

FACT SHEET: WHEELER PROPOSAL TO PROTECT AND EMPOWER CONSUMERS AGAINST UNWANTED ROBOCALLS, TEXTS TO WIRELESS PHONES

Today, FCC Chairman Tom Wheeler is circulating his proposal to protect Americans from unwanted robocalls, spam text messages, and telemarketing calls. The proposal addresses two dozen petitions that sought clarity on how the Commission enforces the Telephone Consumer Protection Act (TCPA). The Chairman is proposing a set of actions that, if adopted, will close loopholes and strengthen consumer protections already on the books – one of the most significant FCC consumer protection actions since it established the Do-Not-Call Registry with the FTC in 2003. The proposal will be voted on at the Commission's Open Meeting on June 18, 2015.

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- Unwanted calls and texts are the number one consumer complaint to the FCC. There are thousands of complaints to the FCC every month on both telemarketing and robocalls. The FCC received more than 215,000 TCPA complaints in 2014.
- In some cases, consumers who switch carriers and obtain a reassigned phone number are the victim of unwanted calls and texts to which the previous subscriber consented.
- The Chairman's proposed rulings primarily concern TCPA protections against unwanted calls and texts to wireless phones. Forty-four percent of American households in 2014 relied exclusively on wireless devices for phone service, up from 29.7 percent in 2010, according to the Centers for Disease Control. As of January 2014, 90 percent of American adults had a cell phone, according to Pew data.

Proposed rulings, if adopted, will provide much-needed clarity for consumers and businesses

- **Empower Consumers to Say 'Stop'** – Consumers would have the right to revoke their consent to receive robocalls and robotexts in any reasonable way at any time. (Applies to wireless and landline home service.)
- **Give Green Light for 'Do Not Disturb' Technology** – Carriers could offer robocall-blocking technologies to consumers. It would give the go-ahead for carriers to implement market-based solutions that consumers could use to stop unwanted robocalls. (Applies to wireless and landline home service.)
- **Make Clear Reassigned Numbers Aren't Loopholes** – Consumers who inherit a phone number would not be subject to a barrage of unwanted robocalls to which a previous subscriber of the number consented. If a phone number has been reassigned, callers must stop calling the number after one call. (Applies to wireless and landline home service.)
- **Define an Autodialer** – An "autodialer" is any technology with the *capacity* to dial random or sequential numbers. The rulings would ensure robocallers cannot skirt consumer consent requirements through changes in calling technology design or by calling from a list of numbers. (Applies to wireless.)
- **Allow Very Limited and Specific Exceptions for Urgent Circumstances** – Free calls or texts to, for example, alert consumers to possible fraud on their bank accounts or remind them of important medication refills would be allowed. The proposal is very clear about what such messages can be and what they cannot be (*i.e.*, no marketing or debt collection). In addition, consumers would have the ability to opt out of even these permitted calls and texts. (Applies to wireless.)

- **Affirm Consumers' Rights** – Through these rulings, the Commission would confirm consumers' ultimate right to control the calls they receive.

Existing protections, including the following, would remain in place:

- **The Do-Not-Call List** – The National Do Not Call Registry was established in 2003 by the FCC and the FTC. Authorized by the TCPA, the registry is a list of self-identified call recipients who may not receive telemarketing calls. It is administered by the FTC and would be unchanged by this proposal.
- **Limits on Telemarketing Robocalls** – Both wireless and landline home phones are protected against telemarketing robocalls made without prior *written* consent from the recipient.
- **Limits on Informational Calls and Texts to Cell Phones** – Under the TCPA, autodialed and prerecorded calls and texts to wireless phones require prior consent, whether they are telemarketing or informational calls. This includes calls related to debt collection. The Chairman's proposal clarifies and reiterates these strong consumer protections. Informational calls to landline home phones are not restricted under the law.
- **No Exception for Political Calls** – Political calls to wireless phones are subject to the general restrictions on prerecorded and artificial voice calls as well as autodialed calls. Political calls are not subject to the National Do-Not-Call Registry because such calls do not include telephone solicitations. For more details, see this public notice: <http://go.usa.gov/3kkJT>
- **Strong Enforcement** – Congress gave consumers a private right of action against callers that violate the TCPA. The Commission has also enforced the rules through its Enforcement Bureau, including almost \$450,000 in forfeitures this year and a \$2.9 million fine last year. Consumer complaints are received and analyzed by the Consumer and Governmental Affairs Bureau and are essential in helping the Enforcement Bureau detect trends that may be appropriate for enforcement action.

FCC Authority: The Telephone Consumer Protection Act & The Communications Act

- The Telephone Consumer Protection Act explicitly empowers the Commission to enforce and interpret its consumer protection provisions. The statute positions the Commission to review questions related to the meaning of TCPA's prohibitions and requires the Commission to prescribe regulations to implement the statute. This is codified at 47 U.S.C. § 227(b)(2).
- The Commission has clarified that no carriers may block, choke, reduce or restrict in any way. At the same time, the Commission has previously recognized "the right of individual end users to choose to block incoming calls from unwanted callers." (2007 Declaratory Ruling, 22 FCC Rcd at 11632, para. 7 n.21.)

Timing

- Chairman Wheeler has circulated his proposed declaratory rulings to the other FCC commissioners for their consideration.
- These proposed declaratory rulings are scheduled to be voted on as a single omnibus item by the full Commission at the June Open Commission Meeting (June 18, 2015).
- As adjudications, following a vote of approval by the Commission, these declaratory rulings would be considered in effect immediately upon release.