



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

January 2, 2019

The Honorable Edward J. Markey
United States Senate
255 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Markey:

I write in response to your letter regarding the Commission's December 12, 2018 Declaratory Ruling that classified text messaging as an information service under Title I of the Communications Act. The Commission's decision makes clear that wireless providers are authorized to continue their efforts to stop unwanted text messaging through robotext-blocking, anti-spoofing measures, and other anti-spam features, as it relates to Short Message Service (SMS) and Multimedia Messaging Service (MMS).

Text messaging has become a critical communications option for American consumers, with 1.77 trillion messages exchanged in 2017. Wireless messaging has become a trusted form of communication for millions of Americans in large part because wireless providers have taken measures to prevent spam and other unwanted or malicious traffic from clogging consumers' phones.

The Commission's decision to deem SMS and MMS information services is correct as a legal matter, as outlined in the Declaratory Ruling's painstaking analysis of the relevant statutory terms and the nature of text messaging. It's also sound policy. The FCC shouldn't make it easier for spammers and scammers to bombard consumers with unwanted texts. And we shouldn't allow unwanted messages to plague wireless messaging services in the same way that unwanted robocalls flood voice services. But that's precisely what would have happened if we would have classified text messaging services as telecommunications services and subjected them to common-carrier regulation under Title II, as mass-texting companies and others petitioned us to do.

Our Title I approach garnered support from a spectacularly broad range of stakeholders. For example, a bipartisan group of 20 state attorneys general, from Connecticut to Idaho, told the FCC: "We believe, and our citizens desire, that this unique wireless service should be kept 'spam free.' We therefore urge the Commission to maintain the status quo, rather than imposing new regulatory structures that would open the spam floodgates."¹

Similarly, the National Organization of Black Elected Legislative Women told us that "removing the current regulatory framework would open up our constituents to a torrent of

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unwanted text messages, exposing them to harmful spam and fraud in the process.”² And the National Organization of Black County Officials, which told us that “[w]e agree with the Federal Communications Commission’s proposed order to ensure messaging remains a protected environment for NOBCO’s constituents. This would allow wireless companies to continue their service by filtering out fraudulent or unwanted text messages that their customers do not want.”³ And the respected public safety organization, NENA: The 9-1-1 Association, cited the “impact [that] such a decision could have on access to crucial emergency communications services, such as Text-to-9-1-1” and warned that if “either consumers or, worse yet, [Public Safety Answering Points], are inundated with unwanted messages, either cohort could withdraw from widespread use of the SMS platform.”⁴ And the National Association of Neighborhoods, which told us that Title II classification “would expose our membership to unwanted spam, and unsafe or fraudulent messaging. . . . The Commission has the opportunity to better protect citizens without implementing unnecessary regulation of wireless carriers by allowing wireless carriers to filter messages. This is the best approach for the communications needs and safety of our neighborhoods.”⁵ And the National Black Caucus of State Legislators requested “that the Commission keep consumers’ mobile text messaging experiences free from unwarranted solicitations and deny the petition to subject mobile messages to Title II oversight.”⁶ And finally—in what may be the most amazing statement of all—one of the petitioners *itself* suggested changes to the Commission’s description of its services but made clear that these changes “do not affect the analysis or conclusion reflected in the draft order.”⁷

These are the reasons why the Commission refused to let spam texts infest American consumers’ phones. Instead, we decided to make clear that SMS and MMS are information services and enable wireless providers to continue taking steps to limit spam and ensure that text messaging remains a trusted form of communications for millions of Americans. In short, we stand with American consumers, not those trying to bombard them with spam or scam robotexts.

