when a Voice Service Provider or its third-party call-blocking service provider mislabels an outbound calling number.

We also ask the Commission to prohibit Voice Service Providers from blocking calls based on the lack of call authentication information originating from Providers that are unable to implement the STIR/SHAKEN or other call authentication framework.

Respectfully submitted,

s//Jonathan Thessin

Jonathan Thessin
Vice President/Senior Counsel
American Bankers Association
1120 Connecticut Avenue, NW
Washington, DC 20036
(202) 663-5016

s//Leah Dempsey

Leah Dempsey
Vice President and Senior Counsel, Federal
Advocacy
ACA International
509 2nd Street, NE
Washington, DC 20002
(410) 627-3899

s//Richard A. Lovich

Richard A. Lovich
General Counsel
American Association of Healthcare
Administrative Management
11240 Waples Mill Road, Suite 200
Fairfax, VA 22030
(703) 281-4043

s//Celia Winslow

Celia Winslow
Senior Vice President
American Financial Services Association
919 18th Street, NW
Washington, DC 20006
(202) 776-7300

s//Damon Smith

Damon Smith
Senior Director of Advocacy and Counsel
Credit Union National Association
99 M Street, SE #300
Washington, DC 20003
(202) 235-3390

s//Stephen Congdon

Stephen Congdon
Assistant Vice President, Regulatory Counsel
Consumer Bankers Association
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005
(202) 552-6381

s//Justin Wiseman
Justin Wiseman
Associate Vice President, Managing
Regulatory Counsel
Mortgage Bankers Association
1919 M Street, NW
Washington DC 20036
(202) 557-2854

s//Elizabeth LaBerge
Elizabeth LaBerge
Senior Regulatory Counsel
National Association of Federally-Insured
Credit Unions
3138 10th St. N.
Arlington, VA 22201
(703) 842-2272

s//Paul G. Martino
Paul G. Martino
Vice President, Senior Policy Counsel
National Retail Federation
1101 New York Ave., NW, Suite 1200
Washington, DC 20005
(202) 626-8104

s//Scott Buchanan
Scott Buchanan
Executive Director
Student Loan Servicing Alliance
1100 Connecticut Avenue, NW
Suite 1200
Washington, DC 20036
(202) 262-8348

August 31, 2020

APPENDIX

The American Bankers Association is the voice of the nation's \$18.6 trillion banking industry, which is composed of small, regional, and large banks. Together, America's banks employ more than 2 million men and women, safeguard \$14.5 trillion in deposits, and extend more than \$10.5 trillion in loans.

ACA International is the leading trade association for credit and collection professionals. Founded in 1939, and with offices in Washington, D.C. and Minneapolis, Minnesota, ACA represents approximately 3,000 members, including credit grantors, third-party collection agencies, asset buyers, attorneys, and vendor affiliates in an industry that employs more than 230,000 employees worldwide. As part of the process of attempting to recover outstanding payments, ACA members are an extension of every community's businesses. Without an effective collection process, businesses and, by extension, the American economy in general, is threatened. Recovering rightfully-owed consumer debt enables organizations to survive, helps prevent job losses, keeps credit, goods, and services available, and reduces the need for tax increases to cover governmental budget shortfalls.

The American Association of Healthcare Administrative Management (AAHAM) is the premier professional organization in healthcare administrative management.

The American Financial Services Association (AFSA) is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with closed-end and open-end credit products including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

The Consumer Bankers Association is the only national trade association focused exclusively on retail banking. Established in 1919, the association is now a leading voice in the banking industry and Washington, representing members who employ nearly two million Americans, extend roughly \$3 trillion in consumer loans, and provide \$270 billion in small business loans.

The Credit Union National Association, Inc. (CUNA) is the largest trade association in the United States serving America's credit unions and the only national association representing the entire credit union movement. CUNA represents nearly 5,500 federal and state credit unions, which collectively serve 120 million members nationwide. CUNA's mission in part is to advocate for responsible regulation of credit unions to ensure market stability, while eliminating needless regulatory burden that interferes with the efficient and effective administration of financial services to credit union members.

The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry that works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans.

The National Association of Federally-Insured Credit Unions (NAFCU) advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 120 million consumers with personal and small business financial service products. NAFCU provides its credit union members with representation, information, education, and assistance to meet the constant challenges that cooperative financial institutions face in today's economic environment. NAFCU proudly represents many smaller credit unions with relatively limited operations, as well as many of the largest and most sophisticated credit unions in the nation. NAFCU represents 73 percent of

total federal credit union assets, 52 percent of all federally-insured credit union assets, and 70 percent of all federal credit union member-owners. NAFCU's membership also includes over 190 federally-insured state chartered credit unions.

The National Retail Federation provides a voice for every retailer. As the world's largest retail trade association, we help unite 42 million working Americans around our common goal—empowering our industry. We represent discount and department stores, home goods and specialty stores, Main Street merchants, grocers, wholesalers, chain restaurants and Internet retailers from the United States and more than 45 countries.

The Student Loan Servicing Alliance (SLSA) is the nonprofit trade association that focuses exclusively on student loan servicing issues. Our membership is responsible for servicing over 95% of all federal student loans and the vast majority of private loans, and our membership is a mix of companies, state agencies, non-profits and their service partners. Our servicer members and affiliate members provide the full range of student loan servicing operations, repayment support, customer service, payment processing, and claims processing for tens of millions of federal and private loan borrowers across the country.