

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	CG Docket No. 17-59
Advanced Methods to Target and Eliminate)	
Unlawful Robocalls)	FCC 17-151
)	

**Comments of Professional Association for Customer Engagement, Alorica, Inc. and the
Consumer Relations Consortium**

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I. Introduction

The Professional Association for Customer Engagement (“PACE”)¹ respectfully submits these Comments, with the support of Alorica, Inc.² and the Consumer Relations Consortium,³ in response to the Federal Communications Commission’s (“FCC” or “Commission”) above-cited Further Notice of Proposed Rulemaking (“FNPRM”) regarding mechanisms to resolve erroneously blocked calls and call blocking reporting obligations. PACE believes that our nation relies upon a reliable phone network where legal calls make their way to call recipients. The Commission stated it best in a 2007 Declaratory Ruling and Order, saying, “[b]ecause the ubiquity and reliability of the nation’s telecommunications network is of paramount importance to the explicit goals of the Communications Act of 1934, as amended, (Act), we reiterate here that Commission precedent does not permit unreasonable call blocking by carriers.”⁴ Although industry participants are honing best practices to address unintended consequences of call blocking through organizations such as the PACE-led Communication Protection Coalition (“CPC”),⁵ the Commission remains the guardian of our ubiquitous and reliable national telephone network. Consequently, PACE recommends, as further detailed below, that the Commission (i) require carriers to offer a call blocking mitigation service for callers (a.k.a. call originators) and called parties, (ii) provide a speedy Commission complaint procedure for callers whose requests to have their calls unblocked are ignored or denied, and (iii) implement effective and appropriate reporting

¹ PACE is the only non-profit trade organization dedicated exclusively to the advancement of companies that use a multi-channel contact center approach to engage their customers, both business-to-business and business-to-consumer. These channels include telephone, email, chat, social media, web and text. Our membership is made up of Fortune 500 companies, contact centers, BPOs, economic development organizations and technology suppliers that enable companies to contact or enhance contact with their customers.

² Alorica, Inc. provides customer relationship management and back office support to a diverse client base of communications, financial services, healthcare, retail and tech companies utilizing its more than 100,000 in 150 locations across 17 countries.

³ The Consumer Relations Consortium (“CRC”) is a membership group for larger accounts receivable management firms, creditors, and technology providers. CRC is dedicated to engaging in high quality dialogue with regulators, consumer groups and others in an effort to produce common sense solutions that benefit consumers, creditors and servicers.

⁴ Declaratory Ruling and Order, *In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers, Call Blocking by Carriers*, WC Docket No. 07-135, DA 07-2863 (June 28, 2007) at ¶ 1.

⁵ CPC brings together technology providers, carriers, contact centers, businesses that use telecommunications and consumer groups in the pursuit of best practices to block illegal calls with as little disruption as possible to legal and legitimate calls. CPC first met in September 2017 and will hold its next meeting on January 25, 2018.

requirements to gather and make publicly-available data related to call blocking and blocking mitigation.

II. Background

Consumers and businesses alike despise illegal calls interrupting their daily lives and operations. In 2016, the Commission convened a Robocall Strike Force comprised of various telecommunication stakeholders in an attempt to find a solution to the illegal robocall problem and, specifically, illegal operators “spoofing” telephone numbers to avoid identification and accountability.⁶ Even before the Robocall Strike Force began its work, data analytics companies and mobile phone application developers began collecting information about calls consumers receive and calling trends that may denote illegal calls. Using this data, such companies offer consumers applications that label⁷ or block categories of calls.

Carriers jumped on the call labeling and blocking bandwagon and, in the past year, began vigorously blocking calls they believe are likely illegal. The Commission, in a Report and Order from November, sanctioned limited blocking of calls purporting to originate from invalid, unallocated or unassigned numbers.⁸ Simultaneously, the Commission cautioned that “[t]he rules we adopt today outline specific, well-defined circumstances in which voice service providers may block calls . . . a provider that blocks calls that do not fall within the scope of these rules may be liable for violating the Commission’s call completion rules.”⁹

Carrier-based call blocking, while arguably an effective solution for blocking calls originating from numbers requested to be blocked by subscribers and invalid or unallocated/unassigned numbers, poses a high risk of blocking legal and legitimate communications if applied to presumptively illegal calls using ill-defined standards. PACE members experience the effects of call blocking every day, including, for some members, 20%-

⁶ Robocall Strike Force participant AT&T published a list of initial corporate members. *FCC Hosts First Robocall Strike Force Meeting; AT&T’s Stephenson to Chair Industry-Led Group*, AT&T (Aug. 19, 2016) <https://www.attpublicpolicy.com/fcc/fcc-hosts-first-robocall-strike-force-meeting-atts-stephenson-to-chair-industry-led-group/>.

