



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 16, 2016

The Honorable Robert E. Latta  
U.S. House of Representatives  
2448 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Latta:

Thank you for your letter regarding the application of the Telephone Consumer Protection Act (TCPA) to telephone town hall technologies. Your views are very important and will be included in the record of the Commission's proceeding

The TCPA requires, among other things, that a "person" not make autodialed or prerecorded non-emergency calls to wireless telephone numbers in the absence of prior express consent. A petition for declaratory ruling filed by Broadnet Teleservices LLC asks the Commission to clarify whether the TCPA applies to calls made by or on behalf of a federal, state, or local governmental entity. Its petition describes how Members of Congress, among others, use automated telephone town hall technology to communicate with citizens on a variety of issues. Broadnet argues that the term "person" as used in the TCPA does not include governmental entities and that the TCPA therefore does not apply to calls made by or on behalf of such entities. Two other petitioners, RTI International and the National Employment Network Association, have raised similar issues. As you note, the Supreme Court in *Campbell-Ewald v. Gomez* recently addressed the application of the TCPA to the federal government and its contractors.

In response, this week I circulated to my fellow Commissioners a proposed Declaratory Ruling on the Broadnet petition that would, if adopted, clarify whether the TCPA applies to calls made by federal government officials when they are acting in their official capacities. It would also address the work of contractors who are acting as agents of the federal government. The draft decision discusses both the meaning of the term "person" in the TCPA and how the Supreme Court's *Campbell-Ewald* decision applies to the issues raised by the petitioners before the Commission.

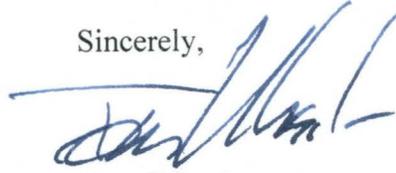
My own view is that the Commission should recognize that the Federal Government acting in its official capacity is not subject to the TCPA's restrictions, consistent with the recent Supreme Court decision and the statutory language of the TCPA. But a final decision will require a vote of the full Commission.

We recognize how important it is for Members of Congress to connect with their constituents, and I assure you that we are acting as quickly as we can. We will, of course, update any related public outreach materials once a decision is made on the order.

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I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a long horizontal flourish extending to the left.

Tom Wheeler