



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 7, 2017

The Honorable Richard Blumenthal  
United States Senate  
706 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Blumenthal:

Thank you for your inquiry about how the Commission intends to help protect consumers from intrusive robocalls. In your letter, you expressed concerns regarding the FCC's *Broadnet* Declaratory Ruling, which involved the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

Americans are suffering from a scourge of robocalls. As you note, each and every year, unwanted robocalls are a top consumer complaint at the Commission. It is estimated that American consumers received approximately 2.4 billion robocalls per month in 2016. One particularly pernicious category of robocalls is spoofed robocalls, in which the Caller ID is falsified, hiding the caller's true identity. Scammers use spoofing to disguise their identities, to trick consumers into answering unwanted calls, and to hide from authorities.

In order to better protect subscribers from illegal and fraudulent robocalls, I have circulated a Notice of Proposed Rulemaking to my fellow Commissioners that proposes to allow service providers to block illegal and fraudulent robocalls under certain circumstances, without fear of liability for failing to complete the calls. Specifically, the proposed rules, if adopted, would codify the FCC Consumer and Governmental Affairs Bureau's clarification in 2016 that providers are allowed to block spoofed robocalls when the subscriber to a particular telephone number requests that calls originating from that number be blocked (sometimes called "Do-Not-Originate"). The proposed rules would also permit providers to block spoofed robocalls when the caller uses an unassigned or invalid phone number. We are also seeking public input on how to address spoofing from internationally-originated numbers, where scammers too often manage to avoid U.S. legal process.

Additionally, I have proposed a Notice of Inquiry that would seek comment on whether and how to create a safe harbor that would protect consumers by allowing their providers to prevent fraudulent, illegal, or spoofed robocalls based on objective criteria. It would also seek comment on safeguards the Commission should establish to minimize blocking of lawful calls.

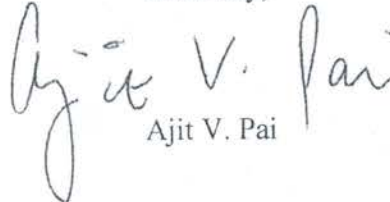
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With respect to the *Broadnet* decision, I agree with you that that the previous Commission erred in finding that federal contractors are not “persons” subject to the TCPA. This conclusion is inconsistent with the text and structure of, and Congressional intent underlying, the TCPA. Moreover, as a policy matter, it gave federal contractors a special carve-out from those restrictions. (To be sure, federal contractors may be entitled to immunity from TCPA liability that derives from the government. Yet as I wrote in my dissent to this aspect of the *Broadnet* decision, I believe that’s a matter for the courts and Congress to decide—not the Commission.) We are now considering the Petition for Reconsideration, and in particular, the legal arguments advanced by various petitioners. As we do so, we will make every effort to ensure the Commission interprets the TCPA faithfully and in a way that doesn’t bestow regulatory largesse upon certain types of robocallers.

I appreciate your interest in this matter and I look forward to working with you as we pursue the common goal of protecting consumers from robocalls. Please let me know if I can be of any further assistance.

Sincerely,

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Ajit V. Pai





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 7, 2017

The Honorable Al Franken  
United States Senate  
309 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Franken:

Thank you for your inquiry about how the Commission intends to help protect consumers from intrusive robocalls. In your letter, you expressed concerns regarding the FCC's *Broadnet* Declaratory Ruling, which involved the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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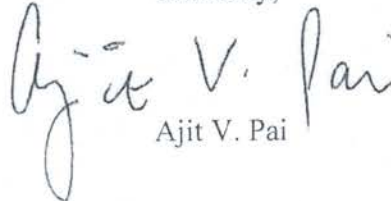
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Ajit V. Pai





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 7, 2017

The Honorable Amy Klobuchar  
United States Senate  
302 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Klobuchar:

Thank you for your inquiry about how the Commission intends to help protect consumers from intrusive robocalls. In your letter, you expressed concerns regarding the FCC's *Broadnet* Declaratory Ruling, which involved the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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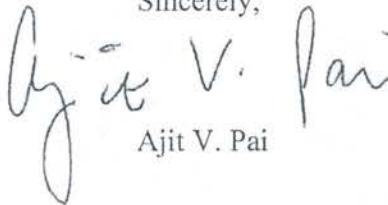
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Ajit V. Pai





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

March 7, 2017

The Honorable Edward J. Markey  
United States Senate  
255 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senator Markey:

Thank you for your inquiry about how the Commission intends to help protect consumers from intrusive robocalls. In your letter, you expressed concerns regarding the FCC's *Broadnet* Declaratory Ruling, which involved the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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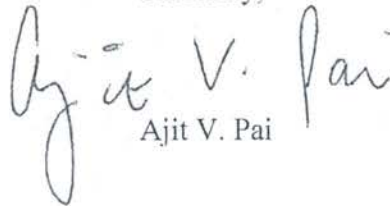
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Ajit V. Pai





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 7, 2017

The Honorable Claire McCaskill  
United States Senate  
730 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator McCaskill:

Thank you for your inquiry about how the Commission intends to help protect consumers from intrusive robocalls. In your letter, you expressed concerns regarding the FCC's *Broadnet* Declaratory Ruling, which involved the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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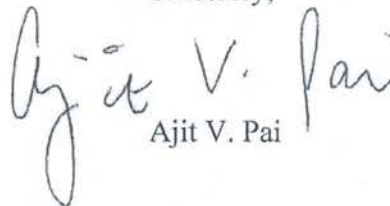
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Sincerely,

