



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 19-1156

Released: November 7, 2019

CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION FOR DECLARATORY RULING FILED BY CAPITAL ONE SERVICES, LLC

CG Docket Nos. 18-152 and 02-278

Comment Date: December 9, 2019

Reply Comment Date: December 24, 2019

With this Public Notice, we seek comment on a petition for declaratory ruling filed by Capital One Services, LLC (Capital One).¹ Specifically, the *Petition* requests a ruling that, “if the sender of a lawful informational text message transmitted through an automatic telephone dialing system (‘ATDS’) receives a valid opt-out request from the recipient in response to that message, and that informational message was part of a program in which the recipient had previously enrolled that transmits several categories of informational messages, then, pursuant to the Commission’s ruling in *Soundbite*, the sender may clarify in an opt-out confirmation message to the recipient the scope of the recipient’s opt-out request without violating the Telephone Consumer Protection Act (‘TCPA’) or related Commission rules.”²

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

Filing Requirements. Pursuant to section 1.2 of the Commission’s rules, interested parties may file comments on or before the date indicated on the first page of this document.³ All filings must reference CG Docket Nos. 18-152 and 02-278. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).⁴

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

¹ Capital One Services, LLC, Petition for Declaratory Ruling, CG Docket Nos. 18-152 and 02-278 (filed Nov. 1, 2019), <https://www.fcc.gov/ecfs/filing/110141644656> (*Petition*).

² *Id.* at 1-2. 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 the related rules prohibit, without the prior express consent of the called party or some other exception, a non-emergency call using an automatic telephone dialing system or an artificial or prerecorded voice to any telephone number assigned to a cellular telephone service. 47 U.S.C. § 227(b)(1)(A)(iii); 47 CFR § 64.1200(a)(1)(iii); *see also Soundbite Communications, Inc., Petition for Expedited Declaratory Ruling*, CG Docket No. 02-278, Declaratory Ruling, 27 FCC Rcd 15391 (2012) (*Soundbite*).

³ 47 CFR § 1.2.

⁴ *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

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 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

Ex Parte Rules. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁵ 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.

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 and Governmental Affairs Bureau at 202-418-0530 (voice), 844-432-2275 (videophone), or 202-418-0432 (TTY).

For further information regarding this Notice, please contact Erica H. McMahon, Consumer Policy Division, Consumer and Governmental Affairs Bureau, at 202-418-0346 or by e-mail to Erica.McMahon@fcc.gov.

–FCC–

⁵ 47 CFR §§ 1.1200 *et seq.*