



**MEMORANDUM OF UNDERSTANDING**

**Between the**

**UNITED STATES FEDERAL COMMUNICATIONS COMMISSION**

**and the**

**INFORMATION COMMISSIONER'S OFFICE OF THE UNITED KINGDOM**

**on**

**COOPERATION IN THE ENFORCEMENT OF LAWS ON  
CERTAIN UNLAWFUL COMMUNICATIONS AND  
PROTECTING PERSONAL INFORMATION IN THE PRIVATE SECTOR**



The United States Federal Communications Commission ("FCC") and the Information Commissioner's Office of the United Kingdom ("Commissioner") (collectively, "the Participants"),

RECOGNIZING the importance of developing a global and coordinated approach to address unsolicited commercial electronic messaging, unsolicited telemarketing, scam telephone calls and scam short message service ("SMS"), unlawful automated or pre-recorded voice message telephone calls and text messages (also known as robocalls or robotexts), and the unlawful use of inaccurate caller identification (also known as caller ID spoofing or overstepping), and the threats that they pose to consumers and their confidence in critical commercial applications using the communications network;

RECOGNIZING that today's digital age means consumers are sharing vast amounts of personal information with telecommunications carriers; these carriers store and transmit this information across complex networks that expand beyond traditional nation-state borders; and there is a resulting need for increased cooperation among international partners to protect consumer privacy in these areas;

RECOGNIZING that the Participants serve on the Executive Committee of the Unsolicited Communications Enforcement Network (UCENet, formerly known as the London Action Plan) and are signatories to the associated Memorandum of Understanding Among Public Authorities of the London Action Plan Pertaining to Unlawful Telecommunications and Spam; have worked closely in connection with investigations and enforcement actions relating to unlawful robocalls and caller ID spoofing or overstepping; and have collaborated on promoting technological solutions to robocalls;

RECOGNIZING that the OECD Recommendation on Cross-Border Cooperation in the Enforcement of Laws Protecting Policy, the Global Privacy Enforcement Network's Action Plan, the International Enforcement Coordination Framework of the Global Privacy Assembly, and the APEC Privacy Framework call for the development of cross-border information sharing mechanisms and enforcement cooperation arrangements; and that such information sharing and enforcement cooperation are essential elements to ensure privacy and data protection compliance, serving a substantial public interest;

RECOGNIZING that the United States *Communications Act of 1934*, as amended, 47 U.S.C. § 151 et seq., authorizes the FCC to disclose information to law enforcement authorities from other countries under appropriate circumstances; and

RECOGNIZING that the Commissioner is a corporation sole appointed by His Majesty the King under the Data Protection Act of 2018 to act as the United Kingdom's independent regulator to uphold information rights in the public interest, promote openness by public bodies and data privacy for individuals, and is empowered to take a range of regulatory action for breaches of UK law;



**HAVE REACHED THE FOLLOWING UNDERSTANDING:**

**I. Definitions**

For the purposes of this Memorandum:

1. "Applicable Law" means, for the specified Participant, the laws and regulations identified in Annex 1 of this Memorandum and such other laws or regulations as the Participants may from time to time jointly decide in writing to be an Applicable Law for the purposes of this Memorandum;
2. "Covered Violation" means practices that would, based on available information, violate or likely violate the Applicable Laws of one Participant's country and that are substantially similar to practices prohibited by any provision of the Applicable Law of the other Participant's country;
3. "Confidential Information" means any non-public information, including information subject to obligations regarding confidentiality or privacy, including, personally identifiable information and confidential commercial or financial information including such information about third parties;
4. "Enforcement Activities" means any work conducted by the Participants in respect of their Applicable Laws, including but not limited to: research, investigations, and proceedings;
5. "Person" means a natural person, a body corporate, an unincorporated association, a partnership, a statutory authority or instrumentality of a government, existing under the laws of the United States or the laws of the United Kingdom;
6. "Memorandum" means this Memorandum of Understanding;
7. "Request" means a written request for assistance under this Memorandum;
8. "Requested Participant" means the Participant from which assistance is sought under this Memorandum, or which has provided such assistance; and
9. "Requesting Participant" means the Participant seeking assistance under this Memorandum, or which has received such assistance.

