

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Consumer & Governmental Affairs Bureau)	CG Docket No. 02-278
Seeks Comment on Petition for Expedited)	
Clarification and Declaratory Ruling from)	
Revolution Messaging, LLC)	
)	
Rules and Regulations Implementing the)	
Telephone Consumer Protection Act of 1991)	

COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®

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COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®

I. INTRODUCTION AND SUMMARY

CTIA – The Wireless Association® (“CTIA”)¹ respectfully submits these comments in response to the October 23, 2012 Public Notice released by the Consumer and Governmental Affairs Bureau (“Bureau”) in the above-captioned proceeding.² In the *Public Notice*, the Bureau seeks comment on a Petition for an Expedited Clarification and Declaratory Ruling filed by Revolution Messaging, LLC (“RM”),³ in which RM requests that the Commission help prevent the transmission of unwanted “Internet-to-phone” text messages – including those sent on behalf of political candidates and organizations. Specifically, RM asks the Commission to clarify that

¹ CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, Advanced Wireless Service, 700 MHz, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

² *Consumer and Governmental Affairs Bureau Seeks Comment on Petition for Expedited Clarification and Declaratory Ruling from Revolution Messaging, LLC*, CG Docket No. 02-278, Public Notice, DA 12-1701 (rel. Oct. 23, 2012) (“*Public Notice*”).

³ See Petition for an Expedited Clarification and Declaratory Ruling, Revolution Messaging, LLC, CG Docket No. 02-278 (filed Jan. 19, 2012) (“*Petition*”).

such text messages are subject to the Telephone Consumer Protection Act (“TCPA”)⁴ and the Commission’s TCPA rules.⁵

As discussed below, CTIA supports the Petition’s goal of reducing unwanted political campaign text messages sent to mobile devices, regardless of the technology used to send those messages. Such unwanted text messages are disruptive and potentially costly to wireless customers, and they are burdensome to carriers that must expend substantial resources to handle customer inquiries and complaints. Although wireless carriers are working diligently and proactively to protect their customers against all types of spam, including through the use of robust spam filters and other tools, combating political campaign text messages remains an ongoing challenge.

The Commission should support carriers’ efforts to limit spam and advance the goals of the TCPA and the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (“CAN-SPAM”)⁶ by providing a narrow grant of the Petition. It could, for example, confirm that the TCPA requires parties to obtain “prior express consent” before sending political campaign text messages to mobile devices. It should also continue to enforce the existing TCPA and CAN-SPAM protections vigorously and work to address all unwanted text messages sent to mobile devices. In addition, the Commission should help consumers become better aware of the tools available to limit unwanted political campaign text messages sent to mobile devices. Finally, the Commission should properly disaggregate TCPA complaint data from its reporting of wireless complaints to provide greater transparency into the scope of the spamming problem and whether efforts to limit unwanted messages are succeeding.

⁴ 47 U.S.C. § 227.

⁵ See 47 C.F.R. § 64.1200 *et seq.*

⁶ 15 U.S.C. §§ 7701-13, 18 U.S.C. § 1037, and 28 U.S.C. § 994.

II. THE COMMISSION SHOULD ISSUE A NARROW DECLARATORY RULING TO LIMIT UNWANTED POLITICAL CAMPAIGN TEXT MESSAGES.

Unwanted political campaign text messages have become a pervasive problem for wireless consumers. The Commission should take steps to curtail this problem and advance the goals of the TCPA and CAN-SPAM by providing a narrow grant of the Petition and confirming that such messages fall within the TCPA's autodialer restriction.

A. Unwanted Political Campaign Text Messages are a Unique, Pervasive Problem.

As highlighted in the Petition, the practice of transmitting unsolicited political campaign text messages has grown “exponentially” in recent years due to the evolution of new text messaging technologies.⁷ The Petition identifies a number of text messaging abuses related to specific Federal and state campaigns across the U.S., including for elections in Delaware, Minnesota, North Carolina, Virginia, and West Virginia.⁸ Underscoring the pervasiveness of the problem, spammers have reportedly sent thousands of unsolicited messages to consumers in many other states, including Colorado, Illinois, Iowa, Michigan, Missouri, North Dakota, Pennsylvania, South Carolina, and Wisconsin – with more reports continuing to surface.⁹ For example, the Human Rights Campaign submitted a letter to the Commission on October 31,

⁷ Petition at 2, 6-10.

⁸ *Id.* at 7.

