

FCC Protects Consumers from Unsolicited Robocalls and Texts to Cell Phones and Moves to Modernize Lifeline Program

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(WASHINGTON, D.C.) Today the Federal Communications Commission (FCC) issued a firm ruling advancing consumers' protections against unwanted robocalls and text messages to their cell phones. Attorneys at the National Consumer Law Center (NCLC) and the National Association of Consumer Advocates (NACA), and advocates from Consumers Union, U.S. PIRG, Consumer Federation of America, and Consumer Action cheered the FCC's action in the face of heavy anti-consumer lobbying from multiple sectors of industry, which sought to use robodialers to call and text cell phones without consent. "We applaud the FCC for upholding the essential protections in the Telephone Consumer Protection Act, a key consumer law," said National Consumer Law Center attorney Margot Saunders. "The industry petitions would have exposed consumers to a tsunami of unwanted robocalls and texts to their cell phones."

FCC Commissioners Rosenworcel and Clyburn supported Chairman Wheeler's proposal, rejecting requests made in two dozen industry petitions to allow robocalls and text messages to cell phones without consent. The Commission's Declaratory Ruling reiterates that the types of automated calling devices currently in use fall within the scope of the Telephone Consumer Protection Act's (TCPA) prohibition against robodialing cell phones without consent. It rejects industry's claim that it has the right to make robocalls to a cell phone number that has been reassigned to a new consumer based on the former owner's consent. And, Ellen Taverna, of the National Association of Consumer Advocates, noted that "the Declaratory Ruling clarifies that consumers have the right to revoke their consent to receive robocalls at any time and in any reasonable way, discarding industry arguments that consent to receive robocalls, once given, is permanent and irrevocable."

Today's ruling provides an exemption allowing financial institutions to send, without consent, a very limited number of robodialed text messages for data breaches or suspected fraud on a credit card, and creates a similar exception for exigent messages from health care providers, without the consent of the called party, so long as these are made at no cost to the called party. Importantly, the Commission has required that these calls and texts can be made only with strict, immediately effective opt-out rights for consumers. While we appreciate the Commission's limitation of these exemptions, we welcome Commissioner Rosenworcel's complete opposition to them.

Finally, the rule clarifies that cell phone providers can offer robocall blocking technology to consumers. "We are especially pleased that the FCC has provided a "Green Light for 'Do Not Disturb' Technology," which will enable wireless and landline carriers to offer robocall-blocking technologies to consumers, noted Delara Derakhshani, counsel with Consumers Union.

National consumer advocacy groups have opposed industry efforts to reduce consumer protections for cell phones, and more than 190,000 individuals signed petitions to the FCC against unwanted

robocalls. “Today, the FCC stands by consumers with its clear message to industry that consumers have the right to control the calls and texts they receive,” said Linda Sherry of Consumer Action.

“We applaud the FCC for holding the line to keep the plague of unwanted robocalls from becoming even worse,” added Susan Grant, director of Consumer Protection and Privacy at Consumer Federation of America. “Since the FCC has now clarified that telephone companies can block these types of calls, we expect the companies to act quickly to implement blocking options for their customers.”

Also at today’s meeting, the FCC voted to open a proceeding to modernize the Lifeline federal low-income program to include broadband service to eligible low-income households. NCLC attorney Olivia Wein, on behalf of NCLC’s low-income clients, applauds this action of FCC. “This is a critical first step in the modernization of the Lifeline program to help bring affordable broadband to struggling households across the nation. In an information economy, access to modern communication services enhances the competitiveness of individuals and communities. Internet access affects every facet of daily life, from access to healthcare to participation in commerce. The lack of affordable broadband service hurts children whose educational opportunities are limited by lack of access to the Internet and hampers workers’ ability to apply for jobs or establish entrepreneurial businesses.”

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The National Association of Consumer Advocates (NACA) is a nonprofit association of more than 1,500 consumer advocates and attorney members who represent hundreds of thousands of consumers victimized by fraudulent, abusive and predatory business practices. As an organization fully committed to promoting justice for consumers, NACA’s members and their clients are actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means. www.consumeradvocates.org