

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

Insurance Marketing Coalition Limited,
Petitioner,

v.

FEDERAL COMMUNICATIONS COMMISSION
and UNITED STATES OF AMERICA,
Respondents.

No. 24-10277

On Petition for Review of an Order of
the Federal Communications Commission

**RESPONDENT FEDERAL COMMUNICATIONS COMMISSION'S
OPPOSITION TO MOTION FOR STAY PENDING REVIEW**

The Federal Communications Commission opposes Petitioner's motion for a stay, pending review, of portions of an FCC order that will not take effect before January 27, 2025. *See Targeting and Eliminating Unlawful Text Messages, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Advanced Methods to Target and Eliminate Unlawful Robocalls*, FCC 23-107, CG Docket Nos. 21-402, 02-278, 17-59 (Dec. 13, 2023) ("*Order*") (Mot. Ex. C).

INTRODUCTION

The *Order* on review is the most recent of the FCC's long-running efforts to protect consumers from unwanted automatically dialed and prerecorded telephone calls ("robocalls") and texts ("robotexts"). Under the Telephone Consumer Protection Act of 1991 ("TCPA" or "Act"), Pub. L. No. 102-243, 105 Stat. 2394 (codified at 47 U.S.C. § 227), such calls may not be placed without the "prior express consent of the called party." 47 U.S.C. § 227(b)(1)(A)(iii), (B). The FCC is charged with prescribing regulations to implement this and other requirements of the Act. *See id.* § 227(b)(2).

Since 2012, the FCC has required that "express consent" for most categories of telemarketing robocalls be made in writing. *See* 47 C.F.R. § 64.1200(f)(9). But in recent years, that rule has failed to protect consumers from a flood of "unwanted texts and calls when [they] visit comparison shopping websites" run by lead generators. *Order* ¶ 2. A consumer visiting such a website might click a single box and, without realizing it, "consent" to robocalls and robotexts from hundreds or thousands of the lead generator's "marketing partners" across a wide range of unrelated businesses. *Id.* ¶ 32.

The *Order* under review addresses this problem by updating Section 64.1200(f)(9) of the Commission’s rules to close the “lead generator loophole.” *Order* ¶ 30. To provide lead generators and their clients “ample time” to prepare, the revised rule will not take effect before January 27, 2025. *Id.* ¶ 46; *see id.* n.113. But once the rule does take effect, robocalls and robotexts that require express written consent will no longer be allowed unless a called party gives advertiser-specific “one-to-one consent,” *id.* ¶ 31, and the telemarketing in question is “logically and topically related” to the website where consent is obtained, *id.* ¶ 36.

Petitioner Insurance Marketing Coalition (“IMC”), which represents lead generators in the insurance industry, seeks a stay pending judicial review of the FCC’s revised written consent rule. But as we show, the Commission’s reasonable definition of “express consent” is fully consistent with the statutory text and Congress’s intent, aligns with consumers’ expectations, and ensures consent is informed. And because the Commission’s narrowly tailored regulation of commercial speech furthers a substantial government interest in protecting consumer privacy, the *Order* also comports with the First Amendment. IMC thus has not shown any likelihood of success on the merits. Nor has IMC adequately substantiated its various theories of irreparable harm. In any

event, the claimed injuries to IMC’s members are far outweighed by the government’s vital interest in protecting consumers from intrusive and unwanted telemarketing.

BACKGROUND

A. Statutory and Regulatory Background

“Americans passionately disagree about many things. But they are largely united in their disdain for robocalls.” *Barr v. Am. Ass’n of Pol. Consultants, Inc.*, 140 S. Ct. 2335, 2343 (2020). Congress enacted the TCPA in 1991 because it found “[m]any consumers are outraged over the proliferation of intrusive, nuisance [telemarketing] calls to their homes,” which they “rightly regarded...as ‘an invasion of privacy.’” *Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 372 (2012) (quoting the TCPA § 2, 105 Stat. at 2394 (bracketed alterations in original)); see *Cordoba v. DIRECTV, LLC*, 942 F.3d 1259, 1264–65 (11th Cir. 2019).

Among other restrictions, the TCPA generally forbids calls made “using any automatic telephone dialing system or an artificial or prerecorded voice” to a cell phone without the “prior express consent of the called party.” 47 U.S.C. § 227(b)(1)(A)(iii). The same consent requirement applies for calls to residential lines made “using an artificial or prerecorded voice.” *Id.* § 227(b)(1)(B). The FCC generally refers to

these communications as “robocalls” (or “robotexts” when delivered by text). *See Order* ¶ 8 & n.14.

The TCPA does not define “express consent,” but directs that the Commission prescribe implementing regulations. 47 U.S.C. § 227(b)(2). In 2012, the FCC interpreted “express consent” in the TCPA to require express *written* consent for telemarketing robocalls. *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 27 FCC Rcd 1830, 1838 ¶ 20 (2012) (*2012 Order*). The FCC adopted this requirement in order to “reduce the opportunities for telemarketers to place unwanted or unexpected calls to consumers,” and “reduce the chance of consumer confusion in responding orally to a telemarketer’s consent request.” *Id.* ¶ 24.

By contrast, the Commission determined in the *2012 Order* that it would not require written consent for informational, non-telemarketing robocalls—*e.g.*, messages from non-profit and political organizations, or calls providing information about credit card fraud or school closings. *See 2012 Order* ¶ 21. In the agency’s judgment, requiring written consent for such calls would “unnecessarily impede” access to “information that consumers find highly desirable.” *Id.* ¶ 29.

B. Proposed Rulemaking and the Lead Generator Loophole

Despite the FCC’s rulemaking in 2012, intrusive, unwanted, and often illegal robocalls and robotexts continued to proliferate. *See Order* ¶¶ 5–7, 30 & n.68, 31 & n.72; *see also Targeting and Eliminating Unlawful Text Messages, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 38 FCC Rcd 2744, 2746 ¶ 6 (2023) (*NPRM*) (attached as Exhibit A). Between 2015 and 2020, for example, “the number of spam text messages that wireless providers blocked grew ten times,” to an estimated 14 billion. *Id.*

In the course of adopting a number of measures to address this problem, in March 2023 the Commission sought comment on closing the “lead generator loophole” by proposing “to ban the practice of obtaining a single consumer consent as grounds for delivering calls and text messages from multiple marketers on subjects beyond the scope of the original consent.” *Id.* ¶ 58.¹ In doing so, the Commission sought comment

¹ The agency provided as an example a lead generator that offered a “website...purport[ing] to enable consumers to comparison shop for insurance,” but that sought consumer consent for calls and texts from “partner companies.” *Id.* ¶ 59. The website listed these “partner companies,” however, only on a separate, hyperlinked webpage, which included companies that did not appear to offer insurance at all. *Id.* In

on a proposal “that prior express consent to receive calls or texts must be made directly to one entity at a time.” *Id.* ¶ 61. It also sought comment on “amending [its] TCPA consent requirements to require that such consent be considered granted only to callers logically and topically associated with the website that solicits consent and whose names are clearly disclosed on the same web page.” *Id.*

C. The Order

A wide range of commenters—including consumer groups, members of Congress, state attorneys general, and individual consumers—favored closing the lead generator loophole. *Order* ¶ 30; *see id.* nn.70, 72. For example, a group of 11 consumer advocate organizations commented that “resale of consumer data by lead generators and lead aggregators significantly contributes to the problem of illegal calls.” *Id.* ¶ 31. And attorneys general from 28 states (including Alabama) reported that, by “simply requesting an insurance quote” from one website, an “unwitting consumer” could “open[] the floodgates” to “thousands upon thousands” of unwanted robocalls and robotexts. Reply

another example, an insurance company website listed 8,423 entities on a hyperlinked page. *Id.* ¶ 60.

Comments of 28 State Attorneys General, at 4 (June 6, 2023) (AG Reply Comments) (attached as Exhibit B).

With the benefit of this record, the FCC concluded that “[l]ead-generated communications are a large percentage of unwanted calls and texts and often rely on flimsy claims of consent to bombard consumers with unwanted robocalls and robotexts.” *Order* ¶ 30; *see id.* n.70 (describing an example of “hundreds” of partners that consumers would “consent” to receiving calls from by asking for insurance information, and other examples with 2247 partners and “over 2000” partners). It therefore found that “new protections are necessary to stop abuse of [the agency’s] established consent requirements,” *id.* ¶ 30, and accordingly amended Section 64.1200(f)(9) of its rules to “[u]nequivocally requir[e] one-to-one consent” for automated telemarketing calls and thereby protect consumers from “receiving robocalls and robotexts from tens, or hundreds, of sellers—numbers that most reasonable consumers would not expect to receive.” *Id.* ¶ 31. The agency further required that “the content of the ensuing robotexts and robocalls must be logically and topically associated with the website where the consumer gave consent.” *Id.* ¶ 30

The agency did not dispute that comparison shopping websites and lead generators may offer value to some consumers and businesses, but it recognized a need to “balance[]” that benefit against the public interest in protecting “consumers, including small businesses, from a deluge of unwanted robocalls and robotexts.” *Id.* ¶ 37; *see id.* ¶¶ 37–45. The Commission explained that no party in its notice and comment proceeding had provided specific evidence that the new rule would prevent consumers from comparison shopping. *See id.* ¶¶ 38–39. The Commission further observed that no party had offered “specific evidence on the potential economic impact” of the rule for lead generators or their clients. *Id.* ¶ 47; *see id.* ¶ 42. By contrast, the agency’s “analysis suggest[ed] that the harm of unwanted and illegal calls is at least \$13.5 billion annually,” a problem to which lead generators and aggregators “are a significant contributor.” *Id.* ¶ 47. But to avoid unduly burdening comparison shopping websites, and to ensure successful compliance, the FCC provided a 12-month implementation period for the *Order*. *See id.* ¶ 46 & n.113.²

² The revised Section 64.1200(f)(9) will be effective on the later of (1) 12 months after publication in the Federal Register, which was January 26, 2024, or (2) 30 days after Paperwork Reduction Act approval by the Office

ARGUMENT

To obtain the extraordinary remedy of a stay, IMC must demonstrate that (1) it will likely prevail on the merits, (2) it will suffer irreparable harm without a stay, (3) a stay will not harm other parties, and (4) a stay will serve the public interest. *Nken v. Holder*, 556 U.S. 418, 434 (2009). The third and fourth factors merge where, as here, the government is the opposing party. *Id.* at 435.

“The first two factors of the traditional standard are the most critical.” *Nken*, 556 U.S. at 434. A movant bears the burden of showing that both its likelihood of success on the merits and its risk of irreparable injury are not just possible, but “substantial.” *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc) (analogous test for preliminary injunction). IMC has failed to meet that burden here, or to show why any harm its members might conceivably suffer pending judicial review would outweigh the substantial public interest in abating the multibillion dollar problem “of unwanted and illegal calls” to which the lead generator loophole contributes. *Order* ¶ 47.

of Management and Budget, which has not yet occurred. *Order* n.113. Thus, the revised rule can take effect no earlier than January 27, 2025.

I. IMC HAS NOT DEMONSTRATED A LIKELIHOOD OF SUCCESS ON THE MERITS

A. The FCC’s consent regulation is reasonable and consistent with the statute.

1. Congress authorized the Commission to prescribe regulations to implement the TCPA, 47 U.S.C. § 227(b)(2), including the requirement of “prior express consent” for robocalls, *id.* § 227(b)(1)(A), (B). As IMC concedes (Mot. 11), the statute itself does not define that term. But Congress anticipated that the Commission would exercise its authority to implement this and other requirements of the TCPA, taking into account the context in which different types of telephone communications are made. Indeed, Congress expressly found that the FCC “should have the flexibility to design different rules for those types of automated or prerecorded calls that...are not considered a nuisance or invasion of privacy, or for noncommercial calls.” TCPA § 2, 105 Stat 2394, 2394; *see also* 47 U.S.C. §227(b)(2)(b) (directing the FCC to consider exempting non-commercial calls to residential lines that the agency finds will not interfere with consumers’ privacy rights); H.R. Rep. No. 102–317, at 16 (1991) (“non-commercial calls...are less intrusive to consumers because they are more expected”).

The revisions to Section 64.1200(f)(9) adopted in the *Order* are fully consistent with this statutory regime. An extensive record showed that, through lead generator websites, unsuspecting consumers can be flooded with “thousands upon thousands” of unwanted robocalls and robotexts by clicking a single consent checkbox. *See* AG Reply Comments at 4.³ Taking account of this “transactional context,” *Fober v. Mgmt. & Tech. Consultants, LLC*, 886 F.3d 789, 793 (9th Cir. 2018) (internal quotation marks omitted), the Commission reasonably concluded that requiring one-to-one consent will “stop[] the practice of buried, barely visible disclosures” and instead “ensure[] that consumers consent only to sellers they wish to hear from,” *Order* ¶ 32. Likewise, the Commission reasonably decided that mandating a “logical[] and topical[]” connection between the commercial interaction giving rise to consent and any resulting telemarketing robocalls will protect consumers from unwittingly inviting sales communications far afield from what they might reasonably expect. *Id.* ¶ 36. In both cases, the FCC appropriately

³ IMC implies the FCC provided a single source as evidence for the problem addressed by the rule, Mot. 7, but the *Order* cited many supporting sources, including comments from 28 state attorneys general, 12 consumer advocacy groups, members of Congress, individual consumers, and telecom carriers. *E.g.*, nn.70–72.

adapted its consent rule to align with what the record showed about consumers' understanding of the consent they provide.

2. IMC is unlikely to prevail on its claims that the *Order* unlawfully redefines “express consent” in a way that conflicts with the term’s “ordinary meaning,” Mot. 11, or “simultaneously interpret[s] the same statute in two different ways,” *id.* 9 (internal quotation marks omitted).

To begin with, IMC studiously ignores that the revisions to Section 64.1200(f)(9) adopted in the *Order* reflect an exercise of the agency’s statutorily conferred authority to prescribe legislative rules implementing the TCPA. Where, as here, Congress has authorized an agency to prescribe legislative rules, the agency’s “judgment that a particular regulation fits within [a] statutory constraint must be given considerable weight.” *Ragsdale v. Wolverine World Wide, Inc.*, 535 U.S. 81, 86 (2002); *accord Hurlbert v. St Mary’s Health Care Sys., Inc.*, 439 F.3d 1286, 1294 n.10 (11th Cir. 2006). Such a rule must be upheld unless “arbitrary, capricious, or manifestly contrary to the statute.” *United States v. O’Hagan*, 521 U.S. 642, 673 (1997) (quoting *Chevron U.S.A. Inc. v. NRDC*, 467 U.S. 837, 844 (1984)).

Consistent with that principle, this Court and others have repeatedly looked to FCC orders when interpreting the meaning of the TCPA—including in two cases on which IMC relies. In *Gorss Motels, Inc. v. Safemark Systems, LP*, 931 F.3d 1094 (11th Cir. 2019), this Court cited FCC “guidance on the meaning of express permission” and—quoting from an FCC order—determined that the “focus[]” of the Court’s inquiry should be “on whether a ‘consumer would understand that...he or she is agreeing to receive faxed advertisements.’” *Id.* at 1100–01 (cleaned up). Likewise, in *Fober*, the Ninth Circuit explained that “FCC orders and rulings show that...transactional context matters in determining the scope of a consumer’s consent to contact.” 886 F.3d at 793 (quoting *Van Patten v. Vertical Fitness Grp., LLC*, 847 F.3d 1037, 1046 (9th Cir. 2017)); *see also id.* (quoting an FCC order for the proposition that “the scope of consent must be determined upon the facts of [the] situation [in which the person gave consent]” (alterations in original)).

IMC is thus not likely to prevail on its claim that the FCC’s interpretation of “express consent” in the *Order* is inconsistent with “an ordinary interpretation of those words.” Mot. 13. One ordinary meaning of consent is a “willingness for certain conduct to occur.” *Schweitzer v. Comenity Bank*, 866 F.3d 1273, 1276 (11th Cir. 2017). And here, as we

have explained, the record showed that consumers should not be presumed to “willingly” invite robocalls and robotexts from hundreds or thousands of entities identified on a comparison shopping website’s hyperlinked list, particularly when the listed entities have no logical or topical connection to the website. *See, e.g., Order* n.69 (citing evidence that “consumers who fill out web forms may not realize they are operated by lead generators, *i.e.*, not merchants, or may not know that this information can be sold and re-sold multiple times”).

To be sure, in some contexts it may be reasonable to conclude that consumers knowingly authorize communications from unnamed “affiliates” of, or “intermediaries” for, entities with which they have direct relationships. But this Court and others have repeatedly observed when interpreting the TCPA that “the scope of consent, like its existence, depends heavily upon implications and the interpretation of circumstances.” *Schweitzer*, 866 F.3d at 1279 (cleaned up); *see, e.g., Blow v. Bijora, Inc.*, 855 F.3d 793, 805 (7th Cir. 2017) (scope of consent under TCPA is “dependent on the context in which it is given” (cleaned up)); *Van Patten*, 847 F.3d at 1046 (“transactional context matters”); *Baisden v. Credit Adjustments, Inc.*, 813 F.3d 338, 343 (6th Cir. 2016) (“context of the consent...is critical”).

In both *Gorss Motels* and *Fober* (Mot. 12–13), the specific facts of the consumer transactions at issue were central. In *Gorss Motels*, this Court found that hotels knowingly gave “permission” for fax solicitations from affiliates of their franchisor when, in the franchise agreement, they provided their fax numbers and “expressly agreed to receive information about purchasing items from [the franchisor’s] affiliates.” 931 F.3d at 1101; *see id.* at 1097, 1100. And in *Fober*, the Ninth Circuit held that a consumer had given informed “consent” to receive a robocall assessing the quality of her medical care when, upon enrolling in her healthcare plan, she expressly authorized the plan to disclose information in her enrollment form—which included her phone number—“for purposes...of quality improvement.” 886 F.3d at 793. In that specific context, the court held, it was irrelevant that the caller had obtained the consumer’s phone number through an intermediary of the health plan; the call was for the purpose she had knowingly authorized. *Id.*

The context here is not analogous. As the Commission explained based on an extensive record—and as common sense confirms—“most reasonable consumers would not expect to receive” telemarketing robotexts and robocalls from potentially “hundreds...of sellers” when

seeking further information by clicking on a single website link. *Order* ¶ 31.

3. Context similarly explains why IMC's contention (Mot. 9) that the Commission impermissibly defined "express consent" in 47 U.S.C. § 227(b)(1)(A) "to mean two different things" is unavailing. The Commission has not adopted inconsistent definitions of the same statutory term; rather, it has instituted different regulatory requirements to prove the statutorily required consent in different sets of circumstances.

The distinction between telemarketing and non-telemarketing, informational robocalls and robotexts predates the current *Order*. The Commission recognized this same distinction in the *2012 Order*, when it interpreted the "express consent" required by Section 227(b)(1)(A) and (B) to include express *written* consent for telemarketing robocalls, but not for other types of automated calls. As the agency then explained, obtaining prior written consent for telemarketing would require "conspicuous action by the consumer" and so "reduce the chance of consumer confusion in responding orally to a telemarketer's consent request." *Id.* ¶ 24; *see id.* ¶ 25 (consumers who orally consent to service calls "do not necessarily expect" to get telemarketing calls). In the

Commission’s judgment, equivalent evidence of consent was not needed for non-telemarketing, informational calls because consumers regarded access to this information as “highly desirable” and would “serve as a disincentive to the provision of services on which consumers have come to rely.” *Id.* ¶ 29. Thus, the different rules governing consent that the Commission adopted in 2012 were calibrated to match consumers’ expectations.

So too with the changes adopted in the *Order*. The updates were required to clarify consent in response to lead generation techniques that give rise to telemarketing robocalls, but there was no evidence of a similar problem with unwitting consent to non-telemarketing informational calls. Indeed, the need for one-to-one consent and the topical relation requirement arose in the telemarketing context, where lead generating websites purported to gain written consent—which is required only for telemarketing robocalls—through hyperlinked lists of marketing partners. By contrast, there was no evidence of a “lead generation” problem in connection with, for example, informational calls about school closings or credit card fraud. *See 2012 Order* ¶ 29 n.79. The agency thus adopted differing requirements of consent to align with consumers’ expectations. *See* TCPA § 2, 105 Stat 2394, 2394 (finding that

FCC “should have the flexibility to design different rules for those types of automated or prerecorded calls that...are not considered a nuisance or invasion of privacy, or for noncommercial calls”).

B. The new rule does not violate the First Amendment.

The prior express written consent requirement amended by the *Order* regulates only commercial speech, *i.e.*, “speech proposing a commercial transaction” to which the First Amendment “accords a lesser protection.” *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n*, 447 U.S. 557, 562 (1980).⁴ The rule is therefore subject to intermediate scrutiny: it is permissible so long as it is supported by “a substantial [government] interest” and the restrictions it imposes are “in proportion to that interest.” *Id.* at 564; *see Dana’s R.R. Supply v. Att’y Gen., Fla.*, 807 F.3d 1235, 1246 (11th Cir. 2015).

The *Order* readily satisfies this standard. IMC does not (and could not reasonably) dispute that protecting consumers from unwanted robocalls and texts is a substantial government interest. *See Mot. 15*;

⁴ The definition amended by the *Order* is required only for a robocall or robotext “that includes or introduces an advertisement or constitutes telemarketing,” defined as a message “advertising the commercial availability or quality of any property, goods, or services” or “encouraging the purchase or rental of, or investment in, property, goods, or services.” 47 C.F.R. § 64.1200(a)(2) & (3), (f)(1) & (13).

Barr, 140 S. Ct. at 2348 (upholding TCPA’s general restriction on robocalls based on the government’s interest in “protecting consumer privacy”); *Victory Processing, LLC v. Fox*, 937 F.3d 1218, 1227 (9th Cir. 2019).

The *Order* directly advances that interest. The FCC found, based on extensive comment, that consumers were beset by robocalls resulting from lead generation websites, and that the new explicit one-to-one and topical-relation consent requirements would “stop[] the practice of buried, barely visible disclosures” and instead “ensure[] that consumers consent only to sellers they wish to hear from.” *Order* ¶ 32. And contrary to IMC’s suggestion that a reduction in unwanted calls “by some unknown amount” is insufficient to sustain the Commission’s rule (Mot. 16), “empirical data” are not required under the First Amendment; “history, consensus, and simple common sense” can be sufficient support. *Fla. Bar v. Went For It, Inc.*, 515 U.S. 618, 628 (1995) (cleaned up). Here, the benefits of the rule changes, the Commission found, will “accrue to millions of individuals and businesses, including small businesses.” *Order* ¶ 59.

The *Order* is also narrowly tailored to protect consumers. It directly addresses the “lead generator loophole” by aligning with consumer

expectations of consent, but still allows consumers to consent to receive telemarketing robocalls from sellers they want to hear from so long as, to prevent confusion, consent is seller-specific. *Order* ¶ 38. The Commission likewise has not banned or unduly restricted comparison shopping websites; it simply prevents them from requiring consumers to “agree to receive robocalls or robotexts from multiple, potentially hundreds, of other callers” as a precondition “to access[ing] [comparison shopping] services.” *Id.* ¶ 32. The *Order* does not even prevent sellers from contacting consumers who have given a generalized consent to a long list of “marketing partners”—the sellers simply cannot employ robocalling or robotexting to do so. *Order* ¶¶ 38–39.

IMC characterizes the rule as “underinclusive” because it targets only telemarketing. Mot. 15–16. But “the First Amendment imposes no freestanding ‘underinclusiveness limitation.’” *Williams-Yulee v. Fla. Bar*, 575 U.S. 433, 449 (2015) (citation omitted). Instead, underinclusiveness is relevant only if it is so irrational as to “raise doubts about whether the government is in fact pursuing the interest it invokes.” *Id.* at 448 (cleaned up). That is not the case here, where the record showed a problem with telemarketing robocalls, but no such problem with non-telemarketing calls.

IMC’s contention that the FCC failed to address less restrictive proposals in the record—such as IMC’s proposal that lead generator websites more explicitly disclose (but not substantively change) their practices—is likewise incorrect. Mot. 17. The agency cited these proposals, including IMC’s, and explained why, in the agency’s judgment, they “would not close the lead generator loophole.” *Order* ¶ 34; *see id.* n.85. Among other things, the Commission concluded those proposals would not “provide consumers with sufficient control” or “prevent the daisy-chaining of consents.” *Id.* ¶ 34.

Although the Commission’s rule thus easily survives intermediate scrutiny, IMC argues that the rule is instead subject to strict scrutiny because the rule applies only to telemarketing calls, and so is purportedly “content-based.” Mot. 14. (citing *Reed v. Town of Gilbert, Az.*, 576 U.S. 155, 165 (2015) (a “law that is content based on its face is subject to strict scrutiny”), and *Barr*, 140 S. Ct. at 2343). Under IMC’s theory, then, a law that applies only to commercial speech is subject to strict scrutiny precisely because it applies only to commercial speech.

For this Court to adopt IMC’s logic would require a major departure from established commercial speech doctrine. Indeed, the Supreme Court itself recently disclaimed this reading of *Reed* and *Barr*. *See City of*

Austin, Tx. v. Reagan Nat'l Advert. of Austin, LLC, 596 U.S. 61, 72 (2022). As the Court explained, although one must “read or hear” a message to know if it entails a commercial solicitation, “restrictions on solicitation are not content based and do not inherently present ‘the potential for becoming a means of suppressing a particular point of view,’ so long as they do not discriminate based on topic, subject matter, or viewpoint.” *Id.* This Court and others have likewise recognized the continuing applicability of intermediate scrutiny in commercial speech cases. *See, e.g., Recht v. Morrisey*, 32 F.4th 398, 409 (4th Cir. 2022) (“*Reed* simply concerned a totally different context; it cannot be distorted to so unsettle the *Central Hudson* regime.”); *Dana’s R.R. Supply*, 807 F.3d at 1246 (“Content-based restrictions on...commercial...speech” receive “more leeway because of the robustness of the speech and the greater need for regulatory flexibility.”).

In fact, the scope of *Reed* and *Barr* are far narrower than IMC contends. *Reed* involved a law that regulated and distinguished among ideological, political, and nonprofit signs—speech at the heart of the First Amendment and subject to the highest scrutiny—and the Court had no reason to discuss commercial speech. 576 U.S. at 159–61. And IMC gets *Barr* backwards: that case invalidated a statutory provision that

preferred one subset of commercial speech—messages concerning collection of government debts—above all other forms of commercial and noncommercial speech, including political speech. *See* 140 S. Ct. at 2346. The regulation at issue here, by contrast, regulates only commercial speech, without regard to the content of that speech. The *Barr* majority nowhere suggested that it was overruling *Central Hudson*, and indeed disavowed any intention “to expand existing First Amendment doctrine or to otherwise affect traditional or ordinary economic regulation of commercial activity.” *Id.* at 2347. Accordingly, IMC’s First Amendment challenge fails.⁵

II. THE REMAINING FACTORS ALSO WEIGH AGAINST A STAY.

A stay pending review is not warranted without a “showing of irreparable injury,” “the *sine qua non* of injunctive relief.” *Siegel*, 234 F.3d at 1176. And as this Court has “emphasized on many occasions, the asserted irreparable injury ‘must be neither remote nor speculative, but actual and imminent.’” *Id.* (internal quotation marks omitted).

⁵ For purposes of the abbreviated merits discussion in this stay opposition, we do not analyze the Commission’s rule under the plainly inapplicable framework of strict scrutiny.

IMC has not made that showing here. It has submitted a declaration that describes potential business losses from a member insurance marketer and insurer, but the vast majority of those claimed losses—including the supposed devaluation of previously generated “shared leads,” Mot. 19; *see* Liebergall Decl. ¶¶ 11–21—will not occur until the Commission’s revised rule takes effect next year. *See above* 9 & n.2. There is no reason to think this case cannot be decided in the normal course before then. Moreover, IMC fails to substantiate the magnitude of the claimed devaluation of its members’ leads, because it fails to acknowledge (e.g., Mot. 19) that such leads could still be used for live calls (not robocalls), and its supporting declarant does not clearly explain the degree to which the company’s monetization of shared leads depends on robocalling or robotexting. Any theoretical devaluation of shared leads would not be “irreparable” in any event, because IMC’s members could offset any losses by placing live calls using those leads and because, should this Court ultimately vacate the Commission’s rule, IMC’s members could resume using their shared leads as before.

