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National Association of Federally-Insured Credit Unions

May 14, 2020

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

RE: In the Matter of Call Authentication Trust Anchor and Implementation of the TRACED Act Section 6(a) – Knowledge of Customers by Entities with Access and Numbering Resources (WC Docket Nos. 17-97 and 20-67)

Dear Ms. Dortch:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing regarding the Federal Communications Commission's (FCC or Commission) Further Notice of Proposed Rulemaking seeking comment on, among other issues, call labeling. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 120 million consumers with personal and small business financial service products. NAFCU would like to reiterate its support of the FCC's efforts to combat illegal robocalls but also stress the importance of protecting legitimate callers so that consumers receive important information they want and need. NAFCU urges the FCC to ensure complete transparency of call labeling to calling parties, effective redress mechanisms for incorrectly labeled calls and the accurate labeling of a caller's identity.

Inaccurate Call Labeling Is Harmful and Already Underway

NAFCU has consistently submitted comments in support of the FCC's efforts to combat illegal robocalls by implementing a fully tested and effective STIR/SHAKEN framework. Labeling calls as fully authenticated is an important component of the STIR/SHAKEN framework. However, call labeling should not be implemented until the STIR/SHAKEN framework is fully implemented and tested to prevent the mislabeling and erroneous blocking of legitimate communications.

Credit unions have already experienced the negative effects of allowing Voice Service Providers (Service Providers) to enact call blocking and labeling without the full implementation of the STIR/SHAKEN framework.¹ The Commission has already received data that 24 percent of labeled

¹ See, Letter from NAFCU to Marlene H. Dortch, Secretary, FCC, GC Docket Nos. 17-59 and 17-97 (filed January 29, 2020).

calls were mislabeled according to one report.² Based on reported rates of error with regard to legitimate, lawful communications, it cannot be concluded that the incidence of erroneous blocking or incorrect labeling is nominal. Incorrectly labeling calls may result in long-term difficulties in engaging in lawful and necessary communications with consumers

A “derogatory label” is any label (or lack thereof) which would lead a consumer to make a negative conclusion regarding the calling party and the content of the call. Some Service Providers have indicated that an “A-Level” attestation may result in a green checkmark. The implication of this label is that calls with the checkmark are safe, and, inversely, calls without a checkmark are unsafe and likely to be fraud, scams or spam. For other Service Providers, depending on the risk calculated by their analytics regarding a call and its authentication under STIR/SHAKEN, labels such as “potential fraud,” “suspected scam,” “nuisance,” or “spam number” may be attached to a call. Currently, Service Providers use their own analytics to apply their own labels, resulting in significant variation in the system. This creates confusion for callers and reduces the functionality of the labels. Until the framework is fully implemented and tested to verify its functionality and rate of error, it is premature to allow calls to be blocked and labeled. Further, some degree of standardization is critical to ensuring that labeling is useful to consumers and labeling will not interfere in consumers’ existing relationships with their credit union.

Consumers who see these labels are likely to not answer the call and to block the number themselves. Even with an appropriate mechanism for redress regarding erroneous blocking or inaccurate call labeling by a Service Provider, it is far more difficult to resolve a consumer’s own block request based on mislabeling. Once the misinformation has been communicated to consumers, the consequences cannot be easily unwound.

Erroneously blocking and inaccurate labeling of valid, lawful calls prevent consumers from receiving important information regarding their health, safety, and financial well-being including branch closure alerts, fraud alerts, data security breach notifications, information about new programs and assistance, and information about loan applications or accounts. These calls are legal, appropriate, and need to be completed without delay.

The TRACED Act Requires Transparency, Effective Redress and Accurate Identification

Paragraph 10(b) of the *Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act* (TRACED Act) calls for transparency and effective, no-cost redress options for callers with regard robocall blocking services. It further provides that Service Providers must Paragraph 4(b)(7) requires the FCC to issue best practices for ensuring that the called party is accurately identified. Paragraph 4(c)(1)(C) requires the Commission to establish a process permitting calling parties adversely affected by information provided under the framework to verify the authenticity of their calls. As both call blocking and call labeling are a direct outcome from the STIR/SHAKEN authentication framework and Service Providers’ own analytics, providing information to callers regarding the blocking of and label attached to their call is a

² See Letter from American Association of Healthcare Administrative Management, et al., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 17-97, 20-67, CG Docket No. 17-59, at 2 (filed Mar. 4, 2020) (Calling Party Associations Mar. 4 Ex Parte).

necessary step to ensure that transparency and redress for callers are established. It is also a necessary step to ensuring accurate identification and authentication of callers.

Currently, legitimate callers only discover that a Service Provider is blocking or mislabeling their calls through the observation of a statistical increase in receiving busy signals or conversations with confused consumers. Without notice that their calls have been blocked or are being inaccurately labeled, legitimate callers have no reasonable redress. Inaccurate call blocking or labeling is a critical piece of feedback for Service Providers. That feedback is necessary to ensure that a Service Provider's deployment of the framework and algorithms are accurately authenticating and identifying callers.

The harms from mislabeling calls do not end with a single attempted call. When consumers mistakenly block legitimate numbers that are inaccurately derogatorily labeled, that can create long-term difficulty in communication with an individual consumer. Requiring Service Providers to be transparent in real time regarding call blocking and labeling minimizes the risk of this long-term difficulty and harm to consumers. Further, sharing information regarding mislabeled numbers with other Service Providers significantly reduces the risk of repetition of this harm to consumers and increases the accuracy of the system as a whole.

Accessing information about how to resolve an inappropriately blocked call or an inaccurately labeled calls is not consistently available across all Service Providers. Those that do make the information available often make it difficult to find and access. Credit unions find themselves waiting in automated telephone systems to reach the appropriate person at the Service Provider who can assist. After a credit union expends time and resources to determine whether its calls are being inappropriately blocked and mislabeled, it must expend further time and resources navigating these hidden, ad hoc processes to resolve the issue. Identifying and making these corrections imposes tremendous costs and burdens on credit unions. Transparency and effective redress mechanisms that do not impose a cost on credit unions requires a central repository for making these corrections and sharing that information across Service Providers. NAFCU requests the FCC require Service Providers to work together to publish in a single document the appropriate contact information for each provider to assist callers in resolving these issues.

Further, Service Providers should be required to track and report how many lawful calls they are mistakenly blocking and mislabeling. Without the inclusion of this important feedback in the overall assessment of the framework, the Commission cannot reasonably draw any conclusions regarding the success of SHAKEN/STIR, as required by the TRACED Act.

It is ultimately in the best interests of legitimate callers, consumers, Service Providers, and the Commission that there be guardrails in place to ensure the accurate operation of the SHAKEN/STIR framework once implemented. Ensuring that there is transparency regarding the blocking and labeling of calls, effective methods of redress for erroneous blocking and mislabeled calls, and accurate identification of callers will ultimately lead to a more accurate and effective mitigation program for unlawful robocalls.

Federal Communications Commission

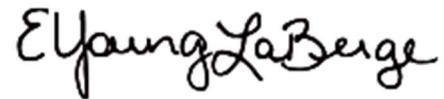
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Conclusion

NAFCU appreciates the opportunity to comment on this Further Notice of Proposed Rulemaking and supports the Commission's effort gather feedback on inaccurate call labeling and how best to approach this concern. If you have any question or concerns, please do not hesitate to contact me at (703) 842-2272 or elaberge@nafcu.org.

Sincerely,

A handwritten signature in black ink that reads "E Young LaBerge". The signature is written in a cursive, flowing style.

Elizabeth M. Young LaBerge
Senior Regulatory Counsel