**II. Objectives and Scope**

1. This Memorandum sets forth the Participants' intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with Applicable Laws as well as the exchange of knowledge and expertise on regulatory policies and technical efforts to address matters related to Applicable Laws.



2. This Memorandum should not be interpreted as committing either Participant to disclose information in circumstances where doing so would breach their statutory responsibilities. In particular, each Participant is required under its applicable domestic law to ensure that any disclosure of personal data pursuant to this Memorandum fully complies with Applicable Law. The Memorandum sets out the framework for information sharing, but each Participant should determine for itself whether any proposed disclosure is compliant with the its applicable domestic law.
3. The Participants have determined that through this Memorandum they do not exchange sufficient quantities of personal data to warrant entering into a separate data sharing arrangement. The Participants intend to review this issue should circumstances change, and if the Participants do wish to share personal data, each Participant shall consider compliance with its own applicable data protection laws, which may require the Participants to enter into a written agreement or arrangement regarding the sharing of such personal data.
4. The Participants understand that it is in their common public interest to:
  - 4.1 cooperate with respect to Enforcement Activities against Covered Violations, including sharing complaints and other relevant information as permitted by the laws applicable to each Participant and providing investigative assistance related to Covered Violations;
  - 4.2 facilitate research and education related to (1) unlawful robocalls/robotexts and caller ID spoofing or overstepping; and (2) the protection of personal information.
  - 4.3 facilitate mutual exchange of information (as permitted by the laws applicable to each Participant), knowledge and expertise through bilateral meetings, digital videoconferences (DVCs), training programs and staff exchanges, where opportunities may arise and priorities permit;
  - 4.4 promote a better understanding by each Participant of the economic and legal conditions and theories relevant to the enforcement of the Applicable Laws of the other Participant; and
  - 4.5 inform each other of developments in their respective countries that relate to this Memorandum in a timely fashion.

Further to these common interests, and subject to Section IV, the Participants intend to use their best efforts to:

- 4.6 disclose information relevant to Enforcement Activities related to Covered Violations of the Applicable Laws of a Participant's country, including Confidential Information, upon request,



when permitted by the laws applicable to each Participant and under conditions considered appropriate by the Requested Participant;

- 4.7 provide investigative assistance in appropriate cases in accordance with the laws respectively applicable to each Participant;
- 4.8 provide other relevant information about matters within the scope of this Memorandum such as regulatory information, technical and policy developments, information relevant to consumer and business education, self-regulatory solutions, amendments to relevant legislation, and staffing and other resource issues;
- 4.9 explore the feasibility of staff exchanges and joint training programs;
- 4.10 coordinate enforcement against cross-border Covered Violations that are a priority for both Participants;
- 4.11 collaborate on initiatives to promote regulatory, policy, technical and commercially viable solutions in relation to unlawful robocalls, robotexts, caller id spoofing, and data privacy matters;
- 4.12 participate in periodic teleconferences to discuss ongoing and future opportunities for cooperation;
- 4.13 provide other appropriate assistance that would aid in compliance activities and/or investigations and enforcement actions related to Covered Violations; and
- 4.14 jointly explore opportunities for senior strategic engagement to facilitate a shared cross jurisdictional approach and understanding to deal with relevant regulatory issues and consumer protections.

### **III. Framework for sharing information**

#### *Information shared by the FCC with the Commissioner*

1. The Commissioner's statutory function relates to the UK legislation applicable to him as set out in Annex 1, and this Memorandum governs information shared by the FCC to assist the Commissioner to meet those responsibilities. To the extent that any such shared information comprises personal data the FCC is responsible for ensuring that it has legal basis under U.S. domestic law to share it and that doing so would be compliant with Applicable Laws.



