May 15, 2020

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Re: Report and Order and 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, 85 Fed. Reg. 22,099 (April 21, 2020)

Dear Ms. Dortch:

The American Financial Services Association (AFSA)[1] appreciates the opportunity to submit comments on the Federal Communication Commission's (FCC) proposed rule to promote caller authentication and implement the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act. As you know, the FCC recently adopted a Report and Order on March 31, 2020, mandating that all originating and terminating voice service providers implement the STIR/SHAKEN caller ID authentication framework by June 30, 2021. As rulemaking process continues, AFSA requests that the FCC begin its rulemaking as soon as possible to ensure that all robocall blocking services include, for both the consumer and the caller, transparency and effective redress options that are not charged to consumers or callers.

AFSA strongly supports the FCC's efforts to end illegal robocalls and protect consumers from scammers and fraudsters. However, we believe that this effort must not erroneously block legitimate business calls to customers. The industry is not alone in sharing this sentiment. As Commissioner Michael O'Rielly stated, "I likewise sympathize with the view expressed by commenters in the docket that we need to ensure partial implementation of the STIR/SHAKEN framework doesn't lead to legitimate calls being blocked or mislabeled… At its heart, the TRACED Act is about targeting and eliminating *illegal* calls, not restricting legal and legitimate ones."[2] Preventing erroneous call blocking and labeling is especially imperative during the COVID-19 pandemic when businesses are making important, and often time-sensitive, calls to customers regarding branch hours and closings, COVID-19-related forms of relief such as payment deferrals and fee waivers, and measures they are taking to prevent the spread of the disease.

While well-intentioned in their efforts to block illegal calls, voice service providers have been overly aggressive. One example of this are voice service providers using simple identifiers, such as volume size, to thwart illegal calls. This has resulted in legitimate calls from financial institutions either incorrectly being flagged as suspicious or blocked outright. When a large bank performed limited testing of call blocking and labeling, it found that three carriers flagged between three and twelve of its numbers as spam risks. Three to five numbers were flagged as

[1] Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.
[2] Report and Order and Further Notice of Proposed Rulemaking, Call Authentication Trust Anchor, WC Docket No. 17-97; Implementation of TRACED Act Section 6(a)-Knowledge of Customers by Entities with Access to Numbering Resources, WC Docket No. 20-67 (Adopted Mar. 31, 2020) (Statement of Commissioner Michael O'Rielly).

telemarketers or robocalls, even though they were calling customers. One carrier blocked three numbers for being fraud risks.

Financial institutions have few options to prevent or solve for the incorrect labeling or call-blocking. They can either subscribe to various services provided by vendors or manage flagged/blocked numbers in-house. The former usually involves a cost (one charges $10,000 per month). Despite that high fee, some services are unreliable. In one example from an AFSA member, a carrier claimed to remove improper flags in five to seven business days, but the financial institution's first request took nearly three weeks. In-house management is manual, time-consuming, and reactive—notifying carriers only after discovering a flagged or blocked number. As you can see, there is no effective path to redress for wrongly labeled or blocked calls.

The TRACED Act requires the FCC to take final agency action to ensure the robocall blocking services provide on an opt-out or opt-in basis. As described in the preceding paragraph, the lack of regulation has been exploited by vendors. For a fee, vendors will protect a carrier's customer from having their calls tagged as spam or algorithmically blocked. This cannot be what was envisioned by either the FCC or Congress. It's time for the FCC to promulgate a rule that: (1) establishes algorithmic transparency and accountability requirements for algorithmic labeling and blocking; (2) provides a method for reviewing the evidence that resulted in the labeling or blocking; (3) provides a standard mechanism for redress of erroneous labeling and blocking; (4) holds carriers accountable for redressing erroneous labeling and blocking, and the conduct of their vendors; and (5) bans labeling and blocking for the purpose of offering a protection service.

The worst time for legitimate calls to be blocked is during the COVID-19 pandemic when companies are alerting consumers about forced store closures and shelter-in-place orders. Additionally, financial institutions are placing informational calls reminding consumers about the availability of online and mobile banking. This is especially important for older consumers who may not have used these platforms in the past and are most vulnerable to COVID-19.

Another consequence of legitimate calls being blocked is creditors failing to reach their customers. Creditors need the ability to reach their consumers who have missed a payment to avoid harmful consequences such as repossessions and foreclosures, which have a negative impact on consumers' credit reports and further reduce access to future credit.

AFSA released a debt collection study in conjunction with CenturyLink on December 6, 2019, examining the impact that call restrictions on creditors would have on borrowers.[3] While the study was in response to the Consumer Financial Protection Bureau's rulemaking on debt collection, the results are applicative here as well. "The results of the study suggest that among those borrowers entering collections (1-29 days past due), restricting the number of call attempts could increase the number of those borrowers who end up 90+ days past due by nearly 70% for installment loans and over 50% for vehicle finance contracts."[4] The inability of creditors to reach borrowers would have a detrimental affect on the vehicle finance industry. "Industry sources report that as of June 2019, approximately 4.18% of vehicle finance debt is delinquent. A 56% increase in severe delinquencies would yield an additional $29 billion in severely delinquent vehicle finance contracts."[5]

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[3] American Financial Services Association and CenturyLink (2019) *Impact of Collections Call Restrictions on Consumer Delinquencies in Vehicle Finance and Installment Lending*. Retrieved from https://www.afsaonline.org/Portals/0/11AFSA%20-%20Impact%20of%20Collections%20Call%20Restrictions%20-%20Nov%202019%20FINAL.pdf.

[4] Ibid, 2.

[5] Ibid, 8.

While financial institutions, including many of our member companies, are providing COVID-19-related relief to their consumers in ways outlined before to avoid these consequences, this issue will need to be addressed post-COVID-19 to ensure consumers continue to have contact with the companies with which they do business. AFSA is committed to working with the FCC to protect consumers from robocalls and potential scammers, while ensuring legitimate calls reach people who need to receive them.

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AFSA appreciates the FCC's attention to these issues. Please do not hesitate to contact me at 202-776-7300 or cwinslow@afsamail.org with any questions.

Sincerely,

Celia Winslow

Celia Winslow
Senior Vice President
American Financial Services Association