⁷ Although the Commission did not request information regarding call labeling in the FNPRM, PACE encourages the Commission to investigate call labeling practices and work with industry to improve the accuracy of call labels, ensure that labels do not create legal liability for callers and mitigate the harm posed by inaccurate labels which may be as great or greater than the harm posed by erroneous call blocking.

⁸ Report and Order and Further Notice of Proposed Rulemaking, *In the Matter of Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, FCC 17-151 (Nov. 17, 2017) (“FNPRM”).

⁹ FNPRM at ¶ 9.

30% reductions in call completion rates. Many members are also noticing a sudden and dramatic increase in calls returning a busy signal — a condition nearly eliminated when calling mobile phones due to the provision of voicemail. PACE is very concerned about carriers and mobile applications erroneously blocking legal and legitimate calls.

III. Erroneous Call Blocking Mitigation

A. Inquiry Mechanism

The Commission’s FNPRM requests comment on potential mechanisms to ensure that erroneously blocked calls are unblocked as quickly as possible and without undue harm to callers and call recipients.¹⁰ Carriers should provide a formal mechanism to inquire about and request modification of a number’s blocking status.¹¹ This mechanism should serve callers and call recipients.¹² For callers, the mechanism should scale to allow inquiry and modification for everything from a single number to hundreds of numbers at a time. Carriers could offer a web-based portal to manually inquire about a handful of numbers and an automated interface optimized for high-volume inquiries.¹³ For call recipients seeking to verify the blocked status of number, a web-based portal with manual inquiry would likely be sufficient. Carriers should not implement a maximum time frame in which a caller or called party may inquire about and request modification of call blocking.

When a carrier receives a request to remove blocking, it should respond promptly. In the case of requests from call recipients, the carrier should use an automated system to immediately remove the block for calls to the call recipient from the blocked number. When the request comes from a caller, the carrier should acknowledge the request immediately, and once the carrier has the

¹⁰ FNPRM at ¶ 57. The FNPRM uses the term “consumers,” but the issue of illegal calls affects both consumers and businesses; therefore, these Comments will use the term “call recipients.”

¹¹ PACE acknowledges that, under current call blocking algorithms, blocking is a dynamic process that may result in only temporary blocking of a number. Carriers should not deny a request for modification simply because the blocking status has already changed by the time the request is filed. Rather, carriers should treat the request as a modification of future blocking behavior.

¹² Carriers must continue to protect the confidentiality of customer proprietary network information (“CPNI”) at all phases of inquiry and response. Carriers may implement CPNI protection best practices, such as, verifying the identity of a purported call recipient before providing the call recipient with information about calls they received.

¹³ All inquiry and call blocking modification mechanisms should be free of charge, but may require registration as a means of verifying the identity of the requester.

information needed to act upon it, should provide a response.¹⁴ Such required information may include evidence of number ownership/assignment, authorization to use the number and proof of the identity of the requester. Carriers may permit callers to pre-register their information so that their requests may be expedited. Carriers should act upon a caller's request within one business day of receiving all requested information.

The Commission should develop a new complaint process, or modify an existing one, to allow for speedy resolution of complaints regarding denials of, or slow response to, caller and call originator requests for blocking modification. When evaluating call blocking complaints, the Commission should place the burden on the carrier to prove, by clear and convincing evidence, that the calls being blocked are illegal or the caller is not authorized to request blocking status modification because the caller does not have authorization to originate calls using that number. If the carrier does not alter the blocking status, the carrier should provide a reason why it cannot do so. If the carrier is unable to meet its burden, the Commission should order the requested blocking modification. Due to the severe impact prolonged proceedings could have on the caller, complaints should be resolved within 7 business days from filing and the carrier should be required to prove its case based only upon evidence already in its possession at the time the complaint is filed.

