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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

575

July 19, 2018

The Honorable Ajit V. Pai
Chairman
Federal Communications Commission
445 12th Street, Southwest
Washington, DC 20554

Dear Chairman Pai:

We applaud the Federal Communications Commission (FCC) for releasing a Second Notice of Proposed Rulemaking to explore opportunities to reduce unwanted robocalls and robotexts by addressing issues associated with reassigned numbers. We encourage you to proceed with a rulemaking that creates, and makes available to callers, a comprehensive database of reassigned telephone numbers.

Periodically, consumers receive unwanted robocalls and robotexts because the previous holder, not the current holder, of the phone number provided consent. Not only are these calls and texts to reassigned numbers a nuisance to consumers, but they may also create liabilities for calling parties. Many of our constituents complain about receiving these intrusive and unsolicited calls and texts that violate the rights of privacy and control created by the Telephone Consumer Protection Act (TCPA). We have also heard from hospitals, small businesses, and other stakeholders in our states who exercise care in their efforts to contact their patients, customers, or employees, but who nonetheless could face liability under the TCPA, because they are alleged to have called reassigned numbers.

We believe that the FCC can address this pressing issue by making available a reassigned numbers database. As you explore opportunities to promote such a database, we encourage you to consider the following key features:

- Comprehensiveness – The reassigned numbers database should comprehensively document all telephone numbers that could be reassigned. Participation by all providers—wireless, wireline, Voice over Internet Protocol providers, and any other relevant carrier partners—is essential to ensuring the database is reliable.
- Accuracy – The database should be reliable and up-to-date to provide callers with accurate and timely information. Telephone providers should promptly report when one of their telephone numbers has been relinquished by the previous user, and the database should be updated as frequently as necessary to ensure it serves its purpose.

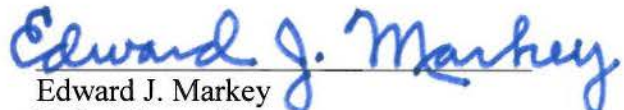
- Accessibility – All callers, including small and medium-sized businesses, should have easy access to the database to confirm the currency of numbers.
- Security – The database should protect and minimize the collection of consumers' proprietary network information.
- Efficiency – The FCC should actively monitor and evaluate the comprehensiveness, accuracy, accessibility, and security of the reassigned numbers database and make appropriate reforms and modifications when necessary. Further, the FCC should continue to protect consumers with reassigned numbers from unwanted calls and texts, including from callers using the reassigned numbers database.
- Safe Harbor – This proceeding is an opportunity to create sensible tools that callers can use to avoid calling or texting reassigned numbers, and should not be a vehicle to strip consumers of their ability to seek recourse from callers violating TCPA regulations. With that said, a safe harbor shielding a caller from TCPA liability for making calls to reassigned numbers, without required consent, may be appropriate if the following conditions are met:
 - The caller took all reasonable steps to properly use a reassigned numbers database, in a timely manner, made available under this rulemaking and validate the authenticity of the number prior to making the calls or texts;
 - The call or text to a reassigned number was the result of inaccurate information received from the database;
 - The caller had the consent of the consumer the caller was attempting to contact; and
 - The caller took appropriate steps to stop calling and texting the reassigned number and reported the inaccuracy.

Thank you for your attention to this important matter. We urge the Commission to use its statutory authority to provide consumers and businesses the much-needed relief they deserve.

Sincerely,



John Thune
Chairman



Edward J. Markey
United States Senator

Cc: The Honorable Bill Nelson
Ranking Member



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 13, 2018

The Honorable John Thune
Chairman
Committee on Commerce, Science, and Transportation
United States Senate
512 Dirksen Senate Office Building
Washington, D.C. 20510

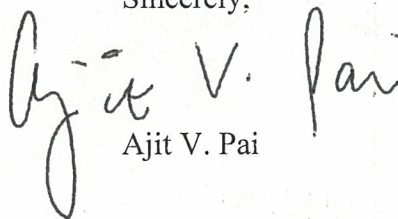
Dear Chairman Thune:

Thank you for your letter regarding unwanted robocalls. Unwanted robocalls are consumers' top complaint to the FCC, and we have accordingly made combating illegal robocalls a top priority. As you know, as part of our multiple-front battle against the scourge of robocalls, the Commission has been exploring ways to reduce unwanted robocalls to reassigned numbers. Earlier this year, the U.S. Court of Appeals for the District of Columbia Circuit in *ACA International v. FCC* unanimously recognized this, and shortly after the court's decision we adopted the *Second Further Notice of Proposed Rulemaking* seeking comment on ways to address unwanted calls and texts to reassigned numbers.

In your letter, you suggest that the FCC make available a reassigned numbers database that includes key features, including comprehensiveness, accuracy, accessibility, security, efficiency and a safe harbor. In the *Notice*, we propose to ensure that businesses have access to one or more databases that contain the comprehensive and timely information they need to avoid calling reassigned numbers. In addition, we seek public input on whether and how the FCC should shield good-faith actors that rely on such a database from liability under the Telephone Consumer Protection Act. With a robust record, we hope to adopt an approach that's easy to use and cost effective for callers while minimizing the reporting burdens on service providers—and most importantly protects consumers. The comment and reply period closed on July 9, 2018, and Commission staff is now reviewing the record. Please be assured that we will take into consideration the issues and concerns presented by all stakeholders as the Commission concludes its review. I look forward to working with my colleagues on addressing these issues while continuing our many other efforts to combat illegal robocalls.

Thank you for your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,



Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 13, 2018

The Honorable Edward Markey
United States Senate
255 Dirksen Senate Office Building
Washington, D.C. 20510

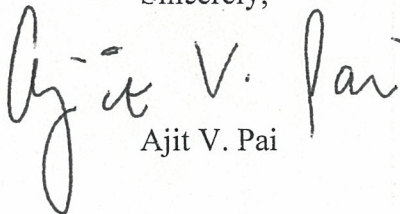
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