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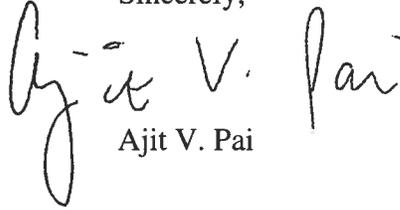
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Sincerely,

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Ajit V. Pai

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January 2, 2019

The Honorable Ron Wyden
United States Senate
221 Dirksen Senate Office Building
Washington, D.C. 20510

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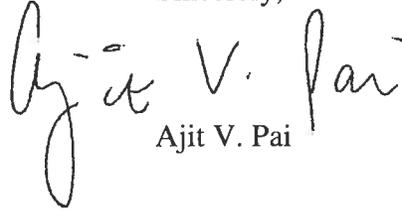
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WASHINGTON

OFFICE OF
THE CHAIRMAN

January 2, 2019

The Honorable Kirsten Gillibrand
United States Senate
478 Russell Senate Office Building
Washington, D.C. 20510

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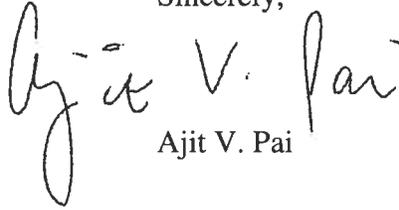
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WASHINGTON

OFFICE OF
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January 2, 2019

The Honorable Tammy Baldwin
United States Senate
709 Hart Senate Office Building
Washington, D.C. 20510

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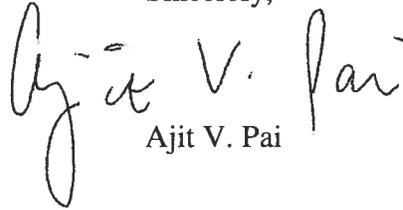
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January 2, 2019

The Honorable Richard Blumenthal
United States Senate
706 Hart Senate Office Building
Washington, D.C. 20510

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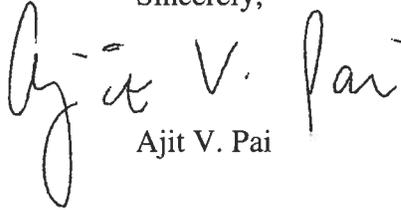
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Page 3—The Honorable Richard Blumenthal

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Sincerely,

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Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

January 2, 2019

The Honorable Tina Smith
United States Senate
309 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Smith:

I write in response to your letter regarding the Commission's December 12, 2018 Declaratory Ruling that classified text messaging as an information service under Title I of the Communications Act. The Commission's decision makes clear that wireless providers are authorized to continue their efforts to stop unwanted text messaging through robotext-blocking, anti-spoofing measures, and other anti-spam features, as it relates to Short Message Service (SMS) and Multimedia Messaging Service (MMS).

Text messaging has become a critical communications option for American consumers, with 1.77 trillion messages exchanged in 2017. Wireless messaging has become a trusted form of communication for millions of Americans in large part because wireless providers have taken measures to prevent spam and other unwanted or malicious traffic from clogging consumers' phones.

The Commission's decision to deem SMS and MMS information services is correct as a legal matter, as outlined in the Declaratory Ruling's painstaking analysis of the relevant statutory terms and the nature of text messaging. It's also sound policy. The FCC shouldn't make it easier for spammers and scammers to bombard consumers with unwanted texts. And we shouldn't allow unwanted messages to plague wireless messaging services in the same way that unwanted robocalls flood voice services. But that's precisely what would have happened if we would have classified text messaging services as telecommunications services and subjected them to common-carrier regulation under Title II, as mass-texting companies and others petitioned us to do.

Our Title I approach garnered support from a spectacularly broad range of stakeholders. For example, a bipartisan group of 20 state attorneys general, from Connecticut to Idaho, told the FCC: "We believe, and our citizens desire, that this unique wireless service should be kept 'spam free.' We therefore urge the Commission to maintain the status quo, rather than imposing new regulatory structures that would open the spam floodgates."³⁶

Similarly, the National Organization of Black Elected Legislative Women told us that "removing the current regulatory framework would open up our constituents to a torrent of

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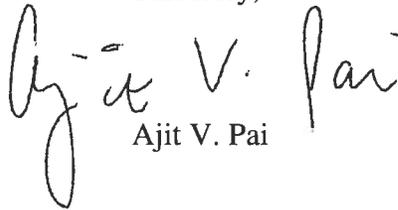
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

