



This document is scheduled to be published in the Federal Register on 10/09/2015 and available online at <http://federalregister.gov/a/2015-25682>, and on [FDsys.gov](http://FDsys.gov)

**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 64**

**[CG Docket No. 02-278; WC Docket No. 07-35; FCC 15-72]**

**Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; et al.**

**AGENCY:** Federal Communications Commission.

**ACTION:** Petitions for Rulemaking, denial and dismissal; declaratory ruling; time-limited waivers; exemptions.

**SUMMARY:** The Commission affirms and further clarifies the requirements of the Telephone Consumer Protection Act (TCPA), focusing on consumers' rights to stop unwanted robocalls, including both voice calls and text messages. The Commission acted in an Omnibus Declaratory Ruling and Order (Omnibus Order) in response to 21 petitions for rulemaking, clarification, or other action regarding the TCPA or the Commission's rules and orders. In addition to denying one petition for rulemaking and dismissing another petition for rulemaking, the Omnibus Order took a number of actions, including clarifying when certain conduct violates the TCPA and providing guidance intended to assist callers in avoiding violations and consequent litigation.

**DATES:** The Omnibus Order was issued on July 10, 2015.

**ADDRESSES:** The full text of the Omnibus Order is available at <https://www.fcc.gov/document/tcpa-omnibus-declaratory-ruling-and-order>.

**FOR FURTHER INFORMATION CONTACT:** Kristi Lemoine, Consumer Policy Division, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street S.W., Washington, DC 20554. (202) 418-2467.

**SUPPLEMENTARY INFORMATION:**

1. The Omnibus Order denied one petition for rulemaking and dismisses another petition for rulemaking as both requests were subsumed in the declaratory ruling portion of that document. The Omnibus Order also addressed a number of requests for clarification or other relief.

2. Petitions for Rulemaking. The Professional Association for Customer Engagement (PACE) filed a Petition for Expedited Declaratory Ruling and/or Expedited Rulemaking, and ACA International filed a Petition for Rulemaking. PACE's petition was addressed on its merits as a Petition for Declaratory Ruling and its Petition for Expedited Rulemaking was therefore dismissed. In the Omnibus Order the Commission provided clarification regarding the issues raised by ACA and therefore its petition was denied.

3. Requests for Clarification or Other Action. The Omnibus Order also addressed separate requests for clarification or other action regarding the TCPA or the Commission's rules and orders implementing the TCPA. The full text of the Omnibus Order is available at <https://www.fcc.gov/document/tcpa-omnibus-declaratory-ruling-and-order>.

4. The Commission strengthened the core protections of the TCPA by confirming that:
- Callers cannot avoid obtaining consumer consent for a robocall simply because they

- are not “currently” or “presently” dialing random or sequential phone numbers;
  - Simply being on an acquaintance’s phone contact list does not amount to consent to receive robocalls from third-party applications downloaded by the acquaintance;
  - Callers are liable for robocalls to reassigned wireless numbers when the current subscriber to or customary user of the number has not consented, subject to a limited, one-call exception for cases in which the caller does not have actual or constructive knowledge of the reassignment;
  - Internet-to-phone text messages require consumer consent; and
  - Text messages are “calls” subject to the TCPA, as previously determined by the Commission.
  - The Commission also empowered consumers to stop unwanted calls by confirming that:
  - Consumers may revoke consent at any time and through any reasonable means; and
  - Nothing in the Communications Act or the Commission’s implementing rules prohibits carriers or Voice over Internet Protocol providers from implementing consumer-initiated call-blocking technology that can help consumers stop unwanted robocalls.
5. Finally, the Commission recognized the legitimate interests of callers by:
- Clarifying that application providers that play a minimal role in sending text messages are not per se liable for unwanted robocalls;
  - Clarifying that when collect-call services provide consumers with valuable call set-up information, those providers are not liable for making unwanted robocalls;

- Clarifying that “on demand” text messages sent in response to a consumer request are not subject to TCPA liability;
- Waiving the Commission’s 2012 “prior express written consent” rule for certain parties for a limited period of time to allow them to obtain updated consent;
- Exempting certain free, pro-consumer financial- and healthcare-related messages from the consumer-consent requirement, subject to strict conditions and limitations to protect consumer privacy; and
- Providing and reiterating guidance regarding the TCPA and the Commission’s rules, empowering callers to mitigate litigation through compliance and dispose of litigation quickly where they have complied.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,  
Secretary.

**[FR Doc. 2015-25682 Filed: 10/8/2015 08:45 am; Publication Date: 10/9/2015]**