



March 13, 2020

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, DC 20554

**Re: Notice of *Ex Parte* Presentation
WC Docket No. 17-97; WC Docket No. 20-67; WC Docket No. 17-59**

Dear Ms. Dortch:

On March 11, 2020, representatives from the American Bankers Association, American Association of Healthcare Administrative Management, American Financial Services Association, ACA International, Consumer Bankers Association, Credit Union National Association, Mortgage Bankers Association, National Association of Federally-Insured Credit Unions, National Automobile Dealers Association, and National Council of Higher Education Resources (collectively, the Associations) met by telephone with Zenji Nakazawa, Public Safety and Consumer Protection Advisor for Chairman Ajit Pai, and Arielle Roth, Wireline Legal Advisor for Commissioner Michael O’Rielly, in separate meetings. The Associations also met by telephone with Travis Litman, Chief of Staff for Commissioner Jessica Rosenworcel, and Joseph Calascione, Wireline and Consumer Legal Advisor for Commissioner Brendan Carr, in separate meetings on March 13, 2020. A full list of meeting participants is provided in Appendices A and B.

During the meetings, the Associations expressed support for the Commission’s goal to reduce illegal automated calls and acknowledged the myriad efforts by companies that provide voice telephony services (Voice Service Providers or Providers) to help combat this problem. We also

reiterated points made in our recent *ex parte* filing of March 4, 2020,¹ which summarized the firsthand and statistical evidence in the record demonstrating the substantial blocking and mislabeling of lawful calls, including calls implicating public safety and health.

When 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. These calls include, for example, safety alerts, fraud alerts, data security breach notifications, product recall notices, healthcare and prescription reminders, and power outage updates. It is critical that these calls be completed without delay. The Associations' March 4 letter identified a number of steps that Voice Service Providers should take to minimize or remediate the blocking of lawful calls, including providing real-time notification and establishing transparent and effective redress mechanisms.

The Associations believe that full implementation of the STIR/SHAKEN call authentication framework represents an important step toward achieving the shared goal of eliminating illegal automated calls. We applauded the Commission's draft Report and Order and Further Notice of Proposed Rulemaking,² which implements provisions of the TRACED Act requiring deployment of STIR/SHAKEN in the IP networks of Voice Service Providers.³ As reflected in the draft Order, however, deployment of STIR/SHAKEN will occur in stages. Some of the major Providers have already implemented the framework for residential and consumer wireless calls within or between their networks. Many other Voice Service Providers, as the TRACED Act recognizes, will need more time.⁴

If a Provider that carries a call is not able to validate the origin of the call because the Provider has not fully deployed STIR/SHAKEN, that call may not be validated by other Providers in the call's pathway and instead be blocked. Moreover, there is still no industry consensus on addressing the "signing" of calls originating from business establishments or time-division multiplexing (TDM) networks. These factors suggest that serial implementation of STIR/SHAKEN could exacerbate the blocking of lawful calls.

The Associations therefore ask the Commission to revise its draft Order to require Voice Service Providers not to block unsigned calls until the STIR/SHAKEN framework has been fully implemented.⁵ Moreover, the Commission should permit Voice Service Providers that have

¹ Letter from Am. Bankers Ass'n *et al.* to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-59 (filed Mar. 4, 2020), <https://www.aba.com/advocacy/policy-analysis/protect-calls-placed-by-banks-and-other-legitimate-businesses>.

² *Implementation of TRACED Act Section 6(a) — Knowledge of Customers by Entities with Access to Numbering Resources*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 17-97, WC Docket No. 20-67, FCC-CIRC2003-01 (draft released Mar. 10, 2020) ("Draft Order").

³ Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Public Law No. 116-105 ("TRACED Act").

⁴ TRACED Act § 4(b)(5).

⁵ See Letter from Jonathan Thessin, Am. Bankers Ass'n *et al.*, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 17-59, at 3-4 (filed July 24, 2019) (comment letter submitted by 11 industry trade

fully implemented the framework to block only calls that have not been properly authenticated or those that have been authenticated, but where the Provider has concluded with a high degree of certainty that the calls was placed illegally.⁶

The Associations also expressed concern regarding the Commission's determination at paragraph 54 of the draft Order to give Voice Service Providers free reign in displaying call authentication information to their subscribers.⁷ We recognize that informing call recipients that the number displayed on the recipient's caller ID has been authenticated is an important component of the STIR/SHAKEN framework. However, as described above, many Voice Service Providers have not yet begun to implement the framework, and certain calls cannot be validated, including calls originating from TDM networks or business establishments. Under these circumstances, the presence of a "green checkmark" to represent a validated call could lead call recipients to conclude incorrectly that the *absence* of a checkmark means the call was placed illegally.

Moreover, there is no consensus in the telecommunications industry for how to display STIR/SHAKEN information, nor has the issue been addressed through the Internet Engineering Task Force, a standards body composed of network designers, operators, vendors, and researchers. There are also no defined criteria that Voice Service Providers must apply in displaying authentication information. For example, it is uncertain whether Voice Service Providers will provide a "green checkmark" only for calls receiving an "A-Level" attestation (the highest level of validation) or will provide a checkmark based on unvetted analytics, supplanting the role of STIR/SHAKEN for determining the authentication status of the call. It also is not clear how Providers will assess calls that originate from other Providers that have not been able to implement STIR/SHAKEN but that otherwise lack indicia that the call was placed unlawfully or fraudulently.