⁹ *See, e.g.*, “Anti-Democratic Text Messages in Northern Va. Prompt Lawsuits, Complaints,” Washington Post (Oct. 31, 2012), *available at* http://www.washingtonpost.com/local/dc-politics/anti-democratic-text-messages-in-northern-va-prompt-lawsuit-complaints/2011/10/31/gIQA0cVdaM_story.html (last accessed Nov. 19, 2012); “Texting Offers Promise but also Peril to Campaigns,” Boston.Com (Apr. 9, 2012), *available at* http://www.boston.com/news/politics/articles/2012/04/09/texting_offers_promise_but_also_peril_to_campaigns/ (last accessed Nov. 19, 2012); “Vote 2012: Political Text Messages Wake Up Eastern Iowans,” KCRG-TV9 (Dec. 28, 2011), *available at* <http://www.kcrg.com/news/local/Political-Text-Messages-Wake-Up-Eastern-Iowans-136341073.html> (“KCRG Article”) (last accessed Nov. 19, 2012).

2012, requesting an investigation into unwanted political campaign text messages sent by ccAdvertising.¹⁰

This “increasingly popular political campaign tactic”¹¹ has become a unique problem that has resulted in tens of thousands of wireless consumers receiving unsolicited – and unwanted – text messages.¹² In addition, as CTIA reported to the Commission earlier this year, wireless carriers have experienced a significant increase in consumer complaints and inquiries made to their customer call centers regarding these messages.¹³ Although the exact content of the unsolicited text messages has varied, many of the messages have been accompanied with a web link or a phone number urging voters to hear a political message.¹⁴ And some consumers have reported receiving unwanted political campaign text messages in the middle of the night, between the hours of 11 p.m. and 5 a.m.¹⁵

Unwanted political campaign text messages invade consumers’ privacy and can be costly for wireless customers. Wireless carriers must also devote substantial resources to address customer inquiries and complaints, even though they are not affiliated with the message senders or responsible for the content of the messages. CTIA therefore encourages the Commission to help curb the problem of unwanted political campaign text messages.

¹⁰ See Letter from Robert Falk, General Counsel, Human Rights Campaign (Oct. 31, 2012), *available at* http://hrc.org/files/assets/resources/FCC_Complaint_103112.pdf (last accessed Nov. 19, 2012).

¹¹ Petition at 6.

¹² *Id.* at 7.

¹³ Letter from Steve Largent, President and CEO, CTIA – The Wireless Association,® CG Docket No. 02-278, 1 (filed Jan. 25, 2012) (“CTIA Letter”).

¹⁴ See, e.g., KCRG Article.

¹⁵ *Id.*

B. The Commission Could Confirm That Political Campaign Text Messages Fall Within the Scope of the TCPA’s “Autodialer” Restriction.

The TCPA prohibits the use of an automatic telephone dialing system (“autodialer”) or an artificial or prerecorded voice to place any call, absent an emergency or the prior express consent of the called party, to wireless telephone numbers.¹⁶ The Commission could help address the problem of unwanted political campaign text messages by, for example, clarifying that such messages fall within the scope of the TCPA’s autodialer restriction and that parties must have “prior express consent” from the recipient to send such messages.

The TCPA defines an autodialer as “equipment which has the capacity (A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers.”¹⁷ Parties sending unwanted political campaign text messages are using an autodialer, or its functional equivalent, to send such messages. As described in the Petition, these parties are collecting wireless telephone numbers and then engaging in scattershot reverse-engineering efforts to identify the wireless carrier that provides service to that number. They then generate e-mail addresses using the Internet domain names assigned to the identified carrier and send the unwanted political campaign messages to those e-mail addresses. Thus, the equipment “stores” and “produces” the wireless telephone numbers to be called, and it does so using random or sequential number generators to populate potential domain name addresses (*e.g.*, 5551212@randomcarrierdomain.com). The messages are then transformed into text messages before delivery to the recipient.¹⁸

Clarifying that the unwanted political campaign text messages are autodialed calls would be consistent with the Commission’s TCPA precedent. For example, the Commission has

¹⁶ See 47 U.S.C. § 227(b)(1)(A); 47 C.F.R. § 64.1200(a)(1), (a)(2).

¹⁷ 47 U.S.C. § 227(a)(1); 47 C.F.R. § 64.1200(f)(1).

