

March 9, 2023

VIA ECFS

Marlene Dortch,
Secretary, Federal Communications Commission
445 12th Street, SW
Washington DC 20554

Re: Ex Parte Submission, CG Dockets No. 21-402, 02-278

Dear Ms. Dortch:

ACA International, American Financial Services Association, Credit Union National Association, and the National Association of Federally-Insured Credit Unions (the “Associations”) submit this *ex parte* letter regarding the draft Report and Order and Further Notice of Proposed Rulemaking in the above-captioned proceedings released on February 23, 2023.¹ The Associations appreciate the Federal Communications Commission’s quick actions to help curb illegal robotexts. The Associations support regulation of texts sent from invalid, unallocated or unused numbers and those on Do Not Originate lists and are pleased to see the Commission take action to block such texts.

The Associations also support redress mechanisms and appreciate the Draft Order’s requirement that wireless providers maintain a single point of contact for text senders to (1) promptly, effectively and efficiently have their erroneously blocked texts unblocked; and (2) to promptly unblock texts where the sender presents a credible claim that its text should not have been blocked.² We submit this letter to propose modest changes to clarify and enhance redress mechanisms and to request the Commission seek further comment on ways to ensure blocking is done on a competitively neutral and content neutral manner.

Improving Redress

The Draft Order indicates that the single point of contact be prepared to address blocking undertaken pursuant to the new mandatory blocking obligation, but also when blocking occurs based on voluntary blocking using industry guidelines or best practices. Paragraph 28 of the Draft Order states that establishing a method to resolve erroneous blocking is important because “there may be instances of erroneous blocking due to mobile wireless providers’ voluntary blocking.” We agree and respectfully request that, to avoid any ambiguity or doubt, the codified rule incorporate this point.

¹ *Targeting and Eliminating Unlawful Text Messages; Rules and Regulations Implementing the Telephone Consumer Protection Act*, CG Docket Nos. 21-402 & 02-278, FCC-CIRC2303-04 (“Draft Order” or Draft Notice”).

² See Draft Order, App. A, adding new section 64.1200(p).

The ability to seek redress from mandatory (or voluntary blocking) would be further enhanced by also requiring mobile wireless providers to include on their website not only the required contact point, but also a link where text senders can obtain information on the mobile wireless provider's blocking notification process and protocol. The Commission declined to adopt the Associations' request to require real time blocking notification as is required for blocking voice calls. The Commission did make note of comments by NORC that there is an established response system that notifies text senders when a text failed to send due to "analytics blocking by carriers."³ Unfortunately, many text senders appear to be unaware of the response process. For enhanced transparency, the Associations respectfully request that wireless mobile providers also include a link to their response process that identifies the response code and other relevant information regarding the notification process. Such a link should be in close proximity to the single point of contact.

We propose the following highlighted additions to the codified rule appended to the Draft Order:

1. Amend § 64.1200 by adding new paragraphs (p) and (q) to read:

(p) A mobile wireless provider that delivers text messages must provide a **link, as described in this subsection, and a single point of contact**, readily available on the provider's public-facing website, for receiving text blocking error complaints **arising from mandatory or voluntary blocking measures**. This point of contact for text message blocking error complaints may be the same point of contact established for voice call blocking error complaints. When a sender makes a credible claim of erroneous blocking and the provider determines that the text messages should not have been blocked, the provider must promptly cease blocking that number unless circumstances change. **In close proximity to the point of contact, the mobile wireless provider shall insert a link to language describing the provider's notification process, including any relevant response codes, used to inform text senders that their texts failed to send due to blocking.**

Seeking Comment on Non-Discrimination Policies

The Draft Order does not adopt standards to ensure blocking is done on a competitively-neutral and content-neutral manner in light of limited blocking mandate that does not require examination of the text's content.⁴ We are pleased, however, that the Draft Notice will ask parties how the Commission can "ensure non-discrimination policies in adopting text authentication measures," should it decide to adopt such measures.⁵

We respectfully recommend that the Commission also seek comment on whether or how it can ensure competitively neutral and content neutral grounds for blocking when undertaken as part of the industry's voluntary blocking programs.

³ Draft Notice para. 31.

⁴ Draft Order para. 33.

⁵ Draft Notice para. 56.

The Associations again commend the Commission for taking these first steps to address illegal texts and look forward to continued collaboration with Commission as it assesses further efforts to curb illegal robotexts.

Respectfully submitted:

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APPENDIX

ACA International represents approximately 1,800 members, including credit grantors, third-party collection agencies, asset buyers, attorneys, and vendor affiliates, in an industry that employs more than 125,000 people worldwide. Most ACA member debt collection companies are small businesses. The debt collection workforce is ethnically diverse, and 70% of employees are women. ACA members play a critical role in protecting both consumers and lenders. ACA members work with consumers to resolve their past debts, which in turn saves every American household more than \$700 year after year. The ARM industry is instrumental in keeping America's credit-based economy functioning with access to credit at the lowest possible cost.

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 Credit Union National Association, Inc. (CUNA) is the largest trade association in the United States representing America's credit unions, which serve more than 130 million members. Credit unions are not-for-profit, financial cooperatives established "for the purpose of promoting thrift among [their] members and creating a source of credit for provident and productive purposes."

The National Association of Federally-Insured Credit Unions (NAFCU) advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 134 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 77 percent of total federal credit union assets, 56 percent of all federally-insured credit union assets, and 74 percent of all federal credit union member-owners.