In order to make a request for blocking modification, a caller must know that their calls are being blocked. Currently, callers learn of blocking circumstantially through decreased call answer rates and increased busy signals. The Commission should require more direct methods of notification. For example, the Commission could require use of a new signaling cause code specifically for calls blocked by carriers. Using a busy signal, the current practice, misinforms the caller, actually leads to more calls as dialers attempt to call again and arguably constitutes an unjust and unreasonable practice in violation of the Communications Act.¹⁵ The Commission may also

¹⁴ Acting upon a request means either approving or denying it and implementing any resulting change (e.g. unblocking the number).

¹⁵ See, e.g., Declaratory Ruling, *In the Matter of Developing a Unified Inter-carrier Compensation Regime; Establishing Just and Reasonable Rates for Local Exchange Carriers*, CC Docket No. 01-92, WC Docket No. 07-135, DA 12-154 (Feb. 6, 2012) at ¶ 13 (“The Commission has found that practices by common carriers that deceive or mislead customers are unjust and unreasonable practices under section 201(b). It is a deceptive or misleading practice, and therefore unjust and unreasonable under section 201(b), to inform a caller that a number is not reachable or is out of service when the number is, in fact, reachable and in service.”) (“2012 Ruling”).

consider an intercept message to accompany the signaling cause code.¹⁶ By informing callers that their calls are being blocked, carriers will allow faster caller response thereby reducing the impact of erroneous call blocking.

Likewise, call recipients must be informed when calls to them are blocked. For mobile phone users, carriers could provide an optional push notification or free SMS message alerting the call recipient of the number blocked and providing instructions to remove the block. For landline or VoIP users without such alert capability, carriers could provide information about blocked calls on the monthly statement and online through their account portal. Carriers should work with consumer groups to determine an appropriate frequency of call block notifications (for example, an immediate SMS alert for each blocked call may lead to too many alerts but a daily or weekly alert would be appropriate).

Carriers should also work with industry groups to identify the types of call blocking appropriate at each stage of a call: origination, transit and termination. Realistically, terminating carriers will be in the best position to alert callers and call recipients when calls are blocked and respond to requests for blocking modification; however, carriers standing at other points in the call chain may have a role to play in keeping the network clear of illegal calls. The following table highlights the blocking roles carriers should play at various points:

Carrier Type	Invalid, Unallocated or Unassigned Number Blocking	Algorithmic Blocking	Subscriber- Requested Blocking of Specific Numbers
Originating	Permissible	Not Permissible	Not Permissible
Transit	Permissible	Not Permissible	Not Permissible
Terminating	Permissible	Permissible	Permissible

The reasons why transit and originating carriers cannot perform algorithmic blocking is for the same reason why they cannot block subscriber specified numbers – the subscriber needs to define, in their service profile, which numbers to block or not, and the service profile is maintained by the terminating carrier, not any transit or originating carrier.

¹⁶ An intercept message may be particularly useful for low-volume callers and individuals (including victims of spoofing) who would not have the equipment needed to process a signaling cause code. Carriers would need to educate their customers on the meaning of and how to respond to the new message.

As industry participants work to develop best practices for illegal call reduction as a whole, including various forms of call blocking, PACE urges the Commission to continue engaging with industry on these issues.

B. Potential for Abuse & Long-Term Solutions

In its FNPRM, the Commission also expressed concern that a mechanism to mitigate erroneous call blocking by carriers could be abused by illegal callers.¹⁷ Potential for abuse does not justify withholding important protections from callers and called parties. Carriers may mitigate the potential for abuse by adjusting the treatment of a number in the blocking algorithm rather than “whitelisting” the number. For example, the carrier may set a higher call volume threshold for triggering blocking in order to account for authorized use of the number. Additionally, a carrier may more stringently block calls originating from numbers for which a request to release call blocking was denied. Call blocking algorithms will need to dynamically account for illegal callers’ circumvention attempts which may result in erroneous re-blocking of previously unblocked numbers. The Commission, carriers, callers and called parties will need to work together to continually refine call blocking best practices.

Although at least one industry-participant is concerned that carriers informing callers about their numbers being blocked will assist bad actors, the benefits of blocking notification outweigh the potential drawbacks.¹⁸ First, informing callers of the true reason their call did not connect is the law. As the Commission stated in 2012, “[i]t is a deceptive or misleading practice, and therefore unjust and unreasonable under section 201(b), to inform a caller that a number is not reachable or is out of service when the number is, in fact, reachable and in service.”¹⁹ Second, legal and legitimate callers may suffer significant economic losses from the time it takes them to discover their calls are being blocked and mitigate the harm. Third, false busy signals actually result in more calls to consumers as dialing systems often retry such numbers. Fourth, illegal neighbor spoofing and illegal spoofing in general are the means by which bad actors hide their identity, and alerting these bad actors to their calls being blocked is unlikely to materially increase spoofing rates as the bad actors already dynamically rotate numbers. Consequently, although a signaling cause code

¹⁷ FNPRM at ¶ 58 (“How can we mitigate the risk that makers of illegal robocalls will exploit such a process?”).

