

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Advanced Methods To Target and Eliminate Unlawful Robocalls)	CG Docket No. 17-59
)	
Call Authentication Trust Anchor)	WC Docket No. 17-97

**COMMENTS OF THE CREDIT UNION NATIONAL ASSOCIATION, ACA
INTERNATIONAL, AMERICAN FINANCIAL SERVICES ASSOCIATION, NATIONAL
COUNCIL OF HIGHER EDUCATION RESOURCES, NATIONAL ASSOCIATION OF
FEDERALLY-INSURED CREDIT UNIONS, STUDENT LOAN SERVICING
ALLIANCE**

The Credit Union National Association (“CUNA”), ACA International, American Financial Services Association, National Council of Higher Education Resources, National Association of Federally-Insured Credit Unions, and the Student Loan Servicing Alliance (together, “Trade Associations”) submit these initial comments in response to the Further Notice of Proposed Rulemaking in the above-captioned proceedings released on May 20, 2022.¹ The Trade Associations have been active participants in the Federal Communication Commission’s (“Commission”) efforts to curb illegal robocalls while also minimizing the blocking and mislabeling of legitimate calls and enabling effective redress when legal calls are inadvertently blocked. In these initial comments, the Trade Associations address three discrete issues raised in the Further Notice: (1) imposing additional obligations on providers originating non-

¹ *Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Sixth Report and Order in CG Docket No. 17-59, Fifth Report and Order in WC Docket No. 17-97, Order on Reconsideration in WC Docket No. 17-97, Order, Seventh Further Notice of Proposed Rulemaking in CG Docket No. 17-59, and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 17-97 (“*Gateway Order*” or “*Further Notice*”).

conversational traffic; (2) extending caller ID authentication to non-IP networks; and (3) restricting access to or use of U.S. numbers for calls originating outside of the United States.

Specifically, the Trade Associations respectfully urge the Commission to avoid imposing excessive restrictions on providers that originate and transmit “non-conversational traffic.” Non-conversational traffic appears to include communications such as fraud alerts, school closings, payment reminders and many other types of legitimate calls that members of the Trade Associations routinely make to their customers. The Trade Associations also urge the Commission to take further steps to curb illegal spoofing by requiring voice service providers using non-IP networks to authenticate caller ID using commercially available technology. Finally, in light of the legitimate use cases for originating calls outside the U.S. using U.S. numbers, the Trade Associations recommend that the Commission move cautiously before imposing further restrictions on the use of U.S. numbers for foreign-originated calls.

I. The Commission Should Not Impose New Obligations on Non-Conversational Traffic

The Commission’s current rules require originating voice service providers to take effective measures to prevent new and renewing voice service customers from using their networks to originate unlawful calls.² The Commission provides voice service providers flexibility in meeting this obligation, but, at a minimum, it appears to involve voice service providers exercising some degree of “know-your-customer” due diligence. The Trade Associations welcome this fundamental requirement, and their members would expect reputable providers to undertake such steps as a matter of sound business practice.

The Commission, however, seeks comment on whether originating providers that serve customers originating “non-conversational traffic” should be required to do more, specifically,

² See *Further Notice* para. 183.

whether they should “ensure that customers originating non-conversational traffic only seek to originate lawful calls.”³ The Trade Associations are concerned that imposing such a standard on providers would result in further blocking of legitimate, lawful calls – an outcome the Commission should take every step to avoid. As the Commission acknowledges, there are “wanted, and even important” calls that fall within the proposed definition of non-conversational traffic (*i.e.*, traffic with an average call duration of less than two minutes),⁴ citing as examples, “emergency alerts, post-release follow up calls by hospitals, [and] credit card fraud alerts.”⁵ The Commission further notes that intermediate or terminating carriers “not comfortable with potential liability for carrying non-conversational traffic” might block these important communications.⁶ This concern would be greatly amplified if the Commission were to impose strict liability on voice service providers that originate or pass illegal non-conversational traffic notwithstanding their good-faith mitigation efforts. Holding providers strictly liable most likely will lead providers to engage in even more aggressive blocking, declining to serve customers that generate non-conversational traffic, or increasing service costs to offset increased regulatory and litigation risks in carrying this traffic. The higher costs would be passed on to the many legitimate businesses that generate non-conversational traffic and ultimately to consumers.

II. The Commission Should Require Non-IP Providers to Use Commercially Available Technologies to Verify Caller ID Information

Trade Association members continue to experience illegal spoofing of their telephone numbers by bad actors seeking to gain access to accounts or personal information. For example, CUNA is aware that some credit unions’ numbers have been recently spoofed. These bad actors

³ See *Further Notice* para. 184.

⁴ This proposed definition is highly problematic. Consumer alerts and notices often are of short duration, often well below two minutes.

⁵ See *Further Notice* paras. 185-86.

