

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0603**

April 2, 2015

Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12th Street, SW  
Room TWA325  
Washington, DC 20554

488

Dear Chairman Wheeler:

I write to urge the Federal Communication Commission (FCC) to give appropriate and due consideration to the American Association of Healthcare Administrative Management's (AAHAM) pending Petition for Expedited Declaratory Ruling and Exemption.

As you know, the Telephone Consumer Protection Act (TCPA) passed by Congress in 1991 serves an important role in ensuring consumers are not inundated with telemarketing calls. However, technology and the way in which consumers communicate today have changed dramatically. For example, almost forty percent of homes are now wireless only, whereas, in 1991, ninety percent of homes had a landline. Granting this Petition will ensure that the TCPA continues to function effectively without hampering technological advancement, despite the tectonic shift in communication preferences among consumers.

I continue to believe that any future changes to the TCPA must ensure that consumers are provided all the safeguards against unwanted telemarketing calls. The AAHAM Petition does not open up any loopholes for telemarketing calls and is very narrowly focused on necessary healthcare related calls. The AAHAM Petition simply requests that the FCC confirm for providers that when a patient comes into their facility and provides them with a contact phone number, that this is the expressed consent providers need in order to use that number for any necessary follow-up calls.

Many of these calls are time sensitive, designed to provide patients with timely and critical updates about their health. However, due to the vagueness of the TCPA, many health care providers have been swept up in class action lawsuits for violating the statute and a continuing lack of certainty may produce a chilling effect on providers and

discourage them from proactively providing patients with medical information. Some of those healthcare related calls include:

- Appointment and exam confirmations and reminders;
- Wellness checkups;
- Hospital pre-registration instructions;
- Pre-operative instructions;
- Lab results;
- Post-discharge follow-up intended to prevent readmission;
- Prescription notifications;
- Home healthcare instructions;
- Available payment options;
- Insurance coverage outreach and eligibility (*e.g.*, to notify a patient that insurance coverage or payment is available for a service that has been provided);
- Account communications and payment notifications
- Social Security disability eligibility; and
- “Health care messages” as defined by the Health Insurance Portability and Accountability Act (HIPAA).

The Commission has repeatedly confirmed that previously providing one’s phone number in other, non-health care related transactions satisfies the conditions for “prior express consent.” What AAHAM seeks in their Petition is a confirmation from the Commission that health care is no different from any number of other industries who contact their customers. Furthermore, clarifying this requirement would bring the Commission’s definition in line with that of the Courts, who have repeatedly found that “prior express consent” exists in cases where an individual provided their telephone number on hospital or insurance company forms, and with other administrative agencies who require health care providers contact patients.

Yesterday’s method of sending patients information via the mail is no longer an effective way to reach patients, as all too often this information gets thrown out as junk mail. As you can see by the numbers above, cell phone usage has grown significantly since the TCPA was first implemented. Consumers have kept pace with new technologies, but the government and our well-intended regulations have not.

Technology has been interwoven into our daily lives and it will only become more important in coming years. If we want healthcare costs to come down, we need to allow changes to regulations that may not be keeping pace with the technological advancements they are supposed to be regulating. AAHAM is not asking for a blanket exemption, but instead has narrowly focused its Petition and request on calls that are directly related to the health of patients. AAHAM supports conditions on their members’ ability to contact their patients adopted by the Commission in the *Cargo Airline Association Order*.

This Petition is a narrow and common sense clarification of the TCPA. By granting this Petition, the Commission would ensure that health care providers can continue to offer timely, critical, and tailored medical care for their patients while guaranteeing that the TCPA keeps pace with technological innovation and changing consumer preferences. For these reasons, I urge the FCC to grant this Petition in whole.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Tipton", with a large circular flourish at the end.

Scott Tipton  
Member of Congress