

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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



**REPLY COMMENTS**

**I. INTRODUCTION AND SUMMARY**

ACA Connects hereby submits reply comments in response to the Fourth Further Notice of Proposed Rulemaking (“Fourth FNPRM”) that accompanied the Third Report and Order issued by the Federal Communications Commission (“Commission”) in the above-captioned proceeding.<sup>1</sup> In its initial comments, ACA Connects proposed steps the Commission can take to further empower voice providers, including small voice providers, to deliver their customers relief from unwanted and illegal robocalls. We also discussed how the Commission can advance that goal while protecting against blocking of wanted calls, including those that originate from providers that have yet to implement

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<sup>1</sup> See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Third Report and Order, Order on Reconsideration, and Fourth Further Notice of Proposed Rulemaking, FCC 20-96 (rel. July 17, 2020).

STIR/SHAKEN.<sup>2</sup> We find additional support for these recommendations in comments filed by other parties, as discussed below.

## **II. THE COMMISSION SHOULD MAINTAIN A FLEXIBLE AND BALANCED APPROACH TO “TRANSPARENCY AND REDRESS” THAT ENABLES SMALLER VOICE PROVIDERS TO PROVIDE EFFECTIVE ROBOCALL-BLOCKING TO THEIR CUSTOMERS**

As ACA Connects observed in its initial comments, the Commission in the Third Report and Order adopted call-blocking redress protections for callers that it found “strike an appropriate balance.”<sup>3</sup> We urged the Commission to allow time for these newly adopted requirements to take hold in the marketplace before adopting more prescriptive, potentially costly obligations, and to take a similarly flexible approach when it comes to transparency and redress mechanisms for consumers.

Comments filed by other parties provide further support for this approach. For instance, NCTA explains that “voice providers have strong incentives to ensure that their subscribers receive and are accurately informed about legal and wanted calls that are placed to them,” which makes it “unnecessary” for the Commission to mandate prescriptive redress requirements.<sup>4</sup> There are also concerns voiced in the record that such requirements could provide a “roadmap” to bad actors, which would ultimately harm rather than benefit consumers.<sup>5</sup>

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<sup>2</sup> See Comments of ACA Connects on Fourth FNPRM, CG Docket No. 17-59 (filed Aug. 31, 2020) (“ACA Connects Comments”).

<sup>3</sup> See *id.* at 4; see also Third Report and Order, ¶¶ 57.

<sup>4</sup> See Comments of NCTA on Fourth FNPRM, CG Docket No. 17-59 at 8 (filed Aug. 31, 2020) (“NCTA Comments”); see also Comments of CTIA on Fourth FNPRM, CG Docket No. 17-59 at 18 (filed Aug. 31, 2020) (“CTIA Comments”) (explaining that overly prescriptive requirements “would constrain solutions and may stifle innovation”).

<sup>5</sup> See, e.g., Comments of TNS on Fourth FNPRM, CG Docket No. 17-59 at 3 (filed Aug. 31, 2020) (“Real-time information about when a call is blocked can provide valuable information to bad actors.”); CTIA

We appreciate the concerns of legitimate callers that seek to avoid blocking of their calls, but we disagree with these commenters that the Commission should, or is required, to adopt rigid and inflexible mandates.<sup>6</sup> The TRACED Act does not compel the adoption of particular “transparency and redress” requirements, but rather grants the Commission discretion to adopt such requirements that are consistent with, and do not undermine, the Commission’s (and the statute’s) broader goal of combating unlawful and unwanted robocalls. As discussed above, the flexible requirements adopted in the Third Report and Order are well-aimed at achieving that goal. We encourage the Commission to maintain this flexibility, while continuing to promote collaboration among voice providers, analytics providers, enterprise callers and other stakeholders to develop redress and notification mechanisms that work for callers and consumers alike.<sup>7</sup> At minimum, the Commission should give itself an opportunity to assess the effectiveness of the requirements adopted in the Third Report and Order before it layers on more burdensome obligations.

This non-prescriptive approach outlined above would be particularly beneficial for consumers when applied to smaller voice providers. As the Competitive Carriers

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Comments at 18 (“In addition to other mechanisms, a blocked call list may help enable bad actors to learn which numbers are being blocked, enhancing their ability to pivot to different phone numbers and evade robocall mitigation tools—a concern the Commission has already recognized.”).

<sup>6</sup> See, e.g., Comments of the American Bankers Association et al. on Fourth FNPRM, CG Docket No. 17-59 (filed Aug. 31, 2020) (suggesting that the Commission has yet to adopt “transparency and redress” requirements that are sufficient to fulfill the Commission’s obligations under Section 10 of the TRACED Act, and urging the Commission to adopt more extensive requirements); see also Comments of Ad Hoc Telecommunications Users Committee on Fourth FNPRM, CG Docket No. 17-59 (filed Aug. 31, 2020) (“Ad Hoc Comments”).

<sup>7</sup> See Comments of First Orion on Fourth FNPRM, CG Docket No. 17-59 at 2-3 (filed Aug. 31, 2020) (discussing redress and notification mechanisms for callers that major voice service and analytics providers have already put in place).

