



PUBLIC NOTICE

Federal Communications Commission
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DA 14-1614

Released: November 6, 2014

CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION FOR EXEMPTION FILED BY THE AMERICAN BANKERS ASSOCIATION

CG Docket No. 02-278

Comment Date: December 8, 2014

Reply Comment Date: December 22, 2014

On October 14, 2014, the American Bankers Association (the Association) filed a petition for exemption requesting that the Commission exempt “certain time-sensitive informational calls, placed without charge to the called parties, from the Telephone Consumer Protection Act’s¹ restrictions on automated calls to mobile devices.”² Specifically, the Association asks the Commission to exempt automated calls and text message alerts to wireless telephone numbers concerning: (1) transactions and events that suggest a risk of fraud or identity theft;³ (2) possible breaches of the security of customers’ personal information;⁴ (3) steps consumers can take to prevent or remedy harm caused by data security breaches (collectively referred to as remediation messages);⁵ and (4) money transfer notifications and notifications of actions needed to arrange for receipt of pending money transfers.⁶

According to the Association, if exempted, these automated calls and text message alerts would be without charge to the recipient and would be subject to certain conditions proposed in the *Petition*, such as, among others, not including any solicitation, telemarketing, or advertising information; and only being sent to the telephone number of the consumer to whom the alert or notification is directed.⁷ In

¹ The Telephone Consumer Protection Act (TCPA) is codified as 47 U.S.C. § 227. The Commission’s implementing rules are codified as 47 C.F.R. § 64.1200.

² *Petition for Exemption of the American Bankers Association*, CG Docket No. 02-278, filed on October 14, 2014, at 3 (*Petition*).

³ *Id.* at 3, 9-12.

⁴ *Id.* at 3, 12-14.

⁵ *Id.* at 3, 14-15.

⁶ *Id.* at 3, 15-16.

⁷ *Id.* at 3, 9, 16-21.

support of its *Petition*, the Association states that automated communications to mobile devices are best suited to provide quick and efficient notifications to customers in time-sensitive situations, such as in cases of data security breaches or attempted identity theft.⁸

In pertinent part, the TCPA and the Commission's implementing rules, among other things, prohibit using an "automatic telephone dialing system or an artificial or prerecorded voice" to make a call to a wireless telephone number, except in emergencies or with prior express consent of the called party.⁹ The Commission may exempt from this restriction such calls to a wireless telephone number that are not charged to the called party, "subject to such conditions as the Commission may prescribe" to protect consumer privacy.¹⁰

We seek comment on the issues raised in the *Petition*, including whether the exemptions requested in the *Petition* allow the financial services industry to reduce privacy and security risks proactively so that fraud, data security breaches, and identity theft are less likely to occur in the first place. As it considers the *Petition*, should the Commission consider additional or modified conditions to protect consumers from unwanted communications and from fraud, identity theft and data security breaches?

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. 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 12th Street, 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 12th Street, SW, Washington DC 20554.

⁸ *Petition* at 4-6.

⁹ 47 U.S.C. § 227(b)(1)(A); 47 C.F.R. § 64.1200(a)(1).

¹⁰ 47 U.S.C. § 227(b)(2)(C); see also *In the Matter of Cargo Airline Association Petition for Expedited Declaratory Ruling; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Order, 29 FCC Rcd 3432 (2014); *Erratum*, 29 FCC Rcd 5056 (CGB 2014) (in the first use of this authority, granted a limited exemption, subject to certain conditions, for package delivery notifications sent to mobile devices).

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 or call the Consumer & 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.¹¹ 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.

FOR FURTHER INFORMATION CONTACT: Christina Clearwater, Consumer and Governmental Affairs Bureau, Federal Communications Commission, (202) 418-1893; Christina.Clearwater@fcc.gov.

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¹¹ 47 C.F.R. §§ 1.1200 *et seq.*