



# PUBLIC NOTICE

Federal Communications Commission  
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DA 14-1511  
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## CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION FOR DECLARATORY RULING FROM CONSUMER BANKERS ASSOCIATION

**CG Docket No. 02-278**

Comment Date: November 17, 2014  
Reply Comment Date: December 1, 2014

With this Public Notice, we seek comment on a Petition for Declaratory Ruling filed by Consumer Bankers Association (CBA)<sup>1</sup> asking the Commission to clarify that “called party,” for purposes of the Telephone Consumer Protection Act (TCPA)<sup>2</sup> and the Commission’s rules,<sup>3</sup> refers to the intended recipient of the call.<sup>4</sup> The TCPA and the Commission’s rules require the prior express consent of the called party to place autodialed or artificial or prerecorded-voice calls to wireless numbers.<sup>5</sup> CBA states that its members “engage in a wide range of informational, non-marketing communications with their customers, serving various beneficial purposes from mitigating fraud to encouraging money management. In conformance with state and federal law, [its] members send data security breach notifications and place verification calls, including prerecorded voice and text messages, to consumers who have requested fraud alerts on their credit reports.”<sup>6</sup> CBA asserts that, “[i]f a caller is liable for obtaining the consent of persons, such as holders of reassigned numbers, whose identities cannot be ascertained before calls are placed, then complete compliance with the prior express consent requirement is impossible.”<sup>7</sup>

Pursuant to sections 1.415 and 1.419 of the Commission’s rules,<sup>8</sup> interested parties may file comments and reply comments on or before the respective dates indicated on the first page of this Notice.

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<sup>1</sup> See *Consumer Bankers Association*, Petition for Declaratory Ruling, CG Docket No. 02-278 (filed Sept. 19, 2014) (*Petition*).

<sup>2</sup> Codified as 47 U.S.C. § 227.

<sup>3</sup> 47 C.F.R. § 64.1200.

<sup>4</sup> *Petition* at 3, 15.

<sup>5</sup> 47 U.S.C. § 227(b)(1)(A); 47 C.F.R. § 64.1200(a)(1), (2).

<sup>6</sup> *Petition* at 6 (citation omitted).

<sup>7</sup> *Petition* at 4-5.

<sup>8</sup> 47 C.F.R. §§ 1.415, 1.419.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>9</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

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<sup>9</sup> 47 C.F.R. §§ 1.1200 *et seq.*

**FOR FURTHER INFORMATION CONTACT:** Kristi Lemoine, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 202-418-2467, and [kristi.lemoine@fcc.gov](mailto:kristi.lemoine@fcc.gov).

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