



PUBLIC NOTICE

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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION FOR EXPEDITED DECLARATORY RULING FILED BY RTI INTERNATIONAL

CG Docket No. 02-278

Comment Date: December 23, 2014
Reply Comment Date: January 12, 2015

On September 29, 2014, RTI International (RTI) filed a petition for declaratory ruling requesting that the Commission clarify that the Telephone Consumer Protection Act (TCPA)¹ does not apply to research survey calls made by or on behalf of the federal government.² RTI argues the TCPA only makes it unlawful for a “person” to undertake certain kinds of calling activities,³ and contends, among other things, that the term “person” as defined in the Communications Act does not include the United States.⁴ RTI also notes that Congress separately defined the term “United States” in the Communications Act,⁵ and that the Commission’s regulations implementing the TCPA, which apply to a “person” or “entity,” similarly exclude the United States.⁶ In addition, RTI argues that the legislative history of the TCPA confirms that Congress did not intend to restrict federal government research survey calls under the TCPA nor prohibit calls made by or on behalf of the federal government.⁷ RTI further maintains that restricting research survey calls of the types it makes for federal government agencies would limit the

¹ The TCPA is codified as 47 U.S.C. § 227. The Commission’s implementing rules are codified as 47 C.F.R. § 64.1200.

² *Petition for Expedited Declaratory Ruling*, CG Docket No. 02-278, filed by RTI International on September 29, 2014 (*Petition*). RTI states that it is a nonprofit research organization whose largest client is the federal government. *See id.* at 2-3.

³ *Id.* at 5. Section 227(b) of the Act prefaces its several specific restrictions with “[i]t shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States [to make or initiate the specified calls or send the specified faxes].” 47 U.S.C. § 227(b) (emphasis added).

⁴ *Petition* at 1, 5; *see also* 47 U.S.C § 153(39) (stating the term “person” includes an individual, partnership, association, joint-stock company, trust, or corporation).

⁵ *Petition* at 2, 5; *see also* 47 U.S.C § 153(58).

⁶ *Petition* at 7; *see also* 47 C.F.R. § 64.1200(a) (prefacing restrictions with “[n]o person or entity may ...”). RTI states that court precedent also reinforces the conclusion that the term “person” does not include the United States. *Petition* at 2, 5-6.

⁷ *Id.* at 2, 8.

ability of those agencies to perform their statutorily mandated functions.⁸ We seek comment on these and any other issues raised in the *Petition*.

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://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, 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.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

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 & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁹ 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 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

⁸ *Id.* at 9-12.

⁹ 47 C.F.R. §§ 1.1200 *et seq.*

consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) 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.

FOR FURTHER INFORMATION CONTACT: Christina Clearwater, Consumer and Governmental Affairs Bureau, Federal Communications Commission, (202) 418-1893; Christina.Clearwater@fcc.gov.

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