The declaration that IMC provides from a lead generator likewise does not adequately substantiate the claimed harms. For example, although the declarant asserts that his company has “already lost several

clients” because of the *Order*, Dobak Decl. ¶ 24, it is not clear how the declarant can reasonably attribute the loss of those clients to a “fear[] of...being out of compliance” with a rule that will not take effect for many months, *id.* Similarly, it is unclear under this declaration why IMC’s members should be expected to incur costs for updating their practices and systems any time imminently. *See id.* ¶ 11 (estimating the required time to create a revised system at {{ [REDACTED] }}).⁶

Finally, any conceivable near-term costs of compliance with the new rule would be modest compared to the harm consumers—including small businesses—currently experience from unwanted robocalls and robotexts. *Compare id.* ¶ 11 (predicting costs of {{ [REDACTED] }} to design new systems), *with Order* ¶ 47 (estimating annual harm from unwanted calls of at least \$13.5 billion). Indeed, whatever compliance costs IMC’s members may eventually incur by changing their business practices are the necessary flip side of the benefits the revised rule will bring. The public interest therefore weighs heavily against a stay.

⁶ Information in double braces is material that IMC has submitted under seal as confidential. We have redacted it from the public version of this brief.

“A stay is an intrusion into the ordinary processes of administration and judicial review” and is never “a matter of right.” *Nken*, 556 U.S. at 427. Under all the governing factors, IMC has failed to justify its request for a stay here.

CONCLUSION

The motion for stay pending review should be denied.

Dated: April 15, 2024

Respectfully submitted,

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/s/ Matthew J. Dunne _____
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Federal Communications Commission

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As far as we aware, the Certificate Of Interested Persons in Petitioner's Motion for Stay is complete.

/s/ Matthew J. Dunne

Matthew J. Dunne
Counsel for Respondent
Federal Communications Commission

Exhibit A

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Targeting and Eliminating Unlawful Text Messages
Rules and Regulations Implementing the
Telephone Consumer Protection Act of 1991
CG Docket No. 21-402
CG Docket No. 02-278

REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: March 16, 2023

Released: March 17, 2023

Comment Date (30 days after date of publication in the Federal Register)
Reply Comment Date (60 days after date of publication in the Federal Register)

By the Commission: Chairwoman Rosenworcel and Commissioner Starks issuing separate statements.

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I. INTRODUCTION

1. Text messaging is among our most popular forms of communication, quickly connecting people to friends and family, businesses to customers, and governments to constituents. However, with that popularity comes unique risks. On many devices, consumers can immediately see some or all of these messages, potentially piquing their interest and enticing them to open the message. Data shows consumers read nearly all texts, and do so nearly immediately; whereas calls from unknown callers are often ignored by consumers. While some text messages may present similar problems as unwanted calls—they invade consumer privacy and are vehicles for consumer fraud and identity theft¹—they also present harms beyond robocalls that can exacerbate the problem of such scams. Text message-based scams can include links to well-designed phishing websites that appear identical to the website of a legitimate company and can fool a victim into providing personal or financial information. Texted links can also load unwanted software onto a device, including malware that steals passwords, credentials, or other personal information. We are therefore, for the first time, requiring all mobile wireless providers to block certain text messages that are highly likely to be illegal, so that all subscribers have a basic level of protection.² This action will help to ensure that all wireless consumers receive the same protections, regardless of which mobile wireless provider they use to receive SMS and MMS messages.

2. Mobile wireless providers and others have taken steps to protect consumers from potentially harmful text messages; nevertheless, unlawful text messaging is trending in the wrong direction. One source, for example, reports that consumer losses from scam texts were \$231 million for the first three quarters of 2022, up from \$86 million for all of 2020. The time is therefore right for us to take steps to protect consumers.

3. In this Report and Order, we take Commission action to require mobile wireless providers to block certain robotext messages³ that are highly likely to be illegal.⁴ Building on our call blocking work, we require mobile wireless providers to block—at the network level—texts purporting to be from North American Numbering Plan (NANP)⁵ numbers on a reasonable Do-Not-Originate (DNO)⁶

¹ The scope of our decision here is text messaging originating from NANP numbers that use the wireless networks, e.g., Short Message Service (SMS) and Multimedia Messaging Service (MMS), not over-the-top (OTT) messaging, such as iMessage and WhatsApp or Rich Communications Services (RCS). *See* 47 CFR § 64.1600(o) *et seq.*

² Commenters share this goal of protecting consumers from illegal text messages. NCLC/EPIC Joint Reply at 1.

³ Texting (SMS and MMS) is not a common-carrier service. *Petitions for Declaratory Ruling on Regulatory Status of Wireless Messaging Service*, WT Docket No. 08-7, Declaratory Ruling, 33 FCC Rcd 12075, 12082-12089, paras. 17-32 (2018) (*Messaging Declaratory Ruling*), *recon. pending*, [Rept. No. 3011](#) (Feb. 5, 2019). SMS and MMS wireless messaging services are not the functional equivalent of commercial mobile services (CMRS). *Messaging Declaratory Ruling*, 33 FCC Rcd at 12093, para. 37.

⁴ *Targeting and Eliminating Unlawful Text Messages*, CG Docket No. 21-402, Notice of Proposed Rulemaking, FCC 22-72, 2022 WL 4545905 (2022) (*NPRM*). The list of comments, replies, and *ex parte* filings is in Appendix B. We use “robotexts” to include text messages that may be legal or illegal. Some robotext messages are both legal and wanted, just as some robocalls are legal and wanted. Text messages may be illegal because they violate the Telephone Consumer Protection Act, such as by being made with an autodialer and being sent without the necessary consent, because the number displayed is illegally spoofed, which violates the Truth in Caller ID Act, or for other reasons, particularly if they are fraudulent.

⁵ The “North American Numbering Plan” is the basic numbering scheme for the telecommunications networks located in American Samoa, Anguilla, Antigua, Bahamas, Barbados, Bermuda, British Virgin Islands, Canada, Cayman Islands, Dominica, Dominican Republic, Grenada, Jamaica, Montserrat, Saint Maarten, St. Kitts & Nevis, St. Lucia, St. Vincent, Turks & Caicos Islands, Trinidad & Tobago, and the United States (including Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands). 47 CFR § 52.5(d).

⁶ The Commission explained in the *2017 Call Blocking Report and Order* that calls from a DNO list, i.e., purporting to be from a telephone number that the subscriber did not consent to being used for outgoing calls, are very likely fraudulent and in violation of the Commission’s anti-spoofing rule, and therefore, no reasonable consumer would

(continued....)

list, which include numbers that purport to be from invalid, unallocated, or unused numbers, and NANP numbers for which the subscriber to the number has requested that texts purporting to originate from that number be blocked. At the same time, we take steps to ensure that any erroneous blocking can be quickly remedied by requiring providers and other entities to maintain a point of contact for texters to report erroneously blocked texts.

4. We also propose a set of additional protections that could further stem the tide of illegal text messages. We propose to require terminating providers to block texts from a sender after they are on notice from the Commission that the sender is sending illegal texts, to extend the National Do-Not-Call Registry's protections to text messages, and to ban the practice of marketers purporting to have written consent for numerous parties to contact a consumer, based on one consent.

5. We anticipate that the rules we adopt here will result in fewer illegal text messages to consumers.

II. BACKGROUND

6. *The Illegal Text Problem.* Illegal robotext messages present the same problems as illegal robocalls—beyond nuisance, they invade a consumer's privacy and are vehicles for fraud.⁷ Commission data show that consumers are receiving increasing numbers of these types of text messages.⁸ The Commission's Consumer Advisory Committee (CAC)⁹ recently reported that bad actors use a variety of tactics to commit fraud using text messages.¹⁰ According to CTIA, between 2015 and 2020, while the total volume of text messages roughly doubled, the number of spam text messages that wireless providers blocked grew ten times, from an estimated 1.4 billion in 2015 to 14 billion in 2020.¹¹ The App Association observes that automated text messages have jumped nationally from 1 billion in July 2021 to 12 billion in June 2022.¹² This commenter also observes that illegal texts impose significant harm to

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wish to receive such a call. See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, WC Docket No. 17-97, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9706, 9710, para. 10 (2017) (*2017 Call Blocking Report and Order*). The rules we adopt in this Report and Order define the group of numbers that shall be on a "reasonable DNO list." See *infra* para. 13. We do not require mobile wireless providers to use the same reasonable DNO list for purposes of our text message blocking rules as they use for purposes of our call blocking rules. "Reasonable" for these purposes is determined in the context of text messaging only. However, a list so limited in scope that it leaves out obvious numbers that could be included with little effort may be deemed unreasonable.

⁷ For more information on how to avoid or report unwanted calls and texts, see FCC, Consumer Guides, *Stop Unwanted Robocalls and Texts*, <https://www.fcc.gov/consumers/guides/stop-unwanted-robocalls-and-texts> (last visited Dec. 19, 2022); Federal Trade Commission, Consumer Advice, *How to Recognize and Report Spam Text Messages*, <https://consumer.ftc.gov/articles/how-recognize-and-report-spam-text-messages> (last visited Feb. 2, 2023).

⁸ Since 2015, the Commission has seen a more than 500% increase in unwanted text complaints, from approximately 3,300 in 2015 to 18,900 in 2022.

⁹ The CAC is a committee that makes recommendations to the Commission regarding consumer issues within the jurisdiction of the Commission and facilitates the participation of all consumers in proceedings before the Commission. FCC, Consumer Advisory Committee, *About CAC*, <https://www.fcc.gov/consumer-advisory-committee> (last visited Jan. 18, 2023).

¹⁰ FCC, Consumer Advisory Committee, Report on the State of Text Messaging at 11-12 (2022) (CAC Report).

¹¹ CTIA Comments at 2.

¹² The App Association Reply at 2, citing Daisy Gonzalez-Perez, *Rise of the robotexts: As new rules curbed spam calls, texts took off*, Cronkite News, (July 21, 2022), <https://cronkitenews.azpbs.org/2022/07/21/rise-of-the-robotexts-as-new-rules-curbed-spam-calls-texts-took-off>.

consumers, particularly for aging Americans struggling with digital literacy.¹³ Robokiller reports 47.2 billion spam texts were sent in November 2022 alone.¹⁴ Consumer comments filed in this proceeding also describe personal experiences with unwanted and scam texts.¹⁵ And consumer groups note that, according to the Federal Trade Commission (FTC), consumers have reported greater losses, at \$231 million, from text message scams in the first three quarters of 2022 than in all of 2020 and 2021 combined.¹⁶ Robokiller projects a 179% increase in the dollars lost from text messages between 2021 and 2022.¹⁷

7. In their schemes, text scammers exploit emergencies such as the COVID-19 pandemic and natural disasters, along with other important topics that grab consumers' attention such as student loans and unemployment insurance.¹⁸ Illegal texts can include links to phishing¹⁹ websites that appear to be the website of a legitimate company and deceive the victim into providing personal or financial information.²⁰ Reports indicate that "smishing" fraud increased by 700% last year.²¹ The potential harm

¹³ The App Association Reply at 2.

¹⁴ See Robokiller, United States Spam Text Trends, 2022 United States Robotext Trends, <https://www.robokiller.com/spam-text-insights> (last visited Dec. 19, 2022).

¹⁵ See, e.g., Omoigui Express Comment (receiving scam text messages from unknown numbers with "Hi" or with a link, claiming to be a company like Amazon or CVS reaching out with a gift card); Anna K. Comment at 1; Boyd Express Comment; Hillenburg Comment at 1; Schmidt Comment at 1 ("I am in support of the proposed rule. I am tired of receiving weird, questionable, and risky texts.").

¹⁶ NCLC/EPIC Joint Reply at 5, citing FTC, Consumer Sentinel Network, *Fraud Reports*, <https://public.tableau.com/app/profile/federal.trade.commission/viz/FraudReports/FraudFacts> (adding the first three quarters of 2022, totaling \$231M; the total for 2021 was \$131M, and for 2020 was \$86M) (last visited Feb. 2, 2023).

¹⁷ NCLC/EPIC Joint Reply at 5, citing Robokiller, *The Robokiller Report, 2022 Mid-Year Phone Scam Insights*, <https://www.robokiller.com/the-robokiller-report> (last visited Feb. 2, 2023).

¹⁸ See, e.g., FCC, *COVID-19 Text Scams*, <https://www.fcc.gov/covid-19-text-scams> (last visited Sept. 26, 2022); FCC, *Fear Fuels COVID-19 Contact Tracing Scams*, <https://www.fcc.gov/fear-fuels-covid-19-contact-tracing-scams> (last visited Dec. 21, 2022); FCC, Consumer Alert, *Scam Robotexts are a Rising Threat*, (Jul. 28, 2022), <https://www.fcc.gov/robotext-scams-rise>; FCC, Consumer Guides, *Stop Unwanted Robocalls and Texts*, <https://www.fcc.gov/consumers/guides/stop-unwanted-robocalls-and-texts> (last visited Dec. 19, 2022); Federal Trade Commission, Consumer Advice, *How to Recognize and Report Spam Text Messages*, <https://consumer.ftc.gov/articles/how-recognize-and-report-spam-text-messages> (last visited Feb. 2, 2023); Department of Justice, Federal Bureau of Investigations, Cyber Division, *Cyber Criminals Create Fraudulent Cryptocurrency Investment Applications to Defraud US Investors*, (Jul. 18, 2022), <https://www.ic3.gov/Media/News/2022/220718.pdf>; Internal Revenue Service, News Releases, *IRS Reports Significant Increase in Texting Scams; Warns Taxpayers to Remain Vigilant*, (Sept. 28, 2022), <https://www.irs.gov/newsroom/irs-reports-significant-increase-in-texting-scams-warns-taxpayers-to-remain-vigilant>; NBC News, Kevin Collier, *Odd Text from a Wrong Number? It's Probably a Scam*, (Jul. 29, 2022), <https://www.nbcnews.com/tech/security/wrong-number-text-scam-rcna39793>; WMC Global Comments at 4 (Millions of consumers are receiving links to phishing websites and phishing messages purportedly from their state's workforce agency in an extensive and far-reaching campaign targeting U.S. consumers.).

¹⁹ WMC Global Comments at 2 (The most significant cyber threats to mobile users revolve around compromising their personal information, often through brand impersonation or phishing. SMS phishing—commonly referred to as "smishing"—is an extremely effective method and scammers are learning just how simple and profitable it is.). "Smishing" is a term that combines SMS and phishing. Scammers use smishing to target consumers with deceptive text messages sent to their smart devices. FCC, *Avoid the Temptation of Smishing Scams*, <https://www.fcc.gov/avoid-temptation-smishing-scams> (last visited Feb. 8, 2023).

²⁰ See, e.g., Federal Trade Commission, Consumer Advice, *How to Recognize and Avoid Phishing Scams*, <https://consumer.ftc.gov/articles/how-recognize-and-avoid-phishing-scams> (last visited Dec. 21, 2022); AT&T, Cyber Aware, *Text Message Scams*, https://about.att.com/pages/cyberaware/ni/blog/text_scams (last visited Dec. 21, 2022); Verizon, *Smishing and Spam Text Messages*, <https://www.verizon.com/about/account-security/smishing-and->

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from illegal texts is more than just economic in nature; fraudulent, misleading texts can also erode trust in our country's political and campaign infrastructure.²² Scam links can load malware onto phones that steals passwords and other credentials.²³ WMC Global explains that account takeover is one of the most prevalent methods used to deliver phishing attacks to consumers.²⁴ In perpetrating these attacks, a scammer can use a stolen application programming interface (API) key assigned to a legitimate business to send SMS phishing messages to victims.²⁵

8. *Commission Action on Call Blocking.* The Commission has adopted call blocking²⁶ rules to address illegal and unwanted robocalls. Since 2017, the Commission has authorized voice service providers to block certain calls without consumers' consent.²⁷ In 2017, the Commission authorized voice service providers to block, at the network level, calls purporting to be from invalid, unallocated, or unused NANP numbers, and numbers on a DNO list.²⁸ In 2019, it clarified that voice service providers may offer call blocking services on an opt-out basis to new and existing customers, and that such services may block calls where the blocking is based on reasonable analytics designed to identify unwanted calls.²⁹ In the *Call Blocking Third Report and Order*, the Commission enabled additional voice service provider blocking, establishing two safe harbors from liability under the Communications Act and the Commission's rules for erroneous call blocking.³⁰ Subsequently, the Commission expanded one of those safe harbors, allowing terminating voice service providers to block calls at the network level, without consumer consent, if that blocking is based on reasonable analytics that incorporate caller ID authentication information designed to identify calls and call patterns that are highly likely to be illegal.³¹

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[spam-text-messages](#) (last visited Dec. 21, 2022). See WMC Global Comments at 2 (During the COVID-19 pandemic, scammers began leveraging phishing kits, i.e., back-end source code packages used to launch phishing attacks, to defraud both U.S. citizens and government agencies out of unemployment payments.)

²¹ Infobip Reply at 2-3, citing Weston Sabina. "Smishing attacks increased 700% in first six months of 2021," ITPro, (Sept. 14, 2021), <https://www.itpro.co.uk/security/scams/360873/smishing-attacks-increase-700-percent-2021>.

²² Campaign Verify Comments at 3.

²³ Public Knowledge Reply at 2.

²⁴ WMC Global Comments at 3.

²⁵ *Id.* The API keys are typically stolen through data breaches, business email compromise, and insider threats. *Id.*

²⁶ Call blocking is "stopping calls outright so that they do not ring a phone, routing the calls directly to voicemail without ringing the phone, or some other treatment, such as interactive voice response session or voice call screening." *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, WC Docket No. 17-97, Declaratory Ruling and Third Further Notice of Proposed Rulemaking, 34 FCC Rcd 4876, 4884 n.47 (2019) (*2019 Call Blocking Declaratory Ruling*).

²⁷ *2017 Call Blocking Report and Order*, 32 FCC Rcd at 9710-21, paras. 10-40; *2019 Call Blocking Declaratory Ruling*, 34 FCC Rcd at 4886-88, paras. 33-34; 47 CFR § 64.1200(k)(1), (2).

²⁸ *2017 Call Blocking Report and Order*, 32 FCC Rcd at 9710-21, paras. 10-40. Phone numbers that are only used by their subscribers to receive inbound calls can be placed on a DNO list. *Id.* at 9710, para. 10.

²⁹ *2019 Call Blocking Declaratory Ruling*, 34 FCC Rcd at 4886-88, paras. 33-34.

³⁰ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Third Report and Order, Order on Reconsideration, and Fourth Further Notice of Proposed Rulemaking, 35 FCC Rcd 7614, 7623-31, paras. 20-45 (2020) (*Call Blocking Third Report and Order*). The first of these safe harbors protects terminating voice service providers that block calls based on reasonable analytics, including caller ID authentication information, designed to identify unwanted calls so long as the consumer is given the opportunity to opt out. *Id.* at 7625-27, paras. 25-34. The second safe harbor protects any voice service provider that blocks calls from a bad-actor upstream voice service provider that fails to effectively mitigate illegal traffic when notified of such traffic by the Commission. *Id.* at 7627-31, paras. 35-45.

The *Call Blocking Fourth Report and Order* also required voice service providers to take steps to stop illegal traffic on their networks and assist the Commission, law enforcement, and the industry traceback consortium³² in tracking down callers that make such calls.³³

9. The Commission expanded these rules further last year in the *Gateway Provider Order*, making its previously permissive blocking policy mandatory in certain circumstances.³⁴ That Order, among other things, required gateway providers to block calls based on any reasonable DNO list, block illegal traffic upon Commission notification, respond to traceback requests within 24 hours, and adopted a know-your-upstream-provider policy for gateway providers.³⁵

10. *The TCPA and Do-Not-Call*. In addition to the rules described above, the Commission has other protections for consumers, specifically in the Telephone Consumer Protection Act (TCPA)³⁶ and the Do Not Call (DNC) rules. For example, certain calls and texts sent using an automatic telephone dialing system and calls made using a prerecorded or artificial voice to mobile telephone numbers require consumer consent.³⁷ In 2015, the Commission also clarified that Internet-to-phone text messages, which are sent via the Internet to a mobile wireless provider and then routed to a consumer's phone over the provider's wireless network, are also covered by the TCPA's protections.³⁸

11. The Commission's DNC rules also protect consumers from unwanted telephone solicitations or telemarketing calls to wireless and wireline phones when the consumer has added their

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³¹ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Fourth Report and Order, 35 FCC Rcd 15221, 15236, at para. 42 (2020) (*Call Blocking Fourth Report and Order*). The Commission made clear that this blocking must be managed “with human oversight and network monitoring sufficient to ensure that the blocking works as intended,” which “must include a process that reasonably determines that the particular call pattern is highly likely to be illegal prior to blocking calls that are part of that pattern.” *Id.* at 15234-5, 15236, paras. 39, 42-43.

³² The current industry traceback consortium is the Industry Traceback Group (ITG), which is a group of voice service providers, wireline, wireless, and VoIP, that are tracing and identifying the source of illegal robocalls. See ITG, <https://tracebacks.org> (last visited Dec. 21, 2022).

³³ *Call Blocking Fourth Report and Order*, 35 FCC Rcd at 15226-27, para 13. See 47 CFR § 64.1200(n)(2). In our Further Notice of Proposed Rulemaking we are seeking comment on extending to text messages the existing requirement that voice service providers take steps to effectively mitigate illegal traffic when a voice service provider receives actual written notice of such traffic from the Commission.

³⁴ *Advanced Methods to Target and Eliminate Illegal Robocalls*, CG Docket No. 17-59, WC Docket No. 17-97, Sixth Report and Order in CG Docket No. 19-59, Fifth Report and Order in WC Docket No. 17-97, Order, Seventh Further Notice of Proposed Rulemaking in CG Docket No. 17-59 & Fifth Further Notice of Proposed Rulemaking in WC Docket No. 17-97, 2022 WL 1631842 at paras. 74-86, FCC 22-31 (rel. May 20, 2022) (*Gateway Provider Report and Order*).

³⁵ See 47 CFR §§ 64.1200 (k)(5), (k)(6), (n)(1), (f)(19), (n)(4), (n)(5), (n)(6), (o), (p).

³⁶ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014, 14115, para. 165 (2003) (*2003 TCPA Order*). The DNC rules apply to calls to wireline and wireless phones. *Id.* at 14115-16, paras. 165-66.

³⁷ 47 U.S.C. § 227(b)(1)(A). In the *Facebook v. Duguid* decision, the Supreme Court clarified that “a necessary feature of an autodialer under § 227(a)(1)(A) is the capacity to use a random or sequential number generator to either store or produce phone numbers to be called.” *Facebook, Inc. v. Duguid*, 141 S.Ct. 1163, 1171 (2021) (*Facebook*). The Commission made clear in 2003 that “calls” include text messages to wireless numbers including, for example, SMS calls, provided the call is made to a telephone number assigned to such service. *2003 TCPA Order*, 18 FCC Rcd at 14115, para. 165.

³⁸ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, 30 FCC Rcd 7961, 8019-20, para. 113-15 (2015) (*2015 TCPA Declaratory Ruling and Order*).

wireline or wireless number to the National DNC Registry.³⁹ DNC rules state that telemarketers, subject to certain exceptions,⁴⁰ are prohibited from initiating any telephone solicitation to “[a] residential telephone subscriber who has registered his or her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations”;⁴¹ this rule also applies to wireless telephone numbers.⁴² Yet, while the Commission included both wireless and wireline numbers in the DNC protections, it has not explicitly included text messages in the DNC rules.⁴³

12. *Text Blocking Notice of Proposed Rulemaking.* In the *NPRM*, we proposed to protect consumers from the increasing numbers of illegal text messages by extending to text messages some of the consumer protections that have been successful against illegal voice calls.⁴⁴ We proposed to adopt a rule requiring mandatory blocking of texts that purport to be from numbers on a reasonable DNO list. We also sought comment on whether to adopt a requirement that mobile service providers maintain a single point of contact for senders to report erroneously blocked texts. We also sought comment on the extent to which spoofing⁴⁵ is a problem with regard to text messaging and on applying caller ID authentication standards to text messaging.⁴⁶

III. REPORT AND ORDER

13. In this Report and Order, we for the first time require mobile wireless providers⁴⁷ to take action to protect consumers from certain text messages that are highly likely to be illegal. We require these mobile wireless providers to block texts that purport to be from NANP numbers on a reasonable DNO list, which include numbers that purport to be from invalid, unallocated, or unused numbers, and NANP numbers for which the subscriber to the number has requested that texts purporting to originate from that number be blocked; these are texts that no reasonable consumer would wish to receive because they are highly likely to be illegal. At the same time, and also consistent with our work on call blocking, we take steps to mitigate the risk of erroneous blocking by requiring mobile wireless providers to ensure that senders have access to points of contact to report erroneously blocked texts.

³⁹ *2003 TCPA Order*, 18 FCC Rcd at 14115-16, paras. 165-66.

⁴⁰ *Id.* at 14042-46, paras. 42-47; 47 CFR § 64.1200(f)(15)(i)-(iii) (exempting certain types of calls from the definition of “telephone solicitation”). Telemarketers may claim a safe harbor by demonstrating that any violation was the result of an error. *2003 TCPA Order*, 18 FCC Rcd at 14040, para. 38; 47 CFR § 64.1200(c)(2)(i)-(iii).

⁴¹ 47 CFR § 64.1200(c)(2). *See also 2003 TCPA Order*, 18 FCC Rcd at 14034, para. 28.

⁴² 47 CFR § 64.1200(e).

⁴³ The Commission has previously concluded that SMS and MMS text messaging is an information service and not a common-carrier service. *See Messaging Declaratory Ruling*, 33 FCC Rcd at 12082-12089, paras. 17-32, *recon. pending*, [Rept. No. 3011](#) (Feb. 5, 2019).

⁴⁴ *NPRM* at para. 18.

⁴⁵ Spoofing is falsifying the caller ID information that appears on the called party’s phone with the intent to defraud, cause harm, or wrongfully obtain something of value. 47 U.S.C. § 227(e).

⁴⁶ We are not adopting a caller ID authentication requirement here. Commenters generally opposed this and explained that illegal and unwanted messages rarely come from spoofed numbers and a caller ID authentication solution, even if feasible, would be unlikely to reduce unwanted and illegal text messages. *See, e.g.*, CTIA Comments at 4-5, 11; EZ Texting Comments at 5-6; M³AAWG Comments at 10; NetNumber Comments at 7 & Reply at 2-3; Sinch Comments at 6-7; Telesign Comments at 2-3; T-Mobile Comments at 9-10; Verizon Comments at 7 & Reply at 4-5; WMC Global Comments at 2; AT&T Reply at 9-10; Cloud Communications Reply at 1-2; RWA Reply at 3-5; Vibes Reply at 2-4.

⁴⁷ The rules we adopt in this Order are limited to SMS and MMS text messaging; therefore, for purposes of this Order, the service providers offering SMS and MMS text messaging are “mobile wireless providers.”

14. We recognize at the outset the efforts providers and others have made in protecting consumers from illegal, or otherwise harmful, texts.⁴⁸ As commenters have discussed, providers and others have adopted measures to protect consumers from such text messages, such as upfront vetting for bulk message senders, the CTIA Messaging Principles and Best Practices, and providers' own requirements and guidance.⁴⁹ We believe that our actions and proposals today complement those efforts while ensuring customers of all providers get a baseline of protection. While we believe industry efforts to date are important to protect consumers, the increases in consumer complaints and consumer harm from robotext messages convinces us to take additional measures to protect consumers. As some commenters note, robotexts will likely increase as scammers migrate from calling to texting.⁵⁰ We agree with industry commenters that say fostering information and collaboration is an important part of the effort. But, in light of increased scams robbing consumers of their money and time, we disagree that we should wait to take targeted action.

15. We choose to act now and, for the first time, require text blocking by all mobile wireless providers so that all subscribers have the same basic level of protection.⁵¹ As the number of illegal text messages grows, so does the risk to consumers. Our action ensures protection for all wireless consumers, regardless of which mobile wireless provider they use to receive messages. We therefore disagree with CTIA, that we could undermine current efforts by mobile wireless providers to protect consumers from scam texts because there is a risk that some providers will “divert resources away from innovative solutions that can more accurately and effectively target spam text messages.”⁵² Given the limited nature of the rules we adopt and the unchallenged record data that consumers are increasingly harmed by text scams, we are not persuaded that mobile wireless providers would divert significant resources from other anti-spam initiatives and that they are not needed at this time. Nor does anything in the rules we adopt here prevent mobile wireless providers from engaging in existing or future anti-spam efforts or require them to block messages from short codes or OTT applications.⁵³

A. Mandatory Blocking of Texts that are Highly Likely to be Illegal

16. We adopt our proposal to require mobile wireless providers to block text messages at the network level (i.e., without requiring consumer opt in or opt out). The rule we adopt requires that they block texts purporting to be from numbers on a reasonable DNO list.⁵⁴ As the Commission determined

⁴⁸ See, e.g. CTIA Comments at 8-9; INCOMPAS Comments at 6; T-Mobile Comments at 6; VON Comments at 3; AT&T Reply at 5; NCLC/EPIC Joint Reply at 5.