*Information shared by the Commissioner with the FCC*

2. The Commissioner, during the course of his activities, will receive information from a range of sources, including personal data. He is required under applicable law to ensure that all personal data is processed in accordance with the UK GDPR, the DPA 2018 (as defined in Annex 1) and all other applicable legislation. The Commissioner may identify that information he holds, which may include personal data, ought to be shared with the FCC as it would assist them in performing their functions and responsibilities.
3. Section 132(1) of the DPA 2018 restricts the disclosure of information that (i) has been obtained by, or provided to, the Commissioner in the course of, or for the purposes of, discharging his functions, (ii) relates to an identifiable individual or business, and (iii) is not otherwise available to the public from other sources. Such information may include, but is not limited to, personal data which may under applicable UK law only be disclosed if the disclosure is made with lawful authority. Section 132(2) of the DPA 2018 provides that a disclosure of information falling within the scope of section 132(1) will be made with lawful authority in a number of circumstances, in particular where the disclosure is:
  - 3.1 necessary for the purpose of the Commissioner discharging his functions (section 132(2)(c)); and
  - 3.2 necessary in the public interest, having regard to the rights, freedoms and legitimate interests of any person (section 132(2)(f)).
4. The Commissioner is therefore permitted under the DPA 2018 to share information with the FCC in circumstances where he has determined that it is reasonably necessary to do so in furtherance of one of those grounds outlined at paragraph 3 of this Section III. In doing so, the Commissioner to will, in accordance with UK domestic law, identify the function of the FCC with which that information may assist, and assess whether that function could reasonably be achieved without access to the particular information in question. In particular, where the information proposed for sharing with the FCC amounts to personal data, the Commissioner to will, in accordance with UK domestic law, consider whether it is necessary to provide it in an identifiable form in order for the FCC to perform its functions, or whether disclosing it in an anonymised form would suffice.
5. Where information is to be disclosed by the Commissioner for law enforcement purposes under section 35 (4) or (5) of the DPA 2018 then he will do so in accordance with an appropriate policy document as outlined by section 42 of the DPA 2018.



#### **IV. Procedures Relating to Mutual Assistance**

1. Each Participant intends to designate a primary contact for the purposes of Requests and other communications under this Memorandum. Notices of these designations and any subsequent changes should be sent to the Commissioner in care of Head of International Regulatory Cooperation, and to the FCC in care of Chief of the Enforcement Bureau.
2. If a Participant makes a Request relating to investigations or enforcement actions in relation to Covered Violations, the Participants understand that Requests should include sufficient information to enable the Requested Participant to determine whether a Request relates to a Covered Violation and to take action in appropriate circumstances. Such information should include:
  - a. a description of the facts underlying the Request (including the conduct or suspected conduct which give rise to the request) and the type of assistance sought;
  - b. an indication of any special precautions that should be taken in the course of fulfilling the Request;
  - c. the purpose for which the information requested would be used (identifying the provisions of any relevant law or other legal basis for the Requesting Participant seeking the information and the relevant regulatory functions to which the Request relates); and
  - d. the suggested time period for reply and, if the Request is urgent, the reasons for the urgency.
3. In urgent cases, a Participant may make an oral request for assistance that contains the information set out in clause 2 of this Section, but is expected then to send a written Request containing all the information specified in clause 2 within 7 days, if possible.
4. Consistent with other provisions of this Memorandum, and unless the Participants reach a different understanding in writing, a Request is expected to include an affirmation by the Requesting Participant concerning: the need to maintain confidentiality of: each Request; the existence of any investigation related to the Request; all materials related to each Request, and all the information and material provided in response to each Request. When receiving the Request the Requested Participant should also provide an affirmation of the same understanding.



