

Congress of the United States

Washington, DC 20515

January 8, 2014

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The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

We write to request the Federal Communications Commission ("FCC") declare the Telephone Consumer Protection Act ("TCPA") does not restrict research survey calls made by or on behalf of the federal government.

In 1991, TCPA was enacted by Congress to address a growing concern over telemarketing calls and certain practices found to be an invasion of consumer privacy. It includes a number of provisions that make it unlawful for a "person" to use automated telephone systems to place certain types of calls, including calls to wireless telephone numbers. Unfortunately, this law is now being applied inappropriately by those who claim that its provisions restrict research survey calls placed by or on behalf of the federal government. One nonprofit organization, RTI International, has already been sued by a litigant who claimed that the research survey calls it placed on behalf of federal agencies violated the TCPA. Similar suits may follow.

The goal of the TCPA has never been to impede communications from the federal government, especially those that gather data for important government research. The Communications Act defines a "person" as an "individual, partnership, association, joint-stock company, trust or corporation," and federal government agencies fall outside the plain meaning of each of these terms. The Supreme Court has repeatedly held that the term "person" does not include sovereign entities, and the FCC's own regulations implementing the TCPA that apply to a "person or entity" similarly exclude the United States.

Without clarification, additional litigation may threaten policymakers' access to important data, much of which is statutorily mandated. This would reduce the likelihood of informed public policy decisions and make it harder for lawmakers to effectively allocate limited government resources.

Therefore, we respectfully urge the FCC to grant RTI International's Petition for Expedited Declaratory Ruling (CG Docket No. 02-278) and confirm that the TCPA does not restrict research survey calls made by or on behalf of the federal government. These efforts, which help advance the public interest, should not be impeded by the misapplication of a federal statute enacted to address a completely different type of calling activity.

Sincerely,



DAVID PRICE
Member of Congress



G.K. BUTTERFIELD
Member of Congress



RENEE ELLMERS
Member of Congress