

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *In the Matter of Advanced Methods to Target and Eliminate Unlawful Robocalls, Alarm Industry Communications Committee Petition for Clarification or Reconsideration, American Dental Association Petition for Clarification or Reconsideration, CG Docket No. 17-59.*

Thanks to Congress' bipartisan efforts to enact the TRACED Act, today we take the next steps in codifying a safe harbor to shield voice service providers from liability for unintended or inadvertent blocking of calls. This action is imperative from both a statutory and policy standpoint. While providers aren't under an explicit legal requirement to block illegal and so-called "unwanted" robocalls, make no mistake: they certainly face astronomical pressure from Congress, the FCC, and advocates to do so. To the extent providers have been instructed to "go forth and block," they shouldn't have to bear the corresponding liability risk without reasonable protections.

I have, therefore, led the charge for the establishment of a broad and robust safe harbor for providers engaged in call blocking. In fact, if it were up to me, today's item would have given even more "teeth" to the first safe harbor, for example, by extending the protection to network-based blocking. After all, if we are simultaneously adopting a second safe harbor for blocking bad-actor providers that is not based on consumer consent, I don't see why we wouldn't do the same for the first safe harbor, especially when the provider-based blocking safe harbor, though arguably meritorious, wasn't in the statute or thoroughly debated in the record. While my request to broaden the safe harbor in the Report and Order portion didn't carry the day, I thank the Chair for adding questions to the Further Notice seeking comment on doing so at a later point. This issue will clearly need to be revisited and addressed.

At the same time, a broad and robust safe harbor for providers must go hand in hand with an equally strong redress mechanism for legitimate calling parties making legal calls that are erroneously blocked. And, don't just take it from me: it's in the law. While the initially circulated draft made a little progress by requiring providers to designate a single point of contact for callers to report blocking errors and to investigate and resolve errors in a "reasonable" amount of time, among other steps, these measures simply didn't cut it with respect to our clear statutory directive to provide callers and consumers with "transparency and effective redress options." Therefore, I worked with parties to come up with a must-have punch list for an effective redress mechanism, and I am grateful to the Chair for agreeing to implement some of that list, including requirements that providers offer complaint resolution free of charge to callers and that obtaining the protections of the safe harbors be contingent on implementation of the redress mechanism.

Other absolute "must-haves" were added to the Further Notice to be subject to further comment and implementing action, including requirements that service providers notify callers in real-time that their calls are being blocked and resolve blocking disputes within a strict time limit. Those pieces, particularly the requirement that callers receive notification of their blocked calls, also happen to be the ones that legitimate calling parties rightfully argue are most critical in establishing effective redress. And, for good reason: callers clearly cannot effectively seek redress for erroneously blocked calls if they lack the knowledge that their calls are being blocked or by whom. Nonetheless, real-time notification is a sticking point with voice providers, who claim this requirement would be challenging to implement. Thus, while I certainly would have preferred a more beefed up redress mechanism in the Report and Order, some of the calling parties' requests will need to be sorted out in the record before we take further action. I thank the Chair for working with me to find an appropriate landing spot on these issues in this item.

While much work remains in implementing the TRACED Act, I appreciate the progress we make today and look forward to augmenting and improving both the call-blocking safe harbor and the corresponding redress mechanism in the near future.

I vote to approve.