

United States Senate

WASHINGTON, DC 20510

July 12, 2016

The Honorable Shaun Donovan
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Dear Director Donovan and Chairman Wheeler:

We write to inquire about how your agencies intend to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. In light of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* exempting the federal government from the Telephone Consumer Protection Act (TCPA), and the recently released Declaratory Ruling by the Federal Communications Commission (FCC) that formally exempts government contractors from the TCPA, we are concerned that consumers may now be bombarded by unwanted robocalls and robotexts, with no effective means to stop these harassing communications.

The Supreme Court ruled in *Campbell-Ewald Co. v. Gomez* that Congress did not intend for the TCPA to apply to federal agencies, but made no determination with respect to federal contractors. Congress demonstrated that it intended that the TCPA applies to government agents and contractors by passing Section 301 of the 2015 Budget Act, which exempted debt collection efforts made on behalf of the United States. We strongly opposed this provision. Nonetheless, its adoption is clear evidence that Congress believed that the TCPA already applied to government contractors.

The FCC's Declaratory Ruling goes much further than Section 301 in opening the door to unwanted calls and texts. We must ensure that government contractors are subject to meaningful rules that prohibit them from violating the consumer protections established by the TCPA, and that whatever rules are established can be enforced by consumers. We respectfully request that you answer the following: How do the FCC and the OMB intend to help protect consumers from unwanted and intrusive robocalls and robotexts?


1. For the FCC: Why did the Commission issue this Declaratory Ruling prior to concluding its rulemaking under Section 301? Will the Commission reconsider its determination that federal contractors are not covered by the TCPA in the Declaratory Ruling? If yes, when? If no, will the Commission use the Section 301 rulemaking to ensure all


consumers enjoy some protections against unwanted robocalls and robotexts from all federal contractors?


2. For OMB: will OMB require that all federal agencies adhere to a set of enforceable standards to protect consumers from unwanted calls? If no, why not?
 - a. If yes, how will those standards be established and what role will the FCC play?
 - b. What steps will OMB and the FCC take to ensure that agencies establish these standards and what is the timeline for completing each step?
 - c. What will be the legal mechanism by which consumers can stop robocalls from government contractors and agents? How will consumers enforce their requests to stop the calls?


Thank you for your attention to this important matter. We ask that you provide a written response to our inquiry by August 2, 2016.

Sincerely,



Edward J. Markey
United States Senator


Richard Blumenthal
United States Senator



Patrick Leahy
United States Senator


Robert Menendez
United States Senator


Al Franken
United States Senator


Elizabeth Warren
United States Senator


Cory A. Booker
United States Senator


Amy Klobuchar
United States Senator

Sherrod Brown

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United States Senator

Jeffrey A. Merkley

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