⁴⁹ See, e.g., CTIA Comments at 9; Sinch Comments at 3; T-Mobile Comments at 4-7; Verizon Comments at 2; AT&T Reply at 3-6.

⁵⁰ NORC Reply at 1.

⁵¹ Commenters share this goal of protecting consumers from illegal text messages. See, e.g., AB Handshake Comments at 1; Campaign Verify Comments at 3; CCA Comments at 4; CTIA Comments at 2-3; T-Mobile Comments at 10-11; Verizon Comments at 2; VON Comments at 2; AT&T Reply at 5-6; NCLC/EPIC Joint Reply at 1; Letter from Scott Bergmann, Senior Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 12, 2023) at 1 (CTIA 3/12/23 *ex parte*); Letter from Christopher L. Shipley, INCOMPAS; David Casem, Telnyx; Paula Boyd, Microsoft; Helen Marie Berg, Google, Michael Pryor, Cloud Communications Alliance; Greg Rogers, Bandwidth to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 10, 2023) at 1 (INCOMPAS Joint *ex parte*).

⁵² CTIA Comments at 13-14.

⁵³ See *id.* (expressing concerns about blocking of legitimate text messages).

⁵⁴ *NPRM* at para. 19. The text messaging services discussed in this proceeding are information services that route messages through the wireless mobile provider networks. *Messaging Declaratory Ruling*, 33 FCC Rcd at 12078, para. 8. In the *NPRM*, we observed that the definition of text message includes SMS messages but “does not include . . . a message sent over an IP-enabled messaging service to another user of the same messaging service.” *NPRM* at para. 23. Commenters generally agree that OTT messaging is not covered by our current definition of text

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with calls, we find that no reasonable consumer would wish to receive text messages that spoof a number that is not in operation or, worse, purports to be from a well-known, trusted organization that does not send text messages and thus is highly likely to be a scam. Our requirement to block texts that purport to be from numbers on a reasonable DNO list does not include text messages from short codes.

17. We find it appropriate to adopt a mandatory rule here for blocking texts that purport to be from numbers on a reasonable DNO list for several reasons: (i) the texts from such numbers are likely to be illegal; (ii) illegal text messages can have links to malware, a problem that voice calls do not have; (iii) the volume of illegal text messages is increasing, particularly since we adopted measures to block such voice calls; (iv) consumers expect to receive texts from unfamiliar numbers, e.g., as appointment reminders and for double factor authentication, and therefore are more likely to open such messages even when they do not recognize the sending party; and (v) our approach provides benefits to consumers while imposing minimal burden on mobile wireless providers.

18. Our decision to require blocking here, rather than simply rely on industry's voluntary efforts to block, as we have done in the past with certain call blocking, is in part the result of the heightened risk of text messages as both annoyance and vehicles for fraud. The ubiquity and familiarity of text messaging and the alerts that accompany texts contribute to consumers' receptiveness to text messages.⁵⁵ Data indicates that consumers read nearly all texts they receive, and do so nearly immediately.⁵⁶ Indeed, industry data suggests that consumers open a far larger percentage of text messages than email, and open such messages much more quickly.⁵⁷ This stands in contrast to calls where, as we have said repeatedly, consumers report no longer trusting calls from an unfamiliar number and refusing to answer them. Further, we believe this requirement does not impede text messaging by legitimate businesses because our rule is narrowly focused on a set of messages that are highly likely to be illegal: they purport to be from numbers from which no consumer should receive a text message.⁵⁸

19. As the Senate Committee on Commerce, Science, and Transportation (Senate Commerce Committee) observed: "In recent years, spoofing scams in the United States have used text messaging services and other alternative voice communications services."⁵⁹ And Senator Schatz explains, "[t]exts

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messaging. *See, e.g.*, ABA Joint Commenters at 8; CRC Comments at 3; INCOMPAS Comments at 7 & Reply at 7. The App Association contends, and we agree, that imposing such new rules on OTT messaging services could disproportionately burden smaller carriers and OTT providers and suppress the development of new innovative solutions. App Association Reply at 5. Therefore, for purposes of this rule, we use the same definition of text message that the Commission has used for purposes of the Truth-in-Caller ID Act. *See* 47 CFR § 64.1600(o) *et seq.* That is, a "text message" is a "message consisting of text, images, sounds or other information that is transmitted to or from a device that is identified as the receiving or transmitting device by means of a 10-digit telephone number or N11 service code." *Id.* It includes SMS and MMS messages, but does not include voice communication or messages sent over an IP-enabled messaging service to another user of the same messaging service. *See id.*

⁵⁵ *Messaging Declaratory Ruling*, 33 FCC Rcd at 12079-80, para 12 & n.41.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *See* ABA Joint Commenters at 3; Weave Reply at 2-3. We agree with commenters that this step will help combat the rise of text message scams that rely on spoofing. *See, e.g.*, Ad Hoc Comments at 3; ABA Joint Commenters at 5; Public Knowledge Reply at 3-4; Neustar Comments at 1; Schatz Letter at 1; State AGs Reply at 3-4. For example, iconectiv observes that SMS fraudsters often use unallocated numbers from foreign jurisdictions. iconectiv Comments at 1-2. For this reason, some mobile wireless providers already incorporate this DNO information into their blocking algorithms. iconectiv Comments at 2.

⁵⁹ *See Spoofing Prevention Act of 2017, Report of the S. Comm. On Commerce, Sci. & Transp. On S. 134*, S. Rep. No. 115-91, at 2 (2017) (Spoofing Prevention Act of 2017), available at <https://www.congress.gov/congressional-report/115th-congress/senate-report/91/1> (last visited Feb. 22, 2023) (explaining proposed changes to 47 U.S.C. § 227(e)).

from these numbers are surely illegal or unwanted, and it makes sense that mobile wireless carriers should block them.”⁶⁰ Fifty-one State Attorneys General, a frontline of law enforcement, observe that they are receiving an increasing number of consumer complaints concerning illegal and/or unwanted text messages.⁶¹ They contend:

As with voice calls purporting to be from [a reasonable DNO list], text messages from such numbers are also highly likely to be illegal. Simply stated, no wireless subscriber should be receiving any voice call or text message from these numbers. For example, a person receiving a text message from a number purporting to have an area code “000” would be receiving a text message from an invalid phone number. In this circumstance, a scammer has most likely spoofed an invalid number when sending the text message, and this type of fraudulent and misleading representation of information by the purported sender of the text message should not be permitted.⁶²

We agree with the State AGs that this is a commonsense approach to blocking because it attacks those texts that are most likely to be fraudulent.⁶³

20. Even if the number of texts using such spoofing is small, the costs to individual consumers that receive them can be high. For example, AB Handshake observes that the daily damage caused by “smishing” cases to the consumers of a single financial institution can reach \$85,000.⁶⁴ AB Handshake agrees that blocking invalid numbers can help to filter out some illegal messages.⁶⁵ Further, the Senate Commerce Committee mentioned in its report accompanying the Spoofing Prevention Act of 2017 that phone fraud cost Americans \$8.6 billion in 2014.⁶⁶ We further agree with Public Knowledge, which notes that current voluntary text blocking means that mandatory blocking may not have considerable additional effect for some providers’ customers, but it also means that implementation should be relatively easy, inexpensive, and unlikely to result in excessive blocking.⁶⁷ Indeed, commenters do not argue otherwise.⁶⁸

21. We also find that the rule we adopt today will impose a minimal burden on mobile wireless providers while providing a necessary baseline level of protection to consumers. As many industry commenters note, many mobile wireless providers already employ measures to block text messages.⁶⁹ These efforts include DNO-based blocking.⁷⁰ For providers that already employ such

⁶⁰ Schatz Letter at 1.

⁶¹ State AGs Reply at 2.

⁶² *Id.* at 3.

⁶³ State AGs Reply at 3.

⁶⁴ AB Handshake Comments at 1.

⁶⁵ *Id.* at 3.

⁶⁶ *See* Spoofing Prevention Act of 2017 at 2.

⁶⁷ Public Knowledge Reply at 3.

⁶⁸ *See, e.g.*, CTIA Comments at 17 (mobile messaging networks already incorporate a substantial degree of authentication, and the wireless industry is working to improve its authentication capabilities today); T-Mobile Comments at 7 (T-Mobile only allows active, provisioned telephone numbers to originate text messages on the T-Mobile network); Vibes Reply at 3 (the industry already includes substantial registration and verification processes that are not present in the voice world).

⁶⁹ *See, e.g.*, AAPC Comments at 2; Blooston Comments at 3; CCA Comments at 3; CTIA Comments at 6-11 & Reply at 3-7; EZ Texting Comments at 6; M³AAWG Comments at 10; iconectiv Comments at 2; Pinger Comments at 2; Sinch Comments at 7-8; Somos Comments at 7-8; Telesign Comments at 3; T-Mobile Comments at 3, 7-8; Verizon Comments at 2; VON Comments at 3; AT&T Reply at 5; Infobip Reply at 2. Such efforts include a common means for consumers to report unwanted text messages through “7726 (SPAM).” *See* CTIA Comments at

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measures, our rule imposes no additional burden. For the limited number of providers that do not currently employ such measures, our rule will provide consumers with a baseline level of protection against illegal and fraudulent text messages. We believe the rule we adopt today strikes the best balance between protecting consumers from illegal text messages while imposing minimal burden on mobile wireless providers.

22. We disagree with commenters who argue that consumers will become accustomed to seeing their text messages periodically blocked and will seek other messaging solutions.⁷¹ Because this blocking will occur at the network level, consumer recipients will not be aware of each blocked text, but will be protected before illegal robotexts ever reach their phones. We do not believe that any reasonable consumer would seek other messaging solutions because illegal texts, particularly scam texts, did not reach their phones. And we agree with Public Knowledge that commenters opposing this step have provided no evidence that texts are not delivered using such numbers or that their current voluntary blocking already stops them.⁷²

23. We disagree with CTIA's argument that "given that the Commission's call blocking rules for voice services—a service generally governed by Title II common carrier obligations—are largely *permissive*, it would be highly incongruous for the Commission to adopt *mandatory* blocking rules for text messaging, a Title I information service."⁷³ We recognize that, historically, our rules for voice calls generally permit and do not mandate blocking.⁷⁴ However, we have recently adopted mandatory blocking requirements for gateway providers, some of which are not Title II services.⁷⁵ Furthermore, the unique concerns of text messaging as vehicles for malware and as a more trusted form of communications than

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8-9. Wireless providers use information from this reporting mechanism to "track and aggregate the information that consumers report . . . and further calibrate their spam filters and blocking tools." *Id.*

⁷⁰ See, e.g., CTIA Comments at 11 (explaining that existing countermeasures prevent messages from invalid, unallocated, unused, or DNO telephone numbers from being transmitted to consumer's wireless devices); T-Mobile Comments at 7-8 (messages on T-Mobile's network are either consumer messages, directly originated on a device with a valid number and sent to another device with a valid number, or they are non-consumer messages that must be part of a pre-approved campaign with validated origination information).

⁷¹ CCA Comments at 8.

⁷² Public Knowledge Reply at 3.

⁷³ CTIA Comments at 15 n.44.

⁷⁴ See 47 CFR § 64.1200(k)(1), (2).

⁷⁵ 47 CFR § 64.1200(o) provides:

A provider that serves as a gateway provider for particular calls must, with respect to those calls, block any calls purporting to originate from a number on a reasonable do-not-originate list. A list so limited in scope that it leaves out obvious numbers that could be included with little effort may be deemed unreasonable. The do-not-originate list may include only:

- (i) Numbers for which the subscriber to which the number is assigned has requested that calls purporting to originate from that number be blocked because the number is used for inbound calls only;
- (ii) North American Numbering Plan numbers that are not valid;
- (iii) Valid North American Numbering Plan Numbers that are not allocated to a provider by the North American Numbering Plan Administrator; and
- (iv) Valid North American Numbering Plan numbers that are allocated to a provider by the North American Numbering Plan Administrator, but are unused, so long as the provider blocking the calls is the allocatee of the number and confirms that the number is unused or has obtained verification from the allocatee that the number is unused at the time of blocking.

calling, convince us that we should act quickly to mandate specific blocking of a narrow set of texts that are highly likely to be illegal.

24. We also disagree with AT&T's contention that our estimation of costs to consumers due to illegal texts, at \$6.3 billion, gives us the ability to justify any regulation as long as it costs the industry less than \$6.3 billion to implement.⁷⁶ Although AT&T disagrees with our estimate of the cost to consumers, it has not provided an estimate of industry's cost to block texts that purport to be from numbers on a reasonable DNO list—a cost that we believe will be minimal due to the industry existing voluntary actions. These actions are reasonable responses to the harm and specifically focused to mitigate the ongoing damages consumers face from illegal, fraudulent text messages that mobile wireless providers transmit today.

25. Our requirement for mandatory blocking of texts that purport to be from numbers on a reasonable DNO list is straightforward and does not define “highly likely to be illegal” or ask mobile wireless providers to determine whether particular messages are “highly likely to be illegal.” We therefore disagree with CTIA that regulation of criteria used by mobile wireless providers to determine which text messages are “highly likely to be illegal” would be inconsistent with the classification of wireless messaging as Title I information service.⁷⁷

26. We recognize that the Commission earlier concluded that, in the absence of Title II regulation, mobile wireless providers have employed effective methods to protect consumers from unwanted messages and thereby made wireless messaging a trusted and reliable form of communication for millions of Americans.⁷⁸ The rule we adopt here does not affect providers' ability to continue to employ such methods to protect consumers. Under our rules, mobile wireless providers are now required to block texts that purport to be from numbers on a reasonable DNO list.⁷⁹ Mobile wireless providers remain free to continue the measures they are currently using to protect consumers from unwanted and illegal text messages.⁸⁰

B. Point of Contact

27. We require each mobile wireless provider to establish a point of contact for text senders, or have providers require their aggregator partners or blocking contractors to establish such a point of contact.⁸¹ This point of contact will enable texters to contact mobile wireless providers, with the goal of swiftly receiving and resolving complaints of unwarranted blocking of text messages.⁸² Several

⁷⁶ AT&T Reply at 14.

⁷⁷ CTIA Comments at 15.

⁷⁸ *Messaging Declaratory Ruling*, 33 FCC Rcd at 12095, para. 43.

⁷⁹ CCA asks whether a subscriber request for blocking a number as part of a reasonable DNO list would apply to blocking network-wide. Letter from Angela Simpson, Senior Vice President and General Counsel, Competitive Carriers Association to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 9, 2023) at 1 (CCA *ex parte*). CCA is not clear as to their concern. As a general matter, however a number on a reasonable DNO list would be blocked by any provider in the text path.

⁸⁰ We recognize that CTIA and the industry has established guidelines to encourage the innovative use of messaging, while also guarding against unwanted and unlawful text messages. For example, CTIA's Messaging Principles and Best Practices promote the establishment of expectations that non-consumer message senders will obtain consumer consent *prior* to messaging consumers, and that they will honor consumer opt-outs, among other practices. CTIA Comments at 8. The rules we adopt here are not inconsistent with the measures that the industry has taken already.

⁸¹ See *NPRM* at para. 27 (seeking comment on requiring such single point of contact for resolving issues of erroneous blocking).

⁸² We recognize that there may be instances where a sender cannot readily identify the mobile wireless provider that blocked the text message. In such cases, we encourage the sender to work with its mobile wireless provider to

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commenters observe that it would be helpful to have a point of contact, as already exists for blocked voice calls, in order to address and mitigate any text blocking issues.

28. In order to ensure the effectiveness of this requirement as a means of curing blocking of legitimate text messages, we adopt certain safeguards to protect providers from unscrupulous texters. First, we require that providers need only accept blocking complaints from senders that can provide documented, objective evidence of blocking.⁸³ We agree with CTIA that, without this restriction, unscrupulous texters could flood the points of contact with bogus claims of erroneous blocking and thus divert focus from legitimate blocking concerns.

29. We also agree with CTIA that entities other than mobile wireless providers, such as aggregators or contractors, could be responsible for blocking.⁸⁴ We therefore give providers flexibility to either establish their own point of contact⁸⁵ or to require their aggregator partners and blocking contractors to establish such a point of contact, which we would expect could resolve the blocking more quickly than the provider. In any case, we emphasize that any legitimate sender of text messages with documented, objective evidence of blocking should be able to easily contact the entity responsible for that blocking to resolve the dispute and expect providers, aggregators and contractors to respond appropriately.

30. Just as for blocked voice calls, we find that an easy means for texters to resolve potentially erroneous blocking will help ensure that consumers are not deprived of texts they would want to receive. While we anticipate minimal risk from our rule above, requiring mandatory blocking of texts from certain types of numbers,⁸⁶ there may be instances of erroneous blocking due to providers' voluntary blocking.⁸⁷ For example, a provider or its blocking partners could choose to block texts of a sender who fails to comply with its terms of usage or who exhibits suspicious texting behavior. For these and other reasons where otherwise legal texts may be blocked, it is important for senders to easily resolve their texting problems with providers.

31. We decline to set time limits on resolving blocking error complaints.⁸⁸ The ABA Joint Commenters contend that, when a sender makes a credible claim of erroneous blocking and the blocker determines that the text message should not have been blocked, the blocker should be required to cease

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identify the appropriate contact. *See Call Blocking Fourth Report and Order*, 35 FCC Rcd at 15246 & n.175 (discussing requiring a point of contact for blocked calls).

⁸³ CTIA 3/7/23 *ex parte* at 4.

⁸⁴ *Id.*

⁸⁵ Such point of contact may be the same point of contact for voice call blocking error complaints.

⁸⁶ Sinch Comments at 10 (the risk of erroneous blocking is minimal when only text messages deemed "highly likely" to be illegal are subject to blocking); Public Knowledge Reply at 4.

⁸⁷ *See, e.g.*, ABA Joint Commenters at 7; CCA Comments at 10-11; Coalition for Open Messaging Comments at 3 (contending that wireless carriers impose barriers that prevent organizations' ability to use person-to-person (P2P) messaging because such messaging is classified by the providers as business-to-consumer (A2P), thereby requiring the sender to register with carrier programs); INCOMPAS Comments at 3 & Reply at 4 (observing that some of the wireless carriers' methods, like The Campaign Registry, carry significant operational burdens, privacy concerns, and high costs, but with little demonstrable consumer value being added); NORC Comments at 6 & Reply at 5 (contending that discretion in blocking legal texts should not be unbounded and that carriers use non-transparent "trust scores" to block); Pinger Comments at 2 (stating that overly broad carrier classifications can lead to situations where analytics programs indiscriminately block essential, urgent, and wanted messages and such indiscriminate blocking jeopardizes individuals' health and safety); State Voices Comments at 12 (explaining that, if the text message sender exceeds a threshold of 0.1% of texts reported by consumers as spam, service providers may suspend services for that texter); Cloud Communications Reply at 2-5.

⁸⁸ *See NPRM* at para. 27.

blocking text messages from that number until circumstances change.⁸⁹ We cannot, based on the record, adopt a standard to determine whether a text should be blocked or a reasonable time for the provider for make such a determination. These commenters also ask us to require that blocking disputes be resolved immediately, and no longer than six hours after receiving the dispute.⁹⁰ We do not have any information in the record regarding a reasonable amount of time to resolve a dispute.

C. Other Proposals

32. We decline to adopt rules for several of the other topics on which we sought comment.⁹¹ First, we decline to require text blocking notifications.⁹² The record indicates that service providers are already providing adequate notice when they block texts.⁹³ For instance, NORC states that “wireless carriers already have an established response system that consists of approximately 2,000 codes” and, “[w]hen a text fails to send, the sender will receive a code reply from a specific carrier’s number with granular information about why the text failed, e.g., ‘Failed because of analytics blocking by carriers.’”⁹⁴

33. We also decline at this time to enact rules regarding safeguarding against blocking of texts to 911 and other emergency numbers based on the record. For example, the Texas 911 Entities state that illegal texting to 911 currently does not appear to be a problem at Public Safety Answering Points (PSAPs).⁹⁵ We will continue to monitor potential threats from unauthorized 911 communications to public safety and PSAPs, as these commenters suggest.⁹⁶ Should industry or consumer complaints indicate that the situation has changed and that this category of texts is being blocked in a way that is problematic, we will not hesitate to revisit the issue.

34. Additionally, we are not adopting standards to ensure competitively neutral and content-neutral grounds for blocking;⁹⁷ the rule we are adopting here, mandatory blocking of texts that purport to be from numbers on a reasonable DNO list, does not require a mobile wireless provider to examine the content of texts themselves. Mandatory blocking is based solely on the spoofed number associated with

⁸⁹ ABA Joint Commenters at 7.

⁹⁰ *Id.*

⁹¹ In the *NPRM*, we sought comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility. One commenter observed that our proposal may have a disparate effect on deaf, hard of hearing, visually impaired, impoverished, and neurodivergent people because they are more likely to rely on text messages than phone calls. CRC Comments at 3-4. However, the rules we adopt here should protect all consumers, including deaf, hard of hearing, visually impaired, impoverished, and neurodivergent persons from illegal texts. We do not find, based on the record, that this Report and Order will inhibit advances in diversity, equity, inclusion, and accessibility.

⁹² See, e.g., ABA Joint Commenters at 7; Ad Hoc Comments at 4-5; CCA Comments at 10-11; INCOMPAS Reply at 4-5; Weave Reply at 5-6.

⁹³ See, e.g., NORC Comments at 5; Campaign Registry Reply at 3 (parties can track messaging back to its origins so that they can conduct the necessary follow up for the messaging in question); Verizon Reply at 3. Consumers may use apps or features on their mobile device to filter or block texts; the reply code discussed by commenters would apply to texts blocked by the mobile wireless providers.

⁹⁴ NORC Comments at 5. Likewise, providers following CTIA’s “Messaging Security Best Practices” consent requirements, or similar standards, are blocking texts that fail to comply with such best practices. See *Messaging Security Best Practices*, <https://api.ctia.org/wp-content/uploads/2022/06/Messaging-Security-Best-Practices-June-2022.pdf>. The CTIA Messaging Security Best Practices provides that “parties should respond within a reasonable timeframe to lawful inquiries from other stakeholders regarding the sending of Unwanted Messages or other potential abuses.” CTIA Messaging Security Best Practices at 3.22.

⁹⁵ Texas 911 Entities Comments at 2.

⁹⁶ *Id.*

⁹⁷ See *NPRM* at para. 24.

the text message. We also decline to adopt a safe harbor for text blocking.⁹⁸ Because the blocking we adopt is mandatory rather than discretionary, and because the texts that may be blocked are highly likely to be illegal, we do not believe a safe harbor is necessary.

35. In the *NPRM*, we asked how consumer education and outreach could help address the problem and if there are ways the Commission can enhance its spam text message consumer education outreach and content.⁹⁹ We are encouraged by the measures that mobile wireless providers are taking to inform their customers about unwanted and illegal text messages and the ways that they have facilitated consumer reporting of such texts, such as forwarding spam to 7726 in order to report spam to wireless service providers.¹⁰⁰ As CTIA explains, wireless providers have established 7726 (SPAM) for consumers to report unwanted text messages.¹⁰¹ Mobile wireless providers use information consumers report through 7726 to further calibrate their spam filters and blocking tools.¹⁰² Further, reporting tools native to wireless device operating systems, from both Apple and Google, provide consumers with a more streamlined means of reporting spam text messages.¹⁰³ In addition, our website and the FTC's website offer helpful information on spam prevention to assist consumers.¹⁰⁴

36. We also decline to adopt PACE's proposals regarding the maintenance of a DNO list.¹⁰⁵ PACE suggests that the Commission clarify who is responsible for maintaining a DNO list and adopt a centralized DNO list maintained by a single body; it also asks that the Commission require that the DNO list be scrubbed against the Reassigned Numbers Database and that any reassigned numbers be removed from the DNO list.¹⁰⁶ We decline to do so because PACE does not identify why our current approach for DNO lists is flawed and thus how its proposal would correct a problem.

37. Finally, we decline to adopt caller ID authentication requirements for text messages based on record uncertainty about the current feasibility of such a requirement.¹⁰⁷ For example, CTIA

⁹⁸ See *id.* at para. 27.

⁹⁹ See *id.* at paras. 37-38.

¹⁰⁰ See, e.g., CTIA Comments at 8-9; M³AAG Comments at 4; Sinch Comments at 4; T-Mobile Comments at 6 (explaining that consumers can report spam by forwarding the message to 7726 (SPAM) and responding with the message sender's telephone number or other identifier); AT&T Reply at 5. T-Mobile also notes that it works with Apple and Google to allow customers to report spam text messages. T-Mobile Comments at 6-7. Commenters observe that device software automatically asks the device holder if a deleted message should be reported as "junk," which streamlines the spam reporting process for consumers and yields useful information about bad actors. Telesign Comments at 4; T-Mobile Comments at 6-7.

¹⁰¹ CTIA Comments at 8.

¹⁰² *Id.* at 8-9.

¹⁰³ *Id.* at 9, citing Apple, *Block, filter, and report messages on iPhone*, <https://support.apple.com/guide/iphone/block-filter-and-report-messages-iph203ab0be4/ios>; Google Android, *Report Spam*, <https://support.google.com/messages/answer/9061432?hl=en>. See also Apple, *Recognize and avoid phishing messages, phony support calls, and other scams*, <https://support.apple.com/en-us/HT204759> (last visited Feb. 17, 2023).

¹⁰⁴ See, e.g., FCC, Consumer Alert, *Scam Robotexts are a Rising Threat*, (Jul. 28, 2022), <https://www.fcc.gov/robotext-scams-rise>; FCC, Consumer Guides, *Stop Unwanted Robocalls and Texts*, <https://www.fcc.gov/consumers/guides/stop-unwanted-robocalls-and-texts> (last visited Dec. 19, 2022); Federal Trade Commission, Consumer Advice, *How to Recognize and Report Spam Text Messages*, <https://consumer.ftc.gov/articles/how-recognize-and-report-spam-text-messages> (last visited Feb. 2, 2023).

¹⁰⁵ PACE *ex parte* at 2-3.

¹⁰⁶ *Id.*

¹⁰⁷ See CTIA Comments at 18 (noting that STIR/SHAKEN applies exclusively to SIP technology, which does not apply to the majority of text messages). Commenters explain that illegal and unwanted messages rarely come from

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explains that the architecture of wireless messaging platforms is such that wireless providers already know the transmitting provider (e.g., wireless provider or messaging solutions aggregator) and user identifier (whether long code, short code, or other marker) for text messages.¹⁰⁸ CTIA notes that mobile wireless providers use this information to deliver text messages typically only from authorized providers and user identifiers using valid originating information through appropriate routing channels, and to more readily identify unauthorized traffic using illegitimate channels.¹⁰⁹ T-Mobile also notes that the current anti-robocall regime is targeted at the primary sources of illegal robocalls, i.e., unverified telephone caller ID information and a common carrier regulatory regime, which does not apply to text messages.¹¹⁰ Other commenters explain that STIR/SHAKEN would not be a viable solution if spoofing were more prevalent, because among other reasons, STIR/SHAKEN only works on the Session Internet Protocol (SIP).¹¹¹ We agree with providers, who argue that caller authentication solutions are “being actively considered that may be able to complement the vetting and monitoring solutions in use today,” but that these efforts are preliminary and require more study.¹¹² In the *Further Notice*, we seek comment on whether and how the Commission can encourage efforts to develop technical solutions for text message authentication.

D. Legal Authority

38. We find that we have legal authority to require providers to block certain text messages originating from NANP numbers and to require blockers to establish a point of contact for receiving and resolving blocking complaints. First, we find that, under the TCPA, the Commission has authority over the unsolicited text messages that fall within the scope of this order.¹¹³ The TCPA restricts certain autodialed and prerecorded or artificial voice calls to residential and wireless telephone numbers absent the prior express consent of the called party.¹¹⁴ The Commission has found that, for the purposes of the TCPA, texts are included in the term “call.”¹¹⁵ Because the Commission has authority to regulate certain text messages under the TCPA, particularly with regard to messages sent using an autodialer and without the consent of the called party, we have legal authority for the rules we adopt today.

