

STATE OF MISSISSIPPI



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ATTORNEY GENERAL

CONSUMER PROTECTION
DIVISION

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Via Electronic Filing

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

In the Matters of Rules and Regulations Implementing the Telephone Consumer Protection Act
CG Docket No. 02-278, and
Interpretations in Light of the D.C. Circuit's *ACA International* Decision
CG Docket No. 18-152

Dear Chairman Pai and Commissioners O'Rielly, Carr, and Rosenworcel,

Stopping unwanted and illegal robocalls is one of our top consumer protection concerns. Despite current prohibitions, the problem is getting worse. There were 30.5 billion robocalls in 2017¹, and, according to the YouMail Robocall Index, there were 3.2 billion robocalls in March 2018 alone. The Federal Trade Commission also reports that 9.5 billion dollars is lost annually due to related fraud.

The Mississippi Attorney General's Office commends the Federal Communications Commission ("FCC") for its ongoing efforts to address the plague of robocalls, and we call on the FCC to remember the congressional intent behind the Telephone Consumer Protection Act ("TCPA") when interpreting the definition of "automated telephone dialing system" ("ATDS.")² The definitions must not thwart the original (and ongoing) intent of Congress to protect consumers' privacy.

¹ www.prnewswire.com/news-releases/robocall-epidemic-breaks-annual-record-with-305-billion-calls-in-2017-300580916.html

² Pub. L. 102-243, § 2, 105 Stat. 2394 (1991) (found as a note to 47 U.S.C. § 227).

The statutory language includes devices that either “store” *or* “generate” numbers to call. Furthermore, common sense says that a call is still an unwanted robocall initiated by an ATDS, even if it ultimately includes a human agent on the line; the call can be equally pestering.

The callers’ “capacity” to call millions of consumers in a mere minute should be regulated no matter the technology, and the definitions must not be so narrow that unscrupulous callers will be able to evade liability by developing technology which circumvents them. However, we understand the D.C. Circuit’s concern that an ordinary smart phone could be interpreted to be an ATDS and agree that the FCC should use its exemption authority to carefully exclude the ordinary use of a smart phone.

Secondly, we have learned that debt collectors make up the largest percentage of robocallers and question why debt collectors, calling on behalf of the federal government, should be allowed to commit otherwise prohibited conduct thanks to the FCC’s 2016 Broadnet Ruling and the 2015 amendment to the TCPA. Therefore, we call on the FCC to, at minimum, issue regulations to protect consumers from debt collection contractors who may abuse this exemption.


Lastly, we support the FCC’s idea of creating a database of reassigned numbers. Such a database would allow callers to confirm that they are reaching the intended recipient and would negate a caller’s excuse that they did not realize the called party was not who they intended. We also support the FCC’s goals to make revocation of consent as easy as possible, even if the alleged consent was part of a form contract.

Fortunately, industry and advocacy groups, such as the National Consumer Law Center and Consumers Union, are providing useful information on this issue, and we welcome a continued dialogue to halt the plague of unwanted and illegal robocalls.

Kindest Regards,

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