

May 30, 2019

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Declaratory Ruling, Advanced Methods to Target and Eliminate Unlawful Robocalls, CG
Docket No. 17-59, WC Docket No. 17-97 (draft released May 16, 2019)

Dear Chairman Pai:

We the undersigned represent health care providers, pharmacies, grocers, retailers, banks, credit unions, and other financial services providers.¹ We fully support the Commission's goal to eliminate illegal automated calls. However, we are deeply concerned that the draft Declaratory Ruling released on May 16, 2019, if adopted as drafted, would result in the erroneous blocking of lawful calls — including urgent calls affecting consumer health, safety, and financial well-being. Public safety alerts, fraud alerts, data security breach notifications, product recall notices, healthcare and prescription reminders, and power outage updates all could be inadvertently blocked under the draft Declaratory Order, among other time-sensitive calls. Therefore, we urge the Commission to seek public comment on the draft Declaratory Ruling to avoid such unintended consequences.

The blocking of such beneficial calls would harm consumers and be contrary to the public interest. It also would frustrate the purpose of requirements from other federal agencies² and would be inconsistent with Congress' longstanding intent that the Commission facilitate efforts to block only illegal calls and not lawful calls from legitimate business. When Congress passed the Telephone Consumer Protection Act in 1991, Congress stated that it did not intend for the law to "be a barrier to the normal, expected or desired communications between businesses and their customers."³ As recently as last week, the Senate passed the TRACED Act,⁴ the Commerce Committee report for which directs the Commission not to "support blocking or mislabeling calls from legitimate businesses" and instructs that the "FCC should require voice service providers to unblock improperly blocked calls in as timely and efficient a manner as reasonable."⁵

We urge the Commission to seek comment on the provisions in the draft Declaratory Ruling prior to finalizing that Ruling. This approach would invite public comment on approaches that the Commission can take to address illegal automated calls while minimizing the risk that

¹ A description of each trade association is provided in the Appendix.

² For example, the Consumer Financial Protection Bureau's (CFPB) "Early Intervention Rule" requires "live contact" or a good faith effort to establish live contact within 36 days after a mortgage loan becomes delinquent.

³ H.R. Rep. No. 102-317, at 17 (1991).

⁴ Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, S. 151, 116th Cong. (2019).

⁵ S. Rep. No. 116-41, at 15 (2019).

consumers will miss important, often time-sensitive calls affecting their health, safety, or financial well-being.

Sincerely,

American Bankers Association

ACA International

American Association of Healthcare Administrative Management

American Financial Services Association

Consumer Bankers Association

Credit Union National Association

Independent Community Bankers of America

Mortgage Bankers Association

National Association of Federally-Insured Credit Unions

National Retail Federation

Appendix

The American Bankers Association is the voice of the nation's \$18 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard nearly \$14 trillion in deposits, and extend more than \$10 trillion in loans.

ACA International is the leading trade association for credit and collection professionals. Founded in 1939, and with offices in Washington, D.C. and Minneapolis, Minnesota, ACA represents approximately 3,000 members, including credit grantors, third-party collection agencies, asset buyers, attorneys, and vendor affiliates in an industry that employs more than 230,000 employees worldwide. As part of the process of attempting to recover outstanding payments, ACA members are an extension of every community's businesses. Without an effective collection process, businesses and, by extension, the American economy in general, is threatened. Recovering rightfully-owed consumer debt enables organizations to survive, helps prevent job losses, keeps credit, goods, and services available, and reduces the need for tax increases to cover governmental budget shortfalls.

The American Association of Healthcare Administrative Management (AAHAM) is the premier professional organization in healthcare administrative management.

Founded in 1916, 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 many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

Founded in 1919, the Consumer Bankers Association (CBA) is the trade association for today's leaders in retail banking - banking services geared toward consumers and small businesses. The nation's largest financial institutions, as well as many regional banks, are CBA corporate members, collectively holding well over half of the industry's total assets. CBA's mission is to preserve and promote the retail banking industry as it strives to fulfill the financial needs of the American consumer and small business.

The Credit Union National Association (CUNA) represents America's credit unions and their more than 115 million members.

The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. With more than 52,000 locations nationwide, community banks constitute 99 percent of all banks, employ more than 760,000 Americans and are the only physical banking presence in one in five U.S. counties. Holding more than \$4.9 trillion in assets, \$3.9 trillion in deposits, and \$3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America.

The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every

community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's web site: www.mba.org.

The National Association of Federally-Insured Credit Unions (NAFCU) advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 116 million consumers with personal and small business financial service products. NAFCU provides its members with advocacy, education, and compliance assistance to meet the ongoing challenges that cooperative, community-based financial institutions face in today's economic and regulatory environment. NAFCU represents 71% of total federal credit union assets and 50% of all federally-insured credit union assets.

The National Retail Federation, the world's largest retail trade association, passionately advocates for the people, brands, policies and ideas that help retail thrive. From its headquarters in Washington, D.C., NRF empowers the industry that powers the economy. Retail is the nation's largest private-sector employer, contributing \$2.6 trillion to annual GDP and supporting one in four U.S. jobs — 42 million working Americans. For over a century, NRF has been a voice for every retailer and every retail job, educating, inspiring and communicating the powerful impact retail has on local communities and global economies.