

January 15, 2015

Chairman Tom Wheeler  
Commissioner Mignon Clyburn  
Commissioner Michael O’Rielly  
Commissioner Ajit Pai  
Commissioner Jessica Rosenworcel

Federal Communications Commission  
445 12th Street, SW  
Washington DC 20554

Re: CG Docket No. 02-278

Dear Commissioners Wheeler, Clyburn, O’Rielly, Pai and Rosenworcel:

The undersigned national, state and community groups write this letter to request that consumer protections for the Telephone Consumer Protection Act (TCPA) be maintained.

Congress passed the TCPA more than two decades ago to protect consumers from receiving annoying robocalls to cell phones, calls which invade privacy and disrupt lives. The TCPA requires that the owner of a cell phone provide consent to a business to call – or text – when using an autodialer (except for emergency purposes). Currently, robocalls (or texts) to cell phones are illegal unless the cell phone owner has provided consent. This basic protection remains essential at a time when so many people, particularly low-income people, rely on their cell phones as their primary – and sole – means of communications. Many of these low-income cell phone users cannot afford to waste valuable minutes on their cell phones to field unwanted robocalls and texts for which they have not given prior consent.

We understand that the FCC is currently considering issuing new rules that would provide exemptions and safe harbors for businesses that use autodialers to call or text cell phones. For example, the debt collection and banking industries want the FCC to allow "wrong party" robocalls to cell phones without liability. If these exemptions were permitted, then it would *not* be the person who had provided consent who would receive the intrusive calls or texts on their cell phone. Instead, it would be the innocent bystander who may have obtained a new telephone number and never gave consent for these calls, or who has no relationship whatsoever to either the caller or the party who provided consent.

Maintaining strong protections against these calls creates incentives for the industry to develop methods to avoid harassing people who have not agreed to be called on their cell phones. Companies can use available technology to determine whether cell phone numbers were transferred to new users. Businesses could use these technologies before calling new cell phone numbers. Instead, they want the right to continue robocalling wrong numbers, without liability.

The proposed changes that the FCC is considering will open the floodgates for “wrong number” calls to cell phones. This would not only be an improper interpretation of the TCPA, but it would gut essential privacy rights of cell phone users. Only with strong remedies imposed on

industry for calling or texting wrong numbers (even when they have been reassigned to new users), will the industry be incentivized to create and use technologies and methodologies to ensure they are calling the person who actually gave consent to receiving autodialer calls and texts on their cell phone.

The fact remains, consumers hate unwanted calls and texts. Since 2003, over 223 million Americans have attempted to preserve their privacy by putting their phone numbers on the National Do Not Call Registry.<sup>1</sup> Despite having this program in place, the FTC reported 3,748,655 telemarketing complaints in 2013, of which at least 2,182,161 were reported as including a recorded message.<sup>2</sup> The FCC similarly reports a dramatic increase in complaints with the number of robocall complaints doubling in the past two years to over 100,000 filed in 2012.<sup>3</sup> Given the fact that these alleged violations have increased exponentially since the TCPA was enacted, the FCC should not be attempting to weaken the current protections.

We understand that there will be meetings this week between some groups and the staff of the Commissioners, and while most of us are unable to attend these meetings, we write to endorse the messages to be conveyed in these meetings:

On behalf of consumers throughout the United States, please –

- Do not reduce the consumer protections of the Telephone Consumer Protection Act.
- Ensure that industry callers using autodialers to make calls or send texts to cell phones are fully liable when they call wrong numbers and reach consumers who have not provided consent for those calls.
- Maintain the current system of liability for wrong number calls to create incentives for these industry callers to create reliable technologies to enable them to avoid wrong number calls.

We hope that the FCC will resist the pressure from business and industry trade groups to weaken rules that require accuracy when sending robocalls to cell phones. Repeated unauthorized calls and texts to consumers' cell phones invade privacy and cost money by using their precious minutes or limited text allowances.

Thank you for your consideration of our views. If you have any questions, please contact Margot Saunders at the National Consumer Law Center, [msaunders@nclc.org](mailto:msaunders@nclc.org) (202 452-6252, extension 104) or Ellen Taverna at that the National Association of Consumer Advocates, [ellen@consumeradvocates.org](mailto:ellen@consumeradvocates.org) (202 452-1989, extension 109).

Sincerely,

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<sup>1</sup> Federal Trade Commission, *Nat'l Do Not Call Registry Data Book FY 2013*, at 4 (Dec. 4, 2013) (available at <http://www.ftc.gov/sites/default/files/documents/reports/national-do-not-call-registry-data-book-fiscal-year-2013/131204dncdatabook.pdf>).

