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Congressman Lee M. Zeldin

First Congressional District of New York

July 18, 2018

Received & Inspected

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FCC Mailroom

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

Dear Chairman Pai:

I write to you in support of the Federal Communication Commissions (“FCC”)’s recent efforts to create a safer and more workable environment for communicating with consumers. Specifically, we appreciate steps the FCC has taken to crack down on abusive and illegal robocalls, and we applaud the enforcement actions taken by the FCC to end these instances of consumer mistreatment. Additionally, we appreciate the FCC’s recent move, following the D.C. Circuit ruling that overturned portions of a past overly broad FCC interpretation, to seek feedback on key outstanding Telephone Consumer Protection Act (“TCPA”) issues.

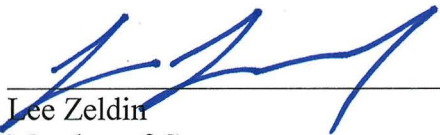
While the FCC is at the forefront of many critical communication issues, its past interpretations of the TCPA have resulted in a patchwork of confusion about what is required. This has made it more difficult for consumers to receive communications that they want and need, and for legitimate businesses to understand compliance standards. There is tremendous legal uncertainty surrounding how consumers can receive calls and text messages on their cell phones, even when the calls and texts contain important information. This leads to increasing class action litigation that often does little to help consumers and chills legitimate communications. The FCC must make it more workable for legitimate businesses to stay in communication with consumers in a timely and effective manner, while continuing its fight to eliminate illegal and fraudulent calls and texts to cell phones.

The D.C. Circuit’s recent opinion in *ACA International v. FCC* set aside the FCC’s overly broad interpretation of what devices qualify as an automated telephone dialing system (“ATDS”), as well as the FCC’s 2015 approach to the problem of reassigned numbers, including a presumption that a caller will know a number is reassigned after one attempted call, even if that attempted call is not answered. I support the FCC’s recent Public Notice seeking comment on these issues, and other confusing aspects of TCPA compliance. I urge the FCC to take quick action to clarify important issues under the TCPA.

It is imperative that the FCC, under your leadership, move forward to develop a TCPA framework that both protects consumers and is workable for businesses to be able to communicate with their customers. Such an approach should account for Congressional direction in the 1991 TCPA as well as innovative technologies that are emerging to help consumers manage calls. Under this approach, the FCC should confirm that to be an ATDS, equipment must use a random or sequential number generator to store or produce numbers and dial those numbers without human intervention, and find that only calls made using actual (not theoretical) ATDS capabilities are subject to the TCPA's restrictions.

The world has changed significantly since the TCPA was enacted in 1991 and it is time for the FCC to clarify and modernize the TCPA and its rules to reflect today's realities. Clear rules will allow the FCC to definitively punish illegal actors, while allowing legitimate businesses to understand what they should do to remain in compliance, which are both positive steps for consumers.

Sincerely,



Lee Zeldin
Member of Congress