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January 15, 2015

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington DC 20554

Received & Inspected

JAN 15 2015

FCC Mail Room

Re: CG Docket No. 02-278

Dear Ms. Dortch:

The undersigned national, state and community groups write this letter to all of the Commissioners of the Federal Communications Commission to request that consumer protections for the Telephone Consumer Protection Act (TCPA) be maintained.

Congress passed the TCPA more than two decades ago to protect consumers from receiving annoying robocalls to cell phones, calls which invade privacy and disrupt lives. The TCPA requires that the owner of a cell phone provide consent to a business to call – or text – when using an autodialer (except for emergency purposes). Currently, robocalls (or texts) to cell phones are illegal unless the cell phone owner has provided consent. This basic protection, at a time when so many people, particularly low-income people, rely on their cell phones as their primary – and sole – means of communications. Many of which cannot afford to waste valuable minutes on their cell phones to field unwanted robocalls and texts.

We understand that the FCC is currently considering issuing new rules that would provide exemptions and safe harbors for businesses that use autodialers to call cell phones. The debt collection and banking industries want the FCC to allow "wrong party" robo-calls to cell phones without liability. If these exemptions were permitted, then it would *not* be the person who provided consent to be called on their cell phone who would receive the intrusive calls or texts. Instead, it would be the innocent bystander who has purchased a new telephone number and never gave consent for these calls.

Maintaining strong protections against these calls creates incentives for the industry to develop methods to avoid harassing people who have not agreed to be called on their cell phones. Companies can use available technology to determine whether cell phone numbers were transferred to new users. Businesses could use these technologies before calling new cell phone numbers. Instead, they want the right to continue robocalling wrong numbers, without liability.

The proposed changes that the FCC is considering will open the floodgates for "wrong number" calls to cell phones. This would be not only be an improper interpretation of the TCPA, but it would gut essential privacy rights of cell phone users. Only with strong remedies imposed on industry for calling or texting wrong numbers (even when they have been reassigned to new users), will the industry be incentivized to create and use technologies and methodologies to ensure they are calling the person who actually gave consent to having their cell phone called with an autodialer.

The fact remains, consumers hate unwanted calls and texts. Since 2003, over 223 million Americans have attempted to preserve their privacy by putting their phone numbers on the National

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Do Not Call Registry.¹ Despite having this program in place, the FTC reported 3,748,655 telemarketing complaints in 2013, of which at least 2,182,161 were reported as including a recorded message.² The FCC similarly reports a dramatic increase in complaints with the number of robocall complaints doubling in the past two years to over 1000,000 filed in 2012.³ Given these alleged violations have increased exponentially since the TCPA was enacted, the FCC should not be attempting to weaken the current protections.

We understand that there have been meetings this week between some groups and the staff of the Commissioners, and while most of us are unable to attend these meetings, we write to endorse the messages to be conveyed in these meetings:

On behalf of consumers throughout the United States, please –

- Do not reduce the consumer protections of the Telephone Consumer Protection Act.
- Ensure that industry callers using autodialers to make calls or send texts to cell phones are fully liable when they call a wrong number and reach consumers who have not provided consent for those calls.
- Maintain the current system of liability for these wrong number calls to create incentives for these industry callers to create reliable technologies to enable them to avoid wrong number calls.

We hope that the FCC will resist the pressure from business and industry trade groups to weaken rules that require accuracy when sending robocalls to cell phones. Repeated unauthorized calls and texts to consumers' cell phones invade privacy and cost money by using their precious minutes or limited text allowances.

Thank you for your consideration of our views.

Sincerely,



¹ Federal Trade Commission, *Nat'l Do Not Call Registry Data Book FY 2013*, at 4 (Dec. 4, 2013) (available at <http://www.ftc.gov/sites/default/files/documents/reports/national-do-not-call-registry-data-book-fiscal-year-2013/131204dncdatabook.pdf>).

² *Id.* at 5.

³ Statement of Eric J. Bash, FCC Enforcement Bureau Associate Chief, at Hearing Before the Senate Committee on Commerce, Science, and Transportation's Subcommittee on Consumer Protection, Product Safety, and Insurance, *Stopping Fraudulent Robocall Scams: Can More Be Done?*