January 2, 2019

The Honorable Benjamin L. Cardin
United States Senate
509 Hart Senate Office Building
Washington, D.C. 20510

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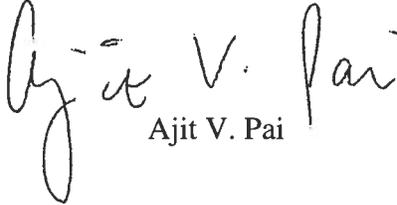
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

January 2, 2019

OFFICE OF
THE CHAIRMAN

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317 Hart Senate Office Building
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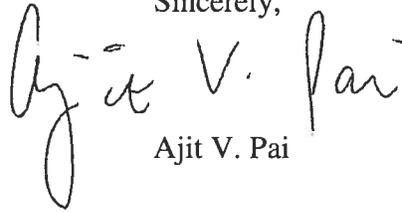
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Page 3—The Honorable Elizabeth Warren

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Ajit V. Pai

Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

January 2, 2019

The Honorable Bernard Sanders
United States Senate
332 Dirksen Senate Office Building
Washington, D.C. 20510

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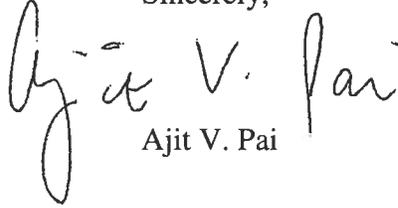
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

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January 2, 2019

The Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Feinstein:

I write in response to your letter regarding the Commission's December 12, 2018 Declaratory Ruling that classified text messaging as an information service under Title I of the Communications Act. The Commission's decision makes clear that wireless providers are authorized to continue their efforts to stop unwanted text messaging through robotext-blocking, anti-spoofing measures, and other anti-spam features, as it relates to Short Message Service (SMS) and Multimedia Messaging Service (MMS).

Text messaging has become a critical communications option for American consumers, with 1.77 trillion messages exchanged in 2017. Wireless messaging has become a trusted form of communication for millions of Americans in large part because wireless providers have taken measures to prevent spam and other unwanted or malicious traffic from clogging consumers' phones.

The Commission's decision to deem SMS and MMS information services is correct as a legal matter, as outlined in the Declaratory Ruling's painstaking analysis of the relevant statutory terms and the nature of text messaging. It's also sound policy. The FCC shouldn't make it easier for spammers and scammers to bombard consumers with unwanted texts. And we shouldn't allow unwanted messages to plague wireless messaging services in the same way that unwanted robocalls flood voice services. But that's precisely what would have happened if we would have classified text messaging services as telecommunications services and subjected them to common-carrier regulation under Title II, as mass-texting companies and others petitioned us to do.

Our Title I approach garnered support from a spectacularly broad range of stakeholders. For example, a bipartisan group of 20 state attorneys general, from Connecticut to Idaho, told the FCC: "We believe, and our citizens desire, that this unique wireless service should be kept 'spam free.' We therefore urge the Commission to maintain the status quo, rather than imposing new regulatory structures that would open the spam floodgates."⁵⁷

Similarly, the National Organization of Black Elected Legislative Women told us that "removing the current regulatory framework would open up our constituents to a torrent of

⁵⁷ See Letter from Lawrence G. Wasden, Office of the Attorney General, State of Idaho, *et al.*, to Tom Wheeler, Chairman, FCC, WT Docket No. 08-7 (filed Dec. 21, 2015), <https://ecfsapi.fcc.gov/file/60001389522.pdf>.

