

October 26, 2021

**VIA ECFS**

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

RE: Notice of *Ex Parte* Meeting, Advanced Methods to Target and Eliminate Unlawful Robocalls, CG Docket No. 17-59.

Dear Ms. Dortch:

On October 22, 2021, representatives of the Credit Union National Association, American Bankers Association, ACA International, American Association of Healthcare Administrative Management, American Financial Services Association, National Association of Federally-Insured Credit Unions, National Council of Higher Education Resources, and American Express<sup>1</sup> (“the Associations”) met telephonically with Mark Stone, Jerusha Burnett, Kristi Thornton, and Aaron Garza of the Federal Communications Commission’s (“FCC” or “the Commission”) Consumer and Governmental Affairs Bureau.<sup>2</sup> During the meeting, the Associations discussed USTelecom’s Petition for Reconsideration<sup>3</sup> and recent *ex parte* communications regarding the requirement in the Fourth Report and Order that voice service providers that block calls must notify callers of the block using SIP Codes 607 and 608 and, for TDM networks, ISUP Code 21 beginning on January 1, 2022.<sup>4</sup>

The Associations respectfully urge the Commission to retain the specific notification mechanisms required by the Fourth Report and Order and listed above.<sup>5</sup> In light of concerns raised by certain voice service providers that the SIP Codes will not be ready to be implemented

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<sup>1</sup> The names of attendees are listed in the Appendix.

<sup>2</sup> The October 22, 2021 meeting builds on the efforts of 10 caller-side industry trade associations, including all of the Associations, which previously submitted comments to the Commission opposing USTelecom’s request to eliminate the requirement that voice service providers use SIP Codes 607 and 608 and, for TDM networks, ISUP Code 21, to provide notification of blocking. See Comments of American Bankers Association *et al.*, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket 17-59 (filed Jun. 4, 2021), [https://ecfsapi.fcc.gov/file/1060525288384/ABA\\_JointTrades\\_Comment\\_USTelecomPetition\\_2021\\_06\\_04\\_final\\_clean.pdf](https://ecfsapi.fcc.gov/file/1060525288384/ABA_JointTrades_Comment_USTelecomPetition_2021_06_04_final_clean.pdf).

<sup>3</sup> Petition for Reconsideration and Request for Clarification of USTelecom – the Broadband Association, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket 17-59 (filed May 6, 2021).

<sup>4</sup> *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Fourth Report and Order, 35 FCC Rcd 15221, 15239-242, ¶¶ 52-61 (2020) (“Fourth Report and Order”).

<sup>5</sup> The Associations have no objection, at this time, to clarifying that blocking notifications are not required when blocking Do Not Originate calls or calls using invalid numbers. Should experience with blocking these calls indicate that blocking legitimate calls in fact becomes an issue of concern, the Commission may wish to consider requiring notification at a future date.

by the January 1, 2022 deadline, we would not oppose a limited, six-month extension of the deadline, provided that the Commission receive status reports at reasonable intervals to track implementation progress. This extension would provide voice service providers with a total of 18 months to implement the requirements in the Fourth Report and Order. Extending the deadline for a maximum of six months will help alleviate concerns that providers may cease blocking unlawful calls because they cannot implement the Commission's notification requirement by the current deadline. However, we continue to oppose elimination of the specific notification requirements required by the Fourth Report and Order and their replacement with SIP Code 603, and we urge the Commission to reject that request as contrary to the public interest.

The Associations continue to support reasonable, pro-consumer outcomes in this proceeding and appreciate that USTelecom recognizes the vital importance of notifying callers immediately that their legitimate calls are being blocked by carriers. The Associations encourage the Commission to ensure that carriers adopt SIP Codes 607 and 608 as required by the FCC's Fourth Report and Order and that are consistent with the TRACED Act's mandate that redress be effective and transparent.<sup>6</sup>

## Background

The TRACED Act requires the Commission to ensure "transparency and effective redress options" for erroneously blocked calls, and the Associations have long advocated for a notification requirement to fulfill that statutory mandate.<sup>7</sup> We commend the Commission for adopting a notification requirement and acknowledging the importance of using a standardized, uniform set of response codes that are specifically designed to address either end user blocking of unwanted calls (SIP Code 607) or blocking in the network based on reasonable analytics (SIP Code 608).<sup>8</sup> Recognizing that providers were implementing STIR/SHAKEN and related obligations, the Commission delayed the effective date of the notification requirement for a year, until January 1, 2022.