¹⁸ Petition at 4-5.

already confirmed that the TCPA’s prohibition on autodialed and prerecorded or artificial voice calls “encompasses both voice calls and text calls to wireless numbers including, for example, . . . SMS . . . calls, provided the call is made to a telephone number assigned to such service.”¹⁹ As with sending a traditional phone-to-phone SMS text message, the mobile telephone number of the recipient is the “necessary and unique identifier” required to dial and send the unwanted political campaign text message.²⁰ In addition, like autodialed SMS text messages, the underlying technology being used for political campaign messages “necessarily and inherently requires the collection and storage of” wireless telephone numbers.²¹

Moreover, Congress recognized that the Commission would need to consider changes in technology as it implements the TCPA,²² and new outbound calling technologies have made it faster and less expensive for parties to send political campaign text messages to millions of wireless devices. Even though the messages are sent to addresses that contain a domain name and use Simple Mail Transport Protocol (“SMTP”) (like e-mails), they are transformed into text messages before delivery and are received by consumers in the same manner as SMS text messages.

¹⁹ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 18 FCC Rcd 14014, 14115 (2003) (“*2003 TCPA Report and Order*”) (emphasis added); see also *Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003*; *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 19 FCC Rcd 15927, 15934 (2004) (“*2004 CAN-SPAM Order*”) (stating that the “prohibition on using automatic telephone dialing systems to make calls to wireless phone numbers applies to text messages (e.g., phone-to-phone SMS), as well as voice calls”). The Ninth Circuit has upheld the Commission’s interpretation. See *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 951 (9th Cir. 2009).

²⁰ Petition at 11.

²¹ *Id.*

²² *2003 TCPA Report and Order* ¶ 132, citing, *inter alia*, 137 Cong. Rec. S18784 (1991) (Statement of Sen. Hollings) (“The FCC is given the flexibility to consider what rules should apply to future technologies as well as existing technologies.”).

CTIA also notes that the Commission can and should address the Petition with a very limited ruling focused only on the narrow problem of political campaign abuse. It does not need to determine at this time whether the TCPA applies to the transmission of all e-mails, or even all “autodialed” e-mails or all “autodialed” e-mails to mobile devices. Such issues are outside the scope of the Petition, and CTIA takes no position at this time on those issues.

C. Limiting Unwanted Political Campaign Text Messages Would Advance the Goals of the TCPA and CAN-SPAM.

Granting the Petition with a narrow declaratory ruling confirming that parties must have prior express consent before sending political campaign text messages would enhance the goals of the TCPA and CAN-SPAM. For example, it would support the TCPA’s goals of protecting individual privacy by preventing thousands (if not millions) of unwanted autodialed text messages sent directly to mobile devices.²³ Moreover, such action would be consistent with the TCPA’s requirement that parties must have prior express consent to send autodialed calls and text messages – including those made for political purposes.²⁴ It would also limit the ability of parties to shift costs to wireless consumers for political campaign text messages and would empower consumers to select whether, how, and when to receive any such messages on their mobile devices. For these reasons, issuing a narrow declaratory ruling would also supplement CAN-SPAM’s protections against unwanted commercial e-mails, which Congress “determined

²³ See, e.g., *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 27 FCC Rcd 1830 ¶ 19 (2012) (“*Robocall Report and Order*”) (stating that “by enacting the TCPA and its prohibitions on unwanted calls, Congress has already made an assessment that the benefits of protecting consumer privacy are substantial”); see also *Robocall Report and Order* ¶ 24 (recognizing Congress’s findings in adopting the TCPA that, *inter alia*, telephone subscribers considered certain calls to be an “invasion of privacy” and that “individuals’ privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals yet permits legitimate telemarketing practices”).

²⁴ See 47 U.S.C. § 227(b)(1)(A); 47 C.F.R. § 64.1200(a)(1), (a)(2).

to be costly, inconvenient, and often fraudulent or deceptive.”²⁵ Absent Commission action to grant the Petition, parties will continue to engage in unfettered political spamming against wireless consumers, including in the middle of the night.

Taking steps to limit unwanted political campaign spam would also preserve the ability of parties to send legitimate messages to mobile devices. The Commission has recognized the need to avoid actions that would “impede” or “unnecessarily restrict” legitimate informational calls and messages to mobile devices, as consumers have “come to rely” on a number of “highly desirable” services related to such calls and messages.²⁶ The Commission should ensure that any action on the Petition does not restrict these messages, including those sent by wireless carriers to their subscribers.²⁷

III. WIRELESS CARRIERS ARE COMMITTED TO PROTECTING THEIR CUSTOMERS FROM UNWANTED TEXT MESSAGES AND OTHER SPAM SENT TO MOBILE DEVICES.