39. Second, we find that we have authority under the Truth in Caller ID Act to adopt a blocking requirement. The Truth in Caller ID Act makes unlawful the spoofing of caller ID information “in connection with any voice service or text messaging service . . . with the intent to defraud, cause harm, or wrongfully obtain anything of value.”¹¹⁶ We find that adopting this requirement is necessary to

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spoofed numbers and a caller ID authentication solution, even if feasible, would be unlikely to reduce unwanted and illegal text messages. *See, e.g.*, CTIA Comments at 4-5, 11; EZ Texting Comments at 5-6; M³AAWG Comments at 10; NetNumber Comments at 7 & Reply at 2-3; Sinch Comments at 6-7; Telesign Comments at 2-3; T-Mobile Comments at 9-10; Verizon Comments at 7 & Reply at 4-5; WMC Global Comments at 2; Cloud Communications Reply at 1-2; RWA Reply at 3-5; Vibes Reply at 2-4.

¹⁰⁸ CTIA Comments at 17.

¹⁰⁹ *Id.*

¹¹⁰ T-Mobile Comments at 2.

¹¹¹ CTIA Comments at 18-19; Verizon Comments at 8; AT&T Reply at 9-10.

¹¹² *See, e.g.*, CTIA Comments at 18-19 & Reply at 13; iconectiv Comments at 3; NTCA Comments at 2-3; Sinch Comments at 14; T-Mobile Comments at 10.

¹¹³ The Commission stated in the *2003 TCPA Order* that the authority to regulate telemarketing derives from the TCPA. *2003 TCPA Order*, 18 FCC Rcd at 14070, para. 95. The Commission also observed that Congress anticipated “that the FCC, under its TCPA rulemaking authority, might need to consider changes in technologies.” *Id.* at 14092, para. 132.

¹¹⁴ 47 U.S.C. § 227(b)(1)(A).

¹¹⁵ *2003 TCPA Order*, 18 FCC Rcd at 14115, para. 165.

¹¹⁶ 47 U.S.C. § 227(e)(1).

block calls that unlawfully spoof numbers on reasonable DNO lists, and thus is authorized by the Truth in Caller ID Act.

40. Finally, we find that we have authority under Title III of the Act to adopt these measures. As courts have recognized, Title III “endow[s] the Commission with ‘expansive powers’ and a ‘comprehensive mandate to “encourage the larger and more effective use of radio in the public interest.””¹¹⁷ Section 303 of the Act grants the Commission authority to establish operational obligations for licensees that further the goals and requirements of the Act if such obligations are necessary for the “public convenience, interest, or necessity” and are not inconsistent with other provisions of law.¹¹⁸ In particular, section 303(b) authorizes the Commission to “[p]rescribe the nature of the service to be rendered by each class of licensed stations and each station within each class,” and that is what our mandatory blocking rule addresses here.¹¹⁹ In addition, sections 307 and 316 of the Act allow the Commission to authorize the issuance of licenses or adopt new conditions on existing licenses if such actions will promote public interest, convenience, and necessity.¹²⁰ We find the requirements we adopt for mobile wireless providers here are necessary to protect the public from illegal text messages and that such a requirement is in the public interest. Because we find that the sources of authority identified above provide sufficient authority for the rules we adopt today, we find it unnecessary to address other possible sources of authority to adopt these rules.

41. We disagree with AT&T’s position that our regulatory intervention would have “an enormous economic impact, and in view of the lack of clear statutory authority . . . the Commission should await more direct authorization from Congress before proceeding to rules.”¹²¹ First, AT&T’s reliance on the Supreme Court’s decision in *West Virginia v. EPA* is inapt in this regulatory context, where Congress has granted the Commission “expansive powers” and a “comprehensive mandate” to “encourage the larger and more effective use of radio in the public interest” in Title III of the Act.¹²² Congress’s delegation of broad spectrum management authority to the Commission—which is longstanding and remains unaltered—recognizes that the field of radio communications is “dynamic” and rapidly changing, and court decisions such as *Cellco Partnership* have recognized that the Commission has broad authority under Title III to adopt rules addressing what services must be rendered by licensees.¹²³ Second, the limited obligations on mobile wireless providers adopted here are far from the “extraordinary case” involving the kind of “transformative” regulations at issue in *West Virginia v.*

¹¹⁷ *Cellco P’ship v. FCC*, 700 F.3d 534, 542 (D.C. Cir. 2012) (*Cellco Partnership*) (upholding the Commission’s authority under Title III to adopt data roaming rules) (quoting *Nat’l Broad. Co. v. United States*, 319 U.S. 190, 219 (1943) (*Nat’l Broad. Co.*)).

¹¹⁸ 47 U.S.C. § 303.

¹¹⁹ See *Cellco P’ship*, 700 F.3d at 543 (“Like other rules that govern Title III services, the data roaming rule merely defines the form mobile-internet service must take for those who seek a license to offer it.”). We find several other provisions of Section 303 relevant here. See 47 U.S.C. § 303(g) (requiring the Commission to “encourage the larger and more effective use of radio in the public interest”); *id.* § 303(r) (authorizing the Commission to “[m]ake such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this [Act]”).

¹²⁰ See 47 U.S.C. § 307; 316; see also *Cellco P’ship*, 700 F.3d at 543 (recognizing section 316 as additional Title III authority for our data roaming rules).

¹²¹ AT&T Reply at 14 (citing *West Virginia v. EPA*, 142 S. Ct. 2587, 2608 (2022)).

¹²² *Nat’l Broad. Co.*, 319 U.S. at 219.

¹²³ See *Cellco P’ship*, 700 F.3d at 542-43; see also *Implementation of the National Suicide Hotline Improvement Act of 2018*, Second Report and Order, 36 FCC Rcd 16901, 16933 (2021) (relying on the Commission’s Title III authority, including sections 303, 307, and 316, to impose text-to-988 obligations on CMRS providers).

EPA,¹²⁴ especially given the record evidence regarding licensees' existing blocking practices.¹²⁵

42. AT&T's argument is based on the premise that we would be adopting rules on the full range of issues on which we sought comment in the *NPRM*, including caller ID authentication for text messages, as well as an unsupported assertion that the rules would have an "enormous economic impact."¹²⁶ However, we are adopting only two narrow rules in this Report and Order, and we find that these rules will not have an enormous economic impact and will not be overly burdensome for mobile wireless providers to implement (in part, because some providers, like AT&T, are already "broadly block[ing] text messages sent from invalid, unallocated, unassigned, and spoofed numbers").¹²⁷ Further, AT&T has not provided any evidence that the rules adopted here would, in fact, have an enormous economic impact. For the reasons explained above, we find that the Commission does have ample authority to adopt these new rules.

E. Cost-Benefit Analysis

43. AT&T challenges the proposed cost benefit analysis in the *NPRM*, but it provides no basis for challenging the assumptions behind it.¹²⁸ In the analysis of the expected benefits, we estimated that consumers incur a 5 cent nuisance harm for each spam text received.¹²⁹ Further, we estimated that consumers incur \$2 billion in harm due to fraudulent spam texts annually.¹³⁰ Our estimates were based on our experience estimating the harms caused by illegal robocalls. In that context, we assumed that each robocall causes a 10 cent nuisance harm and that fraudulent robocalls result in annual harm of \$10.5 billion.¹³¹ We proposed to attribute a lower nuisance harm of 5 cents to a spam text because we believed that they are less disruptive to consumers, e.g., because consumers can simply delete a text instead of having to listen to a robocall first then delete it. Further, we assumed that harm from fraudulent spam texts is about 20% of the harm caused by fraudulent robocalls fraud costs.

44. Our estimate of the harm due to fraudulent texts was conservative. For example, one source puts financial losses due to spam texts at \$28 billion in 2022.¹³² In total, we estimated that the blocking of illegal robotexts would achieve an annual benefit of at least \$6.3 billion.¹³³ In the *NPRM* we sought comment on these assumptions and received no alternatives in the record.¹³⁴

¹²⁴ *West Virginia v. EPA*, 142 S. Ct. at 2608, 2610.

¹²⁵ See, e.g., AAPC Comments at 2; Blooston Comments at 3; CCA Comments at 3; CTIA Comments at 6-11 & Reply at 3-7; EZ Texting Comments at 6; M³AAWG Comments at 10; iconectiv Comments at 2; Infobip Reply at 2; Pinger Comments at 2; Sinch Comments at 7-8; Somos Comments at 7-8; Telesign Comments at 3; T-Mobile Comments at 3; Verizon Comments at 2; VON Comments at 3; AT&T Reply at 5 (AT&T employs a multi-layered defense against illegal and unwanted text messages that incorporates technological innovation and proactive collaboration).

¹²⁶ AT&T Reply at 5.

¹²⁷ *Id.*

¹²⁸ *Id.* at 13-14.

¹²⁹ *NPRM* at para. 43.

¹³⁰ *Id.* at para. 44.

¹³¹ *Call Authentication Trust Anchor, Implementation of TRACED Act Section 6(a)—Knowledge of Customers by Entities with Access to Numbering Resources*, WC Docket Nos. 17-97, 20-67, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 3241, 3263, paras. 47-48 (2020) (*STIR/SHAKEN Order*).

¹³² Robokiller, *The Robokiller Report: 2022 Mid-Year Phone Scam Insights* at 9 (2022), <https://www.robokiller.com/the-robokiller-report> (last visited Feb. 14, 2023).

¹³³ See *NPRM* at para. 43.

45. Since we released the *NPRM*, the number of spam texts has increased to an estimated 147 billion annually.¹³⁵ Assuming a 5 cent nuisance cost per spam text and a conservative \$2 billion fraud cost for all spam texts, the total harm of spam texts would be \$9.35 billion annually.¹³⁶ While the rule we adopt today will not block all spam texts, it will block some percentage of them. Even a small reduction in spam texts would result in benefit to consumers of many millions of dollars annually. Because costs to providers are expected to be modest, given the record evidence regarding licensees' existing blocking practices,¹³⁷ we expect the benefits of this policy to exceed its costs.

46. In our analysis of the expected costs in the *NPRM*, we estimated that the text blocking requirement would result in an overall *reduction* of costs to text service providers due to the expected reduction in network congestion costs incurred by providers as a result of spam texts.¹³⁸ We sought comment on these estimated net cost savings due to reduction in network congestion,¹³⁹ and received no comments challenging this estimate.¹⁴⁰ In addition, we estimate that out-of-pocket costs to mobile wireless providers to comply with the new blocking rule will be modest given the record evidence regarding providers' existing blocking practices and, as noted above, that any such costs will be more than offset by cost savings from reduced network congestion.

47. Based on the analysis of the anticipated benefits and costs discussed above, and in light of the record evidence regarding mobile wireless providers' existing blocking practices, we believe the benefits of the rules adopted in this Report and Order significantly outweigh their costs.

IV. FURTHER NOTICE OF PROPOSED RULEMAKING

48. In this Further Notice of Proposed Rulemaking, we seek comment on additional protections for consumers against illegal robotexts. We first seek comment on whether to require terminating mobile wireless providers to block text messages when notified by the Commission that they are likely scams. We also seek comment on text message authentication. Next, we propose to extend Do-Not-Call protections to marketing text messages. We also seek to ban the practice of obtaining a single consumer consent as justification for calls and texts from multiple, sometimes hundreds, of sellers and potential fraudsters.

49. Our action in the Report and Order above provides a baseline level of consumer protection from spoofed text messages. The actions we propose below would address more potentially illegal messages. Consumers have come to rely on texts from trusted institutions that may not be on a DNO list, such as a child's school, a doctor's office, state and local governments, utility providers, and financial institutions. The messages they carry are often brief and consumers' expectation upon receipt is that such messages contain important, and perhaps urgent, information. For that reason, consumers may have a more difficult time recognizing these scams.¹⁴¹

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¹³⁴ We note that AT&T offers no alternative estimate of the economic benefit from blocking illegal texts. See AT&T Reply at 13-14.

¹³⁵ *Id.* at 4.

¹³⁶ $\$0.05 \times 147 \text{ billion} + \$2 \text{ billion} = \$9.35 \text{ billion}$.

¹³⁷ See para. 21, *supra*.

¹³⁸ See *NPRM* at para. 47.

¹³⁹ See *id.* at para. 46. The *NPRM* stated that the Commission would analyze "any detailed cost data" received in comments. See *id.* at para. 47. However, no detailed cost data was submitted in the record.

¹⁴⁰ We note that AT&T does not challenge this point. See AT&T Reply at 13-14.

¹⁴¹ Public Knowledge Reply at 2.

A. Block Texts Upon Commission Notification

50. We propose to require terminating mobile wireless providers to investigate and potentially block texts from a sender after they are on notice from the Commission that the sender is transmitting suspected illegal texts, similar to our requirement for gateway providers with respect to voice calls. Where texts are clearly illegal, and where the Commission has put providers on notice of the illegal texts, we believe mobile wireless providers have no legitimate reason to transmit the texts. We therefore seek comment on extending this approach, which the Commission has in place for call blocking, to text blocking.¹⁴²

51. In the *Gateway Provider Report and Order*, the Commission required gateway providers to block illegal voice traffic when notified of such traffic by the Commission through the Enforcement Bureau.¹⁴³ We seek comment on whether we should adopt the same process here for mobile wireless providers and texts, as we did there for gateway providers and voice calls.

52. Specifically, our rules (in section 64.1200(n)(5)) require the Enforcement Bureau to issue a Notification of Suspected Illegal Traffic that: (1) identifies with as much particularity as possible the suspected illegal traffic; (2) provides the basis for the Enforcement Bureau's reasonable belief that the identified traffic is unlawful; (3) cites the statutory or regulatory provisions the suspected illegal traffic appears to violate; and (4) directs the provider receiving the notice that it must comply with the requirements in section 64.1200(n)(5) of the Commission's rules by a specified date that gives the provider a minimum of 14 days to comply.¹⁴⁴ Notified gateway voice providers must then promptly investigate the identified traffic and either block the identified traffic and substantially similar traffic on an ongoing basis or respond to the Commission that the provider has a reasonable basis for concluding that the identified calls are not illegal.¹⁴⁵ If a provider fails to comply, the Commission established a process through which the Enforcement Bureau can require all providers immediately downstream from that gateway provider to block all traffic from that provider.¹⁴⁶

53. We seek comment on whether there are any differences between calling and texting that would suggest that this model would not work well for texting. What would be the cost to providers of implementing such a requirement? Can providers and the Commission's Enforcement Bureau properly trace text messages to their originating provider to effectuate these rules? Are there additional requirements the Commission should adopt to ease any traceback efforts for text messaging? Because providers state that they already do a considerable amount of text blocking,¹⁴⁷ we would not expect our proposal to impose material additional costs. Is that correct? We seek comment on these questions specifically and this recommendation generally.

B. Text Message Authentication and Spoofing

54. In the *Order*, we declined to adopt caller ID authentication requirements for text

¹⁴² See 47 CFR § 64.1200(n)(2).

¹⁴³ *Gateway Provider Report and Order*, 2022 WL 1631842 at paras. 74-86; see 47 CFR § 64.1200(n)(5).

¹⁴⁴ 47 CFR § 64.1200(n)(5)(i)(A); see also *Gateway Provider Report and Order*, 2022 WL 1631842 at para. 80.

¹⁴⁵ 47 CFR § 64.1200(n)(5)(i)(A), (B); see also *Gateway Provider Report and Order*, 2022 WL 1631842 at para. 83.

¹⁴⁶ 47 CFR §§ 64.1200(n)(5)(ii), (iii), 64.1200(o); see also *Gateway Provider Report and Order*, 2022 WL 1631842 at paras. 84-86.

¹⁴⁷ See, e.g., AAPC Comments at 2; Blooston Comments at 3; CCA Comments at 3; CTIA Comments at 6-11 & Reply at 3-7; EZ Texting Comments at 6; M³AAWG Comments at 10; iconectiv Comments at 2; Infobip Reply at 2; Pinger Comments at 2; Sinch Comments at 7-8; Somos Comments at 7-8; Telesign Comments at 3; T-Mobile Comments at 3; Verizon Comments at 2; VON Comments at 3; AT&T Reply at 5.

messages based on the current record.¹⁴⁸ We seek comment on the extent of number spoofing and if there are other solutions that are better targeted to address the problem of spoofed text messages. If so, what are they and how can the Commission encourage their development and adoption? We note that, while some commenters say number spoofing is not a problem for text messages,¹⁴⁹ others say bad actors spoof their phone numbers or identities.¹⁵⁰ In the robocalling context, the Commission has found that a subset of small voice service providers are responsible for a large number of illegal robocalls.¹⁵¹ Is a similar dynamic at issue with robotexts? If so, how might the Commission target these specific providers? How might the Commission encourage industry members to collaborate and finalize technical solutions for authenticating text messages and mitigating illegal text messages? For example, should the Commission adopt a deadline for providers to develop a text message authentication solution or an alternative technical solution for addressing the problem of spoofed text messages? Commenters should address how the Commission can ensure non-discriminatory policies in adopting text authentication measures.¹⁵²

C. Clarifying Do-Not-Call Protections for Text Messages

55. To the extent it remains unclear, we propose to clarify that National DNC Registry protections apply to text messages as well as voice calls and to codify this clarification in our rules. The National Do-Not-Call Registry has been operational for almost two decades and currently protects over 246 million telephone numbers from telemarketing sales calls, or “telephone solicitations.”¹⁵³ As such, it represents a critical component of our policy strategy against unwanted calls. Although the Commission has stated that “text messages” are “calls” for TCPA purposes,¹⁵⁴ it has not explicitly included text messages in the codified DNC rules.¹⁵⁵ The Commission’s DNC rules protect wireless phone subscribers

¹⁴⁸ Most commenters to our NPRM observe that illegal and unwanted messages rarely come from spoofed numbers and a caller ID authentication solution, even if feasible, would be unlikely to reduce unwanted and illegal text messages. See, e.g., CTIA Comments at 4-5, 11; EZ Texting Comments at 5-6; M³AAWG Comments at 10; NetNumber Comments at 7 & Reply at 2-3; Sinch Comments at 6-7; Telesign Comments at 2-3; T-Mobile Comments at 9-10; Verizon Comments at 7 & Reply at 4-5; WMC Global Comments at 2; Cloud Communications Reply at 1-2; RWA Reply at 3-5; Vibes Reply at 2-4.

¹⁴⁹ CTIA Comments at 4-5.

¹⁵⁰ ABA Joint Commenters Comment at 3 (stating that “[o]ur members report that bad actors illegally ‘spoof’ phone numbers belonging to legitimate businesses when sending text messages – i.e., the bad actor sends a text message from a number that appears to belong to the legitimate business or sends a text message from the bad actor’s own number, making it appear that it is from a legitimate business, with the intent to defraud the recipient”).

¹⁵¹ *Call Blocking Fourth Report and Order*, 36 FCC Rcd at 17844-17845, paras. 10-13.

¹⁵² See, e.g., VON Comments at 5 (observing that competitive neutrality must be at the forefront of any solution to illegal texting and solutions must not endorse or enable anti-competitive practices that providers have seen in the industry); Cloud Communications Reply at 3 (noting concerns that the industry’s application of current principles and practices has led to discriminatory conduct and the blocking of legitimate texts); NORC Reply at 2 (noting that the record demonstrates that there is a lack of transparency and accountability in blocking by mobile wireless providers).

¹⁵³ See FTC National Do-Not-Call Registry Data Book for Fiscal Year 2022, <https://www.ftc.gov/reports/national-do-not-call-registry-data-book-fiscal-year-2022> (last visited Feb. 2, 2023). The TCPA defines a “telephone solicitation” as “the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person” but not including calls or messages made with prior express invitation or permission, to any person with whom the caller has an established business relationship, or by a tax exempt nonprofit organization. 47 U.S.C. § 227(a)(3).

¹⁵⁴ *2003 TCPA Order*, 18 FCC Rcd at 14115, para. 165.

¹⁵⁵ Although the inclusion of text messages in the National DNC Registry protections has not been codified, the Commission has previously taken the position that the National DNC Registry protects consumers from unwanted text messages that contain marketing when the consumer has placed their number on the National DNC Registry. See *Emanuel (Manny) Hernandez, Click Cash Marketing, LLC, and Rock Solid Traffic*, Citation and Order,

(continued....)

by requiring prior express invitation or permission in writing for calls to wireless numbers on the DNC Registry.¹⁵⁶

56. Commenters ask us to clarify that the DNC rules apply to both voice calls and texts.¹⁵⁷ As these commenters note, the DNC rules would bring considerable protection for recipients of marketing texts. Specifically, our rules require that, before sending a marketing text to consumers, the texter must have the consumer's prior express invitation or permission, which must be evidenced by a signed, written agreement between the consumer and seller, which states that the consumer agrees to be contacted by this seller and includes the telephone number to which the calls may be placed.¹⁵⁸

57. We seek comment on this proposal. Would codifying the DNC protections to marketing texts further protect consumers from unwanted marketing text messages? We note that the DNC protections do not depend on whether the caller uses an autodialer, unlike some provisions of the TCPA.¹⁵⁹ In this regard, would our proposal also represent an important codification of consumer protections? Are there downsides to our proposal?

D. Closing the Lead Generator Loophole

58. We propose to ban the practice of obtaining a single consumer consent as grounds for delivering calls and text messages from multiple marketers on subjects beyond the scope of the original consent.

59. In an illustration of the issue, Assurance IQ describes a website that purports to enable consumers to comparison shop for insurance.¹⁶⁰ The website sought consumer consent for calls and texts from insurance companies and other various entities, including Assurance IQ's "partner companies."¹⁶¹ The "partner companies" were listed in a hyperlink on the web page (i.e., they were not displayed on the website without clicking on the link) and the list of "partner companies" included both insurance companies and other entities that did not appear to be related to insurance.¹⁶²

60. Public Knowledge argues that lead generators and data brokers use hyperlinked lists to harvest consumer telephone numbers and consent agreements on a website and pass that information to

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Unauthorized Text Message Violations, 33 FCC Rcd 12382 (EB 2018) (*Hernandez Citation*) (Mr. Hernandez was responsive to the citation and no fine was issued.).

¹⁵⁶ 47 CFR § 64.1200(e), (c)(2)(ii); *2003 TCPA Order*, 18 FCC Rcd at 14034, paras. 28, 36. As we stated in the *2003 TCPA Order*, "wireless subscribers may participate in the national do-not-call list" and "we will presume wireless subscribers who ask to be put on the national do-not-call list to be 'residential subscribers'" for purposes of our DNC rules. *Id.* at 14039, para. 36.

¹⁵⁷ NCLC/EPIC Joint Reply at 7 (the prohibition against making telephone solicitation calls to telephone numbers registered on the National DNC Registry without consent applies to texts and calls that include solicitations).

¹⁵⁸ 47 CFR 64.1200(c)(2)(ii).

¹⁵⁹ See 47 U.S.C. §§ 227(b)(1)(A), (b)(1)(D), (d)(1)(A).

¹⁶⁰ Assurance IQ filed a petition before the Commission seeking clarification that a caller may rely on presumed consent from online forms for TCPA purposes, among other things. Comments were due July 6, 2020. Assurance IQ Petition (CG Docket No. 02-278, filed May 12, 2020) (Assurance IQ Petition). A request to withdraw the Assurance IQ Petition was submitted May 10, 2022. Letter from Paul C. Besozzi, counsel for Assurance IQ, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (May 10, 2022), filed in CG Docket No. 02-278.

¹⁶¹ Assurance IQ Petition at 2-3 (CG Docket No. 02-278, filed May 12, 2020).

¹⁶² *Id.*

telemarketers and scam callers.¹⁶³ Commenters also provide an example of another insurance company website that has 8,423 entities on the hyperlinked page.¹⁶⁴ The telemarketer that obtains the consumer's contact information from the lead generator may believe that it has the consumer's prior express consent, but, commenters argue, the consumer has not consented to the particular caller or callers, which may be listed as "partner companies" in these arrangements.¹⁶⁵

61. We seek comment on amending our TCPA consent requirements to require that such consent be considered granted only to callers logically and topically associated with the website that solicits consent and whose names are clearly disclosed on the same web page.¹⁶⁶ The Commission has not addressed this aspect of consent in the past. Would our proposal better protect consumers from receiving large numbers of calls and texts they do not wish to receive when they visit websites such as comparison shopping websites? Consumers may find comparison shopping websites helpful; how can we ensure that they can consent to obtain further information from the site without receiving numerous calls and texts from unrelated companies? Commenters should discuss whether our proposal would limit the value of comparison-shopping sites to consumers. Are there alternatives to our proposal that would better protect consumers from the harms we have identified? We also seek comment on Public Knowledge's request that prior express consent to receive calls or texts must be made directly to one entity at a time.¹⁶⁷

62. More broadly, we seek comment on the extent of the problem, our proposed rule, and whether the proposed rule will clarify consent and help to eliminate illegal text messages and calls.¹⁶⁸ Are there different or additional limitations on multi-party consent we should consider?

E. Digital Equity and Inclusion

63. The Commission, as part of its continuing effort to advance digital equity for all,¹⁶⁹

¹⁶³ Public Knowledge Reply at 5-6. Commenters explain that telemarketers ignore the requirement that the express invitation or permission can only be provided by the consumer directly to the seller. NCLC/EPIC Joint Reply at 7-8.

¹⁶⁴ Letter from Margot Saunders, National Consumer Law Center, to Marlene H. Dortch, Secretary, Federal Communications Commission (Dec. 16, 2022) at slide 10-11 (NCLC/EPIC 12/16 *ex parte*).

¹⁶⁵ NCLC/EPIC Joint Comments at 4; NCLC/EPIC Joint Reply at 8 (explaining that clicking on a link that contains a hidden URL with the names of thousands of sellers does not meet the E-Sign definition of an "electronic signature," because there was no separate agreement with each seller, and the consumer could not have had the intent to sign such a separate agreement with each of the thousands of sellers listed on the webpage connected with the URL).

¹⁶⁶ Under our Truth in Billing rules, "clear and conspicuous" is notice that would be apparent to a reasonable consumer. 47 CFR § 64.2401(e). We use the same definition for junk fax opt-out notice requirements. *See Rules and Regulations Implementing the Telecommunications Consumer Protection Act of 1991, Junk Fax Prevention Act of 2005*, CG Docket 02-278, Report and Order and Third Order on Reconsideration, 21 FCC Rcd 3787, 3801, para. 26 (2006) (Consistent with the definition in our truth-in-billing rules, "clear and conspicuous" for purposes of the opt-out notice means a notice that would be apparent to a reasonable consumer.).

¹⁶⁷ Public Knowledge Reply at 5. REACH contends that its standards limit the number of partners that may be included in a disclosure, clearly advise the consumer that telemarketing calls will result from an online submission, and prevent the use of prerecorded calls as the first contact to a consumer providing their information online. REACH *ex parte* at 3. QuinStreet argues that any approach to consent should continue to enable consumer choice and website owner flexibility, because many high-quality site owners are small- and medium-sized businesses. Letter from Yaron Dori, Covington and Burling, LLP, counsel to QuinStreet, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 9, 2023).

¹⁶⁸ One commenter contends that the lack of standards in the lead generation industry is to blame for between 500,000,000 and 1 billion unwanted calls per month. REACH *ex parte* at 2.

¹⁶⁹ Section 1 of the Communications Act provides that the FCC "regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex." 47 U.S.C. § 151.

including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality, invites comment on any equity-related considerations¹⁷⁰ and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility.

F. Legal Authority

64. In the Further Notice of Proposed Rulemaking, we seek comment on four issues: (i) whether to require terminating mobile wireless providers to block text messages when notified by the Commission that they are likely scams; (ii) text message authentication; (iii) extending Do-Not-Call protections to marketing text messages; and (iv) preventing marketers from using a single consumer consent as justification for calls and texts from numerous parties.

65. We seek comment on our authority to adopt each of the measures. We note that the Commission has authority to regulate certain text messages under the TCPA, particularly with regard to messages sent using an autodialer and without the consent of the called party. We seek comment on whether we have legal authority for the proposed rules under the TCPA. Do the TRACED Act or the TCPA provide authority for our proposals? Do we have authority for our proposals under section 251(e) of the Act, which provides us “exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States?”¹⁷¹ The Commission found authority to implement STIR/SHAKEN for voice service providers under section 251(e) in order to prevent the fraudulent exploitation of numbering resources.¹⁷² Does section 251(e) of the Act grant us authority to adopt implementation of authentication for text messages? We seek comment on whether that authority extends to text messages. We seek comment on our authority under the Truth in Caller ID Act for these proposals. The Commission found authority under this provision to mandate STIR/SHAKEN implementation, explaining that it was “necessary to enable voice service providers to help prevent these unlawful acts and to protect voice service subscribers from scammers and bad actors.”¹⁷³ We believe that same reasoning applies here, especially given Congress’s focus on text messages, and seek comment on that conclusion.

