



December 6, 2018

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Ex Parte Presentation, WT Docket No. 08-7, CG Docket No. 17-59; GN Docket No. 18-231; WT Docket No. 18-203; MB Docket No. 17-214; MB Docket No. 18-227; IB Docket No. 18-251

Dear Ms. Dortch,

On December 3, 2018, Scott Bergmann and Matthew Gerst of CTIA met separately with Umair Javed, Legal Advisor to FCC Commissioner Jessica Rosenworcel, and with Jamie Susskind, Chief of Staff to FCC Commissioner Brendan Carr, to discuss CTIA's perspectives on the Commission's December 12th Open Meeting agenda.

During the meeting, CTIA expressed support for the FCC's *Draft Declaratory Ruling*¹ which, if adopted, will preserve the wireless industry's ability to protect consumers from unwanted spam messages (Robotexts) in today's competitive messaging environment. The *Draft Declaratory Ruling* makes clear that wireless providers can continue to take steps to maintain messaging as a trusted communications medium. According to a November 2018 Morning Consult survey, just 9 percent of surveyed consumers said they receive the most unwanted communications on text messages/SMS, while nearly 90 percent said they receive

¹ *Petitions for Declaratory Ruling on Regulatory Status of Wireless Messaging Service*, Draft Declaratory Ruling, WT Docket No. 08-7, FCC-CIRC-1812-04 (draft rel. Nov. 21, 2018) (*Draft Declaratory Ruling*).



the most unwanted communications on voice or email. Not surprisingly, 91 percent of surveyed consumers support wireless providers' efforts to identify and block spam.²

In addition to consumer support, CTIA reiterated that the *Draft Declaratory Ruling* is consistent with the views of state attorneys general, public safety, and local government representatives who have asked the Commission to ensure that wireless messaging services do not suffer the same fate as voice, which has overwhelmed consumers with billions of unwanted robocalls.³ The *Draft Declaratory Ruling*, moreover, will preserve competitive and technological neutrality with over-the-top messaging apps such as WhatsApp and Facebook Messenger, which make up roughly 75 percent of all messaging.⁴ For these reasons, CTIA noted that the FCC's *Draft Declaratory Ruling* is the right call and a big win for consumers.⁵

CTIA also discussed the FCC's efforts to combat robocalls and ensure consumers receive wanted calls and, specifically, CTIA expressed support for helping calling parties to avoid reaching non-consenting consumers who utilize reassigned telephone numbers. While CTIA continues to believe that existing commercial solutions can help mitigate liability under the Telephone Consumer Protection Act (TCPA) for calling parties, CTIA expressed appreciation that the Commission's *Draft Second Report & Order* seeks to address concerns

² Memorandum from Morning Consult to CTIA (Nov. 28, 2018) (on file with the author) (Morning Consult Poll) (detailing a November 21-25, 2018 national sample poll of 1,945 registered voters weighted to approximate a target sample of employed adults based on race/ethnicity, gender, educational attainment, and region, with a margin of error of plus or minus 2 percentage points.)

³ See *Draft Declaratory Ruling* ¶¶ 43-45.

⁴ See Pamela Clark-Dickson, *Mobile Messaging Traffic and Revenue Forecast Report, 2017-22*, Ovum (May 30, 2018). For reasons of competitive and technological neutrality, CTIA also encouraged the Commission to provide regulatory certainty for successor technologies, protocols or services, such as Rich Communications Services (RCS), to receive the same regulatory treatment as SMS. See *Draft Declaratory Ruling* at ¶ 8 n.28.

⁵ CTIA also explained that a short code is not itself a communications service. See *Draft Declaratory Ruling* at ¶ 28 n.84. The primary function of a short code is "effectively identical to the assignment of a Uniform Resource Locator (URL) to an entity wishing to set up a website. Just as a URL corresponds with a harder-to-remember IP address, a Short Code corresponds with more complex addresses, facilitating communication with the holder of the Short Code." See CTIA Opposition to Twilio Petition for Declaratory Ruling, WT Docket No. 08-7 at 32-34 (filed Nov. 20, 2015). See also, *Commercial Mobile Alert System*, First Report and Order, 23 FCC Rcd 6144, 6162 ¶ 43 n.129 (2008) ("URL is an acronym for Uniform Resource Locator and is a reference (an address)[.]").



from callers and consumers about unwanted calls to reassigned numbers while attempting to minimize unnecessary burdens on voice providers.⁶

Further, CTIA expressed support for the Commission's *Draft Communications Marketplace Report*⁷ on the state of the wireless marketplace, which recognizes the increasing importance of wireless to consumers throughout the U.S. CTIA noted that the *Draft Communications Marketplace Report* demonstrates continued improvements in the availability and adoption of mobile wireless services. Further, CTIA commended the Commission for highlighting the importance of sound spectrum and infrastructure policies to enable competition and promote broadband deployment. CTIA noted that the Commission has taken laudable steps to make additional high-band spectrum available for next-generation services, including the 26 GHz, 29 GHz, 31 GHz, 32 GHz, 42 GHz, and 50 GHz bands that are still under review in the Spectrum Frontiers proceedings. These bands have strong potential for terrestrial wireless use, particularly given the economies of scale they would create in conjunction with other high bands being auctioned.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed in ECFS and provided to the Commission participants. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

/s/ Matthew Gerst

Matthew Gerst

Assistant Vice President, Regulatory Affairs

cc: Umair Javed
Jamie Susskind

⁶ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Draft Second Report and Order, CG Docket No. 17-59, FCC-CIRC1812-03 (draft rel. Nov. 21, 2018) (*Draft Second Report & Order*).

⁷ *Communications Marketplace Report*, Draft First Report, GN Docket No. 18-231, FCC-CIRC-1812-07 (draft rel. Nov. 21, 2018) (*Draft Communications Marketplace Report*).