

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the matter of Notice of Proposed
Rulemaking FCC 16-57

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: CG Docket No. 02-278
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Rules and Regulations Implementing the
Telephone Consumer Protection Act of 1991

COMMENTS OF VINCENT LUCAS

I thank the Commission for the work that it has done in restoring consumer protections in light of the Bipartisan Budget Act of 2015. I agree with most of what the Commission has proposed.

However, it is an error to exempt debt collection calls containing an artificial or prerecorded voice directed to a residential landline of someone that does not owe the debt. *Contra* NPR ¶ 22, discussing 47 C.F.R. § 64.1200(a)(3)(iii). My interest in the TCPA first came about when I received a relentless stream of debt collection pre-recorded calls intended for someone else. The telephone company had reassigned the phone number from that someone else to me more than ten years prior to the date of the calls.

When an innocent non-debtor gets harassed by debt collection robocalls due to carelessness or neglect of a debt collector in directing their calls to the wrong person, such calls should not be exempted from the TCPA. I do not believe that this Commission intended to exempt wrong recipient debt collection calls. I believe that this Commission's prior statements regarding such a debt collection exemption were made under the assumption that the calls were directed to the actual debtor. In other contexts, this Commission has held that wrong recipient

calls are not exempt from § 227(b)(1)(A). For example, consent of the “intended recipient” is not a substitute for consent of the actual recipient.

Regardless, debt collection robocalls directed to the wrong recipient definitely do “adversely affect the privacy rights that [§ 227(b)] is intended to protect”¹ and therefore must not be exempted from § 227(b). As originally intended, the TCPA was designed to “ban all computerized calls to the home, unless the called party consents to receiving them, or unless the calls are made for emergency purposes (the ban applies whether the automated call is made for commercial, political, religious, charitable or other purposes).” Senate Report 102-178 (1991) at 6 (Emphasis added). Debt collection calls are in fact typically far more invasive and persistent than telemarketing calls. There is no rational reason to believe that wrong recipient debt collection calls do not adversely affect privacy rights at least as much as telemarketing robocalls.

I believe the Bipartisan Budget Act of 2015 will encourage debt collectors to become more aggressive. Consequently, some debt collectors may use questionable leads to track down debtors, leading to more non-debtors getting harassed by debt collection robocalls intended for someone else.

Therefore, I ask the Commission to clarify that there exists no exemption under § 227(b)(1)(A) for debt collection calls when the call is placed to the residential line of someone who does not owe the debt.

Respectfully submitted,

Vincent Lucas

¹ 47 U.S.C. § 227(b)(2)(B)(ii)(I)