V. PROCEDURAL MATTERS

66. *Paperwork Reduction Act.* This document may contain new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. All such new or modified information collection requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies will be invited to comment on any new or modified information collection requirements contained in this proceeding. In this present document, we have assessed the effects of our requirement that mobile wireless providers block texts purporting to be from NANP numbers on a reasonable DNO list, which include numbers that purport to be from invalid, unallocated, or unused numbers, and NANP

¹⁷⁰ We define the term “equity” consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. *See* Exec. Order No. 13985, 86 Fed. Reg. 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021).

¹⁷¹ 47 U.S.C. § 251(e).

¹⁷² *STIR/SHAKEN Order*, 35 FCC Rcd at 3260-61, para. 42.

¹⁷³ *Id.* at 3262, para. 44.

numbers for which the subscriber to the number has requested that texts purporting to originate from that number be blocked. We find that, to the extent this requirement constitutes an information collection, such collection will not present a substantial burden for small business concerns with fewer than 25 employees and that any such burdens would be far outweighed by the benefits to consumers from blocking text messages that are highly likely to be illegal.

67. The Further Notice of Proposed Rulemaking may contain proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on any information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

68. *Compliance Deadline.* We acknowledge that mobile wireless providers will need sufficient time in which to comply with these new requirements.¹⁷⁴ We therefore require mobile wireless providers to comply with both rules we adopt here no later than six months after publication of notice of OMB approval under the Paperwork Reduction Act. This allows parties sufficient time to update their processes and come into compliance.

69. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),¹⁷⁵ requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”¹⁷⁶ Accordingly, we have prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the impact of the rule changes contained in the Report and Order on small entities. The FRFA is set forth in Appendix D. We have also prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible impact of the rule changes contained in the Further Notice on small entities. The IRFA is set forth in Appendix E.

70. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget concurs, that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

71. *Ex Parte Rules.* The proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁷⁷ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation

¹⁷⁴ Several parties have requested the Commission give them additional time to implement these new requirements. *See, e.g.*, Blooston Comments at 4 (small providers should have additional time to comply); Weave Reply at 8 (same); RWA Reply at 5 (small providers should not have to comply until after the larger carriers have implemented the new rule); CTIA *ex parte* at 4 (requesting 12 months at minimum, and longer for smaller providers); Letter from Angela Simpson, Senior Vice President and General Counsel, Competitive Carriers Association to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 9, 2023) at 1 (CCA *ex parte*) (30 days is insufficient).

¹⁷⁵ *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601, *et seq.*, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

¹⁷⁶ *Id.* § 605(b).

¹⁷⁷ 47 CFR §§ 1.1200 *et seq.*

must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the Commission's rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.¹⁷⁸

72. *Filing of Comments and Reply Comments.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, D.C. 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020).

73. *People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

74. *Availability of Documents.* Comments, reply comments, *ex parte* submissions, and the Report and Order and Further Notice of Proposed Rulemaking will be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. When the FCC Headquarters reopens to the public, documents will also be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street NE, Washington, D.C. 20554.

75. *Additional Information.* For additional information on this proceeding, contact Mika Savir, mika.savir@fcc.gov or 202 418-0384, of the Consumer and Governmental Affairs Bureau,

¹⁷⁸ 47 CFR § 1.49(f).

Consumer Policy Division.

VI. ORDERING CLAUSES

76. Accordingly, **IT IS ORDERED**, pursuant to sections 4(i), 4(j), 227, 301, 303, 307, and 316 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 227, 301, 303, 307, and 316, that this Report and Order and Further Notice of Proposed Rulemaking IS ADOPTED.

77. **IT IS FURTHER ORDERED** that, pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on the Further Notice of Proposed Rulemaking on or before 30 days after publication in the Federal Register, and reply comments on or before 60 days after publication in the Federal Register.

78. **IT IS FURTHER ORDERED** that the Report and Order SHALL BE EFFECTIVE 30 days after publication in the Federal Register. Compliance with sections 64.1200(p) and (r) of the Commission's rules, 47 CFR §§ 64.1200(p), (r), which may contain new or modified information collection requirements, will not be required until six months after the Office of Management and Budget completes review of any information collection requirements that the Consumer and Governmental Affairs Bureau determines are required under the Paperwork Reduction Act. The Commission directs the Consumer and Governmental Affairs Bureau to announce the compliance date for sections 64.1200(p) and (r) by subsequent Public Notice and to cause section 64.1200 to be revised accordingly.

79. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order and Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis and the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

80. **IT IS FURTHER ORDERED** that the Office of the Managing Director, Performance Evaluation and Records Management, SHALL SEND a copy of this Report and Order in a report to be sent to Congress and to the Governmental Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A**Final Rules****PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS****Subpart L—Restrictions on Telemarketing, Telephone Solicitation, and Facsimile Advertising**

1. Amend § 64.1200 by adding new paragraphs (p) and (q) to read:

(p) A mobile wireless provider must block a text message purporting to originate from a North American Numbering Plan number on a reasonable do-not-originate list. A list so limited in scope that it leaves out obvious North American Numbering Plan numbers that could be included with little effort may be deemed unreasonable. The do-not-originate list may include only:

(1) North American Numbering Plan Numbers for which the subscriber to the number has requested that texts purporting to originate from that number be blocked;

(2) North American Numbering Plan numbers that are not valid;

(3) Valid North American Numbering Plan numbers that are not allocated to a provider by the North American Numbering Plan Administrator; and

(4) Valid North American Numbering Plan numbers that are allocated to a provider by the North American Numbering Plan Administrator, but are unused, so long as the provider blocking the message is the allocatee of the number and confirms that the number is unused or has obtained verification from the allocatee that the number is unused at the time of blocking.

(q) Paragraph (p) of this section may contain an information-collection and/or recordkeeping requirement. Compliance with paragraph (p) will not be required until this paragraph (q) is removed or contains a compliance date, which will not occur until after the Office of Management and Budget completes review of such requirements pursuant to the Paperwork Reduction Act or until after the Consumer and Governmental Affairs Bureau determines that such review is not required. The Commission directs the Consumer and Governmental Affairs Bureau to announce a compliance date for paragraph (p) by subsequent Public Notice and to cause this section 64.1200 to be revised accordingly.

2. Amend § 64.1200 by adding new paragraph (r) to read:

(r) A mobile wireless provider must provide a point of contact or ensure its aggregator partners or blocking contractors that block text messages on its network provide a point of contact to resolve complaints about erroneous blocking from message senders that can document that their messages have been blocked. Such point of contact may be the same point of contact for voice call blocking error complaints.

APPENDIX B

List of Commenters

Commenter	Abbreviated Name	Date Filed
Aaron Read	Aaron Read	10/3/22
AB Handshake Corporation	AB Handshake	11/10/22
Ad Hoc Telecom Users Committee	Ad Hoc	11/10/22
Aigbe Omoigui et al	Omoigui Express Comment	10/11/22
American Association of Political Consultants	AAPC	11/10/22
American Bankers Association, ACA International, American Financial Services Association, Credit Union National Association, Mortgage Bankers Association, National Association of Federally-Insured Credit Unions, National Council of Higher Education Resources, and Student Loan Servicing Alliance	ABA Joint Commenters	11/10/22
Anna K.	Anna K. Express Comment	10/18/22
Anonymous		10/13/22
Belle Hillenburg	Hillenburg	10/10/22
Blooston Rural Carriers	Blooston	11/10/22
Cameron Boyd	Boyd Express Comment	11/9/22
CallFire, Inc. (EZ Texting)	EZ Texting	11/10/22
Campaign Verify, Inc.	Campaign Verify	11/10/22
Cloud Communications Alliance	Cloud Communications	11/10/22
Coalition for Open Messaging	Coalition for Open Messaging	11/10/22
Competitive Carriers Association	CCA	11/10/22
Consumer Relations Consortium	CRC	11/9/22
CTIA—The Wireless Association®	CTIA	11/10/22
Electronic Privacy Information Center (EPIC), the National Consumer Law (NCLC) on behalf of its low-income clients, Consumer Action, Consumer Federation of America, National Association of Consumer Advocates, National Consumers League, Public Knowledge, and U.S. PIRG	NCLC/EPIC Joint Commenters	11/10/22

INCOMPAS	INCOMPAS	11/10/22
iconectiv, LLC	iconectiv	11/10/22
Messaging Malware Mobile Anti-Abuse Working Group	M ³ AAWG	11/8/22
National Opinion Research Center	NORC	11/10/22
NetNumber, Inc.	NetNumber	11/10/22
Neustar, Inc.	Neustar	11/10/22
NTCA—The Rural Broadband Association	NTCA	11/10/22
Pinger, Inc.	Pinger	11/9/22
Professional Associations for Customer Engagement	PACE	11/10/22
Rebekah Schmidt	Schmidt	11/21/22
Sinch America, Inc.	Sinch	11/10/22
Somos, Inc.	Somos	11/10/22
State Voices	State Voices	11/10/22
Telesign Corporation	Telesign	11/9/22
Terra Nova Telecom, Inc.	Terra Nova	11/10/22
Texas 9-1-1 Alliance, the Texas Commission on State Emergency Communications, and the Municipal Emergency Communication Districts Association	Texas 911 Entities	11/10/22
T-Mobile USA, Inc.	T-Mobile	11/10/22
Verizon	Verizon	11/10/22
Voice on the Net Coalition	VON	11/10/22
WMC Global	WMC	10/21/22

Reply Commenter	Abbreviated Name	Date Filed
ACT The App Association	App Association	12/9/22
AT&T Services, Inc.	AT&T	12/9/22
Campaign Registry, Inc.	Campaign Registry	12/9/22
Cloud Communications Alliance	Cloud Communications	12/9/22
CTIA—The Wireless Association®	CTIA	12/9/22
Fifty-one State Attorneys General	State AGs	12/9/22
INCOMPAS	INCOMPAS	12/11/22
Infobip, Inc.	Infobip	12/9/22

NetNumber, Inc.	NetNumber	12/9/22
National Consumer Law Center (NCLC), Electronic Privacy Information Center (EPIC) on behalf of NCLC's low-income clients, Appleseed Foundation, Center for Responsible Lending, Consumer Action, Consumer Federation of America, Jacksonville Area Legal Aid, Inc. (FL), Legal Services of New Jersey, Mobilization for Justice (NY), Mountain State Justice (WV), National Association of Consumer Advocates, National Consumers League, Shriver Center on Poverty Law (IL), South Carolina Appleseed, Texas Appleseed, Tzedek DC, U.S. PIRG, and Virginia Poverty Law Center.	NCLC/EPIC Joint Reply	12/9/22
National Opinion Research Center	NORC	12/9/22
Overwhelmed Citizen		11/28/22
Public Knowledge	Public Knowledge	11/25/22
Rural Wireless Association, Inc.	RWA	12/9/22
Twilio, Inc.	Twilio	12/9/22
Verizon	Verizon	12/9/22
Vibes Media, LLC	Vibes	12/9/22
Weave Communications, Inc.	Weave	12/8/22

Ex Parte Filing/Congressional	Abbreviated Name	Date filed
Letter from The Honorable Brian Schatz, U.S. Senate, to Jessica Rosenworcel, Chairwoman, Federal Communications Commission	Schatz Letter	12/19/22
Letter from Nadejda Papernaia, AB Handshake Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission (Nov. 4, 2022)	AB Handshake 11/4 <i>ex parte</i>	11/4/22
Letter from Nadejda Papernaia, AB Handshake Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission (Dec. 13, 2022)	AB Handshake 12/13 <i>ex parte</i>	12/13/22
Letter from Harold Feld, Public Knowledge, to Marlene H. Dortch,	Public Knowledge 12/5 <i>ex</i>	12/5/22

Secretary, Federal Communications Commission (Dec. 5, 2022)	<i>parte</i>	
Letter from Margot Saunders, National Consumer Law Center, to Marlene H. Dortch, Secretary, Federal Communications Commission (Dec. 16, 2022)	NCLC/EPIC 12/16 <i>ex parte</i>	12/16/22
Letter from Coalition for Open Messaging and State Voices to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 9, 2023)	Coalition for Open Messaging and State Voices Joint <i>ex parte</i>	3/9/23
Letter from Scott Bergmann, Senior Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 7, 2023)	CTIA 3/8/23 <i>ex parte</i>	3/8/23
Letter from Leah Dempsey, Counsel, ACA International, Elizabeth M. Sullivan, Senior Director of Advocacy and Counsel, Credit Union National Association, Celia Winslow, Senior Vice President, American Financial Services Association, Ann Petros, Vice President of Regulatory Affairs, National Association of Federally-Insured Credit Unions to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 9, 2023)	ACA Joint <i>ex parte</i>	3/9/23
Letter from Yaron Dori, Covington and Burling, LLP, counsel to Quinstreet, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 9, 2023)	Quinstreet <i>ex parte</i>	3/9/23
Letter from Angela Simpson, Senior Vice President and General Counsel, Competitive Carriers Association to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 9, 2023)	CCA <i>ex parte</i>	3/9/23
Letter from Michele A. Shuster, MacMurray and Shuster, counsel for Professional Associations for Customer Engagement to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar.	PACE <i>ex parte</i>	3/9/23

9, 2023)		
Letter from Eric J. Troutman, President, Responsible Enterprises Against Consumer Harassment to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 9, 2023)	REACH <i>ex parte</i>	3/9/23
Letter from Christopher L. Shipley, INCOMPAS; David Casem, Telnyx; Paula Boyd, Microsoft; Helen Marie Berg, Google, Michael Pryor, Cloud Communications Alliance; Greg Rogers, Bandwidth to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 10, 2023)	INCOMPAS Joint <i>ex parte</i>	3/10/23
Letter from Scott Bergmann, Senior Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 10, 2023)	CTIA 3/10/23 <i>ex parte</i>	3/10/23
Letter from Scott Bergmann, Senior Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 12, 2023)	CTIA 3/12/23 <i>ex parte</i>	3/12/23

APPENDIX C**Proposed Rules****PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS****Subpart L—Restrictions on Telemarketing, Telephone Solicitation, and Facsimile Advertising**

1. Amend § 64.1200 by revising section (e) to add “or texts” to read as follows:

(e) The rules set forth in paragraph (c) and (d) of this section are applicable to any person or entity making telephone solicitations or telemarketing calls or texts to wireless telephone numbers to the extent described in the Commission’s Report and Order, CG Docket No. 02–278, FCC 03–153, “Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991.”

2. Amend § 64.1200 by revising section (f)(9) to read as follows:

(f)(9) The term prior express written consent means an agreement, in writing, bearing the signature of the person called that clearly authorizes the seller to deliver or cause to be delivered to the person called advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice, and the telephone number to which the signatory authorizes such advertisements or telemarketing messages to be delivered. Prior express written consent for a call or text may be to a single entity, or to multiple entities logically and topically associated. If the prior express written consent is to multiple entities, the entire list of entities to which the consumer is giving consent must be clearly and conspicuously displayed to the consumer at the time consent is requested. To be clearly and conspicuously displayed, the list must, at a minimum, be displayed on the same web page where the consumer gives consent.

APPENDIX D

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980,¹ as amended, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (NPRM).² The Federal Communications Commission (Commission) sought written public comment on the proposals in the NPRM, including comment on the IRFA. The Commission received no comments in response to the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.³

A. Need for, and Objectives of, the Report and Order

2. The *Order* requires mobile wireless providers to block texts, at the network level, that purport to be from numbers on a reasonable Do-Not-Originate (DNO) list. Such texts are highly likely to be illegal and for that reason the Commission is adopting a requirement to block at the network level. The *Order* also requires providers and other entities to maintain a point of contact for texters to report erroneously blocked texts.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

3. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

4. None. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

5. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

6. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.⁴ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁵ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁶ A “small

¹ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² *Targeting and Eliminating Unlawful Text Messages*, CG Docket No. 21-402, Notice of Proposed Rulemaking, FCC 22-72, 2022 WL 4545905 (2022) (NPRM).

³ See 5 U.S.C. § 604.

⁴ 5 U.S.C. § 603(b)(3).

⁵ 5 U.S.C. § 601(6).

⁶ 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁷

7. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein.⁸ First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.⁹ These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.¹⁰

8. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”¹¹ The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.¹² Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.¹³

9. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”¹⁴ U.S. Census Bureau data from the 2017 Census of Governments¹⁵ indicate there were 90,075 local governmental jurisdictions consisting of general

⁷ 15 U.S.C. § 632.

⁸ See 5 U.S.C. § 601(3)-(6).

⁹ See SBA, Office of Advocacy, Frequently Asked Questions, “What is a small business?,” <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/11/03093005/Small-Business-FAQ-2021.pdf> (Nov 2021).

¹⁰ *Id.*

¹¹ See 5 U.S.C. § 601(4).

¹² The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number small organizations in this small entity description. See Annual Electronic Filing Requirement for Small Exempt Organizations – Form 990-N (e-Postcard), “Who must file,” <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

¹³ See Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for businesses for the tax year 2020 with revenue less than or equal to \$50,000 for Region 1-Northeast Area (58,577), Region 2-Mid-Atlantic and Great Lakes Areas (175,272), and Region 3-Gulf Coast and Pacific Coast Areas (213,840) that includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

¹⁴ See 5 U.S.C. § 601(5).

¹⁵ See 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with “2” and “7”. See also Census of Governments, <https://www.census.gov/programs-surveys/cog/about.html>.

purpose governments and special purpose governments in the United States.¹⁶ Of this number, there were 36,931 general purpose governments (county,¹⁷ municipal, and town or township¹⁸) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts¹⁹ with enrollment populations of less than 50,000.²⁰ Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”²¹

10. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.²² Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.²³ The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.²⁴ U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.²⁵ Of that number, 2,837 firms employed fewer than 250 employees.²⁶ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report,

¹⁶ See U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). See also tbl.2. CG1700ORG02 Table Notes_Local Governments by Type and State_2017.

¹⁷ See *id.* at tbl.5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

¹⁸ See *id.* at tbl.6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

¹⁹ See *id.* at tbl.10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 12,040 independent school districts with enrollment populations less than 50,000. See also tbl.4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes_Special Purpose Local Governments by State_Census Years 1942 to 2017.

²⁰ While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

²¹ This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations tbls.5, 6 & 10.

²² See U.S. Census Bureau, 2017 NAICS Definition, “517312 Wireless Telecommunications Carriers (except Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

²³ *Id.*

²⁴ See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

²⁵ See U.S. Census Bureau, 2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

²⁶ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services.²⁷ Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees.²⁸ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

11. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.²⁹ This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.³⁰ Providers of Internet services (e.g. dial-up ISPs) or voice over Internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry.³¹ The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small.³² U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.³³ Of those firms, 1,039 had revenue of less than \$25 million.³⁴ Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

E. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

12. This *Order* may include new or modified information collection requirements. The *Order* adopts a requirement that mobile wireless providers block texts purporting to be from NANP numbers on a reasonable DNO list, which include numbers that purport to be from invalid, unallocated, or unused numbers, and NANP numbers for which the subscriber to the number has requested that texts purporting to originate from that number be blocked. In addition, the *Order* requires providers to establish a point of contact for senders to resolve issues of erroneously blocked texts. To the extent these new requirements constitute an information collection, such collection will not present a substantial burden for small business concerns with fewer than 25 employees; any such burdens would be far outweighed by the benefits to consumers from blocking text messages that are highly likely to be illegal. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

13. The RFA requires an agency to describe any significant alternatives that it has considered

²⁷ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

²⁸ *Id.*

²⁹ See U.S. Census Bureau, *2017 NAICS Definition*, "517919 All Other Telecommunications," <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

³⁰ *Id.*

³¹ *Id.*

³² See 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

³³ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

³⁴ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

in reaching its approach, which may include the following four alternatives, among others: “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.”³⁵

14. The *Order* requires mobile wireless providers to block texts, at the network level, that purport to be from numbers on a reasonable Do-Not-Originate list. Such texts are highly likely to be illegal and for that reason the Commission is adopting a requirement to block at the network level. The Commission recognizes that mobile wireless providers, including small entities, already take measures to block illegal text messages from reaching their customers’ phones and this requirement should not be burdensome. The *Order* also requires providers and other entities to establish a point of contact for texters to report erroneously blocked texts. Because many of these providers and entities maintain a point of contact for call blocking purposes, and because the *Order* states that providers and entities may use the same point of contact for the text blocking requirement, the requirement should not be burdensome.

F. Report to Congress

15. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.³⁶ In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. The Order and FRFA (or summaries thereof) will also be published in the Federal Register.³⁷

³⁵ 5 U.S.C. § 603(c)(1)–(c)(4).

³⁶ See 5 U.S.C. § 801(a)(1)(A).

³⁷ See *id.* § 604(b).

APPENDIX E

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA)¹ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies proposed in this *Further Notice of Proposed Rulemaking (FNPRM)*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *FNPRM* provided on the first page of the *FNPRM*. The Commission will send a copy of this entire *FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the *FNPRM* and the IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Proposed Rules

2. The *Notice* seeks comment on several issues, specifically, (i) whether to require terminating mobile wireless providers to block text messages when notified by the Commission that they are likely scams; (ii) text message authentication; (iii) extending Do-Not-Call protections to marketing text messages; and (iv) banning the practice of obtaining a single consumer consent as justification for calls and texts from multiple sellers and potential fraudsters.

B. Legal Basis

3. This action, including publication of proposed rules, is authorized under sections 4(i), 4(j), 201(b), 227(e), 254, 257, 301, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 201(b), 227(e), 254, 257, 301, and 303.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.⁴ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁵ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁶ A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁷

5. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at

¹ 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996)

² 5 U.S.C. § 603(a).

³ *Id.*

⁴ 5 U.S.C. § 603(b)(3).

⁵ 5 U.S.C. § 601(6).

⁶ 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

⁷ 15 U.S.C. § 632.

the outset, three broad groups of small entities that could be directly affected herein.⁸ First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.⁹ These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.¹⁰

6. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."¹¹ The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.¹² Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.¹³

7. Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."¹⁴ U.S. Census Bureau data from the 2017 Census of Governments¹⁵ indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.¹⁶ Of this number, there were

⁸ See 5 U.S.C. § 601(3)-(6).

⁹ See SBA, Office of Advocacy, Frequently Asked Questions, "What is a small business?," <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/11/03093005/Small-Business-FAQ-2021.pdf>. (Nov 2021).

¹⁰ *Id.*

¹¹ See 5 U.S.C. § 601(4).

¹² The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number small organizations in this small entity description. See Annual Electronic Filing Requirement for Small Exempt Organizations – Form 990-N (e-Postcard), "Who must file," <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

¹³ See Exempt Organizations Business Master File Extract (EO BMF), "CSV Files by Region," <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-EO-BMF>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for businesses for the tax year 2020 with revenue less than or equal to \$50,000 for Region 1-Northeast Area (58,577), Region 2-Mid-Atlantic and Great Lakes Areas (175,272), and Region 3-Gulf Coast and Pacific Coast Areas (213,840) that includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

¹⁴ See 5 U.S.C. § 601(5).

¹⁵ See 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with "2" and "7". See also Census of Governments, <https://www.census.gov/programs-surveys/cog/about.html>.

¹⁶ See U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). See also tbl.2. CG1700ORG02 Table Notes Local Governments by Type and State_2017.

36,931 general purpose governments (county,¹⁷ municipal, and town or township¹⁸) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts¹⁹ with enrollment populations of less than 50,000.²⁰ Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”²¹

8. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.²² Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.²³ The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.²⁴ U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.²⁵ Of that number, 2,837 firms employed fewer than 250 employees.²⁶ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services.²⁷ Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees.²⁸ Consequently, using the SBA’s small business size standard, most of these providers can be

¹⁷ See *id.* at tbl.5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

¹⁸ See *id.* at tbl.6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

¹⁹ See *id.* at tbl.10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 12,040 independent school districts with enrollment populations less than 50,000. See also tbl.4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes_Special Purpose Local Governments by State_Census Years 1942 to 2017.

²⁰ While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

²¹ This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations tbls.5, 6 & 10.

²² See U.S. Census Bureau, *2017 NAICS Definition*, “517312 Wireless Telecommunications Carriers (except Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

²³ *Id.*

²⁴ See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

²⁵ See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

²⁶ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

²⁷ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

²⁸ *Id.*

considered small entities.

9. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.²⁹ This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.³⁰ Providers of Internet services (e.g. dial-up ISPs) or voice over Internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry.³¹ The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small.³² U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.³³ Of those firms, 1,039 had revenue of less than \$25 million.³⁴ Based on this data, the Commission estimates that the majority of “All Other Telecommunications” firms can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

10. This *Notice* may include a change to the Commission’s current information collection, reporting, recordkeeping, or compliance requirements.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

11. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for such small entities.”

12. The *Notice* seeks comment on (i) whether to require terminating mobile wireless providers to block text messages when notified by the Commission that they are likely scams; (ii) text message authentication; (iii) extending Do-Not-Call protections to marketing text messages; and (iv) banning the practice of obtaining a single consumer consent as justification for calls and texts from multiple sellers and potential fraudsters.

13. These proposals would probably not be burdensome for small entities. The proposal to require those seeking consent from consumers to a list of entities, to clearly and conspicuously display the

²⁹ See U.S. Census Bureau, *2017 NAICS Definition*, “517919 All Other Telecommunications,” <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

³⁰ *Id.*

³¹ *Id.*

³² See 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

³³ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

³⁴ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

list where consent is requested would, if adopted, prevent those lead generators or telemarketers from failing to advise the consumer of the list of entities; instead the list would be displayed where the consent is requested. This should not be burdensome to small entities, as it merely requires disclosing the list where consent is requested, instead of in a hyperlink, and should reduce unwanted text messages and calls to consumers. The proposal to include texts in the DNC rules should not have an impact on small entities. Wireline and wireless phones are already included and this would just clarify that not only calls to wireless phones on the DNC list are covered, but text messages, too. The Commission anticipates that these rules, if adopted, would also reduce unwanted calls and texts to small entities. The proposal to require service providers to block texts after notice from the Commission of suspected illegality, including fraud should not be burdensome for small entities. Mobile wireless providers are already diligent in blocking fraudulent calls and texts to their customers and this would assist them in those efforts.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

14. None.

**STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *Targeting and Eliminating Unlawful Text Messages*, CG Docket No. 21-402; *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278; Report and Order and Further Notice of Proposed Rulemaking (March 16, 2023)

More than a century ago, physiologist Ivan Pavlov did a series of experiments with food, buzzers, and dogs. He was able to train the dogs to associate a buzzing noise with food, so much so that they began to drool whenever they heard this sound, even if there was no food around.

Sometimes I wonder what Pavlov would think about us and our smartphones. Because most of us are conditioned to reach for our phones anytime we hear the familiar buzz telling us a text is incoming. In our defense, those noises have become an effective way to stay connected. They help us keep up with family and friends and receive timely information from those we trust.

But there are those who want to take advantage of this trust—and our instinct, like the subjects of Pavlov’s experiment, to assume something needs attention every time we hear our devices buzz. We see this clearly in the growing number of junk texts showing up on our phones. Scam artists have found that sending us messages about a package you never ordered or a payment that never went through along with a link to a shady website is a quick and easy way to get us to engage on our devices and fall prey to fraud.

These robotexts are making a mess of our phones. They are reducing trust in a powerful way to communicate. So today we take our first step to stop these unwanted texts at the network level. We put in place rules that require mobile wireless carriers to block texts that come from invalid, unallocated, or unused numbers. In other words, we require providers to stop the texts that are most likely to be illegal. This approach has the support of Attorneys General from all 50 states and the District of Columbia. It’s good stuff. But we are not stopping here. Because we also adopt a rulemaking to explore other way stop unwanted text messages, including authentication measures and rules to prevent the abuse of consumer consent.

Thank you to those at the agency who worked on this effort, including Mika Savir, Kim Wild, James Brown, Zac Champ, Kristi Thornton, Aaron Garza, Mark Stone, and Jerusha Burnett from the Consumer and Governmental Affairs Bureau; Rakesh Patel, Lisa Zaina, Daniel Stepanicich, Kristi Thompson, Cait Barbas, Jessica Manuel, and Alexander Hobbs from the Enforcement Bureau; Susanna Larson, Garnet Hanley, Kari Hicks, and Jennifer Salhus from the Wireless Telecommunications Bureau; Elizabeth Drogula, Jonathan Lechter, and Connor Ferraro from the Wireline Competition Bureau; Kenneth Carlberg and David Furth from the Public Safety and Homeland Security Bureau; Joycelyn James, Cara Grayer and Joy Ragsdale from the Office of Communications Business Opportunities; Emily Talaga, Kim Makuch, Mark Montano, Michelle Schaefer, Patrick Brogan from the Office of Economics and Analytics; and Derek Yeo, Bill Richardson, Rick Mallen, and Valerie Hill from the Office of General Counsel.

