



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

December 19, 2023

The Honorable Ben Ray Lujan
United States Senate
498 Russell Senate Office Building
Washington, DC 20510

Dear Senator Lujan:

Thank you for your letter regarding the efforts of the Federal Communications Commission to curb unwanted and illegal robocalls. Protecting consumers from illegal robocalls and text messages remains one of the Commission's top priorities. I agree that the onslaught of these illegal calls and text messages erodes trust in the networks we all count on to communicate.

That is why on December 13, 2023, the Commission adopted an order that takes three key steps to stop junk robocalls and robotexts from reaching our devices. First, we required that when the Commission identifies a number sending illegal texts, terminating service providers must block texts from that number before it reaches your phone. Second, we codified the protections in the National Do-Not-Call Registry and made clear that they apply not just to calls but also to text messages. Third, we closed what is known as the lead generator loophole. With this loophole, a consumer who provides their phone number to a single company with whom they are doing business online could find that the company has shared or sold their number to hundreds or thousands of other companies. The right to do this is often buried in fine print, making it hard for the consumer to understand just what they consenting to receive. But the result is that these other companies suddenly have the right to send you junk robocalls or robotexts that you did not ask for, do not want, and do not need. Consumer advocates and State Attorneys General have long advocated for the agency to find a way to stop this practice and with our recent decision we have finally done so.

In this order, the Commission also adopted protections to help protect against a single consent leading to a flood of unwanted robocalls and robotexts. To this end, we made we clear that a consumer can consent one-to-one only after a clear and conspicuous disclosure that they will get robocalls and robotexts from that seller. This is part of our effort to close the lead generator loophole. In addition, we noted that if compliance with the Electronic Signatures in Global and National Commerce Act's (the E-Sign Act) is required, then all elements of E-Sign must be present.

We expect these requirements will help reduce the number of robocalls and robotexts received by consumers. But we recognize that additional action may be necessary to further reduce illegal robocalls and robotexts and seek comment in a related rulemaking on the next steps we should take to address this problem. At the same time, we will continue to partner with

our colleagues at the Federal Trade Commission to increase consumer awareness regarding the tools available to consumers to help stop this junk from reaching their devices.

Finally, it is important to acknowledge that the laws governing our authority to address robocalls and robotexts need an update.

First, the decision by the Supreme Court in *Facebook v. Duguid* narrowed the definition of autodialer under the Telephone Consumer Protection Act. As a result, those sending junk calls have the ability to evade this law if they use technology for their calls that comes from lists but does not feature random number generation. This needs to be fixed. In addition, the *Duguid* decision may also impact the Commission's ability to enforce consumer protections under the Telephone Consumer Protection Act with respect to texting. The Commission has long treated text messages as "autodialed" calls for the purposes of applying the law's protections against unauthorized messages to consumers. Trends indicate that more and more scammers are turning to text messages as a vehicle for their malicious schemes. Accordingly, updating the definition of autodialer and giving the Commission clear authority to combat robotexts will allow us to continue to fight robocalls and to tackle the growing problem of junk texts.

Second, the Commission has issued more than \$600 million in robocall fines this year alone. However, the process of collecting these penalties is cumbersome. While thanks to the TRACED Act, the Commission can speed the enforcement process by seeking forfeitures without first issuing citations, the process gets bogged down when it comes to holding bad actors to account. That is because under the Communications Act, when a party does not pay the penalties that the Commission issues, the agency is required to send the case to the Department of Justice to litigate and collect these fines. Giving the Commission its own authority to pursue these cases in court would improve the chances of collecting the penalties we impose.

Third, the Commission would benefit from authority to access Bank Secrecy Act information. This would help us identify more quickly the financial records of our targets without giving those targets suspected of scams a heads up that they are being investigated. We are currently engaged in discussions with the Department of Treasury to acquire the access to this information. If we are able to access this information, it would allow the Commission to obtain evidence that can help identify who is actually responsible for scam campaigns, and to prevent scam artists from registering new entities under new names after enforcement actions shut their prior activities down.

I appreciate you raising awareness of this issue and look forward to continuing to work with you to stop illegal robocalls and robotexts.

Sincerely,

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

December 19, 2023

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

Dear Senator Markey:

Thank you for your letter regarding the efforts of the Federal Communications Commission to curb unwanted and illegal robocalls. Protecting consumers from illegal robocalls and text messages remains one of the Commission's top priorities. I agree that the onslaught of these illegal calls and text messages erodes trust in the networks we all count on to communicate.

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FEDERAL COMMUNICATIONS COMMISSION
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December 19, 2023

The Honorable Peter Welch
United States Senate
G12 Senate Russell Office Building
Washington, DC 20510

Dear Senator Welch:

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FEDERAL COMMUNICATIONS COMMISSION
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OFFICE OF THE
CHAIRWOMAN

December 19, 2023

The Honorable Chris Van Hollen
United States Senate
110 Hart Senate Office Building
Washington, DC 20510

Dear Senator Van Hollen:

Thank you for your letter regarding the efforts of the Federal Communications Commission to curb unwanted and illegal robocalls. Protecting consumers from illegal robocalls and text messages remains one of the Commission's top priorities. I agree that the onslaught of these illegal calls and text messages erodes trust in the networks we all count on to communicate.