It is not clear, based on the record in this proceeding and our conversations with other stakeholders, whether providers have undertaken significant work to implement the Commission's notification requirement. Instead, this past May, USTelecom filed a petition to

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<sup>6</sup> Fourth Report and Order, 35 FCC Rcd 15240, ¶ 56. *See also*, Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act), §10(b) (codified at 47 U.S.C. 227(j)).

<sup>7</sup> *See, e.g.*, Letter from Jonathan Thessin, Senior Counsel, Center for Regulatory Compliance, to Marlene Dortch, Secretary of the FCC, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 (Sept. 24, 2018); Letter from American Bankers Association, *et al.*, to Marlene Dortch, Secretary of the FCC, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 (July 24, 2019); Letter from American Bankers Association, *et al.*, to Marlene Dortch, Secretary of the FCC, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 (July 2, 2020); Comments of American Bankers Association, *et al.*, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, at 10-11 (filed Aug. 31, 2020); Reply Comments of Credit Union National Association, *et al.*, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 (filed Sept. 29, 2020).

<sup>8</sup> Fourth Report and Order, 35 FCC Rcd at 15240, ¶ 56 (requiring providers terminating calls in IP to utilize SIP Code 607 or 608 and terminating providers terminating calls on TDM to use ISUP Code 21, which maps to SIP Code 603).

reconsider the requirement that providers use the specific SIP response codes identified in the Fourth Report and Order. USTelecom asked that providers be given “flexibility” in adopting notification mechanisms. According to USTelecom, although SIP response codes 607 and 608 were published in IETF documents, there were no operational standards to govern their implementation in the networks, work that apparently must be undertaken by the ATIS, the IP-NNI task force, and the SIP Forum. Beyond asking for flexibility, USTelecom did not propose a uniform mechanism for notifying callers of blocked calls.

Since filing the reconsideration petition, USTelecom’s position has evolved. On July 27, 2021, USTelecom asked the Commission to require use of the existing SIP response code 603 as the appropriate notification mechanism, in place of the requirement to use SIP codes 607 and 608 and, for TDM networks, ISUP Code 21.<sup>9</sup> Specifically, USTelecom’s July 27<sup>th</sup> *ex parte* letter included proposed revisions to section 64.1200(k)(9), which codifies the notification requirement, that eliminates reference to SIP Codes 607 and 608 entirely and identifies SIP Code 603 as the appropriate notification mechanism.<sup>10</sup> In a more recent filing, USTelecom suggested that revisions could be made to SIP Code 603 by including information in the header that specifically identifies when a 603 code is used to signify analytics-based blocking and potentially by whom. However, USTelecom cautioned against requiring such modifications to SIP Code 603 because not all providers may be able to implement them.<sup>11</sup>

### **SIP Code 603 Is Not an Acceptable Replacement for SIP Codes 607 and 608**

The Associations respectfully urge the Commission to resist calls for replacing SIP Codes 607 and 608 with SIP Code 603. As the Commission knows, SIP Code 603 was designed to signify that the called party declined to take the call for unspecified reasons. It was specifically *not* designed for blocking in the network. The limitations of SIP Code 603 to address the Commission’s expanding call blocking regimes spurred two former Commission Chief Technology Officers to draft specifications for end-user initiated blocking (SIP Code 607) and for analytics-based network blocking (SIP Code 608). Notwithstanding USTelecom’s claims, SIP Code 603 does not provide “actionable” information – that is, information that the recipient

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<sup>9</sup> Letter from Joshua M. Bercu, Vice President, USTelecom, to Marlene Dortch, Secretary of the FCC, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 (filed July 27, 2021) (“USTelecom July 27<sup>th</sup> *ex parte*”).