Wireless carriers have strong incentives to protect their customers from the onslaught of unwanted text messages and other spam sent to mobile devices, including, primarily, intense competition over customer service offerings. These incentives have led carriers to engage in comprehensive efforts to prevent or curtail spam by adopting new filtering and other technical

²⁵ See 2004 CAN-SPAM Order ¶ 3.

²⁶ Robocall Report and Order ¶¶ 21, 29.

²⁷ The Commission has concluded that wireless carriers need not obtain additional consent from their subscribers prior to initiating autodialed or prerecorded calls for which the subscriber is not charged. See, e.g., *id.* ¶ 2, n.3; *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 7 FCC Rcd 8752 ¶ 45 (1992).

measures, developing best practices, and taking legal action against third parties.²⁸ Nonetheless, the proliferation of bad actors and their increasing sophistication in spamming mobile devices continues to pose challenges for the industry.

Consumers do not like receiving unwanted messages on their wireless devices. When they receive such messages, they typically turn first to their wireless carrier to complain and seek help in preventing additional spam. Because wireless carriers face pressure from all sides of the marketplace to win and keep customers, they must be responsive to their customers' desire to prevent unwanted messages. Wireless carriers thus compete vigorously on the basis of their customer service offerings in this area, including their ability to prevent such messages from ever reaching their customers, and to help customers stop receiving those unwanted messages that manage to get through. As noted above, wireless carriers are particularly devoted to preventing unwanted messages altogether because of the substantial resources necessary to address and resolve inquiries and complaints from customers who have received those messages.

The low cost of sending spam messages combined with spammers' ingenuity has given rise to an unprecedented ability to bombard mobile devices with unwanted messages. For example, the transition from SMPP-only text messaging²⁹ to SMPP- and SMTP-based messages has made it cheaper for parties to send unwanted text messages to mobile devices. Today, the

²⁸ See, e.g., "Spam Invades a Last Refuge, the Cellphone," New York Times (Apr. 7, 2012), available at <http://www.nytimes.com/2012/04/08/technology/text-message-spam-difficult-to-stop-is-a-growing-menace.html> ("April 2012 Spam Article") (last accessed Nov. 19, 2012); "Eluding a Barrage of Spam Text Messages," New York Times (Apr. 4, 2012), available at <http://www.nytimes.com/2012/04/05/technology/personaltech/fighting-back-against-spam-texts.html> (last accessed Nov. 19, 2012).

²⁹ Short Message Peer-to-Peer Protocol ("SMPP") is a messaging protocol in which text messages are sent to a mobile phone number instead of an email address. Text messages sent over SMPP are routed directly to and from wireless carriers over their secure private networks. See, e.g., *FAQs – Basics of CSCs*, Common Short Code Administration, http://www.usshortcodes.com/csc_faq_csc.html (last accessed Nov. 19, 2012).

only expense for spammers is a small amount of transmission data and the minimal time required to figure out which domains apply to which wireless telephone numbers. In addition, spammers have become increasingly adept at hiding or “spoofing” their identity in an attempt to avoid carriers’ efforts to monitor and eliminate spam.

In response, wireless carriers have continued to innovate and adopt cutting-edge technical measures to prevent unwanted text messages from reaching their customers. For example, carriers routinely use robust spam filtering software that detects when a large volume of spam is sent from a single phone number, or identifies texts that invite a customer to click on a link to a website. These actions block hundreds of millions of messages each month.³⁰

Carriers are also engaging with their customers to stem the tide of unwanted messages on mobile devices. Earlier this year AT&T, T-Mobile, and Verizon Wireless launched a service that permits customers to forward mobile spam to “7726” (which spells “SPAM” on traditional telephone keypads) for free, alerting carriers so that they can subsequently block unwanted messages from the offending senders.³¹ All of the four national carriers also offer ways to report spammers on their websites and allow customers to create lists of permissible and blocked message senders. Verizon Wireless, for example, enables customers to block unwanted messages from up to five mobile telephone numbers and fifteen e-mail addresses, Internet

³⁰ See, e.g., “Thx 4 Ur Msg: Verizon Wireless Customers Send And Receive 20 Billion Messages In A Single Month,” Verizon Wireless News Release (Mar. 31, 2008), *available at* <http://news.verizonwireless.com/news/2008/03/pr2008-03-31.html> (last accessed Nov. 19, 2012).

