

**Federal Communication Commission
Washington, D.C. 20544**

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

**Reply Comments of the
American Independent Business Alliance (AMIBA)**

On behalf of our seventy-eight Affiliate independent business alliances that collectively represent over 25,000 independent businesses across 34 states, the American Independent Business Alliance (AMIBA) ¹ respectfully submits the following comments to the Federal Communications Commission (FCC) regarding the interpretation and implementation of the Telephone Consumer Protection Act. AMIBA has reviewed the June 13, 2018 comments filed in these dockets by the National Consumer Law Center and supports them. Robocalls cost small business owners time and money and they must be controlled.

The impact of frequent unsolicited telemarketing, debt collection, payment reminder, and outright scam robocalls on our independent business owners is significant. Calls from companies that also communicate with our members via email and postal mail are unnecessarily burdensome and time-consuming. In conjunction with calls from unknown numbers (some posing as local numbers), these unwanted robocalls tie-up phone lines, interfere with the day-to-day operation of their businesses, and disrupt their ability to provide a high level of customer service. This last point is particularly important as quality customer service and personalized experiences are what give independent businesses a competitive edge over their larger counterparts and online retailers. It is imperative that independent business owners maintain protections from robocalls made to their cellphones without consent and reserve the right to determine if a robocall is unwanted and revoke consent to receive future calls.

¹ AMIBA is a 501c3 non-profit organization dedicated to helping communities become more self-supporting and resilient through fostering a culture that values and supports independent business and local entrepreneurs. AMIBA is incorporated in Colorado as a non-profit corporation. AMIBA supports seventy-eight independent business alliances that collectively represent over 25,000 independent businesses nationally. AMIBA Affiliates operate independently from state commissions. AMIBA's associate and affiliate members also represent the

interests of independent businesses but are not created by state law or do not have statewide authority. As Congress found in 1991 when it enacted the Telephone Consumer Protection Act of 1991: “unwanted automated calls [are] a “nuisance and an invasion of privacy, regardless of the type of call” ... consequently, banning such calls was “the only effective means of protecting telephone consumers from this nuisance and privacy invasion.”²

Although Congress addressed these concerns by enacting 47 U.S.C. § 227(b)(1)(A)(iii), in the twenty-seven years since Congress acted, technology has changed and robocalls have been escalating, to the point where more than 4 billion robocalls were made in July of 2018.

The specific technology used for these unsolicited communications does not change the adverse effects they impose on the recipients. Allowing any automated technology to call and text our business cell phones hurts small businesses and undermines the express intent of Congress to protect the public from any unsolicited call using an automated telephone dialing system. AMIBA believes the term “Automated Telephone Dialing System” (ATDS) should not be reinterpreted in this proceeding so as to narrow the consumer protections historically provided in the Telephone Consumer Protection Act. AMIBA urges the FCC to adopt an inclusive definition of “Automated Telephone Dialing System” while carving out the ordinary use of smartphones, which would continue to provide consumer protections from unsolicited calls while conforming to the requirements of *ACA International v. F.C.C.*, 885 F.3d 687, 700 (D.C. Cir. 2018).

In conclusion, as noted above, AMIBA supports strong FCC regulations that protect independent business owners from unsolicited calls, including prohibitions on the use of any technology, without the affirmative prior consent of the party being called, including for the purpose of making telemarketing or informational calls, except calls for the purpose of public safety.⁴

Respectfully submitted,
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² See, Pub. L. No. 102-243, §§ 2(10-13), (Dec. 20, 1991), *codified at* 47 U.S.C. § 227.

³ See <https://ecfsapi.fcc.gov/file/60001042717.pdf>.

⁴ See, In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act, CG Docket

No. 02-278, Petitions of Blackboard, Inc., and Edison Electric Institute, et al., Declaratory Ruling, 31 9054, 9066-67 (rel. August 4, 2016). FCC clarified that consent by public utility consumers to contact by the public utility reasonably includes consent to receive “calls closely related to the service include those that warn about planned or unplanned service outages; provide updates about service outages or service restoration; ask for confirmation of service restoration or information about lack of service; provide notification of meter work, tree trimming, or other field work that directly affects the customer's utility service; notify consumers they may be eligible for subsidized or low-cost services due to certain qualifiers such as, *e.g.*, age, low income or disability; and calls that provide information about potential brown-outs due to heavy energy usage.”