

ROGER WICKER, MISSISSIPPI
ROY BLUNT, MISSOURI
TED CRUZ, TEXAS
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
DAN SULLIVAN, ALASKA
DEAN HELLER, NEVADA
JAMES INHOFE, OKLAHOMA
MIKE LEE, UTAH
RON JOHNSON, WISCONSIN
SHELLEY MOORE CAPITO, WEST VIRGINIA
CORY GARDNER, COLORADO
TODD YOUNG, INDIANA

BILL NELSON, FLORIDA
MARIA CANTWELL, WASHINGTON
AMY KLOBUCHAR, MINNESOTA
RICHARD BLUMENTHAL, CONNECTICUT
BRIAN SCHATZ, HAWAII
EDWARD MARKEY, MASSACHUSETTS
TOM UDALL, NEW MEXICO
GARY PETERS, MICHIGAN
TAMMY BALDWIN, WISCONSIN
TAMMY DUCKWORTH, ILLINOIS
MAGGIE HASSAN, NEW HAMPSHIRE
CATHERINE CORTEZ MASTO, NEVADA
JON TESTER, MONTANA

NICK ROSSI, STAFF DIRECTOR
KIM LIPSKY, DEMOCRATIC STAFF DIRECTOR

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

575

July 19, 2018

The Honorable Ajit V. Pai
Chairman
Federal Communications Commission
445 12th Street, Southwest
Washington, DC 20554

Dear Chairman Pai:

We applaud the Federal Communications Commission (FCC) for releasing a Second Notice of Proposed Rulemaking to explore opportunities to reduce unwanted robocalls and robotexts by addressing issues associated with reassigned numbers. We encourage you to proceed with a rulemaking that creates, and makes available to callers, a comprehensive database of reassigned telephone numbers.

Periodically, consumers receive unwanted robocalls and robotexts because the previous holder, not the current holder, of the phone number provided consent. Not only are these calls and texts to reassigned numbers a nuisance to consumers, but they may also create liabilities for calling parties. Many of our constituents complain about receiving these intrusive and unsolicited calls and texts that violate the rights of privacy and control created by the Telephone Consumer Protection Act (TCPA). We have also heard from hospitals, small businesses, and other stakeholders in our states who exercise care in their efforts to contact their patients, customers, or employees, but who nonetheless could face liability under the TCPA, because they are alleged to have called reassigned numbers.

We believe that the FCC can address this pressing issue by making available a reassigned numbers database. As you explore opportunities to promote such a database, we encourage you to consider the following key features:

- **Comprehensiveness** – The reassigned numbers database should comprehensively document all telephone numbers that could be reassigned. Participation by all providers—wireless, wireline, Voice over Internet Protocol providers, and any other relevant carrier partners—is essential to ensuring the database is reliable.
- **Accuracy** – The database should be reliable and up-to-date to provide callers with accurate and timely information. Telephone providers should promptly report when one of their telephone numbers has been relinquished by the previous user, and the database should be updated as frequently as necessary to ensure it serves its purpose.

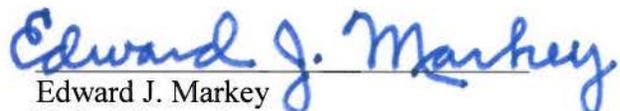
- Accessibility – All callers, including small and medium-sized businesses, should have easy access to the database to confirm the currency of numbers.
- Security – The database should protect and minimize the collection of consumers’ proprietary network information.
- Efficiency – The FCC should actively monitor and evaluate the comprehensiveness, accuracy, accessibility, and security of the reassigned numbers database and make appropriate reforms and modifications when necessary. Further, the FCC should continue to protect consumers with reassigned numbers from unwanted calls and texts, including from callers using the reassigned numbers database.
- Safe Harbor – This proceeding is an opportunity to create sensible tools that callers can use to avoid calling or texting reassigned numbers, and should not be a vehicle to strip consumers of their ability to seek recourse from callers violating TCPA regulations. With that said, a safe harbor shielding a caller from TCPA liability for making calls to reassigned numbers, without required consent, may be appropriate if the following conditions are met:
 - The caller took all reasonable steps to properly use a reassigned numbers database, in a timely manner, made available under this rulemaking and validate the authenticity of the number prior to making the calls or texts;
 - The call or text to a reassigned number was the result of inaccurate information received from the database;
 - The caller had the consent of the consumer the caller was attempting to contact; and
 - The caller took appropriate steps to stop calling and texting the reassigned number and reported the inaccuracy.

Thank you for your attention to this important matter. We urge the Commission to use its statutory authority to provide consumers and businesses the much-needed relief they deserve.

Sincerely,



John Thune
Chairman



Edward J. Markey
United States Senator

Cc: The Honorable Bill Nelson
Ranking Member