

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of

RTI International, Petition for Declaratory  
Ruling

Rules and Regulations Implementing the  
Telephone Consumer Protection Act of 1991

CG Docket No. 02-278

**Supplemental Reply Comments of Robert Biggerstaff on the Petition for Declaratory  
Ruling of RTI International**

Robert Biggerstaff submits these supplemental comments in reply to the comments on the RTI Petition.<sup>1</sup>

RTI's own reply comments demonstrate either an inattention to the natural consequences of its Petition, or a last minute attempt at bailing a sinking boat. Both are fatal to its Petition.

In its Reply Comments<sup>2</sup> made public just a few moments ago, RTI states "the Petition does not seek relief for parties that have placed calls 'on behalf of' a federal agency that are either contrary to that agency's policies or outside the scope of the party's authorization." This restriction on the relief sought was nowhere stated in the Petition or prior comments.

Furthermore, this restriction cannot exist if the relief sought by the Petition is granted because the Petition did not request the Commission create an exemption (such as pursuant to § 227(b)(3)) but instead asked the Commission for an interpretation of

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1. *Petition for Expedited Declaratory Ruling*, CG Docket No. 02-278, filed by RTI International on September 29, 2014 (Petition); *Public Notice*, DA 14-1671 (Nov. 19, 2014).

2. *Reply Comments of RTI International*, posted January 13, 2015.

“person” that would exclude the federal government and its contractors. The interpretation of “person” for purposes of the 1934 Commutations Act cannot be based on the act the “person” is engaging in. Either that entity is or is not a “person” and then the plain language of the statute and Commission rules applies.

This illustrates the widespread unintended consequences of granting the relief sought by the Petition—it would permit all robocalls and robotexts by an entity that is not a “person” because there is no content, purpose, or any other restriction on the definition of “person.” Now that RTI—belatedly—states it does not seek relief that would enable calls “on behalf of” a federal agency that are either contrary to that agency’s policies or outside the scope of the party’s authorization” its own Petition must fail since such a result is precisely the result that granting the Petition would have.

RTI improperly attempts to bootstrap an exemption for all “survey” calls by piggybacking the concept first (and improperly) raised in comments of The Marketing Research Association (“MRA”). RTI now makes a completely new request that “[the Commission] should provide an exemption for [survey] calls.”<sup>3</sup> This is not only inconsistent with RTI’s Petition, but a facially improper attempt at evading the notice and comment requirements of the Administrative Procedures Act and Commission rules.

RTI’s Petition should be denied and the Commission should explicitly restate that the existing “direct human intervention” test is properly identifies dialing technology that survey takers, like RTI, can use efficiently and in compliance with the TCPA.

Respectfully submitted, this the 13<sup>th</sup> day of January, 2015.

*/s/ Robert Biggerstaff*

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3. *Reply Comments of RTI at 3.*