unwanted text messages, exposing them to harmful spam and fraud in the process.”⁵⁸ And the National Organization of Black County Officials, which told us that “[w]e agree with the Federal Communications Commission’s proposed order to ensure messaging remains a protected environment for NOBCO’s constituents. This would allow wireless companies to continue their service by filtering out fraudulent or unwanted text messages that their customers do not want.”⁵⁹ And the respected public safety organization, NENA: The 9-1-1 Association, cited the “impact [that] such a decision could have on access to crucial emergency communications services, such as Text-to-9-1-1” and warned that if “either consumers or, worse yet, [Public Safety Answering Points], are inundated with unwanted messages, either cohort could withdraw from widespread use of the SMS platform.”⁶⁰ And the National Association of Neighborhoods, which told us that Title II classification “would expose our membership to unwanted spam, and unsafe or fraudulent messaging. . . . The Commission has the opportunity to better protect citizens without implementing unnecessary regulation of wireless carriers by allowing wireless carriers to filter messages. This is the best approach for the communications needs and safety of our neighborhoods.”⁶¹ And the National Black Caucus of State Legislators requested “that the Commission keep consumers’ mobile text messaging experiences free from unwarranted solicitations and deny the petition to subject mobile messages to Title II oversight.”⁶² And finally—in what may be the most amazing statement of all—one of the petitioners *itself* suggested changes to the Commission’s description of its services but made clear that these changes “do not affect the analysis or conclusion reflected in the draft order.”⁶³

These are the reasons why the Commission refused to let spam texts infest American consumers’ phones. Instead, we decided to make clear that SMS and MMS are information services and enable wireless providers to continue taking steps to limit spam and ensure that text messaging remains a trusted form of communications for millions of Americans. In short, we stand with American consumers, not those trying to bombard them with spam or scam robotexts.

⁵⁸ Letter from Rep. Karen Camper (TN), National President, NOBEL Women, to Ajit Pai, Chairman, FCC, WT Docket No. 08-7 (filed Dec. 5, 2018), <https://www.fcc.gov/ecfs/filing/1205217340127>.

⁵⁹ Letter from Dr. Helen Holton, Executive Director, National Organization of Black County Officials, Inc., to Ajit Pai, Chairman, FCC, WT Docket No. 08-7 (filed Dec. 3, 2018), [https://ecfsapi.fcc.gov/file/120386224263/NOBCO%20FCC%20Robo-Text%20appeal%20\(12.03.18\).pdf](https://ecfsapi.fcc.gov/file/120386224263/NOBCO%20FCC%20Robo-Text%20appeal%20(12.03.18).pdf).

⁶⁰ Letter from Trey Forgety III, Director of Government Affairs, NENA: The 9-1-1 Association, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 08-7 (filed Dec. 21, 2015), <https://ecfsapi.fcc.gov/file/60001389375.pdf>.

⁶¹ Letter from Ricardo Byrd, Executive Director, National Association of Neighborhoods, to Tom Wheeler, Chairman, FCC, WT Docket No. 08-7 (filed Dec. 21, 2015), <https://ecfsapi.fcc.gov/file/60001389354.pdf>.

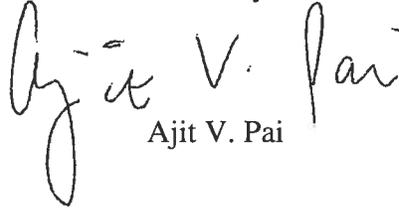
⁶² Letter from Senator Catherine E. Pugh, President, National Black Caucus of State Legislators, to Tom Wheeler, Chairman, FCC, WT Docket No. 08-7 (filed Nov. 30, 2015), <https://ecfsapi.fcc.gov/file/60001387871.pdf>.

⁶³ Letter from Rebecca Murphy Thompson, Head, Communications Policy, Twilio Inc., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 08-7, at 1 (filed Dec. 6, 2018), [https://ecfsapi.fcc.gov/file/1206212915792/2018-12-06%20Twilio%20Ex%20Parte%20\(WT%2008-7\)%20.pdf](https://ecfsapi.fcc.gov/file/1206212915792/2018-12-06%20Twilio%20Ex%20Parte%20(WT%2008-7)%20.pdf).

Page 3—The Honorable Dianne Feinstein

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink that reads "Ajit V. Pai". The signature is written in a cursive style with a large initial "A" and a long tail on the "i".

Ajit V. Pai