

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Advanced Methods to Target and Eliminate Unlawful Robocalls)	CG Docket No. 17-59
)	
Call Authentication Trust Anchor)	WC Docket No. 17-97
)	

COMMENTS OF ACT | THE APP ASSOCIATION

ACT | The App Association (App Association) respectfully submits its views to the Federal Communications Commission (Commission) Third Further Notice of Proposed Rulemaking (FNPRM) in the above-captioned proceeding.¹ The App Association appreciates the Commission’s continued work to end unlawful robocalling.

The App Association represents approximately 5,000 small business software application development companies and technology firms that create the technologies driving internet of things (IoT) use cases across consumer and enterprise contexts. Today, the ecosystem the App Association represents is valued at approximately \$1.3 trillion and is responsible for 5.7 million American jobs. Alongside the world’s rapid embrace of mobile technology, our members create innovative solutions that power IoT across modalities and segments of the economy. Numerous app developers work to address the illegal robocalling issue today, and apps are playing an

¹ Advance Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor CG Docket No. 17-59, WC Docket No. 17-97, Declaratory Ruling and Third Further Notice of Proposed Rulemaking (rel. June 7, 2019) (Third Robocall NPRM).

increasingly larger role in this space. Examples of these apps include AT&T Call Protect, Nomorobo, Hiya, PrivacyStar, Call Control, and many others.

I. The App Association Supports the Commission’s Efforts to Address Illegal Robocalls

American consumers receive billions of robocalls annually, both legal and illegal.² The App Association believes that illegal robocalls result in immense inconvenience to countless Americans, and also provide a means for scammers and other criminals to harm American consumers, particularly the aging population. In some egregious instances, robocall fraudsters may use an automated voice to ask an otherwise innocuous question to receive an affirmative response, after which that response is unlawfully used to con the speaker into paying for an unwanted service. Fraudsters accomplish their goal by using illegally obtained voice affirmations to suggest the victim approved the use of his or her sensitive information, often private financial data, to purchase the useless service,³ leaving many Americans in precarious financial and legal situations.

² Third Robocall NPRM at ¶ 3-15.

³ See Susan Tomper, *USA Today: Can You Hear Me? What Matters is Phone Fraudsters Hear You*, (Updated Feb 13, 2017, 11:30 AM) <https://www.usatoday.com/story/money/personalfinance/columnist/2017/02/03/can-you-hear-me-what-matters-phone-fraudsters-hear-you/97338174/>.

The situation described above is one of a variety of examples, ranging from simple to complex, highlighting the danger illegal robocalls pose to countless Americans. Recognizing the harm of unwanted robocalls, Congress enacted the Telephone Consumer Protection Act (TCPA) in 1991.⁴ The App Association supports efforts by the Commission, industry representatives, consumers, and other stakeholders to address illegal and unwanted robocalls in an efficient and effective manner. We also note the value of legal robocall services that, when desired and consented to, provide important and timely communications and reminders to countless Americans.

The App Association believes that network service providers, manufacturers, government agencies, app developers, and consumers all have roles in reducing unwanted robocalls. While the efforts of network operators will certainly be key in addressing the robocall issue, software apps (both native and non-native) can and should play a role in empowering consumers to mitigate illegal robocalls.

⁴ S. Rep. 102-178, p. 1-2 (1991) (writing “The use of automated equipment to engage in telemarketing is generating an increasing number of consumer complaints. The Federal Communications Commission (FCC) received over 2,300 complaints about telemarketing calls over the past year... Consumers are especially frustrated because there appears to be no way to prevent these calls. The telephone companies usually do not know when their lines are being used for telemarketing purposes, and, even if they did, it is questionable whether the telephone companies should be given the responsibility of preventing such calls by monitoring conversations. Having an unlisted number does not prevent those telemarketers that call numbers randomly or sequentially.”).

The App Association has long served as the developer voice before the Commission on, and in key public-private partnerships addressing, solutions to the illegal robocall issue. For example, the App Association served as the voice of the app developer community within the Commission's Robocall Strike Force.⁵ As a member of the Strike Force, we brought developers to its collaborative efforts and authored a portion of its most recent public report.⁶ In this report, the App Association committed to undertake a range of developer education efforts to bring the innovation of the app economy to the illegal robocall issue, including developing a member resource on the App Association's website to educate the developer community.⁷ We continue to encourage developers, consumers, and other stakeholders to explore the apps available today and explore collaborative opportunities to innovative new solutions to the robocalling epidemic.

We support the Commission's efforts to advance Congress' priority to protect Americans from illegal robocalls, while promoting and leveraging innovative solutions developed by the private sector. We hope the Commission continues to work with industry to implement practical and balanced solutions that empower network operators to block illegal robocalls while permitting legal robocall functionalities to be used with consumer permission. We are pleased to see Chairman Pai tackle this issue head on,⁸ and we remain committed to assist the Commission in any way to help it accomplish its goals.