Ajit V. Pai





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

March 7, 2017

The Honorable Robert Menendez  
United States Senate  
528 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Menendez:

Thank you for your inquiry about how the Commission intends to help protect consumers from intrusive robocalls. In your letter, you expressed concerns regarding the FCC's *Broadnet* Declaratory Ruling, which involved the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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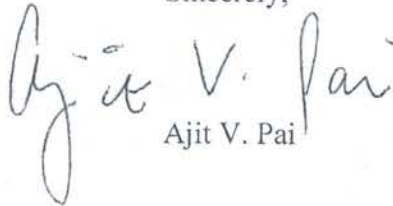
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Ajit V. Pai





FEDERAL COMMUNICATIONS COMMISSION  
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OFFICE OF  
THE CHAIRMAN

March 7, 2017

The Honorable Jeff Merkley  
United States Senate  
313 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Merkley:

Thank you for your inquiry about how the Commission intends to help protect consumers from intrusive robocalls. In your letter, you expressed concerns regarding the FCC's *Broadnet* Declaratory Ruling, which involved the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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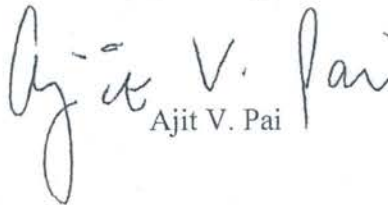
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OFFICE OF  
THE CHAIRMAN

March 7, 2017

The Honorable Tom Udall  
United States Senate  
531 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Udall:

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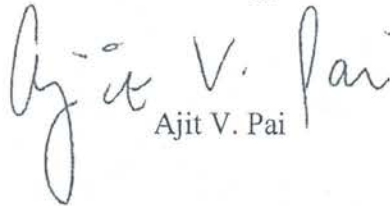
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March 7, 2017

The Honorable Ron Wyden  
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Dear Senator Wyden:

Thank you for your inquiry about how the Commission intends to help protect consumers from intrusive robocalls. In your letter, you expressed concerns regarding the FCC's *Broadnet* Declaratory Ruling, which involved the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

Americans are suffering from a scourge of robocalls. As you note, each and every year, unwanted robocalls are a top consumer complaint at the Commission. It is estimated that American consumers received approximately 2.4 billion robocalls per month in 2016. One particularly pernicious category of robocalls is spoofed robocalls, in which the Caller ID is falsified, hiding the caller's true identity. Scammers use spoofing to disguise their identities, to trick consumers into answering unwanted calls, and to hide from authorities.

In order to better protect subscribers from illegal and fraudulent robocalls, I have circulated a Notice of Proposed Rulemaking to my fellow Commissioners that proposes to allow service providers to block illegal and fraudulent robocalls under certain circumstances, without fear of liability for failing to complete the calls. Specifically, the proposed rules, if adopted, would codify the FCC Consumer and Governmental Affairs Bureau's clarification in 2016 that providers are allowed to block spoofed robocalls when the subscriber to a particular telephone number requests that calls originating from that number be blocked (sometimes called "Do-Not-Originate"). The proposed rules would also permit providers to block spoofed robocalls when the caller uses an unassigned or invalid phone number. We are also seeking public input on how to address spoofing from internationally-originated numbers, where scammers too often manage to avoid U.S. legal process.

Additionally, I have proposed a Notice of Inquiry that would seek comment on whether and how to create a safe harbor that would protect consumers by allowing their providers to prevent fraudulent, illegal, or spoofed robocalls based on objective criteria. It would also seek comment on safeguards the Commission should establish to minimize blocking of lawful calls.

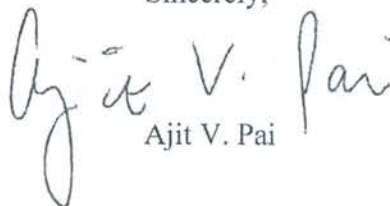
These proposals are tentatively scheduled for consideration at the Commission's upcoming Open Meeting on March 23, 2017. In accordance with my recent pilot project to bring more openness and transparency to the FCC, we have publicly released the draft text of this item

and a one-page fact sheet, each of which is available at <https://www.fcc.gov/news-events/events/2017/03/march-2017-open-commission-meeting>.

With respect to the *Broadnet* decision, I agree with you that that the previous Commission erred in finding that federal contractors are not “persons” subject to the TCPA. This conclusion is inconsistent with the text and structure of, and Congressional intent underlying, the TCPA. Moreover, as a policy matter, it gave federal contractors a special carve-out from those restrictions. (To be sure, federal contractors may be entitled to immunity from TCPA liability that derives from the government. Yet as I wrote in my dissent to this aspect of the *Broadnet* decision, I believe that’s a matter for the courts and Congress to decide—not the Commission.) We are now considering the Petition for Reconsideration, and in particular, the legal arguments advanced by various petitioners. As we do so, we will make every effort to ensure the Commission interprets the TCPA faithfully and in a way that doesn’t bestow regulatory largesse upon certain types of robocallers.

I appreciate your interest in this matter and I look forward to working with you as we pursue the common goal of protecting consumers from robocalls. Please let me know if I can be of any further assistance.

Sincerely,



Ajit V. Pai