<sup>10</sup> *See*, Attachment to USTelecom July 27<sup>th</sup> *ex parte*. USTelecom’s proposed revisions also allowed for use of other mechanisms if operational standards are adopted. USTelecom’s proposal to replace SIP Codes 607 and 608 with SIP Code 603 has garnered support from other trade associations and providers. *See, e.g.*, Letter from Sarah K. Leggin, Director, CTIA, to Marlene Dortch, Secretary of the FCC, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 (filed Sept. 10, 2021); Letter from Radhika Bhat, Vice President and Associate General Counsel, NCTA, to Marlene Dortch, Secretary of the FCC, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 (filed Oct. 12, 2021); Letter from Steven A. Augustino, Counsel, Transaction Network Services, Inc., to Marlene Dortch, Secretary of the FCC, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 (filed Aug. 26, 2021).

<sup>11</sup> Letter from Joshua M. Bercu, Vice President, USTelecom, to Marlene Dortch, Secretary of the FCC, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 at 1, n.3 (filed Sept. 13, 2021) (USTelecom Sept. 13<sup>th</sup> *ex parte*).

of the code, either a company making calls or its telecommunications provider, immediately recognizes as requiring the caller to take action to address the blocking.

A number of stakeholders have expressed concern with replacing SIP Codes 607 and 608 with SIP Code 603, either as an interim fix or potentially permanent solution.<sup>12</sup> As these stakeholders have noted, if SIP Code 603 continues to be used for its intended purpose (that the called party declined the call), as well as for end-user initiated blocking and analytics-based blocking, recipients of that code will be required to decipher on a carrier-by-carrier basis the reason behind the code, defeating the Commission's purpose of affording called parties a clear and unambiguous notification that they can quickly act upon by contacting the blocking party.

As but one example of the difficulties in relying on SIP Code 603, one of American Bankers Association's large bank members reported that, based on a sample of phone numbers dialed, the bank receives 300-500 SIP 603 response codes per hour when making outbound calls using different calling line identification (CLI) numbers from the bank's U.S.-based voice platforms to its customers. The error codes are received from multiple mobile and landline voice service providers, including all major providers. (This suggests that a substantially large number of end users are declining calls or providers are already using SIP Code 603 for non-standard purposes.) As this bank explained, it is not feasible, even for a large bank, to sift through each of these responses to determine the nature of the call failure – especially because providers do not use the SIP Code 603 response uniformly. Smaller financial institutions, health care providers, retail outlets, and others will have even less capacity to sort out the basis for SIP 603 response.

USTelecom appears to recognize this problem and stated that some providers are planning to enhance SIP Code 603 by inserting additional or different information in header fields, including that the 603 is being sent not as a “decline” but instead to indicate network blocking and potentially including information on the blocking entity.<sup>13</sup> Although changes such as these may make SIP Code 603 more actionable, the more SIP Code 603 is altered, the less interoperable and standardized it becomes. Changes of the kind being suggested may require further work by the standards-setting body ATIS to ensure continued interoperability. Inserting information in various header fields, for example, may prevent mapping between IP and TDM networks because network equipment like session border controllers are not equipped to read such information. The more actionable USTelecom seeks to make 603, the more work will be required to maintain 603's interoperability, placing the telecommunications industry in no better position than it is in now with respect to SIP Codes 607 and 608. Moreover, as USTelecom admits, not all providers will be able to alter 603. Hence, 603 will not provide a uniform, standard notification – or any real benefit to consumers over the use of SIP Codes 607 and 608.

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<sup>12</sup> Letter from Christopher L. Shipley, Attorney & Policy Advisor, INCOMPAS, to Marlene Dortch, Secretary of the FCC, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 at 2-3 (filed Oct. 12, 2021); Letter from Glenn S. Richards, Counsel, Voice on the Net Coalition, to Marlene Dortch, Secretary of the FCC, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 at 2-3 (filed Oct. 5, 2021).

<sup>13</sup> USTelecom Sept. 13<sup>th</sup> *ex parte*.

In arguing for a weaker call notification standard, USTelecom accuses certain callers of making the perfect the enemy of the good. In reality, shifting the burden on callers to develop analytics to decipher the meaning of Code 603 responses would be inadequate, especially for smaller organizations placing calls who lack the specialized resources to distinguish between call declinations and analytics-based blocking on a carrier-by-carrier basis. Moreover, it is not evident in the record that such tools even exist. The Commission should reject efforts to impose on callers the onus to identify why calls are not successfully routed through the public-switched telephone network.

