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Via ECFS

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

I write this letter not only as a consumer protection attorney, but as an ordinary American who primarily uses a cell phone.

In my personal capacity, I receive telemarketing calls daily. Sometimes these calls are selling health insurance; other times home security services; other times free cruises. I never consented to these calls. I keep my cell phone number very private, to the point I use throwaway numbers in situations where a number is required. In all circumstances, it is only the caller's fear of TCPA liability (and my familiarity with the statute) that can convince the caller to stop.

In my professional capacity, I have represented an individual who received more than 300 calls in three months from a debt collector, *after* he told the debt collector that it had the wrong number.

I have represented an elderly woman (and a class of primarily elderly individuals) who continued to receive autodialed phone calls regarding cremation services, often pitching services for a long-deceased loved one, and continuing after the company was asked repeatedly to stop.

I have represented an 18-year-old high school senior who received more than 100 autodialed debt collection calls after telling the caller that it had the wrong number.

I have represented a woman who responded to text messages dozens of times asking the company to stop, writing not just "stop" but "for the love of God, please stop" and other similarly frustrated responses. I have represented people who filed complaints with the FCC, FTC, and Better Business Bureau in a desperate effort to stop unwanted calls from specific companies – all without success. Only the strength of the TCPA and the threat (or realization) of litigation thereunder has helped these individuals.

Without the protections of the TCPA, holding these companies accountable for what we can all agree is outlandish behavior would have been nearly impossible. After all, how could any

of these individuals have held the caller accountable if the TCPA did not exist, or was so narrowed as to not cover the equipment they were using? Common law invasion of privacy seldom covers these claims to any real extent, and certainly will not allow consumers to meaningfully fight back.

I recognize and sympathize with the concerns about impeding “legitimate” communications. But the TCPA, as it stands, rarely does so. There are certainly outliers, and some high-profile litigation that may have been misguided, but such cases are rare. It is simple for a company to obtain consent for communications consumers genuinely consider legitimate, and companies who genuinely believe those communications to be legitimate obtain that consent. And if a company obtains consent and honors “do not call” requests, it can use an autodialer with no fear of liability.

There is certainly room to improve the TCPA and make it fairer for all, but it can be done without gutting its protections. A rule that interprets the TCPA so as not to cover automatic dialing from a stored list would be to eliminate the TCPA and its necessary protections. A rule that equates “called party” with the “intended recipient” would do the same, as companies who placed unwanted calls would simply say that they were trying to reach someone else and misdialed.

Instead of gutting the law as the calling industry requests, I ask that the Commission take a common-sense approach. Over lunch, we would all agree that automated dialing from a stored list of numbers should be considered an “automatic telephone dialing system.” The harm is identical to that sought to be remedied by the statute, and it is a permissible interpretation of the statute. We would all agree that simply adding someone in a chair whose job it is to click “OK” on each telephone number before the system dials the number (“clicker systems”) does not materially change the system away from being an ATDS. We would probably all agree that “called party” does not colloquially or contextually mean “who you meant to reach.” But we would also agree that implementing a database of re-assigned numbers is needed to prevent genuine errors, and we would agree that calls from cell phones should not be covered. The FCC can consistently issue an order that does all these things, making the law fairer for all while maintaining its important protections.

The TCPA is a strong law because it must be to effectuate its consumer protection goals. Unwanted calls were rampant when the law was passed and have only gotten worse. Please do not disarm consumers of the only valuable weapon they have to fight back.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremy Glapion". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jeremy M. Glapion