Association explains, smaller providers “face unique challenges in implementing prescriptive mandates,” including “limited resources and staff.”<sup>8</sup> Overly rigid mandates could deter such providers from deploying robocall blocking technologies in the first place, to the detriment of their customers. The Commission should continue to encourage smaller voice providers to deploy effective robocall blocking technologies by maintaining a flexible approach to redress and notification.<sup>9</sup>

### **III. THE COMMISSION SHOULD ADOPT ITS PROPOSED SAFE HARBOR FOR NETWORK-LEVEL CALL-BLOCKING, AS CONSTRUED BY ACA CONNECTS**

In its initial comments, ACA Connects expressed support for the network-level call-blocking safe harbor proposed in the Fourth FNPRM, which would extend to blocking of calls that are highly likely to be illegal.<sup>10</sup> We offered our support with the understanding that this safe harbor does not extend to blocking that is based solely on a lack of caller ID authentication, which today is not a reliable indicator that a call is likely to be illegal.<sup>11</sup> Other commenters expressed support for the safe harbor with a similar

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<sup>8</sup> See Comments of Competitive Carriers Association on Fourth FNPRM, CG Docket No. 17-59 at 4-6 (filed Aug. 31, 2020); see also Comments of WTA on Fourth FNPRM, CG Docket No. 17-59 at 12-15 (filed Aug. 31, 2020).

<sup>9</sup> As ACA Connects noted in its initial comments, the Commission should affirm that smaller voice providers offering third-party robocall blocking tools may rely appropriately on mechanisms implemented by the third-party in complying with any redress or notification requirement the Commission may adopt. See ACA Connects Comments at 5-6.

<sup>10</sup> See ACA Connects Comments at 8-10; see also Fourth FNPRM, ¶ 104 (“We propose to extend our safe harbor to cover network-based blocking, which providers would do on behalf of their customers without those customers having to opt in or out, based on reasonable analytics that incorporate caller ID authentication information, so long as the blocking is specifically designed to block calls that are highly likely to be illegal and is managed with sufficient human oversight and network monitoring to ensure that blocking is working as intended.”).

<sup>11</sup> See ACA Connects Comments at 9 (“ACA Connects offers its support for the safe harbor on the understanding that it does not extend to blocking that is performed solely on the basis that a call lacks caller ID authentication. Blocking on that basis would sweep in many calls that are not “highly likely to be illegal,” including calls originating from small, rural, and TDM-based providers that have been granted delays under the TRACED Act to implement call authentication technology.”).

understanding of its scope. For instance, NCTA embraces the safe harbor and also states that the Commission “should not authorize blocking based ‘in whole’ on the absence of caller ID authentication information, without incorporating this information into reasonable analytics.”<sup>12</sup> We agree, and we urge the Commission to make this point clear when it adopts and codifies the safe harbor.

We are not persuaded by commenters that suggest that the proposed safe harbor would give voice providers too much latitude in blocking calls at the network level.<sup>13</sup> On the contrary, the proposed safe harbor—as construed by ACA Connects—will empower voice providers to more confidently and aggressively block calls that consumers do not want while imposing an appropriate degree of accountability on such blocking. As such, the safe harbor will provide a valuable complement to existing tools for mitigating unlawful and unwanted robocalls, including consumer-facing call-blocking programs.

#### **IV. THE COMMISSION SHOULD PROMOTE SMALL PROVIDER PARTICIPATION IN TRACEBACK**

There is support in the record for the Fourth FNPRM proposal to require voice providers to respond to traceback requests from the traceback consortium.<sup>14</sup> As

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<sup>12</sup> See NCTA Comments at 2-4; see also Comments of AT&T on Fourth FNPRM, CG Docket No. 17-59 at 2-6. The Robocall Mitigation Database the Commission has proposed adopting in a separate proceeding will provide information about which providers have or have not implemented STIR/SHAKEN that may inform the reasonable analytics that underlie call-blocking at the network level. See Call Authentication Trust Anchor, WC Docket No. 17-97, Public Draft Second Report and Order, FCC-CIRC2009-04 at ¶¶ 81-84 (rel. Sept. 9, 2020). The Commission announced on Sept. 29 that it had adopted the Second Report and Order in WC Docket 17-97, but the final text of the order has not yet been released. See FCC, Press Release, “FCC Takes More Steps to Combat Spoofed Robocalls” (Sept. 29, 2020).

<sup>13</sup> See, e.g., Ad Hoc Comments at 15-16.

<sup>14</sup> See Fourth FNPRM, ¶ 95; see also Comments of USTelecom on Fourth FNPRM, CG Docket No. 17-59 at 3-6; NCTA Comments at 6.

discussed in our initial comments, ACA Connects does not oppose this mandate, but we encourage the Commission to take reasonable steps to promote participation from smaller providers that are likely to be unfamiliar with the traceback process.<sup>15</sup> ACA Connects stands ready to work with the Commission, traceback consortium, and other stakeholders in supporting these efforts.

**V. CONCLUSION**

ACA Connects appreciates the opportunity to participate in this proceeding, and it encourages the Commission to take its reply comments into consideration.

Respectfully submitted,



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<sup>15</sup> See ACA Connects Comments at 10-11.