**V. Limitations on Assistance**

1. The Participants understand that a Requested Participant may exercise its discretion to decline a Request for assistance or limit or place conditions on its cooperation. In deciding whether to decline a Request, the Requested Participant should take into account relevant considerations, including whether it is outside the scope of this Memorandum or, whether the provision of the information, documents or assistance would or may:
  - 1.1 be inconsistent with the national or public interest, or with the laws applicable to the Requested Participant, including relevant privacy or data protection laws;
  - 1.2 be beyond the statutory powers of the Requested Participant or involve dealing with the administration of a law that has no parallel within its jurisdiction;
  - 1.3 put the Requested Participant in breach, or at risk of being in breach, of a legal or equitable duty owed to any Person (particularly in relation to the treatment of Confidential Information and personal information, or an obligation to afford procedural fairness);
  - 1.4 expose the Requested Participant to the threat of legal proceedings;
  - 1.5 place a strain on the Requested Participant's resources or substantially or unreasonably divert its resources; or
  - 1.6 impact adversely on any enforcement or compliance action being taken or contemplated by the Requested Participant.
2. The Participants recognise that it is not feasible for a Participant to offer assistance to the other Participant under this Memorandum for every Covered Violation. Accordingly, the Participants intend to use best efforts to seek and provide cooperation focusing on those Covered Violations that are most serious in nature, such as those that cause or are likely to cause injury or harm to a significant number of persons, and those otherwise causing substantial injury or harm.
3. The Requesting Participant may request the reasons for which the Requested Participant declined or limited assistance.
4. The Participants intend to share Confidential Information in response to a Request pursuant to this Memorandum only to the extent that it is necessary to fulfil the objectives set forth in Section II of this Memorandum, and in a manner consistent with Section VI of this Memorandum.
5. Where, under applicable law, the Requested Participant requires the consent of a Person or is required to notify a Person of the Request before it is able to respond to the Request, the Requested





Participant understands that it should advise the Requesting Participant of the need for such consent or to provide notification before contacting that Person.

6. The Requested Participant may provide information, documents or assistance to the Requesting Participant subject to any conditions that the Requested Participant considers appropriate, including restrictions or limitations as to the use, access storage, disclosure, or disposal of the requested information or documents. Where the Requested Participant seeks to impose a condition, it should advise the Requesting Participant in writing of that condition prior to providing the information, documents or assistance.

#### **VI. Confidentiality, Privacy and Limitations on the Use of Information Received Under this Memorandum**

1. Subject to this Section, each Participant understands that the information received under this Memorandum, the existence of the investigation to which the information relates, and any requests made pursuant to this Memorandum are confidential and should not be further disclosed or used for purposes other than those for which it was originally shared, without the prior written approval of the other Participant.
2. The Participants respect the laws and regulations respectively governing them, including, but not limited to the Applicable Laws; laws and regulations regarding maintaining prescribed documentation and policies; and any governance requirements in particular relating to security and retention, and process personal data in accordance with the legal rights of individuals.
3. The Participants recognise that material exchanged in connection with investigations and Enforcement Activities often contain Confidential Information. Where information that is subject to a duty of confidentiality is shared between the Participants it should be marked with the appropriate security classification. The Participants intend to take necessary protective measures to safely transmit and safeguard as confidential materials containing Confidential Information. Appropriate protective measures under this paragraph include, but are not limited to, the following examples and their reasonable equivalents, whether used separately or combined as appropriate to the circumstances:
  - 3.1 transmitting the material in an encrypted format;
  - 3.2 utilizing technologies with event logging and similar features that allow each Participant to track access to Confidential Information;
  - 3.3 transmitting the material by a courier with package tracking capabilities;