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FEDERAL COMMUNICATIONS COMMISSION
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OFFICE OF THE
CHAIRWOMAN

December 19, 2023

The Honorable Elizabeth Warren
United States Senate
309 Hart Senate Office Building
Washington, DC 20510

Dear Senator Warren:

Thank you for your letter regarding the efforts of the Federal Communications Commission to curb unwanted and illegal robocalls. Protecting consumers from illegal robocalls and text messages remains one of the Commission's top priorities. I agree that the onslaught of these illegal calls and text messages erodes trust in the networks we all count on to communicate.

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

December 19, 2023

The Honorable Angus King
United States Senate
133 Hart Senate Office Building
Washington, DC 20510

Dear Senator King:

Thank you for your letter regarding the efforts of the Federal Communications Commission to curb unwanted and illegal robocalls. Protecting consumers from illegal robocalls and text messages remains one of the Commission's top priorities. I agree that the onslaught of these illegal calls and text messages erodes trust in the networks we all count on to communicate.

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December 19, 2023

The Honorable Richard J. Durbin
United States Senate
711 Hart Senate Office Building
Washington, DC 20510

Dear Senator Durbin:

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Third, the Commission would benefit from authority to access Bank Secrecy Act information. This would help us identify more quickly the financial records of our targets without giving those targets suspected of scams a heads up that they are being investigated. We are currently engaged in discussions with the Department of Treasury to acquire the access to this information. If we are able to access this information, it would allow the Commission to obtain evidence that can help identify who is actually responsible for scam campaigns, and to prevent scam artists from registering new entities under new names after enforcement actions shut their prior activities down.

I appreciate you raising awareness of this issue and look forward to continuing to work with you to stop illegal robocalls and robotexts.

Sincerely,

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

December 19, 2023

The Honorable Martin Heinrich
United States Senate
303 Hart Senate Office Building
Washington, DC 20510

Dear Senator Heinrich:

Thank you for your letter regarding the efforts of the Federal Communications Commission to curb unwanted and illegal robocalls. Protecting consumers from illegal robocalls and text messages remains one of the Commission's top priorities. I agree that the onslaught of these illegal calls and text messages erodes trust in the networks we all count on to communicate.

That is why on December 13, 2023, the Commission adopted an order that takes three key steps to stop junk robocalls and robotexts from reaching our devices. First, we required that when the Commission identifies a number sending illegal texts, terminating service providers must block texts from that number before it reaches your phone. Second, we codified the protections in the National Do-Not-Call Registry and made clear that they apply not just to calls but also to text messages. Third, we closed what is known as the lead generator loophole. With this loophole, a consumer who provides their phone number to a single company with whom they are doing business online could find that the company has shared or sold their number to hundreds or thousands of other companies. The right to do this is often buried in fine print, making it hard for the consumer to understand just what they consenting to receive. But the result is that these other companies suddenly have the right to send you junk robocalls or robotexts that you did not ask for, do not want, and do not need. Consumer advocates and State Attorneys General have long advocated for the agency to find a way to stop this practice and with our recent decision we have finally done so.

In this order, the Commission also adopted protections to help protect against a single consent leading to a flood of unwanted robocalls and robotexts. To this end, we made we clear that a consumer can consent one-to-one only after a clear and conspicuous disclosure that they will get robocalls and robotexts from that seller. This is part of our effort to close the lead generator loophole. In addition, we noted that if compliance with the Electronic Signatures in Global and National Commerce Act's (the E-Sign Act) is required, then all elements of E-Sign must be present.

We expect these requirements will help reduce the number of robocalls and robotexts received by consumers. But we recognize that additional action may be necessary to further reduce illegal robocalls and robotexts and seek comment in a related rulemaking on the next steps we should take to address this problem. At the same time, we will continue to partner with

our colleagues at the Federal Trade Commission to increase consumer awareness regarding the tools available to consumers to help stop this junk from reaching their devices.

Finally, it is important to acknowledge that the laws governing our authority to address robocalls and robotexts need an update.

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

December 19, 2023

The Honorable Mark Warner
United States Senate
703 Hart Senate Office Building
Washington, DC 20510

Dear Senator Warner:

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

December 19, 2023

The Honorable Gary Peters
United States Senate
724 Hart Senate Office Building
Washington, DC 20510

Dear Senator Peters:

Thank you for your letter regarding the efforts of the Federal Communications Commission to curb unwanted and illegal robocalls. Protecting consumers from illegal robocalls and text messages remains one of the Commission's top priorities. I agree that the onslaught of these illegal calls and text messages erodes trust in the networks we all count on to communicate.

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

December 19, 2023

The Honorable Ron Wyden
United States Senate
221 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Wyden:

Thank you for your letter regarding the efforts of the Federal Communications Commission to curb unwanted and illegal robocalls. Protecting consumers from illegal robocalls and text messages remains one of the Commission's top priorities. I agree that the onslaught of these illegal calls and text messages erodes trust in the networks we all count on to communicate.

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

December 19, 2023

The Honorable Amy Klobuchar
United States Senate
425 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Klobuchar:

Thank you for your letter regarding the efforts of the Federal Communications Commission to curb unwanted and illegal robocalls. Protecting consumers from illegal robocalls and text messages remains one of the Commission's top priorities. I agree that the onslaught of these illegal calls and text messages erodes trust in the networks we all count on to communicate.

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