In light of these open questions, the Associations request that the Commission seek further comment on the display of STIR/SHAKEN information to called parties. The Commission and all stakeholders will benefit from a more detailed record regarding the criteria Providers will apply in labeling outbound calling numbers, the effect on consumer behavior of the information displayed in the recipient's caller ID, and whether derogatory call labels are being displayed for lawful calls, including lawfully spoofed calls.

associations urging Commission not to permit Voice Service Providers to block unsigned calls until the STIR/SHAKEN framework has been fully implemented), <https://www.aba.com/advocacy/policy-analysis/joint-trades-letter-to-fcc-on-third-notice-of-proposed-rulemaking-re-tcpa-call-blocking>.

⁶ See *id.* at 4-5.

⁷ Draft Order ¶ 54.

Thank you for your consideration of these requests. We look forward to continuing to work with the Commission to combat illegal automated calls, while ensuring that the lawful, and often time-sensitive, calls that our members place are not erroneously blocked.

Respectfully submitted,

American Association of Healthcare Administrative Management
American Bankers Association
American Financial Services Association
ACA International
Consumer Bankers Association
Credit Union National Association
Edison Electric Institute
Mortgage Bankers Association
National Automobile Dealers Association
National Association of Federally-Insured Credit Unions
National Council of Higher Education Resources

Appendix A – March 11, 2020 Meeting Attendees

Office of Chairman Pai

Zenji Nakazawa

Office of Commissioner O’Rielly

Arielle Roth

The Associations

Jonathan Thessin, American Bankers Association

Ann Kossachev, National Association of Federally-Insured Credit Unions

Elizabeth LaBerge, National Association of Federally-Insured Credit Unions

Leah Dempsey, ACA International

Mark Brennan, Hogan Lovells (for American Association of Healthcare Administrative Management)

Arpan Sura, Hogan Lovells (for American Association of Healthcare Administrative Management)

David Androphy, American Financial Services Association

Michael Pryor, Brownstein, Hyatt, Farber and Schreck (for Credit Union National Association)

Elizabeth Eurgubian, Credit Union National Association

Stephen Congdon, Consumer Bankers Association

Shelly Repp, National Council of Higher Education Resources

Bradley Miller, National Automobile Dealers Association

Appendix B – March 13, 2020 Meeting Attendees

Office of Commissioner Rosenworcel

Travis Litman

Office of Commissioner Carr

Joseph Calascione

The Associations

Jonathan Thessin, American Bankers Association

Ann Kossachev, National Association of Federally-Insured Credit Unions

Elizabeth LaBerge, National Association of Federally-Insured Credit Unions

Leah Dempsey, ACA International

Patrick Russell, ACA International

Mark Brennan, Hogan Lovells (for American Association of Healthcare Administrative Management)

Arpan Sura, Hogan Lovells (for American Association of Healthcare Administrative Management)

David Androphy, American Financial Services Association*

Michael Pryor, Brownstein, Hyatt, Farber and Schreck (for Credit Union National Association)

Elizabeth Eurgubian, Credit Union National Association

Stephen Congdon, Consumer Bankers Association

Shelly Repp, National Council of Higher Education Resources*

Blake Chavis, Mortgage Bankers Association

Bradley Miller, National Automobile Dealers Association

* Joined only the telephone call with Travis Litman

Appendix C – About the Associations

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.

Founded in 1916, 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 many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

The Consumer Bankers Association is the trade association for today's leaders in retail banking – banking services geared towards consumers and small businesses. The nation's largest financial institutions, as well as many regional banks, are CBA corporate members, collectively holding two-thirds of the industry's total assets. CBA's mission is to preserve and promote the retail banking industry as it strives to fulfill the financial needs of the American consumer and small business.

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 115 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, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair

and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's web site: www.mba.org.

The National Automobile Dealers Association (NADA) represents all franchised new-car dealers — domestic and import — before Congress, federal agencies, the media and the general public. NADA also provides education and guidance on regulatory matters. NADA represents dealers' interests with automobile and truck manufacturers; develops research data on the retail automobile industry; offers extensive training programs to improve dealership business operations, sales and service practices; and operates a foundation that distributes dealer-donated funds to worthy charitable causes.

The National Association of Federally-Insured Credit Unions (NAFCU) advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 117 million consumers with personal and small business financial service products. NAFCU provides its members with advocacy, education, and compliance assistance to meet the ongoing challenges that cooperative, community-based financial institutions face in today's economic and regulatory environment. NAFCU represents 71% of total federal credit union assets and 50% of all federally-insured credit union assets.

The National Council of Higher Education Resources (NCHER) is the nation's oldest and largest higher education finance trade association. NCHER's membership includes state, nonprofit, and for-profit higher education service organizations, including lenders, servicers, guaranty agencies, collection agencies, financial literacy providers, and schools, interested and involved in increasing college access and success. It assists its members in shaping policies governing federal and private student loan and state grant programs on behalf of students, parents, borrowers, and families.