

Resolution Urging the Federal Communications Commission to Use Its Authority to Investigate and Prosecute Any Unlawful or Deceptive Use of Automatic Dialers

WHEREAS, More than 40,000 complaints were filed with the Federal Trade Commission (FTC) or the Federal Communications Commission (FCC) regarding unsolicited automatic dialing-announcing device complaints; and, 66% of wireless devices complaints in the first quarter of 2009 were regarding calls covered by the Telephone Consumer Protection Act (TCPA) category,^[1] and the TCPA complaints are associated with live or recorded unsolicited telemarketing calls and e-mail messages to wireless and landlines phones, pagers, and other telecommunications devices all of which are prohibited activities; *and*

WHEREAS, Many of the unlawful telemarketing calls intentionally falsify the name or number that appears on a consumer's caller identification (ID) display, commonly referred to as "caller ID spoofing;" *and*

WHEREAS, Congress has given the FCC and the FTC authority to enforce consumer protection laws and the FCC is attempting to address this problem through enforcement actions and coordination with the FTC; *and*

WHEREAS, State officials, regulatory commissions, and carriers have conducted investigations into the source of these calls, but the tools to pursue violators of the TCPA and CAN-SPAM Act including enforcement provisions of the law reside with the FCC and FTC; *and*

WHEREAS, Telecommunications carriers are utilizing such measures as filters, text-messaging blocking features, and instigating suits to impose civil injunctions against spammers and have successfully blocked millions of unsolicited text message advertisements each month;^[2] *and*

WHEREAS, The use of fraudulent or deceptive practices by third parties responsible for placing unsolicited and unwelcome telemarketing calls harm consumers, undermine consumer confidence in the National DoNotCall program, lessen consumer trust in the telecommunications industry, and are disruptive to customer telecommunication experiences; *and*

WHEREAS, Requirements that all telemarketers provide a legitimate, working telephone number with sufficient live operators for customers to make inquires and/or request to be removed from the call list could possibly eliminate unwanted automatic dialer calls and identify those illegally employing automatic dialers; *and*

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) and its member States have consistently supported and encouraged consumer protection and safety

^[1] Report on Informal Consumer Inquiries and Complaints, 4th Quarter 2008 (rel. May 6, 2009), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-290586A1.pdf. Report on Informal Consumer Inquiries and Complaints, 3rd Quarter 2008 (rel. May 6, 2009), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-290583A1.pdf.

^[2] Comments of CTIA – The Wireless Association in WT Docket No. 08-7, In the Matter of Petition of Public Knowledge, et al. for a Declaratory Ruling that Text-Messaging and Short Codes are Title II Services or Are Title I Services Subject to Section 202 Nondiscrimination Rules (Mar. 14, 2008), at 9, citing Kim Hart, "Advertising Sent to Cellphones Opens New Front in War on Spam," THE WASHINGTON POST, A1 (Mar. 10, 2008).

issues, including passing a resolution regarding caller ID spoofing in August of 2006; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2009 Summer Committee Meetings in Seattle, Washington, urges the FCC and the FTC to increase their investigatory and enforcement efforts and to consider further tools against the third parties who are using automatic dialers and caller ID spoofing technology to send unsolicited commercial messages to telecommunication customers; *and be it further*

RESOLVED, That NARUC is committed to working with Congress, the FCC, the FTC, and the industry on a comprehensive approach to this issue in order to educate and protect consumers from unlawful telemarketing calls and fraudulent and deceptive practices including the use of caller ID spoofing technologies.

*Sponsored by the Committees on Consumer Affairs and Telecommunications
Adopted by the NARUC Board of Directors July 22, 2009*