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS**

Re: *Targeting and Eliminating Unlawful Text Messages*, CG Docket No. 21-402; *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278; Report and Order and Further Notice of Proposed Rulemaking (March 16, 2023)

Texting is increasingly becoming Americans' preferred way to communicate.¹ But unfortunately, as we've seen before, the more popular a communications service is, the more it's targeted by spammers and bad actors. The rise of robotexts – unwanted or illegal text messages – means a similar rise in harm to consumers, in the form of phishing attacks, malware, and scams. And robotexts are different than robocalls. Recipients of a robocall have the ability to either pick up the phone or not. But on most devices, recipients of a robotext see at least some of an unwanted message immediately, exposing them – and potentially luring them into – harm.

And you know as well as I do that we've been getting more of these unwanted texts. In 2022, Americans received over 225 billion robotexts – a 157 percent year-over-year increase, and a 307 percent increase from 2020.² Last month, February 2023, 10.7 billion spam texts were reported – nearly 39 for every person in the United States.³ Given this growth, failure to act could lead to robotexting to become so pervasive that it negatively affects texting, just as robocalls have done for phone calls. I can confidently say that's the last thing we want.

It is time for the Commission to act. We build upon our experience combatting robocalls, and today move to protect consumers from the threat of illegal or harmful robotexts. Industry has taken impressive steps on its own, but more needs to be done. The item we adopt today will require providers, at the network level, to take important steps to stop robotexts before they reach consumers. Adopting mandatory blocking of texts that are highly likely to be illegal based on a Do-Not-Originate list based on invalid, unallocated, or unused numbers is a reasonable first step to stem the flow of these texts. At the same time, we require providers to adopt a single point of contact for texters to report erroneously blocked messages, to balance the needs of industry and consumers. And finally, we recognize that this is just the first step, and seek additional comment on further proposals to protect consumers.

I will stay vigilant in pushing the Commission to do all it can to eliminate these illegal and unwanted text messages going forward, especially at a time where we have seen the expansion of texting to 988 and as part of NG911. I thank the Commission staff who work on robocall and robotext issues – I know there are many – for their hard work. I approve.

¹ Aaron Weiche, *SURVEY: Texting Is The Preferred Way To Communicate*, Leadferno, <https://leadferno.com/blog/survey-texting-is-the-preferred-way-to-communicate> (last visited Mar. 14, 2023).

² Robokiller, *The Robokiller phone scam report: 2022 insights & analysis*, <https://www.robokiller.com/robokiller-2022-phone-scam-report> (last visited Mar. 14, 2023).

³ Robokiller, *2023 United States robotext trends*, <https://www.robokiller.com/spam-text-insights> (last visited Mar. 14, 2023).

Exhibit B

**Before the
FEDERAL COMMUNICATION COMMISSION
Washington, DC 20544**

In the Matter of)	
)	
Targeting and Eliminating Unlawful)	
Text Messages)	CG Docket No. 21-402
)	
Rules and Regulations Implementing the)	
Telephone Consumer Protection Act of 1991)	CG Docket No. 02-278

REPLY COMMENTS OF 28 STATE ATTORNEYS GENERAL

I. INTRODUCTION

The undersigned State Attorneys General (“State AGs”) submit these Reply Comments in response to the Public Notice issued by the Consumer and Governmental Affairs Bureau,¹ seeking comment on the Federal Communication Commission’s (“Commission”) proposals to, *inter alia*, “ban the practice of obtaining a single consumer consent as grounds for delivering calls and text messages from multiple marketers on subjects beyond the scope of the original consent.”² Consistent with our respective and collective offices’ efforts in combatting illegal robocalls and text messages, and in response to those commenters advocating for measures that will provide lesser protection for consumers, the State AGs support the Commission’s intended goal of eliminating the current practices of the lead generation industry, unscrupulous voice service providers, and illegal robocallers that abuse the Commission’s rules governing prior express

¹ Further Notice of Proposed Rulemaking, Targeting and Eliminating Unlawful Text Messages, CG Docket No. 21-402, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278, March 16, 2023 (“March 2023 FNPRM”).

² March 2023 FNPRM at 22, ¶ 58.

written consent. In addition, the State AGs offer comments concerning the Commission’s proposals with respect to text messaging.

II. PRIOR EXPRESS WRITTEN CONSENT

A. The Lead Generation Problem

Telemarketers, voice service providers, and scammers need people to call (or text). Thus, lead generation has proliferated into a billion-dollar industry³ and has become a necessary component of the robocall ecosystem. Most obviously, there is the person or entity interested in placing calls to potentially solicit customers for any number of products or services or to swindle consumers into parting with their hard-earned money or personal information. Whether for telemarketing or for scams, the entity that wants to place the calls needs to select the phone numbers to call, needs technology to dial the calls *en masse*, and needs a voice service provider to connect the calls to the recipients. Each of these necessary functions is routinely outsourced to providers all over the globe, who facilitate and profit from facilitating robocalls.

A few months into the global COVID-19 pandemic, Assurance IQ, LLC (“Assurance”), an insurance company, filed a petition with the Commission seeking an expedited ruling regarding what constitutes prior express consent under the Telephone Consumer Protection Act (“TCPA”).⁴ In its Petition, Assurance requested the Commission confirm that “where it is determined that a calling party has sufficient information to establish a reasonable basis to believe that they have

³ Lead generation involves collecting personal information, including telephone numbers, from consumers and then selling that information to third parties who want to use the leads to generate business. *See also* <https://www.statista.com/statistics/190328/us-online-lead-generation-spending-forecast-2010-to-2015/> (Accessed April 18, 2023).

⁴ Petition for Expedited Declaratory Ruling Regarding the Application of 47 U.S.C § 227(b)(1) of the Telephone Consumer Protection Act, CG Docket 02-278, May 12, 2020 (“Petition”).

valid consent to make the call, the caller may rely on that consent for TCPA purposes until such time as the called party claims to the caller that he or she did not provide the consent.”⁵ In its Petition, Assurance outlined its process for obtaining prior express consent from consumers, as follows:

Consumers seeking quotes through one of [Assurance’s] web sites...are first required to answer questions to provide information relevant to the formulation of a needs assessment. This information includes the customer’s name, telephone number...address, and [originating IP-address]...At the final step, in order to receive an online quote, the consumer sees, immediately above the submit or “get my quote” button, the statement, “By Clicking View My Quote, I agree to the below consents.” Adjacent to that button, the consumer sees the following:

By clicking 'View My Quote', I expressly consent by electronic signature to receive marketing communication, including via calls using an automatic telephone dialing system and artificial or pre-recorded messages, emails, and text messages (SMS), from insurance companies or their agents, the owner of this website and its agents, representatives and affiliates, and partner companies to the phone number provided (including any wireless numbers). I understand that my consent to receive communications in this manner is not required as a condition of purchasing any goods or services, my telephone company may impose charges for these contacts, and I can revoke my consent at any time. If you are Medicare-eligible a representative may call you about a Medicare Advantage plan, Medicare Prescription Drug plan, Medicare Supplement plan or other Medicare plans. Not affiliated with the United States Government or the federal Medicare program.

By clicking 'View My Quote', I further agree to receive SMS notifications from Assurance short code 71953. Message and data rates may apply. Message frequency varies. You may receive alerts until you choose to opt out of this service by texting "Stop" to 71953 or replying "Stop" to any of our messages. Text "Help" to 71953 for assistance. Terms and Conditions and Privacy Policy and Do Not Sell My Personal Information

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⁵ Petition at 1 (internal citation omitted).

⁶ Petition at 2-3.

Typically, a consumer is not required to click on the “partner companies” hyperlink, nor the hyperlinks for the “Terms and Conditions” or “Privacy Policy,” in order to click on the “View My Quote” button. If a discerning consumer clicks on the link for “partner companies,” Assurance redirects the consumer to a separate webpage,⁷ wherein Assurance lists over 2,100 company names.⁸ By simply requesting an insurance quote from Assurance via a web inquiry, Assurance has opened the floodgates for an unwitting consumer to receive thousands upon thousands of robocalls, emails, or text messages from not only Assurance and “its agents, representatives and affiliates” (whoever they are), but “other insurance companies or their agents” (whoever they are), as well as the 2,100+ companies.

In reviewing the list of Assurance “partner companies,” it is readily apparent that not all of these companies sell insurance products. Without performing an exhaustive internet search of all 2,100+ names, it appears that the list of partner companies includes businesses that sell automobile warranties or service contracts, solar panels, digital advertising, and debt relief services, to name a few. Interestingly enough, the list also appears to include lead generation and marketing companies, as well as companies with wholly generic names, such as ‘American,’ ‘Builders,’ ‘Electric,’ ‘Erie,’ ‘Fabric,’ ‘Facility,’ ‘Federal,’ ‘Inc.,’ and ‘LLC,’ to name a few. One can only speculate as to why such a list would contain such generic names.⁹

⁷ <https://assurance.com/tcpa-partner-companies> (accessed March 28, 2023).

⁸ See State AG Reply Comment - Exhibit 1, attached.

⁹ See *State of Ohio v. Aaron Michael Jones, et al.*, 2:22-cv-02700-ALM-KAJ (S.D. Oh. 2022), Complaint, 7/7/2022 at ¶ 69 (alleging that when a VoIP provider of an illegal robocaller had to respond to an ITG traceback request, the robocaller needed to “buy some time” before responding in order to add “auto services” language to the list of opt-in websites in the terms and conditions).

Assurance's business practice is not an anomaly. Telemarketers (and some voice service providers¹⁰) typically rely on the purported consent provided through data brokers, bots, or weblinks on websites. Various parties create marketing websites with consent forms and then sell the data (i.e., names and phone numbers) to intermediary 'aggregators,' who compile the lead data from multiple website publishers and then sell the data to other aggregators, and so on, until the telemarketers purchase the leads for solicitation purposes.¹¹ Multiple filers submitted comments into the record in response to Assurance's Petition, providing examples and greater explanation of these practices.¹²

¹⁰ See Order, *In the Matter of Urth Access, LLC*, File No. EB-TCD-22-00034232, December 8, 2022, at 6-7, ¶¶ 15-16 (Urth Access, a voice service provider sanctioned by the Commission, claimed, in response to a Traceback, that its customers obtained consent for student loan robocalls. Urth Access provided the Traceback group with purported consent logs that included website addresses through which the illegal robocallers captured the called party's consent. However, the Commission recognized that none of the websites had any connection to student loan assistance, but rather, concerned health insurance products/services. The Commission also recognized that the consent logs failed to provide adequate disclosure that would constitute valid consent, as required by the Commission's rules. The websites included TCPA consent disclosures whereby the consumer agreed to receive robocalls from "marketing partners." These marketing partners were only visible to the consumer if the consumer clicked on a specific hyperlink to a second website that contained the names of 5,329 entities.)

¹¹ See generally "Follow the Lead" Workshop, Staff Perspective (Sept. 2016) at [Staff Perspective: "Follow the Lead" workshop - September 2016 \(ftc.gov\)](#).

¹² See, e.g., Letter from Timothy J. Sostrin, Keogh Law, to Marlene Dortch, Federal Commc'ns Comm'n, CG Docket No. 02-278 (Aug. 12, 2020); Reply Comments of James Shelton in Opposition to Petition for Expedited Declaratory Ruling filed by Assurance IQ, LLC, CG Docket No. 02-278 (filed July 6, 2020); Reply Comments of Joe Shields on the Assurance IQ LL Petition for Expedited Declaratory Ruling, CG Docket No. 02-278 (filed July 6, 2020); Comments of ZipDX LLC, CG Docket No. 02-278 (filed May 28, 2020); Letter from National Consumer Law Center, et al. to Marlene Dortch, Federal Commc'ns Comm'n, CG Docket No. 02-278 (Aug. 12, 2020); Letter from National Consumer Law Center, et al. to Marlene Dortch, Federal Commc'ns Comm'n (Oct. 4, 2022).

B. The Commission’s Proposed Solution and Requests for Comment

In the March 2023 FNPRM, the Commission proposes to amend 47 C.F.R. Section 64.1200(f)(9) by adding the below-emphasized language to the current rule:

The term prior express written consent means an agreement, in writing, bearing the signature of the person called that clearly authorizes the seller to deliver or cause to be delivered to the person called advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice, and the telephone number to which the signatory authorizes such advertisements or telemarketing messages to be delivered.

Prior express written consent for a call or text may be to a single entity, or to multiple entities logically and topically associated. If the prior express written consent is to multiple entities, the entire list of entities to which the consumer is giving consent must be clearly and conspicuously displayed to the consumer at the time consent is requested. To be clearly and conspicuously displayed, the list must, at a minimum, be displayed on the same web page where the consumer gives consent.¹³

In addition to comments on the proposed language set forth above, and whether or not it will “clarify consent” or “help to eliminate illegal text messages and calls,” the Commission seeks comment on alternatives to the proposed language that would better protect consumers from the harms of illegal robocalls or text messages.¹⁴ The Commission also seeks comment on the principle that prior express consent to receive robocalls or text messages must be made directly to one entity at a time.¹⁵

The Commission additionally asks a series of questions regarding how its proposed new language would affect consumer use of comparison-shopping websites. First, it requests comments on how it can ensure consumers “can consent to obtain further information from the

¹³ March 2023 FNPRM at 34, Appendix C; compare 47 CFR § 64.1200(f)(9).

¹⁴ March 2023 FNPRM at 23, ¶¶ 61 and 62.

¹⁵ *Id.* at 23, ¶ 61.

site without receiving numerous calls and texts from unrelated companies.” Second, it requests that commenters discuss whether the new language would limit the value of comparison-shopping sites to consumers. Third, the Commission asks whether alternatives to the proposal exist that would better protect consumers from unwanted robocalls and texts that may result from use of comparison-shopping websites.¹⁶

The undersigned State AGs support the Commission’s consistent and long history of requiring that prior express written consent for telemarketing be directly between a specific consumer and one specific seller. Based upon our understanding of the TCPA, the Code of Federal Regulations (“Code”), and the Commission’s previous orders, there is no “lead generator loophole.” Rather, those who profit from the robocall ecosystem are ignoring established law.

As such, the State AGs respectfully suggest that in lieu of amending the current language of Section 64.1200(f)(9) as proposed, the Commission instead clarify that the existing requirements for prior express written consent to receive robocalls and texts are in line with the principle that such consent must be made directly to one entity at a time. By doing so, the Commission will better protect consumers and avoid likely disputes over interpretation of the term “logically and topically associated.”

The State AGs also believe that contrary to the opening comments offered by members of the telemarketing industry, the Commission’s proposed new language permitting consumer consent to apply to more than one seller at a time is not necessary for consumers to continue to enjoy the benefits of comparison-shopping websites. Rather, as addressed in Section C (iii) below, within the structure of the current rule, these websites can make slight shifts to how information is

¹⁶ *Id.*

displayed in a way that continues to provide consumers the benefit of comparison, without subjecting them to unwanted robocalls and texts.

C. Discussion

(i) The Current Rules Require Consent to One Seller at a Time

In 1991, Congress passed the TCPA to address consumer outrage “over the proliferation of intrusive, nuisance calls to their homes from telemarketers.”¹⁷ The TCPA provides that it is unlawful to make certain calls and texts¹⁸ using an automatic telephone dialing system¹⁹ or an artificial or prerecorded voice.²⁰ In addition, the TCPA vests the Commission with authority to promulgate rules to implement this prohibition.²¹ Pursuant to this authority, the Commission determined that autodialed, prerecorded, or artificially voiced calls that introduce an advertisement or constitute telemarketing are illegal unless the called party has given “prior express written consent” to be called.²²

The Code provides that the called party must provide permission to the seller. The Code defines “Seller” as “the person or entity on whose behalf a telephone call or message is initiated for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or

¹⁷ Public Law 102-243, 105 Stat 2394 (Dec. 20, 1991) at Section 2 (6).

¹⁸ In 2003, the Commission clarified that “calls” include text messages to wireless numbers. 2003 TCPA Order, 18 FCC Record at 14115, para. 165.

¹⁹ In *Facebook v. Duguid*, 141 S.Ct. 1163, 1171 (2021), the Supreme Court clarified that “a necessary feature of an autodialer under § 227(a)(1)(A) is the capacity to use a random or sequential number generator to either store or produce phone numbers to be called.”

²⁰ See 47 U.S.C. § 227(b)(1)(A) and (B).

²¹ 47 U.S.C. 227(b)(2).

²² 47 C.F.R. 64.1200(a)(2).

services, which is transmitted to any person.”²³ Furthermore, the Code defines “prior express written consent,” in relevant part, as “an agreement, in writing, bearing the signature of the person called *that clearly authorizes the seller to deliver or cause to be delivered to the person called advertisements or telemarketing messages* using...an artificial or prerecorded voice... .”²⁴ Hence, for advertising and telemarketing robocalls, the Code establishes that there must be express written consent *by the called party to the seller*.

Next, the Code delineates the requirements for the written agreement as follows:

- (i) The written agreement shall include a *clear and conspicuous disclosure* informing the person signing that:
 - (A) By executing the agreement, *such person authorizes the seller* to deliver or cause to be delivered to the signatory telemarketing calls using an automatic telephone dialing system or an artificial or prerecorded voice ...²⁵

Courts interpret “clear and conspicuous” to mean a notice that would be apparent to the reasonable consumer, separate from advertising copy or other disclosures.²⁶

The plain language of the existing rules makes clear that the Commission already intended for consent under the TCPA to be directly between a specific consumer and a specific seller. The Commission’s orders adopting these rules confirm this interpretation. For example, in 1995, in one of the first Commission orders implementing the TCPA, the Commission observed that

²³ 47 C.F.R. §64.1200(f)(10).

²⁴ 47 C.F.R. § 64.1200(f)(9) (emphasis added).

²⁵ *Id.* (emphasis added).

²⁶ See *Lundbom v. Schwan’s Home Service, Inc.*, 2020 WL 2736419 (D. Or. 2020); *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 954-955 (9th Cir. 2009); *Karpilovsky v. All Web Leads, Inc.*, No 17 C 1307, 2018 WL 3108884, *5 (N.D. Ill. 2018).

although the statute does not define “express permission” or “invitation” from a consumer to permit telemarketing calls, Congress did not intend to allow telephone solicitation calls unless the called party (a) clearly stated that the telemarketer may call, and (b) clearly expressed an understanding that the telemarketer’s subsequent calls will be made for the purpose of encouraging the purchase of goods or services.²⁷

Also, in its 2012 TCPA Order,²⁸ the Commission declared it would “maximize consistency with the Federal Trade Commission’s (“FTC”) analogous Telemarketing Sales Rule (“TSR”)”²⁹ by adopting its current rules on consent:

Consistent with the FTC’s TSR, [the Commission concludes] that a consumer’s written consent to receive telemarketing robocalls must be signed and sufficient to show that the consumer: (1) received ‘clear and conspicuous disclosure’ of the consequences of providing the requested consent, i.e., that ***the consumer will receive future calls that deliver prerecorded messages by or on behalf of a specific seller***; and (2) having received this information, agrees unambiguously to receive such calls at a telephone number the consumer designates.³⁰

²⁷ In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Memorandum Opinion and Order, 10 FCC Record 12391, 12396 (Aug. 1995) at ¶11 (emphasis added).

²⁸ Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278, 27 FCC Record 1830, February 15, 2012 (“2012 TCPA Order”).
https://docs.fcc.gov/public/attachments/FCC-12-21A1_Rcd.pdf

²⁹ 2012 TCPA Order, at 1831, ¶ 1.

³⁰ *Id.* at 1844, ¶ 33 (emphasis added).

The TSR also requires the seller to obtain prior express consent from the called party.³¹ When the FTC amended the TSR in 2008 to prohibit telemarketing calls delivering prerecorded messages without a consumer's express written agreement to receive such calls, the FTC responded to consumer comments expressing concern for their contact information being shared with affiliates or other companies. The FTC unequivocally stated that a "consumer's agreement with a seller to receive calls delivering prerecorded messages is *non-transferrable*. Any party *other than that particular seller* must negotiate its own agreement with the consumer to accept calls delivering prerecorded messages. Prerecorded calls placed to a consumer on the [National DNC Registry] by some third party that *does not have its own agreement* with the consumer would violate the TSR."³² Like the amended TSR, the TCPA and the Code allow sellers and telemarketers to call any person whose number has been entered on the National DNC Registry if that person has given his or her "prior express invitation or permission" to call, in writing and signed.³³ Consequently, the so-called "loophole" is just a figment of the lead generation industry's

³¹ See 16 C.F.R. § 310.4(b)(1)(v)(A) (in order to initiate any outbound telephone calls that deliver prerecorded messages to induce the purchase of goods or services, *the seller must obtain an express, written agreement from the called party*).

³² See Federal Register, Vol. 73, No. 169, August 29, 2008, at 51182 (emphasis added); <https://www.ftc.gov/business-guidance/resources/complying-telemarketing-sales-rule#prerecordedmessages>. ("**Does a consumer's written agreement to receive prerecorded message calls from a seller permit others, such as the seller's affiliates or marketing partners, to place such calls?** No. The TSR requires that the written agreement identify the single "specific seller" authorized to deliver prerecorded messages. The authorization does not extend to other sellers, such as affiliates, marketing partners, or others. **May a seller obtain a consumer's written permission to receive prerecorded messages from a third-party, such as a lead generator?** No. The TSR requires the seller to obtain permission directly from the recipient of the call. The seller cannot rely on third parties to obtain permission.")

³³ 47 CFR 1200(c)(2)(ii) (emphasis added); see also, *Report to Congress Pursuant to the Do No Call Implementation Act on Regulatory Coordination in Federal Telemarketing Laws Submitted by The Federal Trade Commission* at 19 ("Like the amended TSR, the revised TCPA Regulations allow sellers and telemarketers to call any person whose number has been entered on the National Do Not Call Registry if that person has given his or her 'prior express invitation or permission' to call, in writing and signed.").

collective imagination. The State AGs respectfully submit that consent under the TCPA is between one specific consumer and one specific seller.

In 2015, the Commission further put the consumer in command by clarifying that “a called party may revoke consent at any time and through any reasonable means. A caller may not limit the manner in which revocation may occur.”³⁴ To allow third parties to gather consent would effectively limit the manner in which consumers who seek to revoke consent can do so. Consumers would be forced to first receive robocalls from a seller and then revoke consent individually to each seller. Third-party lead generators that gather consent for multiple sellers do not generally maintain a relationship with the sellers past the sale of consumer consent data, and thus, they cannot reliably transmit a revocation of consent from a consumer.

As a result, if a consumer initially consents to receive robocalls through a third-party lead generator, or if fabricated consent is fraudulently provided to a third-party lead generator, then the consumer cannot subsequently revoke consent through the lead generator and is likely to receive an ongoing barrage of robocalls from sellers who purchase the consumer’s information. Consumers who, for example, wish to receive information on mortgage rates do not need or desire mortgage related solicitations in perpetuity. Rather, in most instances, the consumer will either refinance or purchase a home, or they will change their mind after some time and no longer wish to receive solicitations.

However, when third-party lead generators collect and sell a consumer’s consent, the consumer cannot effectively revoke consent after the consumer’s need for mortgage information has passed. Rather, each time the lead generator sells the consumer’s information, and a seller

³⁴ Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; American Association of Healthcare Administrative Management, Petition for Expedited Declaratory Ruling and Exemption; et al, FCC 15-72, ¶ 48. https://docs.fcc.gov/public/attachments/FCC-15-72A1_Rcd.pdf.

calls, the consumer must answer the unwanted robocall and revoke consent to the individual seller. This is another important reason why the Commission's rules should not be amended to permit web-based consent from one consumer to apply to multiple sellers, even sellers of logically or topically related services.

The March 2023 FNPRM suggests a clear line in the sand in its proposal to “ban the practice of obtaining a single consumer consent as grounds for delivering calls and text messages from multiple marketers on subjects beyond the scope of the original consent.” However, the State AGs respectfully submit that the Commission's proposed solution will not achieve this result. Under the Commission's proposed amendments, multiple entities would be legally permitted to rely on the consent provided to another, totally separate entity. Instead of hyperlinks to separate websites, it is likely that hundreds, if not thousands, of so-called ‘marketing partner’ names will be crammed onto consent pages. Sellers, telemarketers, and voice service providers will most likely declare such practice is ‘clear and conspicuous’ because all the consumer has to do to see the fine print is to click on the magnifying glass icon to increase the size of the font on the computer screen.

In summary, the proposed amendment in Appendix C of the March 2023 FNPRM will not achieve the intended purpose, but it will open doors to new tricks and gimmicks. Instead, the Commission should simply clarify and reiterate that consent under the TCPA is between one specific consumer and one specific seller. If another seller wants consent to send robocalls to that consumer, then that other seller should independently obtain consent—no more hyperlinks, no more ‘marketing partners,’ and no more confusion.

(ii) **The Commission Should Confirm Compliance with the Federal E-Sign Act**

The Code also requires the written consent for telemarketing to comply with the federal Electronic Signatures in Global and National Commerce Act (“E-Sign Act”).³⁵ The Code states that the called party’s “signature shall include an electronic or digital form of signature, to the extent that such form of signature is recognized as a valid signature under applicable federal law or state contract law.”³⁶ The E-Sign Act enables the validity and enforceability of electronic signatures. Pursuant to the E-Sign Act, an “electronic signature means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.”³⁷

Hence, basic E-Sign law requires that for every agreement made electronically, there be four separate elements to constitute consent: (1) an electronic sound or process, such as the click of a mouse; (2) that is attached to or logically associated with a contract or agreement; (3) executed or adopted by the person; (4) with the intent to sign the agreement. Simply put, one cannot intend to sign an agreement when one does not know what the agreement is. Consequently, extending permission for telemarketing to entities and for services that are not specifically identified on the webpage where the consumer clicks to give permission to a specific seller does not provide the requisite intent.

In the Commission’s 2012 TCPA Order, the Commission concluded that “consent obtained in compliance with the E-Sign Act will satisfy the requirements of its revised rule, including permission obtained via an email, website form, text message, telephone keypress, or voice

³⁵ 15 U.S.C. § 7001, *et seq.*

³⁶ 47 C.F.R. § 64.1200(f)(9)(ii).

³⁷ 15 U.S.C. § 7006(5).

recording.”³⁸ The Commission further concluded that “[a]llowing documentation of written consent under the E-Sign Act [would] minimize the costs and burdens of acquiring prior express written consent for autodialed or prerecorded telemarketing calls while protecting the privacy interests of consumers.”³⁹

In addition to restricting prior written consent for telemarketing to one specific seller, current Commission rules require the consent to be in writing and comply with federal E-Sign Act requirements. Accordingly, the undersigned State AGs request that the Commission reiterate that practices such as those employed by Assurance, as described above, violate Commission rules. Claims by “marketing partners” (listed on a separate webpage or website) that a consumer’s mouse click provided valid written consent for telemarketing are invalid. Moreover, because the E-Sign Act requires that the agreement be presented in writing,⁴⁰ there is no authority for concocting oral consent during a robocall.⁴¹

(iii) Reaffirming that the Current Rule Already Requires One Consent to One Seller at a Time Will Not Limit the Value of Comparison- Shopping Sites to Consumers.

As mentioned above, the Commission also requested the following input concerning its proposed modification of its rule regarding preexisting consumer consent to telemarketing calls and texts to allow one consent to apply to multiple sellers:

Consumers may find comparison shopping websites helpful; how can we ensure that they can consent to obtain further information from the site without receiving numerous calls and texts from unrelated companies? Commenters should discuss whether our

³⁸ Small Entity Compliance Guide, CG Docket No. 02-278, May 13, 2013 (“FCC Compliance Guide”), at p. 4; *citing* 2012 TCPA Order at 27 FCC Record 1830, 1844, ¶ 34.

³⁹ FCC Compliance Guide, at 4.

⁴⁰ 15 U.S.C. § 7001(c)(1).

⁴¹ 15 U.S.C. § 7001(c)(6).

proposal would limit the value of comparison-shopping sites to consumers.⁴²

In the opening comment period, several commenters that support or operate comparison-shopping websites supported modifying the rule to expand consent to multiple sellers, arguing that requiring one consent per consumer would reduce access to and increase the cost of credit, deprive consumers of choice, and stifle competition.⁴³ For example, Lending Tree represents:

[The] proposal will harm consumers, consumer welfare, and the competition that comparison-shopping websites promote among multiple providers and sellers. Such a limitation undermines the very reason that a consumer seeks out and visits a comparison-shopping website, which is to obtain simultaneous offers from multiple, competing sellers and providers, rather than having to shop from seller to seller on their own.”⁴⁴

Similarly, Drips, which describes itself as a “conversational outreach platform that helps compliant businesses set appointments with consumers who have existing business relationships or provided written consent to be contacted for specific purposes,”⁴⁵ claims:

Suggesting that consent should only be able to be made in a 1:1 fashion is an oversimplification to a nuanced problem. This would effectively kill all comparison-shopping websites, consumer choice, and online marketplaces as we know it.⁴⁶

⁴² March 2023 FNPRM at 23, ¶61.