⁵ **Industry Robocall Strike Force Report** § 1.2, 3.1 (April 28, 2017) <https://ecfsapi.fcc.gov/file/10428413802365/Ex%20Parte-Strike-Force-Report-2017-04-28-FINAL.pdf>.

⁶ *Id.*

⁷ *Robocalls and App Developers*, ACT | THE APP ASSOCIATION, <https://actonline.org/2017/03/28/robocalls-app-developers/> (last updated April 28, 2017).

⁸ See Ajit Pai, *Remarks of FCC Chairman Ajit Pai at US Telecom Forum: Turning the Tide on Illegal Robocalls* (June 11, 2019) (noting that one of the Commission's top consumer priorities is preventing unwanted robocalls) <https://docs.fcc.gov/public/attachments/DOC-357911A1.pdf>; Ajit Pai, *Consumer Protection Month at the FCC*, Medium (June. 22, 2017) <https://medium.com/@AjitPaiFCC/consumer-protection-month-at-the-fcc-1dea0007d9c6>.

II. The App Association Does Not Supports the Commission’s Proposed Safe Harbor for Call-Blocking Programs Based on *Potentially* Spoofed Calls at This Time

While the App Association recognizes that there may be a need for a robocalling safe harbor provision in the future, we find that it is too early in the implementation process to create this exemption. Currently, the Signature-based Handling of Asserted information using toKENs (SHAKEN) framework cannot yet accommodate a number of voice services and it will take time to adapt the framework.⁹ As a result, the App Association’s concern is that many legitimate calls will lack the ability to obtain attestation under the SHAKEN framework. Accordingly, it would be sensible for the Commission to defer a decision about creating a safe harbor that could block potentially legitimate calls that lack authentication because it could affect a substantial number of legitimate calls.

Further, if a safe harbor provision is to be evaluated at a later date, that evaluation should not merely explore the SHAKEN framework and attestation. Instead, that evaluation should explore any reasonable analytics utilized along with the SHAKEN framework in the call blocking process.¹⁰

⁹ See Glenn S. Richards, *In a Battle Against Robocalls, FCC Opens the Door to More Aggressive Call Blocking*, PILLSBURY, <https://www.pillsburylaw.com/en/news-and-insights/fcc-opens-the-door-to-more-aggressive-call-blocking-against-robocalls.html> (noting the growing number of concerns about legitimate callers being over-blocked).

¹⁰ Third Robocall NPRM, at para. 62.

III. The SHAKEN Framework Should be Implemented in a Non-discriminatory Manner

The App Association broadly supports voice service providers implementing the SHAKEN framework. However, we encourage and advise that such implementation be done in a non-discriminatory manner. The SHAKEN standard should treat a call the same way, regardless of network, to create customer reliability and trust, but also to prevent customer confusion. The App Association is hopeful that the voice service providers will look to instill consumer confidence by implementing a uniform approach to the SHAKEN standards.

IV. The Commission Should Have Protections for Critical Calls

The App Association supports the Commission's proposed "Critical Call List" that would prevent voice service providers from blocking a certain list of emergency numbers.¹¹ We also support the list being centralized, and being made available to the providers of solutions to the illegal robocall problem, including App Association members developing both native and non-native app-based solutions. The App Association also supports making the centralized database non-public to prevent unlawful spoofing of numbers that are important to emergency situations.¹²

¹¹ *Id.*, at para. 63.

¹² *Id.* at para. 68.

V. The App Association Remains Neutral About the Mandatory Implementation of Caller ID Authentication

The App Association appreciates the voluntary progress major service providers have made using SHAKEN/STIR Caller ID verification protocols.¹³ We are hopeful that all voice service providers will start to implement or continue to take steps to implement the SHAKEN/STIR procedures voluntarily. Without taking a position as to the Commission’s proposal to require SHAKEN/STIR use once the voluntary 2019 deadline passes, the App Association urges for a reasonable amount of time given to small- and medium-sized voice service providers to be able to implement these procedures. We recognize that small- and medium-sized providers have limited resources and may face greater difficulty in implementing the SHAKEN/STIR framework.

VI. Conclusion

The App Association applauds the Commission on its efforts to rid consumers of illegal robocalls. As a former member of the Industry Robocall Strike Force, and a supporter of eliminating robocalling, we remain committed to assist the Commission in any way to accomplish this critical goal.

Respectfully submitted,



Brian Scarpelli
Senior Policy Counsel

Alexandra McLeod
Associate Policy Counsel

ACT | The App Association
1401 K St NW (Ste 501)
Washington, DC 20005
202-331-2130

July 24, 2019