



# PUBLIC NOTICE

Federal Communications Commission  
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DA 19-671

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## CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION FOR DECLARATORY RULING OR RULEMAKING FILED BY PAUL ARMBRUSTER

CG Docket No. 02-278

**Comment Date: August 19, 2019**

**Reply Comment Date: September 3, 2019**

With this Public Notice, we seek comment on a petition for declaratory ruling or, alternatively, rulemaking filed by Paul Armbruster.<sup>1</sup> Specifically, Armbruster seeks a ruling “confirming that a cellular phone customer can revoke consent to receive any and all unwanted text messages from their cell service provider.”<sup>2</sup> According to the *Petition*, Armbruster was informed by his wireless service provider that “customers are not able to opt-out of receiving certain purely informational texts.”<sup>3</sup> He acknowledges that “cellular carriers need not obtain additional consent from their cellular subscribers prior to initiating autodialer and artificial and prerecorded message calls for which the subscriber is not charged.”<sup>4</sup> He contends, however, that this exemption from the Telephone Consumer Protection Act (TCPA) prohibition on making such calls without the prior express consent of the called party does not affect a consumer’s right to revoke consent at any time and through any reasonable means.<sup>5</sup>

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

*Filing Requirements.* Interested parties may file comments on or before the date indicated above.<sup>6</sup> All filings must reference CG Docket No. 02-278. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).<sup>7</sup>

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS:

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<sup>1</sup> Petition of Paul Armbruster for Declaratory Ruling Or Alternatively A Rulemaking Regarding A Consumer’s Absolute Right to Revoke Consent to Receive Unwanted Text Messages From Common Carriers, CG Docket No. 02-278 (filed July 9, 2019) (*Petition*).

<sup>2</sup> *Id.* at 6.

<sup>3</sup> *Id.* at 2 (citing AT&T letter dated May 30, 2019).

<sup>4</sup> *Id.* at 3 (citing *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 92-90, Report and Order, 7 FCC Rcd 8752, 8775, para. 45 (1992)).

<sup>5</sup> *Id.* at 3-6; see 47 U.S.C. § 227(b)(1)(iii).

<sup>6</sup> 47 CFR § 1.2.

<sup>7</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

<https://www.fcc.gov/ecfs/>.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- 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 12th Street, 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 12th Street, SW, Washington DC 20554.

*Ex Parte Rules.* The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.<sup>8</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 rule 1.1206(b). In proceedings governed by rule 1.49(f) 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). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

*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 and Governmental Affairs Bureau at 202-418-0530 (voice), 844-432-2275 (videophone), or 202-418-0432 (TTY).

*Additional Information.* For further information, contact Richard D. Smith, Consumer Policy Division, Consumer and Governmental Affairs Bureau, at (717) 338-2797 or [Richard.Smith@fcc.gov](mailto:Richard.Smith@fcc.gov).

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<sup>8</sup> 47 CFR §§ 1.1200 *et seq.*