⁶ See *id.* para. 186.

convincingly posed as credit union staff, required the called party to validate their identity before continuing the call, and then informed the called party that their account was being broken into in real time. These bad actors mimicked customer service processes to build a sense of confidence in the called party and then emphasized a sense of urgency, leading the called parties to disclose their online banking credentials. In response, credit unions have increased education and awareness campaigns to ensure members never give their online credentials over the phone. While these members have been made whole by their credit unions, this kind of spoofing is dangerous to both American consumers and the financial system as a whole.

The Trade Associations have thus welcomed adoption of the STIR/SHAKEN framework to help mitigate unlawful spoofing. There are, however, gaps in the implementation of this framework. One gap occurs because most foreign-originated calls likely are not being subject to the STIR/SHAKEN attestation process. The Commission took steps to address that gap by imposing new obligations on the providers that act as the gateway for foreign calls entering the country.

Another major gap is that STIR/SHAKEN only works on IP-enabled networks. Providers using legacy, TDM networks cannot originate or pass STIR/SHAKEN information. A significant amount of traffic continues to cross TDM networks, undermining the utility of STIR/SHAKEN. The *Further Notice* appropriately seeks comment on whether non-IP providers should be required to implement one of the commercially available alternative technologies that enable caller ID verification on those legacy networks.⁷ The Trade Associations urge the Commission to require non-IP network providers to implement a commercially available solution as soon as

⁷ *Further Notice* para. 173 (noting that call authentication solutions for non-IP networks have been developed and described in the record).

practicable.⁸ The Trade Associations take no position on which of the available technologies should be used and it may be appropriate to allow non-IP providers to adopt a solution that works best for them, as long as the solution has the ability to transmit to the terminating carrier information regarding caller ID authenticity. The requirement to implement a solution should apply to all non-IP providers in the call chain.

III. The Commission Should Move Cautiously Before Restricting Foreign Access to U.S. Numbers

The Trade Associations appreciate the Commission's concern and efforts to curb illegal robocalls originating outside of the United States for termination in this country. The Commission adopted a number of steps to address this issue in the order accompanying the *Further Notice*. There are numerous legitimate uses of U.S. numbers in caller ID for calls that originate in foreign countries. Trade Associations member companies have foreign-based offices, including on military bases, that originate calls back to the U.S. and some have calling centers in foreign countries that address consumer concerns or questions. Use of foreign-based call centers or agents enable round-the-clock service and availability and help ensure prompt customer engagement if domestic call centers or agents are busy or otherwise unavailable.

As with all measures to address illegal robocalls, the Commission should strive to strike an appropriate balance that minimizes the blocking of legitimate calls or erodes the ability of companies to engage in wanted or needed communications with their customers. The Trade Associations believe that barring the use of U.S. numbers in caller ID for foreign-originated calls is unnecessary and would unduly restrict the ability of U.S. companies to operate overseas and

⁸ The Trade Associations take no position in these comments on whether STIR/SHAKEN should be extended to all intermediate carriers. Currently, IP-based intermediate providers must pass along STIR/SHAKEN information that they receive and send in IP format. As stated in the text above, the Commission should require TDM-based intermediate providers to adopt a solution that enables them to transmit STIR/SHAKEN information sent to them from an IP network rather than simply drop the information.

effectively serve their customer base. The Trade Associations are also concerned that adopting a special area code to indicate that a call originated outside of the United States would result in those calls not being answered.

The Commission could, however, consider taking additional steps to prevent the unrestricted proliferation of U.S. number resale that could enhance the ability of foreign-based bad actors to engage in fraudulent activity.⁹ A complete ban on number resale, which the Commission calls indirect number access, would appear excessive. It may, however, be reasonable to require U.S. providers that resell numbers to foreign providers or foreign-based entities to perform more exacting know-your-customer due diligence tailored to the transaction and to describe that due diligence in the robocall mitigation database.

Conclusion

The Trade Associations believe the steps described above will help create a balanced approach to mitigating illegal robocalls and reducing illegal number spoofing.

Respectfully submitted,

s//Elizabeth M. Sullivan
Elizabeth M. Sullivan
Senior Director of Advocacy and Counsel
Credit Union National Association
99 M Street SE #300
Washington DC 20003
(202) 235-3390

s//Ann Kossachev
Ann Kossachev
Vice President of Regulatory Affairs
National Association of Federally-Insured
Credit Unions
3138 10th St. N.
Arlington, VA 22201
(703) 842-2212

⁹ *Further Notice* para 222.

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

s//Shelly Repp
Shelly Repp
Senior Advisor and Counsel
National Council of Higher Education
Resources
1100 Connecticut Avenue, NW
Suite 1200
Washington, DC 20036
(202) 494-0948

s//Leah C. Dempsey
Leah C. Dempsey
Shareholder
Brownstein Hyatt Farber Schreck, LLP
1155 F Street N.W., Suite 1200
Washington, DC 20004
(410) 627-3899

Counsel to ACA International

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

August 17, 2022