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November 2, 2017

**VIA ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W., TW-A325  
Washington, D.C. 20554

**Re: Ex Parte Letter Regarding Wireless Reassigned Numbers  
CG Docket No. 02-278**

Dear Ms. Dortch:

On October 31, 2017, Beth Choroser of Comcast and Melissa Newman of Wilkinson Barker Knauer, LLP met with Zenji Nakazawa, Legal Advisor to Chairman Pai, about the *2015 TCPA Order*.<sup>1</sup> In the meeting, we explained how the Commission's rules dealing with reassigned wireless numbers adversely affect consumers, including Comcast's voice, Internet, and video subscribers. Comcast proposed a targeted, consumer-focused interim solution to address this problem.

Specifically, the *2015 TCPA Order* requires companies to obtain consent of the called party (current subscriber) with respect to reassigned wireless numbers. Companies who make calls to wireless subscribers without knowledge of reassignment, but with a reasonable basis to believe that they have consent to make the call, can initiate only one call after reassignment in order to gain actual or constructive knowledge of reassignment. Constructive knowledge, under these rules, exists even where the recipient of the call does not answer or hangs up. As a result, no further calls can be made to that wireless number without consent of the current subscriber.

This ruling adversely affects consumers who desire to receive service-related calls on their wireless phones. The majority of Comcast customers provide their wireless numbers as their main contact number. Comcast calls subscribers on their main contact number for a variety

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<sup>1</sup> *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 et al.*, Declaratory Ruling and Order, 30 FCC Rcd 7961, 7999-8006 ¶¶ 71-84 (2015), [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-15-72A1\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-72A1_Rcd.pdf) ("2015 TCPA Order").

November 2, 2017


Page 2

of reasons, such as to schedule and confirm service appointments, to notify subscribers of outages, and to discuss billing issues. If the called party does not answer or hangs up, Comcast cannot call that number again without risking a violation under the *2015 TCPA Order*. This could result in missed service appointments, unexpected service interruptions or late fees, or even disconnection for nonpayment. This is clearly not what the Commission intended when it adopted these rules.

Given these unintended consequences, Comcast asks that the Commission issue a declaratory ruling, on its own motion, that companies who make calls to wireless numbers provided by their customers will not be held liable under the *2015 TCPA Order* if they: (1) have a reasonable belief that they had consent to make the call; and (2) did not have actual or constructive knowledge of reassignment prior to or at the time of the call, as actual and constructive knowledge are generally understood. This will allow Comcast and other similarly situated companies to communicate with their subscribers on important matters about their service with the company.

There is precedent for the FCC to modify or suspend its own rules, and it has done so in the past for a variety of reasons.<sup>2</sup> The circumstances here merit the same consideration.

Sincerely,



Melissa E. Newman

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<sup>2</sup> See, e.g., *Notice of Inquiry, Further Notice of Proposed Rulemaking and Order*, Report and Order, 32 FCC Rcd 2436, 2488 ¶ 136 (2017); *Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218-219 MHz Service*, Report and Order and Memorandum Opinion and Order, 15 FCC Rcd 1497, 1499 ¶ 2 (1999), *on recon.*, Order, 14 FCC Rcd 21078 (1999); *1998 Biennial Regulatory Review*, Second Report and Order, 66 FCC Rcd 67115 (2001).