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Re: In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act and Interpretations in Light of the D.C. Circuit's ACA International Decision (CG Docket No. 02-278 and CG Docket No. 18-152)

To Whom It May Concern,

These comments are respectfully submitted to the Federal Communications Commission in support of the comments by the National Consumer Law Center (NCLC) dated June 13, 2018 about the above docket and matter. The NCLC's Margot Saunders presciently observes:

"The decisions made in this proceeding will impact the daily lives of hundreds of millions of American consumers. If the FCC issues definitions of "automated telephone dialing system" and "call" that are as narrow as the calling industry urges, the consequence will be a tsunami of unwanted—and unstopable— calls to our cell phones. We strongly urge the FCC not to take this route but, instead, to write definitions that will ensure that the consumer protection law it is charged with implementing is effective in protecting the sanctity of Americans' privacy....

"Over 3.4 billion robocalls were made in the month of April 2018 alone—a 285% increase in less than three years...Scam calls are far from the only problem....The TCPA's prohibition against autodialed calls to cell phones without the called party's consent is of utmost importance to consumers. The FCC must resist industry requests to eviscerate this protection by interpreting the term 'automatic telephone dialing system' (ATDS) so narrowly that it does not apply to the devices that are used today to inundate consumers with unwanted calls. The statutory language should be interpreted to encompass any device that dials numbers from a stored list, regardless of whether it generates those numbers....Finally, the word 'sequential' in the definition of ATDS should be interpreted not to be limited to numerical order, but to include the generation and dialing of numbers in any sequence, including a sequence selected from a list."

This cellphone user is particularly outraged by the daily flood of telemarketing calls he receives from criminals who use ATDSs. Constant advances in telephone technology only aid and abet these scofflaws, who will take any crooked path they can find around the protections of the Telephone Consumer Protection Act (TCPA). Congress's findings upon passage of the TCPA in 1991 accurately describe this cellphone consumer's feelings about these calls 27 years later: "Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers."

Loosening the standards for what is considered to be an ATDS—in particular, excluding from its definition a device that dials cellphone numbers from a stored list, which is how almost all ATDS calls are delivered today—would disembowel a major protection of the TCPA, which is already far too weak a protection against the daily tsunami of illegal telemarketing calls we're receiving. I strongly urge the FCC not to weaken the definition of an ATDS, which would only empower scofflaws and scamsters.

Sincerely,
Mark C. Hoffman