³¹ *GSMA Spam Reporting Service*, Cloudmark, <http://www.cloudmark.com/en/products/gsma-spam-reporting-service/index> (last accessed Nov. 19, 2012).

domains, or text names by using “Spam Control” tools on their “My Verizon” account profile.³² Additionally, Verizon Wireless customers can block all messages from the web and all messages from e-mail addresses.³³ Sprint allows its customers to create blocks for up to 50 numbers by texting various “block” commands to “9999.”³⁴ These blocks can be used on Internet domains (“block @internetdomain.com”), email addresses (“block emailaddress@domain.com”), and text senders who use numeric short codes (“block 12345”). AT&T’s subscription service, Smart Limits, permits customers to designate up to 30 numbers to block, and set times of day during which texts can be received on the mobile device.³⁵ AT&T also proactively sends e-mails to its customers’ non-mobile email accounts describing how to block and report text message spam. Similarly, T-Mobile enables its customers to block text messages sent from PCs based on keyword filters in the “from,” “to,” and “subject” fields.³⁶

Additional wireless industry initiatives are also helping to minimize the number of unwanted messages. For example, industry best practices, including the U.S. Consumer Best Practices guidelines (“BP Guidelines”) from the Mobile Marketing Association (“MMA”),

³² *Verizon Safeguards*, Verizon, <https://wbillpay.verizonwireless.com/vzw/nos/safeguards/safeguardLandingPage.action> (last accessed Nov. 19, 2012). Customers can block up to 20 numbers with no expiration with enrollment in Verizon’s Usage Controls service. *How do I block calls and msgs*, Verizon, <https://videos.verizonwireless.com/How-do-I-block-calls-and-msgs/v/QY36618E> (last accessed Nov. 19, 2012).

³³ *How do I block Internet spam*, Verizon, <https://videos.verizonwireless.com/How-do-I-block-internet-spam/v/KX5T76MK/> (last accessed Nov. 19, 2012).

³⁴ *Block and Report Fraudulent Text Messages*, Sprint, http://support.sprint.com/support/article/Block_and_report_fraudulent_text_messages/case-gz982789-20120420-003932?question_box=MA:spam&id16=spam (last accessed Nov. 19, 2012).

³⁵ *AT&T Smart Limits for Wireless*, AT&T, <http://www.att.net/smartcontrols-SmartLimitsForWireless> (last accessed Nov. 19, 2012). Smart Limits is primarily a tool for parents to control their children’s use of text messaging, but it can also be used to prevent spam.

³⁶ *How to Manage Email Filters and Aliases via My T-Mobile*, T-Mobile, <http://support.t-mobile.com/docs/DOC-4143> (last accessed Nov. 19, 2012).

require prior express consent to send messages to mobile devices.³⁷ The MMA “works to promote, educate, measure, guide and protect the mobile marketing industry worldwide,” and its BP Guidelines specify that “[c]ontent providers must obtain opt-in approval from subscribers before sending them any SMS or MMS messages or other content from a short code.”³⁸ In addition, the CTIA Common Short Code Monitoring Compliance Handbook makes clear that all mobile programs engaging in or affiliated with spam are eligible for termination.³⁹

Finally, wireless carriers have also been aggressively pursuing legal actions against third parties that send spam to mobile devices. Where they can locate and identify the source of unwanted messages, wireless carriers have brought suit to shut down TCPA violations and have cooperated with the Federal Trade Commission in its investigation and prosecution of TCPA cases. Verizon alone has brought 20 suits against wireless telemarketers and spammers.⁴⁰

Despite wireless carriers’ substantial efforts, preventing unwanted messages remains a constant and increasingly more challenging battle as spammers continue to adopt new, high-tech methods to deliver their messages to customers’ mobile devices. As CTIA noted previously, carrier efforts alone simply cannot stop every unwanted message sent to a customer’s wireless device.⁴¹

³⁷ Mobile Marketing Association, *U.S. Consumer Best Practices*, Version 7.0, at 4 and § 1.4-1 (Oct. 16, 2012), available at <http://www.mmaglobal.com/uploads/Consumer-Best-Practices.pdf> (last accessed Nov. 19, 2012).

³⁸ *Id.* § 1.4-1.

³⁹ CSC Monitoring Compliance Handbook, CTIA – The Wireless Association,® A1-03 (rel. May 8, 2012), available at http://www.wmcglobal.com/images/CTIA_playbook.pdf (last accessed Nov. 19, 2012).

