

May 18, 2017

Commission's Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: *All About the Message, LLC Petition for Declaratory Ruling Under the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278***

The American Financial Services Association (AFSA)<sup>1</sup> generally supports the petition for declaratory ruling filed by All About the Message, LLC (AATM).<sup>2</sup> AATM requests that the Federal Communications Commission (Commission) “declare that the delivery of a voice message directly to a voicemail box does not constitute a call that is subject to the prohibition on the use of an automatic telephone dialing system (‘ATDS’) or an artificial or prerecorded voice”<sup>3</sup> under the Telephone Consumer Protection Act (TCPA).<sup>4</sup>

AFSA agrees with AATM’s statement that, “The TCPA does not impose liability for voicemail messages, delivered directly to a voicemail service provider, that never pass through a person’s cellular telephone line, and never result in a charge to the subscriber for the delivery of the message.”<sup>5</sup>

Moreover, direct to voicemail technology has the potential to create a better customer experience. Depositing a voicemail without dialing a customer’s cell phone may be less intrusive than a phone call. With direct to voicemail technology, the customer’s phone does not ring repeatedly and the customer has the opportunity to call the business back at a time that is convenient. The technology also allows customers to receive important messages without being charged.

Senator Ed Markey (D-Mass) said, “Congress passed the TCPA with this key goal in mind: consumers should not be subject to intrusive and unsolicited calls on their mobile phones.”<sup>6</sup> Because of its unobtrusive nature, direct to voicemail technology meets the Senator’s goal.

To ensure that consumers are protected, it would be appropriate for the Commission to require that the voicemail messages follow some basic requirements. For example, the Commission could require that each message contain: (1) the name of the business leaving the message, (2) a phone number to call the business, and (3) instructions for how to stop any future messages.

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<sup>1</sup> Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

<sup>2</sup> Petition for Declaratory Ruling of All About the Message, LLC, CG Docket No. 02-278 (filed Mar. 31, 2017) (*Petition*).

<sup>3</sup> *Id.* at ii.

<sup>4</sup> The Telephone Consumer Protection Act (TCPA) is codified at 47 U.S.C. § 227.

<sup>5</sup> *Id.* at ii.

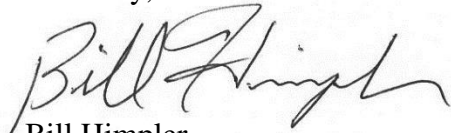
<sup>6</sup> Office of Sen. Ed Markey, *Markey Leads Bill to Protect Americans from Unwanted Robocalls and Texts*. Press Release. Nov. 4, 2015. Available at: <https://www.markey.senate.gov/news/press-releases/markey-leads-bill-to-protect-americans-from-unwanted-robocalls-and-texts>

It would also be appropriate for the Commission to declare that the delivery of a voice message directly to a voicemail box does not constitute a call that is subject to the prohibition on the use of an ATDS under the TCPA only if the purpose of the call is informational and not a telemarketing message or only if there is an established business relationship.

Enabling businesses to use direct to voicemail technology without facing class action lawsuits could improve interactions between businesses and their customers. It would be a good option for business trying to reach their customers in a responsible way.

Please contact me by phone, 202-466-8616, or email, [bhimpler@afsamail.org](mailto:bhimpler@afsamail.org), with any questions.

Sincerely,

A handwritten signature in black ink that reads "Bill Himpler". The signature is written in a cursive, flowing style.

Bill Himpler  
Executive Vice President  
American Financial Services Association