

September 26, 2023

**VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
45 L St. NE  
Washington, DC 20554

Michael H. Pryor  
Attorney at Law  
202.383.4706 direct  
m Pryor@bhfs.com

Re: Notice of Ex Parte Meeting in Re: WC Docket No. 17-97;  
CG Dockets 17-59; 21-402 & 02-278

Dear Ms. Dortch:

On Friday September 22, 2023, Jonathan Thessin, Vice President/Senior Counsel, Regulatory Compliance and Policy, American Bankers Association; Scott Purcell, Chief Executive Officer, ACA International; Elizabeth Sullivan, Senior Director of Advocacy and Counsel, Credit Union National Association; Amanda Smith, Senior Regulatory Affairs Counsel, National Association of Federally-Insured Credit Unions; Leah Dempsey, Counsel for ACA International, Brownstein, Hyatt Farber Schreck; and the undersigned, counsel for the Credit Union National Association, met with staff of the Consumer and Governmental Affairs Committee identified on attachment A. During the meeting, the participants discussed the Federal Communications Commission's ongoing proceedings regarding revocation of consent under the Telephone Consumer Protection Act (TCPA) and certain of the Commission's proposals regarding call blocking, labeling and notification of blocking consistent with the comments filed by the aforementioned associations.

We reiterated our strong support for actions to remove bad actors and illegal traffic from the network. We noted that banks, credit unions, and other financial services providers – and their customers – are negatively impacted by bad actors that increasingly place calls that impersonate legitimate companies with intent to defraud. At the same time, it is key that the legitimate, often critical, calls that our members place are completed. We emphasized that certain calls for which consumers have provided consent—including fraud alerts, servicing calls, and past-due notifications—are too often blocked by carriers and their analytic engine partners. Despite callers' compliance with TCPA regulations and adherence to best practices, such as scrubbing numbers against the Commission's reassigned numbers database to ensure that the number is still associated with the called party, carriers block or mislabel calls as spam or scam, virtually ensuring the call is not answered.

With respect to the Commission’s proceeding regarding revocation of consent, we explained that our members respect and carry out customer requests to opt out of receiving autodialed or prerecorded voice calls or text messages. Customers may hold several accounts with a financial institution or business —e.g., a deposit account, mortgage, and credit card— and they consent to receive different types of informational messages related to each account. To avoid consumer harm, it is critical that businesses not be compelled to apply a customer’s revocation request to a broader category of messages than the customer intends. We explained that consumers are unlikely to expect that their request to stop receiving communications about a discrete matter would result in the elimination of all communications from their financial institution, such as fraud alerts or text messages required to be sent for the consumer to access the account under two-factor authentication.

We also discussed our practical concerns, consistent with filed comments, regarding the Commission’s proposal to require callers to honor revocation requests within 24 hours. Financial institutions and other companies may find it infeasible to implement a 24-hour requirement for processing these requests because companies receive revocation requests through multiple channels; may not be able to process all revocations through automated means; and may manage customer numbers by line of business, and not in a centralized manner.

The Commission has suggested that institutions could send a one-time text message seeking to confirm the breadth of the consumer’s revocation. However, the Commission has provided no evidence that consumers—after seeking to revoke their consent to one category of messages—would respond to an additional text from the sender. Instead, the more likely result is that the consumer will ignore the text message seeking clarification and, consequently, the consumer will no longer receive any text messages from the sender. Moreover, a one-time text response is ineffective where a revocation request is made from a landline telephone. Comments filed in record note as well that under the *Soundbite* decision, the single confirmation text must be sent within five minutes of receipt of the revocation request.<sup>1</sup>

With respect to proposals to expand blocking requirements, we noted our support to require blocking after notification of illegal traffic by the Commission, and mandating blocking of numbers that are on a reasonable Do Not Originate list. We expressed concerns, however, with blocking and mislabeling based on the use of analytics that rely solely on factors such as high call volume, short duration calls or low answer rates. The application of these factors too often result in legitimate, consented-to calls being blocked and mislabeled. To address erroneous blocking, we stressed the importance of enforcing the TRACED Act’s requirement that entities provide effective and transparent redress for erroneous blocking and the Commission’s rules implementing those provisions. We urged the Commission to require entities blocking calls based on analytics to use SIP Code 608 and/or SIP Code 603+ once tested,

---

<sup>1</sup> Comments of ACA International and the Credit Union National Association, CG Docket No. 02-278, filed July 31, 2023, at 13. [ACA International and CUNA Revocation Comments July 31, 2023.pdf \(fcc.gov\)](#).

September 26, 2023

Page 3

and no other codes, and to require prompt implementation. We also noted our support for extending, to mislabeled calls, the notification and redress requirements currently in place for blocked calls.

Please contact the undersigned if you have any questions.

Sincerely,

\_\_\_\_\_/s/  
Michael H. Pryor

Attachment A

Consumer and Governmental Affairs Bureau Participants

Alejandro Roark, Bureau Chief  
Mark Stone, Deputy Bureau Chief  
Aaron Garza, Legal Advisor  
Kristi Thornton, Consumer Policy Division Acting Chief  
Zachary Champ, Deputy Chief Policy Division  
Jerusha Burnett  
Mika Savir  
Richard Smith