



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

April 17, 2023

The Honorable Brian Schatz
United States Senate
722 Hart Senate Office Building
Washington, DC 20510

Dear Senator Schatz:

Thank you for your letter regarding the ongoing work of the Federal Communications Commission to combat illegal robocalls and robotexts. Protecting consumers from illegal robocalls is one of our top consumer protection priorities, and we are committed to using every tool we have to address this issue. Our approach to this problem has been multi-faceted. It involves increased enforcement, providing consumers with new tools and educating them about new scam tactics, championing new technologies, and identifying how to close loopholes that fraudulent actors might try to exploit. As you note, we recently expanded our focus beyond robocalls in an effort to tackle growing problems with robotexts. I appreciate your support of the Commission's actions in these areas.

Last month, the Commission unanimously adopted its first rules focused on illegal robotexts. These rules require carriers to block text messages that appear to come from phone numbers that are unlikely to lawfully transmit text messages, including invalid, unallocated, or unused numbers. They also require carriers to block text messages from numbers where the subscriber to the number has self-identified as never sending text messages as well as numbers that government agencies and other well-known entities identify as not used for texting. We have also proposed to require carriers to investigate and potentially block texts from a sender after receiving notice from the Commission that the sender is transmitting suspected illegal texts. The Commission has used this framework to require carriers to stop the transmission of illegal voice calls that originate overseas. In addition, in a rulemaking adopted last month along with our new rules, the Commission proposed to codify that the National Do-Not-Call Registry's protections apply to text messaging. We also sought comment on how to close the lead generator loophole, which allows companies to use a single consumer consent to deliver robocalls and text messages from multiple marketers, well beyond what a consumer believes he or she may have signed up to receive. In this rulemaking, we also requested public comment on additional text authentication measures and other proposals to fight illegal robotexts.

The Commission remains committed to partnering across government and with non-profit organizations, such as AARP and the National Diversity Coalition, to help ensure consumers are aware of new and emerging scams. Tips on avoiding robocall and robotext scams are a key part of our consumer outreach efforts and we frequently highlight new scams in our online consumer help center. To help consumers better recognize impersonator scams, which often utilize robotexts, we continue to build on the successful spoofing consumer education campaign that

Congress directed us to develop in collaboration with the Federal Trade Commission in the Ray BAUM's Act. The Commission also supports cross-agency efforts to protect older Americans from phone-based scams as a member of the Elder Justice Coordinating Council.

At my direction, the Commission's Enforcement Bureau is leveraging our resources by working collaboratively with other enforcement agencies, including a new campaign to expand our efforts to hold accountable those behind abusive communications by partnering with state Attorneys General. As a result, the Commission now has a Memorandum of Understanding (MOU) with Attorneys General in 44 states, the District of Columbia, and Guam. These agreements allow us to share information that will assist in efforts to prosecute bad actors under both federal and state law. In addition, the Attorneys General of Colorado, North Carolina, and Tennessee have committed to help work with the Commission to bring their other colleagues in the states on board with this effort. In addition to strengthening consumers, working with federal and state partners, and developing new regulations to curb abusive robotexts, the Enforcement Bureau actively monitors consumer complaints and investigates reports of abusive text campaigns. For example, in recent months, the Enforcement Bureau has begun collaborating with investigators in the banking industry to identify malicious text senders who attempt to trick consumers into revealing their account information, among other scams.

While I believe that the Commission has the authority to take further action on robotexting as proposed in our rulemaking last month, I also believe that we would benefit from additional authority from Congress to combat both robocalls and robotexts. In large part, this is because the Supreme Court's recent decision in *Facebook v. Duguid* narrowed the definition of autodialer under the Telephone Consumer Protection Act. This decision makes it more difficult to use the tools we have as it reduces the range of technology that is covered by the law and this in turn may lead to less consumer protection from unwanted robocalls and robotexts.

I also believe it would be beneficial for Congress to provide the Commission with the authority to collect the fines that we impose against the bad actors responsible for illegal robocalls and robotexts. At present, the agency has the authority to issue a Forfeiture Order for violations of its rules, but lacks the authority to pursue collection in court without the Department of Justice.

Finally, I believe the Commission would benefit from having more tools to catch those behind these calls, who often create a multiple entities and business relationships to cover their tracks and obscure their involvement. To this end, it would be helpful to provide the agency with clear authority to access Back Secrecy Act information, which would help identify more quickly the financial records and assets of our investigative targets. In particular, our investigations would benefit from clear authority to access financial reports that institutions are required to produce regarding suspicious activities under the Bank Secrecy Act. This would permit the agency's Enforcement Bureau to access financial information about individual targets without first notifying the targets. By updating the law to allow for administrative subpoenas for all types of non-content customer records, the Commission would be able to obtain evidence that can help identify who is actually responsible for illegal robocall campaigns, and to prevent scam artists from registering new entities under new names after enforcement actions shut them down.

I hope the above is helpful. I look forward to continuing to work with you to use the tools we have—and any others that Congress may provide—to stop illegal robocalls and robotexts. Please let me know if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica Rosenworcel", with a long horizontal flourish extending to the right.

Jessica Rosenworcel