



PUBLIC NOTICE

Federal Communications Commission
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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION FOR DECLARATORY RULING OR RULEMAKING REGARDING REVOCATION OF CONSENT UNDER THE TELEPHONE CONSUMER PROTECTION ACT OF 1991

CG Docket No. 02-278

Comment Date: March 13, 2017
Reply Comment Date: March 28, 2017

With this Public Notice, we seek comment on a petition for declaratory ruling or rulemaking filed by Paul Armbruster.¹ The Petitioner asks that the Commission clarify that a common carrier must act on its customer's request to revoke consent to receive the carrier's autodialed, prerecorded-voice, and artificial-voice calls,² despite a common carrier's ability under the Telephone Consumer Protection Act (TCPA)³ to make such calls without the prior express consent of its customer.⁴ Alternatively, Petitioner asks the Commission to initiate a rulemaking to address this question in a rule.⁵ We seek comment on these and any other issues raised by the *Petition*.

¹ Paul Armbruster Expedited Petition for Declaratory Ruling or Alternatively a Rulemaking, CG Docket No. 02-278 (filed Jan. 20, 2017), available at: <https://ecfsapi.fcc.gov/file/1020697984463/P%20Armbruster%20Petition.pdf> (*Petition*).

² *Petition* at 7; see *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Declaratory Ruling and Order, 30 FCC Rcd. 7961, 7965, para. 2 (2015) (“Consumers may revoke consent at any time and through any reasonable means.”).

³ The TCPA is codified at 47 U.S.C. § 227. The Commission's implementing rules are codified at 47 CFR § 64.1200. Among other things, the TCPA and/or the related rules prohibit any call to a cell phone using any automatic telephone dialing system or an artificial or prerecorded voice other than a call: made for emergency purposes; made with the prior express consent of the called party; or made solely to collect a debt owed to or guaranteed by the United States. 47 U.S.C. § 227(b)(1)(A)(iii); 47 CFR § 64.1200(a)(1)-(2).

⁴ See, e.g., *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CC Docket No. 92-90, Report and Order, 7 FCC Rcd 8752, 8774, para. 45 (1992) (citing 47 U.S.C. § 227(b)(1)(A)(iii)) (“Accordingly, cellular carriers need not obtain additional consent from their cellular subscribers prior to initiating autodialer and artificial and prerecorded message calls for which the cellular subscriber is not charged.”).

⁵ *Petition* at 2.

Comments and Reply Comments. Pursuant to sections 1.2 and 1.405 of the Commission's rules, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document.⁶ Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS); or (2) by filing paper copies.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <https://www.fcc.gov/ecfs>. Filers should follow the instructions provided on the website for submitting comments.
- 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 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 or 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.

Comments and reply comments filed in response to this Public Notice will be available via ECFS. These documents also will be available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street S.W., Room CY-A257, Washington, D.C. 20554.

Accessibility Information. 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 and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Ex Parte Rules. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁷ 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

⁶ 47 CFR §§ 1.2, 1.405.

⁷ See 47 CFR §§ 1.1200 *et seq.*

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 section 1.1206(b) of the Commission's rules.⁸ In proceedings governed by section 1.49(f) of the rules 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).⁹ Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Additional Information. For further information, contact Nellie Foosaner of the Consumer and Governmental Affairs Bureau, at (202) 418-2925 or Nellie.Foosaner@fcc.gov.

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⁸ 47 CFR § 1.1206(b).

⁹ 47 CFR § 1.49(f).