

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	<b>CG Docket No. 02-278</b>
<b>Rules and Regulations Implementing the</b>	)	
<b>Telephone Consumer Protection Act of 1991</b>	)	
	)	
<b>Revolution Messaging’s Petition for an</b>	)	
<b>Expedited Clarification and Declaratory Ruling</b>	)	

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COMMENTS IN RESPONSE TO CCADVERTISING’S 11/23/12 SUBMISSION  
OPPOSING REVOLUTION MESSAGING’S PETITION

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Submitted by  
Stewart Abramson

**Revolution Messaging’s Petition**

Revolution Messaging asks the Commission to clarify that the Telephone Consumer Protection Act (TCPA) and the Commission’s related rules apply to users of Internet-to-phone text messaging technology and similar technologies involving the storage and automatic dialing of wireless telephone numbers. Revolution Messaging states that such a ruling would make clear that Internet-to-phone text messaging technology is a type of “automatic telephone dialing system” under the Commission’s rules and is therefore subject to the prohibitions in the TCPA and the Commission’s related rules.

**ccAdvertising’s Response to Revolution Messaging’s Petition**

In response to Revolution Messaging’s petition, ccAdvertising requests that the FCC declare that Internet-to-phone text messaging is not a type of “automatic telephone dialing system” under the Commission’s rules.

## **Comments in Response to ccAdvertising's Response to Revolution Messaging's Petition**

Most people know that political speech is “free speech” and that political advertising is big business. But most people don't know that ccAdvertising makes a lot of money sending out various types of robocalls on behalf of its customers who want to get their politically-based messages to the voting public. There is nothing wrong with political speech *per se*. However, I simply must take issue with statements made by ccAdvertising in their submission to the FCC concerning free speech based text messages to cellular telephones.

ccAdvertising claims that most people are not now, or will not in the future, be charged for receiving text messages. For instance, they state that:

“In other words, what was once unlimited — data — will now be limited, and what was once limited or sold in specific units — minutes or text messages — will be unlimited.”

The statements made by ccAdvertising about the costs of calls and text messages to cellular telephone users are misleading at best. Many people, myself included, do not use a “smart” cellular telephone that has a data plan. People who do not have data plans do not necessarily have plans with unlimited voice and text calls. Similarly, many people use prepaid cellular telephones that come with limited voice and text messages. Thus there is now, and there will likely remain, a significant portion of the cellular telephone using public who have to pay for the calls and text messages that they receive (either on a per call or per message basis, or because they only have a limited bucket of calls, messages, or minutes as part of their plan).

Even though some portion of the cellular telephone using public has to pay for the text messages that they receive, ccAdvertising claims that this should not be a problem because:

“While it may be unfair for businesses to shift the cost of receiving a message on to consumers, political speech is different and citizens may have to bear some cost of receiving political speech.”

To put it bluntly, that statement by ccAdvertising made my hair stand on end. Political speech may be “free speech”, but that doesn't mean the speaker is free to charge the recipient the cost of hearing the speaker's message. To suggest that those interested in speaking non-commercial messages can do so at ANY cost to the recipient is abhorrent.

## **Conclusion**

In conclusion the FCC should make it clear that Internet-to-phone text messaging technology is a type of “automatic telephone dialing system” under the Commission's rules and that it is therefore subject to the prohibitions in the TCPA and the Commission's related rules.