### **The Commission Should Retain the Requirement to Utilize SIP Codes 607 and 608, But Provide the Telecommunications Industry with Additional Time to Develop Any Necessary Operability Standards**

USTelecom claims that it will be impossible to implement SIP Codes 607 and 608 by the January 1, 2022 deadline. It therefore argues that the Commission must choose between facilitating continued blocking of unlawful calls or requiring notification when calls are blocked.<sup>14</sup> We disagree that the Commission is faced with this either-or choice.

Instead, the Commission should confirm that terminating providers that block calls must notify callers by sending the SIP Code 607, for end-user designated unwanted calls, or SIP Code 608, for analytics-based blocking within the network. Next, in light of the concerns expressed by USTelecom and others that more time is needed to operationalize those SIP response codes and map them to TDM networks, the Commission should extend the January 1, 2022 deadline for no more than six months, to June 30, 2022. The Commission also may wish to consult with ATIS and the SIP Forum regarding a reasonable time frame for finalizing standards. The Commission could provide a six-month extension by partially granting USTelecom's Petition or by deferring enforcement as it recently did with respect to the foreign provider rule.<sup>15</sup> With a six-month extension, USTelecom's members will have had a total of 18 months to implement the requirements in the Fourth Report and Order.

To ensure that a June 30, 2022 deadline is met, the Commission should request periodic updates of voice service providers' progress toward finalizing the SIP Code 607 and 608 standards. Once standards are finalized, providers and vendors should promptly make necessary software upgrades to ensure that the SIP codes can be transmitted from the origination of a call to its termination.

The Associations do not recommend the Commission adopt any specific interim notification requirement. Providers may, if they wish, send 603 codes or other notifications as they believe may be appropriate. However, these various mechanisms are not a substitute for the ultimate implementation of the SIP 607 and 608 codes.

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<sup>14</sup> Letter from Joshua M. Bercu, Vice President, USTelecom, to Marlene Dortch, Secretary of the FCC, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 (filed Oct. 7, 2021).

<sup>15</sup> *Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, Fifth Further Notice of Proposed Rulemaking in CG Docket No. 17-59 & Fourth Further Notice of Proposed Rulemaking in WC Docket No. 17-97, FCC 21-105 (rel. Oct. 1, 2021).

## Implementation of the jCard Can be Deferred

The specification for SIP Code 608 contemplates including contact information to reach the entity that is blocking the call in the network. To protect the blocking entity, the specification suggested encrypting the contact information, much like STIR/SHAKEN encrypts the information sent regarding the authenticity of the telephone number. SIP Code 608's encryption process, which uses an existing SIP protocol called a jCard, has caused USTelecom concern, that it would be difficult to implement and would prolong the time necessary to craft standards and operationalize. To address this concern, we recommend that SIP Code 608 be implemented initially without use of the jCard encryption feature. SIP Code 608 should still include information identifying the blocking entity, but it need not be encrypted. USTelecom apparently does not believe providing contact information without the jCard encryption would be acceptable as it has suggested that some of its members would be willing to include such information without encryption.<sup>16</sup> By excluding or deferring implementation of the jCard, a six-month extension – for a total of 18 months – for voice service providers to develop any necessary standards should be manageable.

Respectfully submitted,

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/s/

Elizabeth M. Young LaBerge  
Senior Director of Advocacy & Counsel  
Credit Union National Association  
99 M Street SE, Suite 300  
Washington, DC 20003  
(608) 231- 4984  
[elaberge@cuna.coop](mailto:elaberge@cuna.coop)

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<sup>16</sup> USTelecom Sept. 13<sup>th</sup> *ex parte* at 1 (explaining that some providers might be willing to make modifications to SIP Code 603, if it were adopted, that would identify the blocking carrier).

## **APPENDIX**

The following trade association representatives attended the meeting:

- Elizabeth LaBerge, Credit Union National Association
- Michael Pryor, Brownstein Hyatt Farber Schreck, LLP (on behalf of Credit Union National Association)
- Jonathan Thessin, American Bankers Association
- Leah Dempsey, ACA International
- Arpan Sura, Hogan Lovells LLP (on behalf of American Association of Healthcare Administrative Management)
- David Androphy, American Financial Services Association
- Ann Kossachev, National Association of Federally-Insured Credit Unions
- Shelly Repp, National Council of Higher Education Resources
- Matthew O'Donnell, American Express