- 3.4 maintaining the materials in secure, limited access locations (e.g. password protected files for electronic information and locked storage for hard copy information);
  - 3.5 if used in a proceeding that may lead to public disclosure, redacting Confidential Information, as required by law, or filing under seal, as consistent with law; and
  - 3.6 entering into a separate information sharing arrangement to govern the use, access, storage, disclosure, or disposal of information.
4. Each Participant intends to use best efforts to safeguard the confidentiality and security of any information received under this Memorandum and respect any safeguards decided on by the Participants by at a minimum, consistent with applicable laws and associated rules and policies:
- 4.1 restricting access to such information to its officers, employees, consultants, contractors, and agents who have a need for such information in the performance of their official duties and, with respect to consultants, contractors and agents, restricting access to those who are required by law to keep such information confidential or who have entered into appropriate non-disclosure agreements that covers such information, and informing such persons with access of their responsibilities consistent with the Memorandum except as otherwise provided in writing by the other Participant;
  - 4.2 applying other appropriate administrative, technical, and physical safeguards to ensure the confidentiality of personally identifiable information and data security and integrity; and
  - 4.3 following applicable breach notification policies and procedures, or conditions imposed by the Requested Participant consistent with Section V.
5. Subject to the provision of 5.3 below, nothing in this Memorandum should be construed to reflect a Participant's intent to:
- 5.1 withhold information provided pursuant to this Memorandum in response to a formal demand from that Participant's country's legislative body, regulatory authority, or an order issued from a court with proper jurisdiction in an action commenced by that Participant or its government, or if disclosure is otherwise required by law in that Participant's country; or
  - 5.2 prevent material obtained in connection with the investigation or enforcement of criminal laws from being used for the purpose of investigation, prosecution, or prevention of violations of either Participant's country's criminal laws.



- 5.3 Notwithstanding 5.1 and 5.2 above, a Participant is expected to use its best efforts to preserve the confidentiality of any Confidential Information obtained from the other Participant under this Memorandum, including by asserting all applicable legal exemptions from disclosure and seeking a protective order where applicable, and, consistent with applicable laws and the authority of the country's legislative body, regulatory authority, or courts, is expected to notify the Requested Participant of the formal demand or court order and do so prior to any production or disclosure of Confidential Information.
6. In the event of any suspected or confirmed unauthorised access or disclosure of Confidential Information provided by a Participant under this Memorandum, each Participant intends to take all reasonable steps to remedy the unauthorised access or disclosure and to prevent a recurrence of the event. The Participant discovering the suspected or confirmed unauthorized access or disclosure should promptly notify the other Participant of the occurrence.

#### **VII. Change in Applicable Laws**

1. In the event of significant modification to the Applicable Laws of a Participant's country, the Participants intend to consult promptly, and, if possible, prior to the effective date of the enactment of such modifications, to determine whether to modify this Memorandum.

#### **VIII. Retention of Materials**

1. Participants do not intend to retain materials obtained from the other Participant under this Memorandum for longer than is reasonably required to fulfill the purpose for which they were shared or than is required by Participant's country's laws.
2. The Participants recognise that in order to fulfil the objectives set forth in Section II, the Participants typically need to retain the shared materials until the conclusion of the pertinent investigation for which the materials were requested and any related proceedings.

#### **IX. Costs**

1. This Memorandum does not obligate the provision of funds for any particular expenditure and does not authorize the transfer of funds and/or resources from one Participant to the other. If either Participant provides goods and/or services to the other Participant, the Participants intend to address in a separate arrangement any financial terms applicable to the provision of such goods or



services. Any such separate arrangement should be executed by the Participants before the provision of such goods or services and should include the signature of officials with authority to obligate funds, and is expected to be subject to the availability of funds.

