

Comments of Stewart N. Abramson

As stated in the filing by the National Consumer Law Center, whose comments I fully support, the decisions made by the FCC in this proceeding will impact the daily lives of hundreds of millions of American consumers. If the FCC issues definitions of what constitutes an “Automatic Telephone Dialing System” and of what constitutes a “call” that are as narrow as the industry making such calls urges, then the consequence will most assuredly be a tsunami of unwanted, and unstoppable, calls to our cell phones.

I strongly urge the FCC, to write definitions for what constitutes an “Automatic Telephone Dialing System” and for what constitutes a “call” that will ensure this important consumer protection law is effective in protecting the sanctity of our right not to be harassed by calls that are almost as inexpensive to make as SPAM e-mails.

I am already deluged by telemarketing calls to my personal cell phone. This includes both telemarketing voice calls and text-message calls that were made using “Automatic Telephone Dialing Systems”. I cannot imagine how many telemarketing voice calls and text-message calls I will receive on my cell phone if the FCC broadens the definitions of what constitutes an “Automated Telephone Dialing System” and of what constitutes a “call”.

The term “Automatic Telephone Dialing System” should be interpreted by the FCC as broadly as possible. For instance, the term “capacity” should be interpreted as broadly as possible so that it will encompass any device that has the capacity to generate numbers *de novo* or that has the capacity to dial numbers from a stored list of numbers. Similarly, the term “sequential” should be interpreted as broadly as possible so that it will encompass numbers that are dialed in numerical order as well as numbers that are dialed sequentially from a list of numbers.

If the FCC is concerned that a broad definition of what constitutes an “Automatic Telephone Dialing System” will sweep in and include any call that is made by anyone using a “smart” cell phone, then it should be possible for the FCC to exempt personal calls that are made by individuals using their own personal hand-held cell phones. This has already been done by the FCC in conjunction with telemarketing calls that are made by a caller who has a “Personal Relationship” with the called party.

It is not onerous for legitimate companies to obtain prior express consent from the people whom they want to call BEFORE calling them using an “Automatic Telephone Dialing System”. Thus maintaining a broad definition of what constitutes an “Automatic Telephone Dialing System” will not impede legitimate companies from contacting the people that they want to contact using a method that is inherently inexpensive.