<sup>2</sup> *Id.* at 5.

<sup>3</sup> Statement of Eric J. Bash, FCC Enforcement Bureau Associate Chief, at Hearing Before the Senate Committee on Commerce, Science, and Transportation's Subcommittee on Consumer Protection, Product Safety, and Insurance, *Stopping Fraudulent Robocall Scams: Can More Be Done?*

National Advocacy Organizations

AFL-CIO

Americans for Financial Reform (AFR)

Center for Digital Democracy

Common Cause

Consumer Action

Consumer Federation of America

Economic Opportunity Studies

Free Press

NAACP

National Association for State Utility Consumer Advocates (NASUCA)

National Association of Consumer Bankruptcy Attorneys

National Association of Consumer Advocates

National Consumer Law Center on behalf of its low-income clients

National Consumers League

National Housing Law Project

National Legal Aid & Defender Association

National Senior Citizens Law Center

New America's Open Technology Institute

Privacy Rights Clearinghouse

Public Citizen

Public Justice

Public Knowledge

The Institute for College Access & Success

U.S. PIRG

Woodstock Institute

State and Community Advocacy Organizations

Consumer Federation of California  
Sacramento, CA

Consumer Watchdog  
Santa Monica, CA

Housing and Economic Rights Advocates  
Oakland, CA

Sacramento Employment and Training Agency  
Sacramento, CA

San Diego Volunteer Lawyer Program, Inc.  
San Diego, CA

TURN-The Utility Reform Network  
San Francisco, CA

Florida Alliance for Consumer Protection

Florida Legal Services  
Tallahassee, FL

HOPE Outreach Center, Inc.  
Davie, FL

Jacksonville Area Legal Aid, Inc.  
Jacksonville, FL

Legal Aid Service of Broward County, Inc.  
Plantation, FL

Legal Aid Society of the Orange County Bar Association, Inc.  
Orlando, FL

Chinese American Service League  
Chicago, IL

Chinese Mutual Aid Association  
Chicago, IL

LAF (formerly the Legal Assistance Foundation of Metropolitan Chicago)  
Chicago, IL

Rural Broadband Policy Group  
Whitesburg, KY

Better Business Bureau of Northeast Louisiana,  
Monroe, LA

Massachusetts Consumer Coalition  
Boston, MA

Consumer Assistance Council, Inc.  
Hyannis, MA

Disability Law Center,  
Boston, MA

Medical-Legal Partnership  
Boston, MA

Metrowest Legal Services  
Framingham, MA

Maryland CASH  
Baltimore, MD

Maryland Office of People's Counsel  
Baltimore, MD

Public Justice Center  
Baltimore, MD

Mid Minnesota Legal Assistance  
Minneapolis, MN

Open Access Connections  
St. Paul, MN

Graceful Seniors LLC  
Toms River, NJ

Legal Services of New Jersey  
Edison, NJ

Long Term Care Community Coalition  
New York, NY

MFY Legal Services, Inc.  
New York, NY

Financial Guidance Center  
Las Vegas, NV

Legal Aid Center of Southern Nevada, Inc.  
Las Vegas, NV

Legal Services of Southern Piedmont  
Charlotte, NC

North Carolina Justice Center  
Raleigh, NC

Pisgah Legal Services  
Asheville, NC

Reinvestment Partners  
Durham, NC

Citizens Coalition  
Cleveland, OH

Consumer Protection Association  
Cleveland, OH

Friendship Foundation  
Cleveland, OH

Ohio Partners for Affordable Energy  
Findlay, OH

Pro Seniors, Inc.  
Cincinnati, OH

Legal Aid Services of Oklahoma  
Oklahoma City, OK

Clarifi  
Philadelphia, PA

South Carolina Appleseed Legal Justice Center  
Columbia, SC

Fleet & Family Support Center  
Millington, TN

Tennessee Commission on Aging and Disability  
Nashville, TN

Texas Legal Services Center  
Austin, TX

Tidewater Community College's Center for Military and Veteran Education  
Virginia Beach, VA

Virginia Citizens Consumer Council  
Richmond, VA

Virginia Poverty Law Center  
Richmond, VA

Alliance for a Just Society  
Seattle, WA

Northwest Consumer Law Center  
Seattle, WA

Fairmont-Morgantown Housing Authority (FMHA)  
Fairmont, WV

Mountain State Justice  
Charleston, WV