**X. Duration of Cooperation**

1. Cooperation under this Memorandum is expected to commence as of the date of its signing.
2. The assistance provided under this Memorandum may address Covered Violations occurring before this Memorandum is signed.
3. This Memorandum may be discontinued at any time by either Participant, but a Participant should endeavour to provide 30 days written notice of such discontinuance and use its best efforts to consult with the other Participant prior to providing such notice.
4. The Participants intend to review the operation of this Memorandum periodically and in any event every two years to consult for the purpose of reviewing this Memorandum at a time mutually decided by both Participants.
5. Upon the discontinuation of this Memorandum, the Participants are expected to maintain the confidentiality of any information communicated to them by the other Participant under this Memorandum, and return or destroy, consistent with applicable law and, to the extent consistent with applicable law, any methods prescribed by the other Participant, information obtained from the other Participant under this Memorandum and, to the extent consistent with applicable law, as contemplated by the other Participant's country's laws or any conditions imposed by the Requested Participant.
6. This Memorandum may be modified by mutual decision of the Participants. Any modifications should be in writing and signed by the appropriate officers of the Participants.

**XI. Legal Effect**

1. This Memorandum is a statement of intent that does not give rise to any legally binding rights or obligations under international or domestic law. Nothing in this Memorandum is intended to:
  - 1.1 Affect existing rights or obligations under international or domestic law;
  - 1.2 prevent a Participant from seeking assistance from or providing assistance to the other Participant pursuant to other agreements, arrangements or practices;



- 1.3 affect any right of a Participant to seek information on a lawful basis from a Person located in the territory of the other Participant's country or preclude any such Person from voluntarily providing legally obtained information to a Participant;
- 1.4 create a commitment that conflicts with or would be inconsistent with either Participant's national laws, court orders, regulations and policies, or any applicable international obligation or commitment;
- 1.5 create expectations of cooperation that would exceed a Participant's jurisdiction; or
- 1.6 affect a Participant's ability to comply with applicable international law or applicable domestic laws or regulations.

## XII. Consultations

1. The Participants intend to resolve any disagreements that may arise under this Memorandum through amicable consultations by the contacts referred to in clause 1 of Section IV and, failing resolution in a reasonably timely manner, by discussion between appropriate senior officials designated by the Participants.

Signed in in the English language.

Ms. Jessica Rosenworcel  
Chairwoman  
United States Federal  
Communications Commission

Date:

Place:

Mr. John Edwards  
Information Commissioner  
Information Commissioner's Office  
United Kingdom

Date:

Place:



## Annex 1

### Applicable Laws and Regulations

- I. Federal Communications Commission
  - a. *Communications Act of 1934, as amended, 47 U.S.C. §§ 151-155; 201, 222.*
  - b. *Telephone Consumer Protection Act and the Truth in Caller ID (Identification) Act, 47 U.S.C § 227.*
  - c. *Federal Communications Commission Rules, 47 CFR §§ 0.111 (a)(24); 64.1200; 64.1600(e); 64.2001-2011*
  - d. *The Privacy Act of 1974, as amended, 5 U.S.C. § 552a and the FCC's published System of Records Notices*
  - e. *The Federal Information Security Modernization Act of 2014, 44 U.S.C. § 3541 et seq. and applicable guidance from the Office of Management and Budget (OMB) and the National Institute of Standards (NIST)*
  - f. *The E-Government Act of 2002, 44 U.S.C. §§ 101, 3501 et seq.*
  - g. *The Freedom of Information Act, as amended, 5 U.S.C. § 552*
  - h. *The Trade Secrets Act, 18 U.S.C. § 1905*
  
- II. Information Commissioner's Office :
  - a. *Data Protection Act 2018 (DPA 2018);*
  - b. *UK General Data Protection Regulation (UK GDPR);*
  - c. *Privacy and Electronic Communications (EC Directive) Regulations 2003;*
  - d. *Freedom of Information Act 2000;*
  - e. *Environmental Information Regulations 2004;*
  - f. *Environmental Protection Public Sector Information Regulations 2009;*
  - g. *Investigatory Powers Act 2016;*
  - h. *Re-use of Public Sector Information Regulations 2015;*
  - i. *Enterprise Act 2002;*
  - j. *Security of Network and Information Systems Directive; and*
  - k. *Electronic Identification, Authentication and Trust Services Regulation.*