¹⁸ Ex Parte Notice of First Orion Corp., *In the Matter of Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 (Dec. 20, 2017).

¹⁹ 2012 Ruling at ¶ 13.

and/or intercept message may theoretically speed up bad actors' rates of number changes, such risk is far outweighed by the benefit of accurate call information to legal and legitimate callers.

Importantly, carriers should adopt the SHAKEN & STIR protocols once they are available for deployment.²⁰ SHAKEN & STIR allow a VoIP call and its associated telephone number to be authoritatively and cryptographically signed by the originating carrier.²¹ The originating carrier also assigns an attestation rating of full attestation, partial attestation or gateway attestation (only attesting to point of entry). When the terminating carrier receives the call and number information, it uses a public decryption key to verify the information. Using the attestation rating, the terminating carrier may choose to block the call or provide a call designation (e.g., verified, likely spam) to the call recipient.²² SHAKEN & STIR provide a long-term solution to caller authentication and attestation ratings should factor heavily into service provider call blocking algorithms (both positively and negatively).

IV. Reporting Requirements

The Commission should carefully consider reporting requirements that provide valuable data justifying the obligations such reports impose on carriers. Specifically, reports should target (i) call blocking outliers and (ii) trends in call blocking that may speak to whether blocking services continue to effectively target illegal calls. For example, reports should be calibrated to identify if a carrier is erroneously blocking calls resulting in high volumes of unblocking requests. In this instance, a metric such as the number of unblocking requests per 1,000 calls blocked during a defined period of time may be useful.²³ Conversely, a high number of blocking requests by called parties relative to a defined number of calls completed during a defined period of time would likely indicate a carrier's blocking algorithms are not successfully blocking illegal calls. To the extent the Commission implements a complaint process related to unfulfilled unblocking requests, it could use data from the complaint process to identify if carriers are not appropriately responding

²⁰ Signature-based Handling of Asserted Information using Tokens and Secure Telephony Intity Revisited. PACE does not recommend that the FCC mandate adoption of SHAKEN & STIR at this time.

²¹ *Robocall Strike Force Report (Oct. 26, 2016)* at 5 (available at <https://transition.fcc.gov/cgb/Robocall-Strike-Force-Final-Report.pdf>).

²² PACE previously pointed-out potential anti-competitive concerns regarding SHAKEN & STIR but remains confident that the relevant standards-setting bodies will address these concerns during testing and finalization of the protocols. See Comments of Professional Association for Customer Engagement, *In the Matter of Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, FCC 17-24 (July 3, 2017) at 8-9.

²³ Differentiation may be needed between unblocking requests filed by call originators and called parties.

to unblocking requests. The Commission should work closely with industry organizations, such as the CPC, to develop effective reporting requirements.

Reports should be made public and will benefit the Commission, callers and called parties by demonstrating the effectiveness of call blocking efforts and tracking mitigation of erroneous call blocking. The Commission will be able to monitor the impact of regulatory changes on call blocking effectiveness and identify unintended consequences. Callers will be able to identify carriers with whom they may need to work more actively to reduce blocking risks. Called parties will be able to judge the effectiveness of call blocking programs between carriers and make informed purchasing decisions using that information. In summary, all parties in the telecommunications ecosystem will benefit from being better informed about carriers call blocking and mitigation activity.

V. Conclusion

For the foregoing reasons, the Commission should (i) require carriers to offer a call blocking mitigation service for callers and called parties, (ii) provide a speedy Commission complaint procedure for callers whose requests to have their calls unblocked are ignored or denied, and (iii) implement effective and appropriate reporting requirements to gather and make publicly-available data related to call blocking and blocking mitigation. By taking these reasonable and proportionate steps to mitigate the harm of erroneous call blocking, the Commission will both ensure a ubiquitous and reliable telephone system and allow participants in the telecommunications ecosystem flexibility to adapt to illegal callers' ever-changing tactics.

Respectfully submitted,

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