



PRESIDENT

Dave Yost
Ohio
Attorney General

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

PRESIDENT-ELECT

Ellen F. Rosenblum
Oregon
Attorney General

In the Matter of)
)
Targeting and Eliminating) CG Docket No. 21-402
Unlawful Text Messages)

VICE PRESIDENT

John Formella
New Hampshire
Attorney General

**REPLY COMMENTS OF FIFTY-ONE (51)
STATE ATTORNEYS GENERAL**

IMMEDIATE PAST
PRESIDENT

Josh Stein
North Carolina
Attorney General

I. Introduction

The undersigned State Attorneys General (“State AGs”) submit these Reply Comments in response to the public notice issued by the Consumer and Governmental Affairs Bureau (“Bureau”),¹ seeking comment on the Federal Communications Commission’s (“Commission”) proposal to require mobile wireless providers to block illegal text messages at the network level when those text messages purport to be from invalid, unallocated, or unused numbers, and numbers on a Do-Not-Originate (“DNO”) list. State AGs, positioned as the vanguard in the war against scams and illegal telemarketing perpetrated through illegal robocalls, illegal texts, and spoofing, support the FCC’s proposal as a crucial first step in bringing text blocking requirements in line with call blocking requirements.

Brian Kane
Executive Director

1850 M Street NW
12th Floor
Washington, DC 20036
(202) 326-6000
www.naag.org

¹ See Notice of Proposed Rulemaking, In the Matter of Targeting and Eliminating Unlawful Text Messages, CG Docket No. 21-402, September 27, 2022 (“September 2022 NPRM”).

Similar to the Commission, State AGs are receiving an increasing number of consumer complaints concerning illegal and/or unwanted text messages, evidencing a troubling, emerging problem.² Although the increased number of complaints is troubling, it is not surprising. As federal and state law enforcement have worked tirelessly to combat the bad actors sending illegal robocalls, as well as the voice service providers that put their proverbial heads in the sand when transmitting illegal traffic to American consumers,³ we agree with the Commission that bad actors have most likely shifted tactics to take advantage of consumers' most favored method of communication – text messaging.⁴ As the Commission noted, “consumers read nearly all texts they receive, and do so nearly immediately.”⁵

State AGs agree that “unwanted text messages present the same problems as unwanted calls – they invade consumer privacy, and are vehicles for consumer fraud and identity theft.”⁶ Moreover, as the FCC correctly pointed out, “[t]ext message-based scams also present harms beyond those of calls,” as “[t]exts can include links to well-designed phishing websites that appear identical to the website of a legitimate company and fool a victim into providing personal or financial information.”⁷ In addition, “[t]exted links can also load unwanted software, including

² For example, the Pennsylvania Office of Attorney General’s Bureau of Consumer Protection reported that in 2020, it received 7 consumer complaints wherein a scam was perpetrated through a text message. In 2021, the number of such complaints dramatically increased to 184. For 2022, Pennsylvania has already surpassed the number of complaints for 2021, with a total of 241.

³ See, e.g., *Ohio v. Aaron Michael Jones*, No. 2:22-cv-02700 (S.D. Ohio 2022); *Vermont v. TCA VOIP*, No. 5:22-cv-00069 (D. Vt. 2022); *North Carolina v. Articul8, LLC*, No. 1:22-cv-00058 (M.D.N.C. 2022); *Indiana v. Startel Commc’n. LLC*, No. 3:21-cv-00150 (S.D. Ind. 2021); *Texas, et al. v. Rising Eagle Capital Grp. LLC*, No. 4:20-cv-2021, (S.D. Tex. 2020); see also *State AGs target telcos that carry illegal robocalls*, TransNexus, Aug. 3, 2022, <https://transnexus.com/blog/2022/robocall-litigation-task-force/>.

⁴ September 2022 NPRM at ¶ 1.

⁵ *Id.* at ¶ 7.

⁶ *Id.* at ¶ 4.