⁴³ See e.g., Comments of Lending Tree, LLC, CG Docket No. 02-278 (May 8, 2023) (“Lending Tree Comments”); Letter from Drips, CG Docket No. 02-278 (May 8, 2023) (“Drips Letter”); Letter from Online Lenders Alliance, CG Docket No. 02-278 (May 8, 2023).

⁴⁴ Lending Tree Comments at 12.

⁴⁵ Drips Letter at 1.

⁴⁶ *Id.* at 3.

The State AGs disagree that enforcing the existing rule would harm consumer welfare and “effectively kill all comparison-shopping websites.” Comparison-shopping websites such as Lending Tree provide a service to consumers by gathering potential credit options in one place, but they do not perform a hard credit pull and do not provide firm offers of credit. As a result, consent is not necessary for their services to be offered and any related benefit to be rendered. Rather, consumers could use these services and then select the lender or lenders they wish to hear from individually. It is not necessary that a consumer be required to agree to receive robocalls or robotexts from multiple, potentially hundreds of other lenders in order for them to access the services of comparison-shopping websites.

Indeed, it is permissible under the current rules for a comparison-shopping site to collect express consent from individual sellers for telemarketing calls or texts on their websites. The website simply must clearly and conspicuously disclose the names of the sellers that may contact the consumer and ask the consumer to consent specifically to each seller from which they agree to receive calls or texts. The current rule does not prevent sellers from obtaining express consent. Therefore, the current rule does not undercut the business model insofar as that model relies on sellers obtaining specific consent from a consumer on a one-by-one basis.

In short, enforcing the rules to require pre-existing written consent to call or text a consumer for purposes of telemarketing from one consumer to one seller at a time will not reduce consumer access to credit, deprive consumers of choice, or stifle competition in the comparison-shopping industry. Rather, enforcing the current rule better protects consumers by requiring that they proactively consent to receiving further information from other companies. The State AGs therefore ask the Commission to reject commenter claims that enforcing the current rule would impair the value of comparison-shopping sites to consumers.

III. TEXT MESSAGES

A. The Illegal Text Problem

With the advent of mobile phones, the speed and the ease with which we communicate with others has increased exponentially. This increased speed creates circumstances that make consumers more vulnerable to robotext fraud. Consumers rely upon their mobile phones to receive communications that are characteristically short, but often important. As such, it is easier for bad actors to disguise their identities through a text message, in comparison to an illegal robocall or phishing e-mail. During a phone call or while reading an e-mail, the would-be victim has additional time to identify the scam, whereas this is not so with a short text message containing a malicious link. Simply by tapping (inadvertently or purposefully) the link in a text, consumers may expose their phones to malware and viruses. Given the amount of personal information contained on our cellular phones, the potential financial and personal privacy harms are vast.

The evidence already before the Commission supports a need to enact effective rules to address the continuing threat scam robotexts pose to consumers. As the Commission recognized, the number of spam text messages that wireless providers blocked grew ten times, from an estimated 1.4 billion in 2015 to 14 billion in 2020.⁴⁷ In addition, consumers have reported \$231 million in losses from text message scams in the first three quarters of 2022, which is greater than the losses reported in 2020 and 2021 combined.⁴⁸

⁴⁷ March 2023 FNPRM at 3, ¶ 6.

⁴⁸ *Id.* at 4, ¶ 6.

To curb the onslaught of illegal robotexts, the Commission seeks comment on whether it should adopt processes similar to those in place for illegal robocalls. Specifically, the Commission proposes, *inter alia*, to require terminating providers to block texts from a sender after the providers are on notice from the Commission that the sender is sending illegal texts, and to extend the National Do-Not-Call (“DNC”) Registry’s protections to text messages.⁴⁹ The State AGs commend the Commission’s attention to the particular issue of illegal robotexts, distinct from the issue of illegal robocalls, and support the Commission’s efforts to review, clarify, and refine rules that aim to enhance protections for consumers and honor their requests not to be bombarded by illegal robotexts.

B. Blocking Texts upon Commission Notification

In the March 2023 FNPRM, the Commission proposes to “require terminating mobile wireless providers to investigate and potentially block texts from a sender after they are on notice from the Commission that the sender is transmitting suspected illegal texts, similar to [the Commission’s] requirement for gateway providers with respect to voice calls.”⁵⁰ Based on the Commission’s proposal, the State AGs presume that the Commission’s Enforcement Bureau would issue an official notice of suspected illegal texts to a terminating mobile wireless provider (“terminating provider”).⁵¹ The terminating provider would then promptly investigate the identified text(s) and either block the texts and substantially similar texts on an ongoing basis or

⁴⁹ *Id.* at 3, ¶ 4.

⁵⁰ *Id.* at 20, ¶ 50.

⁵¹ *Id.* at 20, ¶ 52.

respond to the Commission that the terminating provider has a reasonable basis for concluding that the identified texts are not illegal.⁵²

To begin, the State AGs support the principle that all entities in the wireless messaging ecosystem have an obligation to do their part to preserve the trust in, and utility of, messaging services.⁵³ This includes those providers who ultimately deliver illegal texts to consumers. However, because State AGs, along with the Commission, also understand that the messaging and voice ecosystems each have significantly different infrastructures,⁵⁴ we are mindful that comparable success in mitigating illegal robotexts may not precisely align with the playbook that has been so effectively devised and refined by the Commission to mitigate illegal robocalls.

Therefore, to the extent that the Commission has determined that extending the robocall blocking protocols to robotexts will actually bring a measurable benefit to consumers across the country in preventing fraud, the State AGs support such a proposal. The State AGs further urge the Commission to continue exploring ways in which rules specific to the unique infrastructure, players, and technology of messaging and robotexting can be proposed and deployed to effectively and efficiently mitigate the continuing, burgeoning threat targeting our consumers.

⁵² *Id.*

⁵³ See CTIA, *Messaging Principles and Best Practices*, <https://www.ctia.org/the-wireless-industry/industry-commitments/messaging-interoperability-sms-mms> (last visited May 2, 2023) (enumerating a set of voluntary best practices developed in July 2019 by CTIA, the messaging industry association, and its member companies throughout the wireless messaging ecosystem).

⁵⁴ Reply Comments of Fifty-One (51) State Attorneys General, Targeting and Eliminating Unlawful Text Messages at 4, CG Docket No. 21-402 (Dec. 9, 2022).

C. Clarifying Do-Not-Call Protections for Text Messages

To the extent that it may be unclear, the Commission proposes to “clarify that the National DNC Registry protections apply to text messages as well as voice calls and to codify this clarification in [the Commission’s] rules.”⁵⁵ Previously, the Commission has stated that “text messages” are “calls” for TCPA purposes and has taken the position that the National DNC Registry protects consumers from unwanted marketing text messages.⁵⁶ However, the Commission has not explicitly included text messages in the codified DNC rules.⁵⁷

As the Commission recognized, the National DNC Registry has been operational for almost twenty years and currently protects over 246 million telephone numbers from telemarketing sales calls.⁵⁸ As with our respective state DNC registries, the National DNC Registry is popular among consumers, as it provides a means through which consumers can exercise a modicum of control over the marketing telecommunications they choose to receive.

The State AGs support the Commission’s proposal to clarify that the National DNC Registry protections will apply to marketing text messages. Such clarification is a common-sense approach to eliminate any potential confusion in the industry and has the added benefit of providing protection to consumers regardless of whether the texting party utilizes an autodialer.⁵⁹

⁵⁵ March 2023 FNPRM at 21, ¶ 55.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.* at 22, ¶ 57.

IV. CONCLUSION

The undersigned State AGs thank the Commission for the opportunity to present these comments in this proceeding and reaffirm our commitment to work with the Commission in combatting illegal robocalls and text messages. We respectfully urge the Commission to take this opportunity to shut down these unreliable and illegal methods of purportedly obtaining consent from consumers for marketing robocalls and texts. To that end, the State AGs recommend the Commission issue an Order that clarifies and confirms that its existing rules concerning “prior express written consent” contemplate consent between a specific consumer and one specific seller. This measure, as well as the other recommended measures set forth above, will ultimately better protect consumers from unwanted robocalls and text messages, which is a goal that the Commission and the State AGs collectively share.

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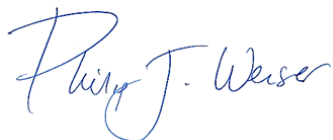
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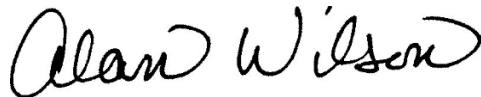
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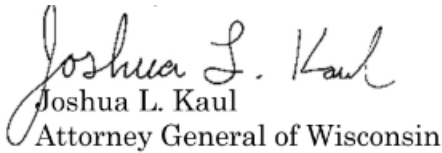
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Bridget Hill, Attorney General

Attorney General of Wyoming

State AG Reply Comment – Exhibit 1

1st Century
21st Century
21st Century Insurance
2insure4less
5 Star Auto Protection
7Made Media
AAA Auto Warranty
AAA Insurance Co.
AA Auto Protect
AABCO
AA Media Inc
AARP
ABCLeads
A&B Insurance and Financial
Abrazo Health
Absolute Health Agents
ACA Express
Acceptance
Acceptance Insurance
Access Insurance
AccordantMedia
Accuquote
ACE Global Marketing LLC
ACE Solutions
Acme
Acordia
Acquisition Tech
Acquisition Technologies
ACSC
Adexec Services
Admaric Insurance Agency
AdMediary
Admiral Life
AdoptAContractor
Adrea Rubin
Adrian Adams Agency
Adsparkx Digital
ADT
ADT Solar
Advance Consultants LLC
Advanced Vehicle Protection Center
Advantra
Advocate Health
Advocator Group
Aegis First
Aegis Security
Aegon US Holding Corp.
Aetna
A & E Vehicle Services
Affinity Health Plan
Affirmative
Affordable Healthcare Partners
Affordable Health Insurance Group
Affordable Insurance Group Inc.
Affordable Senior Health Solutions
AFLAC
AGA
Agency Incline
AgentCubed Marketplace
Agent Insider
Agent Marketing Partners
Agentra Healthcare
AHCP
AHH
AHIA
AHIX
AIB
AIG
AIG Direct
AIO
AIP
AIS
AIU
AIU Insurance
Alfa Insurance
Alfonzo Insurance Allstate Agency
Alieria Healthcare
All Access Health Insurance
All American Health Agency
Allcare United
Allcare United LLC
AllDigitalPromotions
All Digital Promotions
Allegiant Group
Alliance
Alliance 321
Alliance and Associates
Alliance & Associates
Alliance Insurance
Alliance National Health
Allianz
Allied
Allied Health
Allied Health Insurance Associates
Allied Health Insurance Associates LLC
Allied Insurance
Allied Insurance Partners
Allina Health
All Nation
All Risk
Allstate
Allstate County Mutual
Allstate Indemnity
Allstate Insurance
AllWebLeads
All Web Leads
Alpha Benefits Center
Alphatech Resource Holdings s.r.o
Alpine Digital Group, Inc.
America Auto Care
America Direct
American
American Adventure Insurance
American Alliance
American Automobile Insurance
American Automotive Alliance, LLC
American Banks
American Benefits
American Benefits Group
American Casualty
American Commerce Insurance Company
American Continental
American Deposit Insurance
American Direct Business Insurance
American Economy
American Empire Insurance
American Family
American Family Insurance
American Family Mutual
American Fidelity Corp.
American Financial
American General

American Health & Life Associates
American Health Marketplace
American Health Plans
American Health Reform Solutions
American Health Solutions
American Health Underwriters
American Home Assurance
American Income Life
American Income Life Insurance Company
American Income Life Insurance Company Family
American Insurance
American Insurance Agencies
American Insurance Agencies Direct
American Insurance Agencies Direct Inc.
American Insurance Company
American Insurance Organization
American Insurance Organization, LLC
American International
American International Ins
American International Pacific
American International South
American Life & Health
American Manufacturers
American Mayflower Insurance
American Motorists Insurance
American National
American National Insurance
American National Insurance Co
American National Property and Casualty
American Premier
American Premier Insurance
American Protection Insurance
American Reliable
American Republic
American Republic Insurance Co.
American Savers Plan
American Security Insurance Company
American Select
American Select Health
American Senior Med
American Service Insurance Agency
American Skyline Insurance Company
American Spirit Insurance
American Standard
American Standard Insurance - OH
American Standard Insurance - WI
American States
American Workers Insurance Services
Americare
Americare/American Enterprise
Americare Group
America's Health Advisors
Americas Health Brokers
America's Health Care Plan
Americas Health Group
America's Insurance
America's Moneyline, Inc.
America's Trust
America's Trust, Inc.
AmeriChoice
Americo
Amerigroup
AmeriHealth
Amerilife
AmeriLife Group, LLC
Amerilife Marketing Group, LLC
AmeriPlan
Ameriprise
Ameriprise Financial Group

Ameriquote
AmeriSave
Amerisure
Amica
Amica Insurance
AmOne
Angelic Marketing Group
Angelic Marketing Group, LLC
Anhelo Insurance Solutions LLC
Anhelo Insurance Solutions LLC.
ANPAC
Answer Financial
Anthem
Anthem BCBS
Anthem / BCBS
AON
Aon Corp.
APEX Health Plans
API
Apliant
Apollo Insurance Group
Apollo Interactive
Applied General
Aragon Advertising
Aragon Advertising LLC
Arbella
Ardent Health Services
Arizona General
Armed Forces Insurance
Arrowhead
Arrowstar Insurance Center
Art Institute
Assigned Risk
Associated Indemnity
Associated Insurance Managers
Assurance IQ, Inc.
Assurant
Assured Benefits Direct
Assured Health Group LLC
Assured Life
Assure Media
Astonish
Astoria Company
Atlanta Casualty
Atlanta Specialty
Atlantic Auto Protection
Atlantic Blue Media
Atlantic Health
Atlantic Health Advisors
Atlantic Indemnity
Atlantis
Atlantis Health Group
Atomic Leads
Atreus Medicare Group
Austin Mutual
AutoCarenow.com
Auto Club Insurance Company
Auto Insurance Guide
Automobile Association of America
Automobile Club of Southern California
Auto Owners
Auto Protection 1
Auto Protection Club
Auto Repair Network
Auto Repair Protection Services
Auto Service Center
Auto Warranty Savings Center
Aventia
Aventia Management

Avenge Digital
Aviva
Avmed
AvMed Inc.
Avomark
AXA
AXA Advisors
AXAD Capital
AXA Insurance Group
Badger Mutual
Balanced Life Agency
Banker's Fidelity
Bankers Hill Insurance
Bankers Life and Casualty
Bankers & Shippers
Bankrate
Bankrate, Inc.
Bankrate Insurance
Banner Life
Bantam Connect
Bartleson Brokers
Bayside
BBSR Group
BCBS
BCBS of Alabama
BCBS of Florida
BCBS of Michigan
BC Group LLC
BE Marketing Solutions Inc.
Benefit Advisors
Benefit Mall
Benefit United LLC
Benepath
Bennett FMO
Bennett Insurance Agency
Best Agency USA
Best Health Options
Best Insurance Group
Bestow
Better Health Alternatives
Better Living Health Services
Better Mortgage Corporation
Beyond Finance, DBA Accredited Debt Relief
BH Insurance Solutions, LLC
Bianco
Black Optek
Blueberry
Blue Choice
Blue Cross
Blue Cross - Anthem
Blue Cross Blue Shield
Blue Cross/Blue Shield Association Companies
Blue Cross of South Carolina
Blue Ink Digital
Bluensure Insurance
Blue Nsure Insurance
Blue Shield of California
Blue Summit
Blue Summit Insurance Solutions
Blue Wing Ads
BMP Insurance
Bold Media Group
Bolt
Bonneville
Boost
Boost Health
Boost Health Insurance
Boston Old Colony
Bravo Health

BridgeNet
BridgeNet Insurance
Bright Health Plan
Bright Health Solutions
Bright Idea Insurance Solutions, Inc.
Brightway
Bristolwest
Bristol West
Brokers Alliance
Brooke Franchise Corporation
Brooke Insurance
Brookstone Financial
BRXTN Digital Media
Budget Family Insurance
Builders
Burial Expense
c0aster
Cal Farm Insurance
Caliber Health Solutions
Caliber Home Loans
Caliber Home Loans, Inc.
California Casualty
California State Automobile Association
Call4SeniorSavings.com
Call Blade
CallCore
CallCore Media
Call Lead Solutions
Call Trader
Call Trader LLC
Cambia
Camden
CAN
CancerInsurance.com
Candid Maven
Capital Auto Protection
Capital Choice
Capital District Physicians Health Plan
Capital Health Advisors Inc.
Capital Health Insurance of America
Carchex
Cardinal Financial Company, Limited Partnership
Care Entrée
CareMore
Caresource
CareZone
Carezone Inc.
CareZone Insurance Services
CarGuard Administration
Carle Clinic Association
Carriers and partner companies include
CarShield
Cascade National Ins
Casualty Assurance
Catholic Financial Life
CDPHP
CDX Consultants
CEGE
Cege Media
Cekirk Insurance
Celtic Insurance
Centene
Centene Corp.
Centennial
Central Bank
Century Benefits
Century Insurance
Certainty Auto Protection
Channel Blend

Charter Oak
 Chase Insurance Group
 Cherry Blitz
 Chesapeake
 Chicago Insurance
 Choice Direct
 Choice Health
 Choice Insurance
 Choice One Health
 Choice One Health & Life Agency
 Choice Right LLC
 Christian Fidelity
 Chubb
 Church Mutual
 Cigna
 CIQ
 Citation Insurance Company
 Citigroup
 Citizens
 Citizens Disability
 Clarendon American Insurance
 Clarendon National Insurance
 Clean Energy Concepts
 Clear Choice Health
 Clearcover
 ClearLink
 Clear One
 Click 2 Call Network
 Clicks and Clients
 Client Consent Medicare
 Cloverleaf
 CMG Solutions
 CNA Insurance
 Coastline Insurance Advisors LLC
 CO Farm Bureau
 Colby Direct
 Colonial
 Colonial Insurance
 Colonial Penn
 Combined
 Comfortcare Insurance Group
 Comfort Care Insurance Group
 ComfortCare Insurance Group
 Commerce West Insurance Company
 Commercial Insurance Center
 CommercialInsurance.net
 Commercial Marketing Group
 Commercial Union
 Commonwealth
 Communicating for America
 CommunityCare
 Community Care
 Compare.com
 CompareInsuranceQuotes
 Compare Insurance Quotes
 Comparenow
 Comparequotes
 Comparison Market
 Complete Car
 Complete Healthcare Direct, LLC
 Confie
 Connect Health Insurance
 Connect Health Insuranceli>
 ConnectiCare
 Connect Insurance Brands
 Connect Life Plans
 Connect Life Plansli>
 Connect Medicare Advantage
 Connect Medicare Advantageli>

Connect Medicare Supplement
 Connect Medicare Supplementli>
 Connect One Health
 Connect Plus
 Conseco Life
 Consumer Advocacy LLC
 Consumer United
 Contactability
 Continental Casualty
 Continental Divide Insurance
 Continental Insurance
 Continental Life
 Conventry
 Core Healthcare Solutions
 Core Health Solutions
 Corner Shop Media
 Corner Stone Media
 COTO INDUSTRIES LLC
 Cotton States Insurance
 Cottonwood
 Countershot Media
 Country Companies
 Country Financial
 Country Insurance and Financial Services
 Countrywide Insurance
 Couvillier Advisors
 Coventry
 Coventry Health Care
 Coverage Choice LLC
 Coverage One
 Coverage One Insurance
 Coverage One Insurance Group LLC
 Coverage One Insurance Group, LLC
 Coverance Insurance Solutions
 Coverdell
 CoverHound
 Covida
 CPA Data Solutions LLC
 Creative Emarketing
 Creative Intellects
 Credible Operations, Inc
 Credit Union
 Crisp-Results
 Criterion
 Crosspointe
 Crosspointe Insurance and Financial Services LLC
 Crosspointe Insurance & Financial Services, LLC
 CSE
 CSE Insurance Group
 CS Marketing
 Cultur, LLC
 CUNA Mutual Group
 Dairyland
 Dairyland County Mutual Co of TX
 Dairyland Insurance
 Dakota Fire
 Dashers
 Datalot
 DataMax
 Dean Health
 Debt.com
 Deerbrook
 Delphi Financial
 Delta Auto Assurance
 Delta Auto Protect
 Dempsey Advisor
 DentalInsurance.com
 Depositors Emcasc
 Design Benefit Plans

Diablo Media
 Differential Consulting LLC
 Digiline Media
 Digital BGA
 Digital DBA
 Digital Marketing Connection
 Digital Market Media
 Digital Market Media, Inc.
 Digital Media Solutions
 Digital Thrive
 DIQ Partners
 Direct Auto
 Direct Choice
 Direct General
 DirectMail.com
 Direct Property & Casualty
 Direct Ring Media
 Direct Web Advertising
 Disability Advisor
 Discount Insurance Quotes
 Dixie
 Dobak Holdings LLC
 Doc Auto
 Doc Auto Insurance
 Doc Insurance
 Docktors
 DoublePositive
 Dozer Health
 Draper Agency
 Drips
 Drivers Protection, LLC
 Drobu
 DTRIC
 Eagle Health
 eAmerifamily
 East Coast Health Insurance
 EasyHealth Insurance Services
 easyMedicare.com, an affiliate of e-TeleQuote
 Insurance, Inc.
 EasyMedicare.com, an affiliate of e-TeleQuote
 Insurance, Inc
 Ebco General
 EC Insurance
 Economy Fire & Casualty
 Economy Preferred
 EDeals Inc
 Efinancial
 Egis Auto
 eHealth
 eHealth Insurance
 eHealth Insurance Services
 eHealthInsurance Services
 eHealthInsurance Services, Inc.
 Elderplan
 Electric
 Electric Insurance
 Elephant
 Elite Health Agency
 Elite Health Plus
 eMarketing Media Group
 EmblemHealth
 EMC
 Empire
 Empire Consumer Services
 Empire Health Consultants
 Empire Health Solutions
 Employers Fire
 Empower Brokerage
 Encompass
 Endurance Warranty Servcies
 Enhance Insurance LLC
 EnQue Solutions LLC
 Enrollment Services Inc.
 Ensure
 Ensurem
 EPath
 EPIQ
 Epiq Insurance
 Equis Financial
 Equitable Life
 Equita Group
 Equita Group Final Expense Services
 Erie
 Erie Insurance Company
 Erie Insurance Exchange
 Erie Insurance Group
 Erie Insurance Property and Casualty
 ESG Insurance LLC
 Essential Group LLC
 Essential Group, LLC
 Esurance
 e-Telequote
 ETHOS
 ETN America Health
 Even Financial
 Everest Financial & Insurance Services
 Everquote
 EverQuote, Inc
 EverQuote, Inc.
 EverQuote ODA
 Every Choice Insurance
 Exact Match Media
 Excel Impact
 Excel Impact, LLC
 Excelium Group
 Excella Benefits, Inc.
 Excelling, Inc.
 Excellus
 Exclusive Digital Media
 Explorer
 Ezhealthapplcom, Inc.
 Fabric
 Facility
 Fallon Community Health Plan
 Family First
 Family First Insurance Advisors
 Family First Insurance Advisors LLC
 Family First Life
 Family Health First
 Family Health First LLC
 Family Heritage Life Insurance Company of
 America
 Family Life
 Family/Rural
 Farber Health Advisors
 Farm and Ranch
 Farm Bureau
 Farm Bureau/Farm
 Farm Bureau Financial Services
 Farmers
 Farmers Bank of Kansas City
 Farmers Insurance
 Farmers Insurance Exchange
 Farmers TX County Mutual
 Farmers Union
 Farmland
 Federal
 Federated

Federated American
Federated Group
FERENCE Insurance Agency
Festive Health
FFL
Fidelis
Fidelity and Guaranty Life
Fidelity Insurance Company
Fidelity Investments Life
Fidelity Life
Fidelity National
Fidelity Security Life
Figure Lending LLC
Finalexperienceassistant.com
Final Expense Connect
FinanceBox.com
Financial Indemnity
Find Me Health Insurance
Fiorella
Fiorella Insurance Agency
Fire and Casualty Insurance Co of CT
Fireman's Fund
Firemans Fund
First Acceptance Insurance
First American
First American Financial
First Choice Group
First Choice Health
First Family Insurance
First Family Insurance Advisors
First Family Life
First Financial
First General
First Mutual Insurance Group (FMIG)
First National
First Option Health Group
First Preferred Insurance
FirstQuoteHealth.com
Flexquote
Florida Blue
Florida Plan Advisors
Flynn Financial Co
Ford Motor Credit
Forefront Insurance
Foremost
Foremost Insurance
Foresters
Forethought
Formula Marketing & Analytics
Formza
Formza, LLC
Fortegra
Fortegra Insurance
Fortegra Personal Insurance Agency
Fortis
Franklin
Freedom Debt Relief
Freedom health
Freedom National
Freeway
Freeway Insurance
Freeway Insurance Services
Fresh Leads
Fuego Leads
Gainsco
Garland Financial Group
Gaurantee Trust Life
Geber Life
GEICO

Geico Casualty
Geico General Insurance
Geico Indemnity
Geisinger
Geisinger Insurance
Generation Life
Generation Life Insurance
Genworth
Genworth Financial
Gerber
Gerber Life
GetAuto
GetInsured
Getmehealthcare
GetMe Healthcare
GetMeHealthCare.com
GetMeHealthInsurance.com
Get My Life Insured
Get Seen Media
Get Seen Media Group
GHI
Global Equity Finance
Globe Life
Globe Life Insurance Company
Globe Life Insurance Company of New York
GMAC Insurance
GMAC/NGIC
Go Direct Lead Gen
Go Direct Lead Generation, LLC
GoDirect Leads Generation
GoHealth
GoHealth.com
GoHealthInsurance
GoHealthInsurance.com
GoHealth/Norvax
Goji
Golden Care
Golden Rule
Golden Rule Insurance
Golden Rule Insurance Co.
GoMedicare
goMedigap
Good2Go Insurance, Inc.
GotQuotes
Government Employees
Government Employees Insurance
Government Personnel Mutual Life
Grange
Gr Consulting Services
GreatAmerican
Great American
Great Way
Great West
Greene
GRE Harleysville H
GreyPeaks
Grey Peaks
Grinnell Mutual
Group Health Incorporated
Groves Capital, Inc
Guaranteed Benefits
Guaranteed Health
Guaranteed Health Options
Guarantee Trust Life
Guaranty National
Guaranty National Insurance
Guardian
Guardian Healthcare
Guardian Life

Guide One
Guide One Insurance
GuidePointe Solutions
Guide to Insure
Gupta Insurance & Financial Service
Halcyon
Hannigan Insurance
Hanover
Hanover Lloyd's Insurance Company
HAP Health Alliance
Happy Days
Harbor Health Advisors
Hartford
Hartford AARP
Hartford Accident and Indemnity
Hartford Casualty Insurance
Hartford Fire & Casualty
Hartford Fire Insurance
Hartford Insurance Co of Illinois
Hartford Insurance Co of the Southeast
Hartford Life
Hartford Omni
Hartford Underwriters Insurance
Harvard Commonwealth Health Plan
Harvard Pilgrim
Haven Life
Hawaii Medical Services Association
Hawkeye Security
HCC Insurance holdings
Health Insurance.com
Health Advisors
Health America
Health and Life Associates
Health and Life Plans of America
Health Benefit Center
Health Benefits Center
Health Benefits Direct
Health Benefits One
Health Caddies
Healthcare Advisors
HealthCare Alternatives
Healthcareassistant.com
Healthcare.com
HealthCare.com Insurance Services
Healthcare Direct
HealthCare, Inc.
Healthcare Marketplace
Health Care Service Corp.
Health Care Solutions
HealthCare Solutions
Healthcare Solutions Team
Health Center Marketing
Health Choice One
HealthCompare
HealthCompare Insurance Services, Inc.
Health Connect Insurance
Health Corp USA
HealtheDeals
Health eDeals
Health Exchange Agency
Health First Insurance Agency
Health First Plans
Health Heritage Advisors
Health Insurance Advantage
Health Insurance Advisors
Health Insurance Alliance
Health Insurance Alliance, LLC
Health Insurance for Everyone
Health Insurance Guide

