

# United States Senate

WASHINGTON, DC 20510

CCB  
TCPA  
6/5

April 13, 2012

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Genachowski:

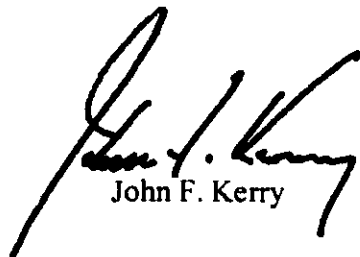
We write in support of the petition for declaratory ruling around a narrow issue. The question is whether or not it is a violation of the Telephone Consumer Protection Act (TCPA) rules to send a single, immediate, confirmatory message after a consumer has opted out of being contacted through text messages in the future. We do not believe that such a message should constitute a breach of the TCPA.

We understand that in the industry it is considered a best practice to send an immediate confirmation reply message sent when a consumer sends a request to stop receiving future text messages. That ensures that the consumer has a "receipt" for their opt-out request and ensures that the consumer knows they will not receive any future messages from a particular entity. It is also necessary in case the consumer sent the request in error or did not actually make the request himself.

As you know, we take very seriously the role of government in promoting consumer protection, privacy, and competition. The FCC must remain vigilant as new technologies and business methods enter the market that deceive consumers, treat them unfairly, or are created to thwart competition rather than create value.

But on this narrow issue, where a misinterpretation of the law could hurt both consumers and entrepreneurs, a definitive ruling by the FCC stating that a confirmatory text message is not only allowable under existing TCPA rules, but is also encouraged, will help provide certainty for everyone engaged in mobile commerce. Confirming a request to cease future text messages is not harmful to consumers, it is useful. We ask that as you apply your stringent criteria in deciding this matter that you take into consideration all applicable rules, regulations and laws.

Sincerely,

  
John F. Kerry

  
Scott Brown