



PUBLIC NOTICE

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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON A PETITION FOR WAIVER FILED BY THE NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

CG Docket No. 02-278

Comment Date: December 3, 2015

Reply Comment Date: December 18, 2015

With this Public Notice, we seek comment on a petition for waiver filed by the National Cable & Telecommunications Association (NCTA),¹ requesting that its members be included in the group of entities recently granted a retroactive and prospective waiver of the Commission's prior-express-written-consent requirement for automated telemarketing calls.²

In 2012, the Commission adopted rules pursuant to the Telephone Consumer Protection Act (TCPA)³ that required prior express written consent for autodialed, prerecorded, or artificial voice telemarketing calls to wireless telephone numbers and for prerecorded or artificial voice telemarketing calls to residential telephone numbers.⁴

In support of its request, NCTA asserts that good cause exists for such a waiver because: it actively participated in the proceeding leading to the waivers granted in the *2015 TCPA Order*; its members were similarly situated to the parties that received a retroactive and prospective waiver of the written consent requirement; and its members faced the same confusion regarding the implementation of this written consent requirement as the entities to which the Commission granted such a waiver.⁵ NCTA

¹ National Cable & Telecommunications Association Petition for Waiver, CG Docket No. 02-278, at 1 (filed on Oct. 1, 2015) (*Petition*). NCTA states that "it is the principal trade association for the U.S. cable industry, representing cable operators serving more than 80 percent of the nation's cable television households and more than 200 cable program networks." *Id.* at n.1.

² See In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, *Declaratory Ruling and Order*, 30 FCC Rcd 7961, 8014-15, para. 102 (*2015 TCPA Order*).

³ The TCPA is codified as 47 U.S.C. § 227. The Commission's implementing rules are codified as 47 C.F.R. § 64.1200.

⁴ 47 C.F.R. § 64.1200(a)(2), (3).

⁵ *Petition* at 2-3.

states that its members “would benefit from both the added clarity granted by the waiver and the additional time granted for compliance with the prior written consent requirement.”⁶ NCTA asks the Commission to declare that its members are entitled to a waiver of the prior-express-written-consent requirement from October 16, 2013 through October 7, 2015.⁷

We seek comment on these and any other issues raised in the *Petition*.

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.

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.⁸ 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

⁶ *Id.* at 3.

⁷ *Id.* at 4.

⁸ 47 C.F.R. §§ 1.1200 *et seq.*

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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