Health Insurance Innovations
Health Insurance Innovations (HII)
HealthInsurance.net
Health Insurance of America
Health Insurance Services
Health Insurance Specialists
HealthIQ
Health IQ
Health I.Q.
Health & Life Advantage
Healthline Care
HealthMarkets
Health Markets
HealthMarkets Inspere
HealthMarkets / Inspere
HealthMarkets Insurance Agency
HealthMatchup
HealthNet
Health Net
Health Network
Health Now New York Inc.
Health Option One
Health Options Team
HealthPartners
Health Partners of Philadelphia Inc.
HealthPlan Advisors
HealthPlanMatchup
HealthPlanOne
Health Plan One
HealthPlan One
HealthPlanOne, LLC
Healthplan Outlook
Health Plans America
Health Plan Services
Health Plans of America
Health Plus
Health Plus of America
HealthPlus of Michigan
Health Plus Solutions
HealthPocket
Health Pocket
HealthPros
Health Providers of America
HealthQuoteInfo.com
Health Savings Group
HealthShare America
HealthShare American
Health Sherpa
Health Solutions One
Healthspire
HealthSpring
Health Team One
Health Works Agency LLCHealthInsurance.com
Healthy Halo
Heard and Smith
Helmkin Digital
Henry Ford Health System
Heritage
Heritage Health Advisors
Heritage Life Insurance Company
HHA
HIA
HiegPartners
Hieg Partners LLC
Highland Health Direct
Highland Health Direct, LLC.
Highmark
Highmark BCBS
HighPoint

High Quality Vehicle Protection
HII
HIIQ
HIP Health Plan
HIP Insurance
Hippo
Hippo Insurance
Hiscox
H&M Advisors
HolaDoctor
Hola Doctor
Homeinsurance.com
Home Insurance King
Homeland Health
Homeland HealthCare
Home Savings
Home Service Companies
Hometown
Hometown Quotes
Home Town Quotes
Horace Mann
Horace Mann Agency
Horizon
Horizon Health Advisors
Hospital Services Association of NEPA
Houstons Health Solutions
How to Enroll
HPO
HSO
HST
HST Enrollment Center
Humana
HyperTarget
Hypertarget Marketing
IAB
iCan Benefit
iCan Benefit Group
Iconic Consultants
ICW
Ideal Concepts
Ideal Concepts, Inc
Ideal Health Benefits
IDS
IFA Auto Insurance
IFA Insurance Company
iFlourish Labs
iFuze Marketing
IGF Ins.
IGF Insurance
Ignitist
IHC
IHC Group
IHC Health Plans
IIS Insurance
iLegacy Insurance
iLife
I Life And Health
IMO
Impact Energy
Impact Media
Imperial Health Group
Imperium Financials
Inavision
Inboxed LLC.
Inc
Independence Blue Cross
Independent Agent
Independent Carriers
Independent Health Association

Independent Health Solutions
Independent Insurance Consultants
Individual Insurance Agencies
Infinity
Infinity Insurance
Infinity National Insurance
Infinity Select Insurance
Infinix
Infinix Media
ING
ING US Life
Innovate Financial Group
Innovation Direct Group
Innovation Group of South Florida
Innovative Financial Group
Innovative Health Group
Innovative Insurance Brokers
Inquire Media
Inside Response
Insphere
Insphere Insurance Solutions
InsuraMatch
Insurance311
Insurance Benefits
Insurance Care Direct
Insurance Central
Insurance.com
Insurance Insight
Insurance Lead Broker, ILB
Insurance Leads
InsuranceLeads.com
Insurance Line One
Insurance Made Easy
Insurance Management Associates
Insurance Medics
Insurance Office of America
InsuranceOnly
InsuranceProz
Insurancequotes
insuranceQuotes.com
InsuranceQuotes, Inc.
Insurance Quotes Now
Insurance Services
Insurance Solutions Direct
Insurance Solutions LLC
InsuranceStep.com
Insure Choice LLC
Insure.com
Insured Street
InsureMe
InsureMe, Inc
Insurify
Insurita
Insur. of Evanston
InsWeb
Integon
Integrated Benefits
Integrated Insurance Solutions
Integriant Ventures Insurance Services
Integrity Health One
Integrity Vehicle Services
IntelliQuote
Interstate
Interstate Brokers of America
Inter Valley Health Plan
Investors Life
IPA Agents
IPA Direct
IPA Family

iQuoteX
 iWebQuotes
 Jackson National Life
 J and L Consulting Group
 Javier Molina Agency
 JB Health and Associates
 JCG New Media
 Jet Media
 JLS
 John Deere
 John Hancock
 Joshua Katyl Allstate
 Joyce Emig Insurance Agency Inc
 JRC Insurance Group
 JSH Marketing
 Jupiter
 Justified Medical Group
 Kaiser
 Kaiser Foundation Health Plan
 Kaiser Foundation Health Plan, Inc.
 Kaiser Foundation Health Plan of Colorado
 Kaiser Foundation Health Plan of Georgia, Inc.
 Kaiser Foundation Health Plan of the Mid-Atlantic
 States, Inc.
 Kaiser Foundation Health Plan of the Northwest
 Kaiser Foundation Health Plan of Washington
 Kaiser Permanente
 Kanopy
 Kanopy Insurance
 Kanopy Insurance Center LLC
 Keenan Associates
 Kelly Klee Private Insurance
 Kelsey-Seybold
 Kemper
 Kemper Lloyds Insurance
 Kentucky Central
 KERWYN JONES
 Key Insurance Advisors
 Keystone
 K.F. Agency, Inc.
 Kin
 Kind Health
 Kin Insurance
 Knights of Columbus
 Koenig Quotes
 Kolor Marketing
 Komparison
 Landmark American Insurance
 Lands Health
 Laser Marketing
 LBCOT Insurance
 Leadco
 LeadEnvoy
 Leader General
 Leader Insurance
 Leader National
 Leader National Insurance
 Leader Preferred Insurance
 Leader Specialty Insurance
 Lead Foundations
 Lead Gate Media GmbH
 Lead Genesis
 Lead Giant
 Leading Healthcare
 Leadnomics
 Lead Origins
 Leads Interactive
 Lead Trust Media Group
 League General
 Legacy Insurance Solutions
 Legal & General America
 Legends United Insurance Agency, Inc
 Lemonade Insurance
 LendingTree
 Lendivia
 Level One Health Group
 Level Up Funding
 LGA
 Liberty Automobile Protection
 Liberty First Health and Life
 Liberty Health
 Liberty Health Plan
 Liberty Health Professionals
 Liberty Insurance Corp
 Liberty Mutual
 Liberty Mutual Fire Insurance
 Liberty Mutual Insurance
 Liberty Mutual Insurance Company
 Liberty National
 Liberty National Life Insurance Company
 Liberty Northwest
 Liberty Northwest Insurance
 Liberty Northwest Insurance
 LifeInsuranceMatchup
 LifeLine Direct
 LifeQuotes
 Lifetime Healthcare
 Lifetime Medicare Advisors
 LifeVision of America
 LifeWise Health Plan
 Lighthouse
 Lighthouse Insurance
 Lighthouse Insurance Group
 LightHouse Insurance Health
 Lincoln Benefit Life
 Lincoln National
 Lion Insurance Group
 Liz Byrne USHA
 LLC
 LNK Insurance Services
 LoanBright
 LoanDepot.com, LLC, mellohome, and their
 corporate parents, affiliates, and partners
 LoanSnap, Inc
 Lockton Affinity Group
 Longevity Alliance
 Louisiana Health Services
 Loyal American
 LPN
 LQ Digital
 LS Lead Generation
 LTC Financial Partners
 Lumbermens Mutual
 LVOA
 Madera Digital
 Managed Health Inc.
 MAPFRE
 MAPFRE Insurance Company
 MAPFRE Insurance Company of Florida
 MAPFRE U.S.A. Corp. and its affiliates
 Marathon
 Marchex
 Markel American
 Martin Financial
 Martin's Point
 Maryland Casualty
 Massachusetts Mutual
 Massive&Co
 MassMutual

Mass Mutual
MassNexus
Mass Nexus
MatchMedia
Match Media Group
Matrix Direct
Matt Rudolph Insurance
Maxim Strategies
Maxxlocal
Mayberry Advisors Insurance Services
Mayo Lab
MCGP International
McLaren Insurance Solutions
McLaren Insurance Solutions
MedGapDirect
MedGuard Alert, Inc
MediaAlpha
Media Alpha
Media Alpha Exchange
Media Champs
MediaMatchGroup
Media Mix 365
Medica
Medical Card System Inc.
Medical Mutual of Ohio
Medicare10
Medicare10
MedicareAdvantage.com
Medicare Benefits Team
Medicare Connect
Medicare Group USA LLC
Medicare Help Centers
Medicare Providers
MedicareProz
Medicare Solutions
Medigap
Medi-Share
MEGA Life and Health
Mega/Midwest
Mellohome LLC
Memorial Hermann
Mendota
Merastar
Mercury
Mercury Insurance
Mercy
MetLife
Met Life
MetLife Auto and Home
Metromile
Metropolitan Co.
Metropolitan Insurance Co.
Mid Century Insurance
Mid-Continent Casualty
Middlesex Insurance
Midland National
Midland National Life
Midwest Mutual
Mid-West Ntl. Life
Migo Insure
Mikayla Data
Millbank
Millennial Home Lending
Millers Mutual
Milwaukee General
Milwaukee Guardian
Milwaukee Mutual
Minnehoma
Minnesota Mutual

Miro Health Agency
Mission Loans
Mississippi Insurance
Missouri General
MJ Direct
MMI Group
MMM Healthcare Inc.
Mobile Help
Modern Health, LLC
Modern Woodmen of America
Molina
Molina Healthcare Inc.
Montys Health Agency
Mony Group
Mortgage Maven
Mortgage Protection Bureau
Mortgage ProtectionPlus
Mortgage Protection Plus
Morty Inc.
Moss
Moss Affiliate
Moss Affiliate Marketing
Moss Affiliate Marketing Sellers
Motors
Mountain Financial
Mountain Laurel
M Plan Inc.
Mutual Health Partners
Mutual Insurance
Mutual Of Enumclaw
Mutual of New York
Mutual of Omaha
MVA Warranty
MVP
My Health Advisors
My Health Angel
My Health Group
MyHippo
MyInsuranceExpert
My Medicare Ally
National Alliance
National Auto Protection Corp.
National Ben Franklin Insurance
National Better Living Association
National Brokerage
National Brokers of America
National Casualty
National Colonial
National Continental
National Continental Insurance
National Debt Relief
National Disability
National Family Assurance Group, Inc.
National Fire Insurance Company of Hartford
National General
National General Insurance
National General Insurance Company (NGIC)
National Healthcare Market
National Health Connect
National Health Connect, LLC
National Health Hub
National Health Hub, LLC
National Health Insurance
National Health Plans
National Health Plans dba Your Lowest Quote
National Health Solutions
NationalHomeProject
National Income Life Insurance Company
National Indemnity

National Insurance
 National Merit
 National Plan Advisors
 National Repair Solutions
 National Solar Network
 National Surety Corp
 National Union Fire Insurance
 National Union Fire Insurance of LA
 National Union Fire Insurance of PA
 National Vehicle Protection Services, Inc.
 Nation Health Advisors
 Nations Health Group Guide One Insurance
 Nations Insurance Solutions
 Nations Lending
 Nationwide
 Nationwide General Insurance
 Nationwide Health Advisors
 Nationwide Insurance Company
 Nationwide Mutual Fire Insurance
 Nationwide Mutual Insurance
 Nationwide Property and Casualty
 Native Media, LLC
 Nat'l Farmers Union
 Navy Mutual Aid Association
 NCWC
 Neighborhood Health Plan Inc.
 Neilson Financial Services
 Neo Ogilvy
 Nest Insurance Agency
 Net Health Affiliates
 NetQuote
 New Age Health
 New Age Health, Inc.
 New Age Health Solutions, Inc.
 New American Funding
 New England Financial
 New Era
 Newins
 NewQuest
 NewStrata
 New York Life
 New York Life Insurance
 New York Life Insurance Group
 NexLevelDirect
 NextGen
 Next Gen
 Next Gen Leads
 NextGen Leads
 NextGen Leads, LLC
 Nexus Corporation
 Nexus Enterprise Solutions
 NGIC
 NHA
 Nikia Media
 NILCO
 NMP Insurance Services, LLC / NameMyPremium
 Noridian Mutual Insurance Company
 North American
 Northern Capital
 Northern States
 Northland
 North Pacific
 North Pointe
 Northpointe Bank
 North Shore
 Northwestern
 Northwestern Mutual
 Northwestern Mutual Life
 Northwestern Pacific Indemnity

Northwest Pacific
 Norvax
 Norvax, LLC.
 NRG
 NuHealth
 Number One Advertising
 Number One Health
 Number One Health Insurance Agency
 Number One Prospecting
 NuStar Insurance
 Nxtlevel Health
 NxtLevelHealth
 Oak Hill Insurance
 Oak Street Health
 OctaneFire
 Offer Advisors
 Offer Strategy
 Offerweb
 OfferWeb.com
 Official-Auto-Insurance.com
 OHealth Group
 Ohio Casualty
 Ohio National Life
 Ohio Security
 Old Mutual US Life
 Olympia
 Omaha
 Omega Auto Care
 Omni Indemnity
 Omni Insurance
 Omnis Pro Insurance
 ONCOR Insurance Services
 One Health
 OneMain Financial Group, LLC
 One Touch Direct
 Online Insurance Solutions
 Online Insurance Solutions LLC
 Onviant
 Onviant Insurance Agency Inc.
 Onyx Digital Media
 OpenJar
 Open Market Quotes
 Opportunity Financial, LLC
 Optimize.Ad
 Optimum HealthCare
 Oregon Mutual
 Orion Ins.
 Orion Insurance
 Oscar
 OSCAR Health
 Oscar Health Insurance
 Outlook Advisors
 Overflow Works
 Oxford
 Oxford Health Plans
 Oxford Insurance
 Oxford Marketing Partners
 Oxford Marketing Partners, LLC
 Pacificare
 Pacific Benefits Group
 Pacific Benefits Group Northwest
 Pacific Indemnity
 Pacific Insurance
 Pacific Life
 Pacific Life and Annuity
 Pafco
 Pafco General Insurance
 Palisades Media Group
 Palmer Administrative Services

Palmetto Senior Solutions
 Palms Health Group
 Paloverde
 Parachute Insurance Services Corp
 Parasol Agents Network
 Parasol Leads
 Parasol Leads, Inc.
 Path IQ
 Patriot General
 Patriot General Insurance
 Pay Per Call Market
 Peace of Mind Solutions
 Peak Advertising
 Peak Property and Casualty Insurance
 Peak Protection Group
 PEMCO
 PEMCO Insurance
 Penn America
 Penn Mutual
 Pennsylvania Natl
 PennyMac Loan Services, LLC
 PFP
 Phoenix
 Phoenix Life
 Physicians Health Plan
 Physicians Life
 Physicians Mutual
 Physicians United Plan
 Pickett Group/TermLifeMatch
 PickMedicare
 Pier21 Media
 Pietro Ancona
 Ping Leads
 Pinnacle
 Pinney Insurance Center, Inc.
 Pioneer Life
 Pivot
 Pivotal Concepts
 Pivot Health
 PJP Agency
 PJP Health
 PJP Health Agency
 Plasmid Direct
 Plasmid Media, LLC
 Platform Advertising
 Platinum Health Advisors
 Platinum Health One
 Platinum Health Solutions
 Platinum Leads
 Plymouth Rock
 PMIC
 PolicyBind, LLC
 PolicyFuel
 Policy Fuel LLC
 Policy Impact LLC
 Policy Ninja
 Policy Post
 PolicyScout
 Policy Scout
 Ponto Insurance
 Powderhorn Media
 Precise
 Precise Health Insurance Advisors
 Precise Leads
 Precise Solutions Group
 Precision Health
 Precision Health Associates
 Precursor Media
 Preferred Abstainers

Preferred Care
 Preferred Health Advisors
 Preferred Mutual
 Premera Blue Cross
 Premier
 Premier Business Solutions
 Premier Disability
 Premier Financial Alliance
 Premier Health Association
 Premier Health Choice
 Premier Health Solutions
 Premier Insurance Benefits, LLC
 Premium Marketing
 Premium Precision Marketing
 Presbyterian Healthcare Services
 Presbyterian Health Plan
 Presidio
 Presidio Interactive
 Presidio Interactive Corporation
 Prestige
 Primary Health Care
 Primary Insurance Group
 Prime Care
 Prime Care Health
 Prime Healthcare Benefits
 Prime Marketcare One
 Primerica
 Principal
 Principal Financial
 Principal Life
 Priority Health
 Priority Insurance
 Priority One Health
 Pristine
 Pristine Media Group
 Prodigy Health Agency
 Prodigy Health Group
 Professional Consultant Insurance Solutions
 Progressive
 Progressive Auto Pro
 Progressive Insurance
 Progressive Motorcycle
 Prokey Wiseley Hamill
 Propath Media
 Prospect America Media, LLC
 Prosperity Health
 Prosurity
 Protech Vehicle Services LLC
 Protecta America
 Protect America
 Protective Casualty
 Protective Life
 ProtectMyCar
 Protect My Car
 Protect Your Home
 Providence
 Providence Health Plan
 Providence Media Group
 Provident
 Prudential
 Prudential Insurance Co.
 Prudential of America
 PURE
 Puritan Health
 Purple Dog Marketing LLC
 Pyramid Life
 Q3MInsuranceSolutions
 Q3M Insurance Solutions, LLC
 Qatalyst

QHS
 Quality Healthcare Solutions
 Quality
 Quality Health
 Quality Healthcare Solutions
 Quality Healthcare Solutions, Inc.
 Quality Insurance Solutions
 Quantum3media
 Quantum 3 Media
 Quantum Research
 QuickHealthInsurance.com
 QuickInsured
 Quick Life Center, LLC
 Quick Quote
 Quinstreet
 QuinStreet
 Quote.com
 Quote Engine
 Quotehound
 Quotelab
 QuoteLab, LLC
 QuoteManage LLC
 Quote Manager LLC
 QuoteManager LLC
 Quote Selection
 Quote Selection Insurance Services, Inc
 Quotestorm
 Quote Velocity
 QuoteWhiz
 QuoteWhiz, LLC
 QuoteWizard
 Quote Wizard
 Quotivia
 Radwan Financial
 Ralph Perez Insurance
 Ramsey
 Ranger
 Rank Media
 Rank Media Agency
 RateForce
 RBC Liberty Insurance
 RCPT2
 Real-Comp Data and Marketing
 Reali Loans, Inc.
 Real Results
 Red Auto Protection
 RedVentures
 Redwing Consulting Services LLC
 Reel Media Ventures
 Regal
 Regence
 Reliance
 Reliance First Capital, LLC
 Reliance Insurance
 Reliance National Indemnity
 Reliance National Insurance
 Reliant
 ReliaQuote
 Renaissance Health Services Corp.
 Renew.com
 Renew.com Inc.
 Republic Indemnity
 Reserve Compass LLC
 Resource Connect
 Response Insurance
 Retirement Solution Leaders
 Revi Media
 Rev Impact
 RevPoint
 RevPoint Media
 Rex Direct
 RGAX
 Right Advisors LLC
 Ring Latino
 Ring Router
 Rocket Health Insurance
 Rocket Health, LLC
 Rocket Mortgage
 Rockford Mutual
 Rocking Ham Group
 Rodney D. Young
 Root
 Royal United
 RP Marketing
 RSA
 SafeAuto
 Safe Auto
 Safeco
 Safeguard
 Safeway
 Safeway Insurance
 Safeway Insurance Co of AL
 Safeway Insurance Co of GA
 Safeway Insurance Co of LA
 Sagicor
 Sales Data Pro
 SalesHammer
 SalesRadix
 SaveToday
 Savings Bank Life Insurance Company of
 Massachusetts (SBLI)
 Savings Bank Life Insurance Company of
 Massachusetts (SBLI) Scan Health Plan
 S.B. Fintech Ltd
 Scan Health Plan
 SCMS
 Scott and White
 Sea West Insurance
 Secura
 Secure Car Care
 Secured Health
 Secure Horizons
 Security Health Plan of Wisconsin Inc.
 Security Insurance
 Security Insurance Co of Hartford
 Security National
 Security National Insurance Co of FL
 Sedgwick James
 SelectHealth
 Selective Healthcare
 SelectMyPolicy.com
 SelectQuote
 Select Quote
 SelectQuote A&H;
 SelectQuote Auto & Home
 SelectQuote Insurance Services
 SelectQuote Life
 Select Quote Senior
 SelectQuote Senior
 Self Financial
 SeniorCare Benefits
 Senior Coverage
 Senior Direct Insurance
 Senior Healthcare Advisors
 Senior Healthcare Direct
 Senior Health Connect
 Senior Health Connect Insurance Agency
 Senior Health Direct

Senior Life
Senior Life Insurance Company
Senior Life Services
Senior Market
Senior Market Advisors
Senior Market Partners
Senior Market Quotes
Senior Market Sales
SeniorQuote Insurance Services
Sentara Health Management
Sentinel Insurance
Sentry
Sentry Group
Sentry Insurance a Mutual Company
Sentry Insurance Company
Sentry Insurance Group
Serenity
Shelter Insurance
Shelter Insurance Co.
Shelter Insurance Company
Shop RX Plans
Shore Life and Retirement Agency
Sicuro Health LLC
Sierra Health Services
Silent Affiliates
Simple Health
Simple Health Plans
Simple Insurance
Skandia TIG Tita
Smart Care Direct
Smart Final Expense
Smart Health Options, LLC
Smart Match Insurance Agency
Smart Match Insurance Solutions
Smart Relief Rx
SmartScripts & Affiliates
SmartScripts Agents
Smedley Insurance Group
Solar City
Solar Research Group
Solar Savings America
SolidQuote
SolidQuote LLC
SolidQuote, LLC
Spectrum Direct
Spectrum Health
Spring EQ LLC
Spring Health Plans
Spring Insurance
Spring Insurance Solutions
Spring Venture
Spring Venture Group
Stancorp Financial
Standard Guaranty
State and County Mutual Fire Insurance
State Auto
State Farm
State Farm County
State Farm Fire and Cas
State Farm General
State Farm Indemnity
State Farm Insurance Co.
State Farm Lloyds Tx
State Farm Mutual Auto
State Fund
State Mutual
State National
State National Insurance
Sterling

Sterling Senior Health
Stevens Insurance Agency
Stone Hill National
Stone Tapert
StoneTapert Employee Benefits
Stone Tapert Insurance Services
StoneTapert Insurance Services Inc
St. Paul Companies
Strategy Bay
Stratum Media DMCC
Stringbit
STRINGBIT inc.
Success Mortgage Partners, Inc.
Suited Connector
SummaCare
Summit direct mail
Summit Health
Sun Coast
Sun Edison
Sun Life Assurance Company
Sun Power
SunPro Solar
Sunrise Health
Sunrun
Superior American Insurance
Superior Global Marketing Inc.
Superior Guaranty Insurance
Superior Home
Superior Insurance
Support First
Supreme Health Options, Inc.
Sureco
Sureco Legacy Insurance Services, Inc
Sure Health Plans
SureHits
Suretouch Leads
Sutter
SVG
Swiss Re
Symmetry Financial Group
Synergy Insurance
Synergy Insurance Marketing
Synergy Marketing Associates Inc
Tapert Insurance Agency Inc
Taylor & Associates
Taylored Legacy
Tech Insurance
Tech Leads
Teran Marketing
TGC Health, LLC
The Commerce Insurance Company
The Complete Lead
The Credo Group
The General
The Hartford
The Hartford AARP
The Healthcare Assistant
Thehealthcareassistant.com
The HealthScout
The Insurance Center
The Lead Company
The Lead Giant
The McGrp International
Themedicareassistant.com
The Rindal Agency
The Senior Resource Group
The-Solar-Project.com
The Zebra
This or ThatMedia

This or That Media
This or That Media Inc.
Three Rivers Holdings
Thrivent Financial for Lutherans
TIAA-CREF
Tiburon Insurance
Tiburon Insurance Services
TICO Insurance
TIG Countrywide Insurance
Tiger Health Solutions
Titan
Titan Indemnity
TK Insurance Services Inc
Tobias and Associates
Tobias & Associates
Together Health
Toggle
Top Flite
Top Healthcare Options
Torchlight
Torchlight Technology
Torchmark
Torr
Total
Total Advocacy Group LLC
Total Insurance Brokers
Touchstone
Tower
Towers Watson dba OneExchange
TPG Direct
Trademarc
Trademarc Global LLC
TradeMarc Global, LLC
Traders Insurance
Traffic Tree LLC
Transamerica
Trans America
Tranzact
Tranzact Insurance Solutions
Travelers
Travelers Indemnity
Travelers Insurance
Travelers Insurance Company
Trinity Universal
Triple-S Inc.
TriState
Tri-State Consumer
Tri-State Consumer Insurance
TruBridge
TruBridge, Inc
TruBridge, Inc.
True Auto
TrueChoice Insurance Services
Truecoverage
True Coverage
Trusource
TruSource
Tru Source
TruSource Marketing
TruStage
TrustedConsumer
Trusted Consumer Advisors
TrustedConsumer LLC
Trust Hall
Tryton
TSC Insurance
Tufts
Tufts Associates HMO Inc.
Tufts Health Plan

Twentieth Century
TWG
Twin City Fire Insurance
TZ Insurance Solutions
TZ Insurance Solutions LLC
Ucare
UMA
Underground Elephant
UniCare
Uniguard
Union
Unique Q2B
United Advisors LLC
United American/Farm and Ranch
United American Insurance Company
United Enrollment
United Financial
United Fire & Casual
United Health
UnitedHealthcare
United Healthcare
United Healthcare Advisors
UnitedHealthcare/UnitedHealthOne
UnitedHealthOne
United Insurance
United Insurance Group Agency, Inc.
United Medicare
United Medicare Advisors
United of Omaha
United Pacific Insurance
United Repair Programs
United Security
United Services Automobile Association
United States Fidelity
Unitrin
Unitrin Direct
Unitrin Inc.
Universal American
Universal American Financial Corp.
Universal Health Advisors
Universal Health Care
UniversalHealthcareAdvisors
Universal Healthcare Advisors
Universal Underwriters Insurance
University Health Care Inc.
Unsure
UnumProvident Corp.
Upfront
UPMC
UPMC Health System
USAA
USA Benefits/Continental General
USA Dental Club
US Benefit Solutions
USDS (US Dealer Services)
USF and G
USF&G;
U S Financial
US Financial
US Financial Life
US Health Advisors
USHealth Advisors
US Health Group
USHEALTH Group
USInsuranceOnline
US Saving Center
US Web Leads
Utah Home and Fire
Utica

Valley Peak Insurance Group
Vanguard Health Ventures
Vantis Life
Vasa North Atlantic
Vehicle Assurance Co
Velapoint
VelaPoint Personal Insurance
Verengo
Verified Insurance Lead
Versible Connect
Versus Media Group
Verti Insurance
Verti Insurance Company
Veterans United Home Loans
Vigilant
Viking
Viking County Mutual Insurance
Viking Insurance Co of WI
VIMO
Visiqua
Visiqua LLC
Vitalone
Vitalone Health
Vital One Health
VitalOne Health Plans
Vital One Health Plans Direct, LLC
Viva Health
VSC Digital
VSC Group
Walking Tree Creative LLC
Warranty Agents
Warranty Direct
Wasatch Marketing Group
Washington National Life
Washington United LLC
Wawaunesa
Wax Digital Solutions
WEA Inc.
WebTec
we-Call Media
Wejo
Wellcare
WellCare Health Plans
Wellington
Wellness Plan of America
WellPoint
We Speak
West American
West Bend Mutual
Westcoast Closers
West Coast Closers
Western and Southern Life
Western Mutual
Western National
Western & Southern Financial
Western & Southern Life
Westfield
West Field
West Plains
Wholesale
Whoop Media
William Penn
Windhaven
Windsor
Windsor Insurance
Windstar
Wisconsin Mutual
Woodlands Financial Group
World Insurance

World Mail Direct USA
World of Insurance
Worldwide
Wyndham Capital Mortgage, Inc
WynnHealth
XLHealth
XLHealth.
Yellow Key
Yosemite
Young Life & Wealth
YourHealthCareQuotes.com
Your Help HQ
Your Lowest Quote
Zander
Zebra
ZebraA1333
Zenith Media
Zillow Home Loans, LLC
Zoom Insurance
ZQ Auto Insurance
ZQ Sales
Zurich
Zurich North America
Zurich North America or other partners