⁴⁰ See April 2012 Spam Article.

⁴¹ See CTIA Letter.

IV. THE COMMISSION SHOULD ALSO ENFORCE EXISTING RULES AND MAKE CONSUMERS BETTER AWARE OF THE TOOLS AVAILABLE TO LIMIT UNWANTED MESSAGES SENT TO MOBILE DEVICES.

The Commission should help wireless carriers to prevent and curtail unwanted messages by continuing to enforce vigorously its TCPA and CAN-SPAM rules.⁴² The Commission's TCPA and CAN-SPAM rules give the Commission authority not only to halt the actions of bad actors, but also to impose steep fines to deter such behavior. The Commission should also work with the Federal Trade Commission to pursue violations of CAN-SPAM and, as appropriate, Section 5 of the FTC Act.⁴³ CTIA and its members are eager to explore how they can partner with the Commission to better protect the nation's wireless users from unwanted calls and messages.

The Commission should also help consumers become better aware of the tools available to limit unwanted political campaign text messages sent to mobile devices, such as those described in Section III. For example, the Commission should help publicize information from carriers and third parties on how consumers can avoid such messages by updating its spam Consumer Guide and other website materials with links to carrier websites or other third-party sources, such as the industry-supported "7726" reporting service and third-party applications ("apps"). Customers using Android phones, for instance, have an abundance of spam-protection apps to choose from. Apps available from the Android Market include Mr. Number, Anti-SMS Spam, Call Blocker, Handcent SMS, smsBlocker, SMS Filter, and many others, offering a

⁴² See 47 C.F.R. § 64.1200 *et seq.* and § 64.3100.

⁴³ Section 5 of the FTC Act prohibits and makes unlawful "unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce." 15 U.S.C. § 45(a).

variety of options for blocking unwanted messages.⁴⁴ Encouraging customers to use these and other tools would help them limit unwanted messages on their mobile devices without stifling the delivery of legitimate messages.

Finally, despite carriers' significant investment in efforts to identify, curtail, and block spam and prevent TCPA violations by other parties, the Commission continues to catalog consumers' TCPA complaints as "wireless complaints." This classification is misleading and expands significantly the number of wireless customer "complaints," even though the majority of those "complaints" are merely reports to carriers of violations caused by others. For example, the most recent data from the Commission indicates that TCPA complaints account for more than 78% of the total of "wireless complaints."⁴⁵ The Commission therefore should separate TCPA complaints from its reporting of wireless complaints. Disaggregating TCPA reports from actual complaints will reflect more accurately the origin of the complaint, the scope of TCPA problems, and the actual, much lower rate of consumer complaints about wireless service.

⁴⁴ See Mr. Number, AndroidZoom, http://www.appszoom.com/android_applications/communication/mr-numberblock-calls-texts_ilak.html (allowing call and text blocking from particular area codes and based on a customer-created block list, and blocking senders from its spammer database) (last accessed Nov. 19, 2012); Anti-SMS Spam, AndroidZoom, http://www.appszoom.com/android_applications/tools/anti-sms-spam-pro_zmsx.html (allowing blocking based on customer-created lists and from unknown senders) (last accessed Nov. 19, 2012); Call Blocker, AndroidZoom, http://www.appszoom.com/android_applications/tools/call-blocker_bbohv.html (allowing blocking of telemarketing and other unwanted calls) (last accessed Nov. 19, 2012); Handcent SMS, AndroidZoom, http://www.appszoom.com/android_applications/communication/handcent-sms_flg.html (enabling SMS customization, including blacklist capabilities) (last accessed Nov. 19, 2012); smsBlocker, AndroidZoom, http://www.appszoom.com/android_applications/communication/handcent-sms_flg.html (allowing blocking of SMS messages from blacklisted numbers as well as blocking based on user-generated keywords) (last accessed Nov. 19, 2012); SMS Filter, AndroidZoom, http://www.appszoom.com/android_applications/communication/sms-filter_cardc.html (enabling text blocking using user-generated blacklists) (last accessed Nov. 19, 2012).

⁴⁵ *Third Quarter 2012 Consumer Inquiries and Informal Complaints Report*, Federal Communications Commission, www.fcc.gov/encyclopedia/quarterly-reports-consumer-inquiries-and-complaints (last accessed November 19, 2012).

V. CONCLUSION

For the foregoing reasons, the Commission should provide a narrow grant of the Petition and help curb the practice of sending unwanted political campaign text messages.

Respectfully submitted,

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