



# PUBLIC NOTICE

Federal Communications Commission  
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DA 18-547

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## CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON THE P2P ALLIANCE PETITION FOR CLARIFICATION UNDER THE TELEPHONE CONSUMER PROTECTION ACT

CG Docket No. 02-278

**Comment Date: June 22, 2018**

**Reply Comment Date: July 9, 2018**

With this Public Notice, we seek comment on a petition for clarification filed by The P2P Alliance.<sup>1</sup> The P2P Alliance, which is a coalition of providers and users of peer-to-peer (P2P) text messaging, asks the Commission to clarify that P2P text messaging is not subject to the Telephone Consumer Protection Act (TCPA)<sup>2</sup> restrictions on calls to wireless phone numbers because such messaging does not use an automatic telephone dialing system (autodialer).<sup>3</sup>

We seek comment on this and any other issues raised by the *Petition*.

Pursuant to section 1.2 of the Commission's rules,<sup>4</sup> interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/ecfs/>.

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<sup>1</sup> Petition for Clarification of The P2P Alliance, CG Docket No. 02-278 (filed May 3, 2018) (*Petition*).

<sup>2</sup> The TCPA is codified at 47 U.S.C. § 227. The Commission's implementing rules are codified at 47 CFR § 64.1200. Among other things, the TCPA and the related rules prohibit making, without the prior express consent of the called party, a non-emergency call "using any automatic telephone dialing system" to any telephone number assigned to a cellular telephone service. 47 U.S.C. § 227(b)(1)(A)(iii); 47 CFR § 64.1200(a)(1)(iii). The Commission has clarified that a "call" under the TCPA "encompasses both voice calls and text calls to wireless numbers." *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014, 14115, para. 165 (2003).

<sup>3</sup> *Petition* at 2-3.

<sup>4</sup> 47 CFR § 1.2.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

*Ex Parte Rules.* This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.<sup>5</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission's rules.<sup>6</sup> In proceedings governed by section 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf).<sup>7</sup> Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

*Additional Information.* For further information, contact Karen Schroeder of the Consumer and Governmental Affairs Bureau at (202) 418-0654 or [Karen.Schroeder@fcc.gov](mailto:Karen.Schroeder@fcc.gov).

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<sup>5</sup> See *id.* §§ 1.1200 *et seq.*

<sup>6</sup> *Id.* § 1.1206(b).

<sup>7</sup> *Id.* § 1.49(f).