⁷ *Id.*

malware that steals passwords and other credentials, onto a [mobile] device.”⁸⁹

II. Mandatory Blocking of Illegal Texts

The FCC proposes requiring mobile wireless providers to block text messages at the network level, without consumer opt in or opt out, that purport to be from invalid, unallocated, or unused numbers, and from numbers on a DNO list.¹⁰ As with voice calls purporting to be from such numbers, text messages from such numbers are also highly likely to be illegal. Simply stated, no wireless subscriber should be receiving any voice call or text message from these numbers. For example, a person receiving a text message from a number purporting to have an area code “000” would be receiving a text message from an invalid phone number. In this circumstance, a scammer has most likely spoofed an invalid number when sending the text message, and this type of fraudulent and misleading representation of information by the purported sender of the text message should not be permitted.

Therefore, State AGs support the FCC’s mandatory blocking requirement as a common-sense measure to protect consumers from scams perpetrated through illegal text messages. State AGs previously supported a similar blocking requirement in the context of voice calls.¹¹ This was one of the first of many call-blocking measures¹² instituted by the

⁸ *Id.*

⁹ In addition, some text message applications automatically download media files (*i.e.* images, videos, audio) contained in text messages when the user receives the text message. Unless consumers are well informed enough to change the settings in their messaging application, they could unknowingly receive image, video, and/or audio files from nefarious actors which contain malware that could infect the users’ device when opened or played.

¹⁰ *Id.* at ¶ 19.

¹¹ See Comment of 30 State Attorneys General, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, July 6, 2017.

¹² September 2022 NPRM at ¶¶ 15 to 17.

Commission, and it is our hope that the Commission will consider adapting and integrating other similarly successful blocking and mitigation mandates for players in the robotext ecosystem in the near future.

III. Applying Caller ID Authentication Requirements to Text Messages

STIR/SHAKEN standards do not currently support text messaging, although work on the standards is currently underway.¹³ While we hope to see true and complete end-to-end STIR/SHAKEN implementation among all providers in the voice call ecosystem in the not-too-distant future, current STIR/SHAKEN standards have still proven to be a useful investigatory tool among law enforcement.

Over the last year, members of the Robocall Technologies Working Group¹⁴ have spoken with CTIA, the trade association for the U.S. wireless industry, as well as cloud-based provider Twilio, wireless provider Verizon, and others to learn more about the technological logistics and participating players of the messaging ecosystem. We understand from these productive conversations that, for several reasons, the messaging ecosystem and the voice call ecosystem are significantly different in infrastructure. Therefore, State AGs support the Commission's proposal encouraging industry to continue its work on developing a call authentication technology that can be adapted for use in the messaging ecosystem infrastructure, which will help law enforcement identify bad actors and those who assist them in exploiting consumers' trust in the information sent via text message.

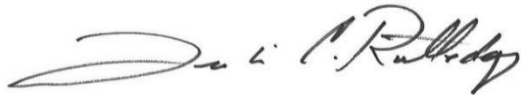
¹³ *Id.* at ¶ 13.

¹⁴ The Robocall Technologies Working Group is a bipartisan coalition of 48 state attorneys general, focused on learning and sharing information about the logistics, players, and processes in the robocall and robotext ecosystems, identifying and sharing resources and tools to analyze and understand the same concerning investigations of entities in this ecosystem, and focusing on collective efforts for advocacy.

IV. Conclusion

In 2020, scammers stole more than \$86 million from consumers through fraudulent texting schemes.¹⁵ With scammers increasing their focus on text messaging schemes, consumer losses will also increase, unless industry and law enforcement work together to protect consumers. State AGs applaud the Commission for turning its attention to this new rulemaking to address harms perpetrated against consumers by illegal and fraudulent text messages. State AGs support the Commission's proposal to require providers to block text messages that purport to be from invalid, unallocated, or unused numbers, and numbers on a DNO list, and State AGs stand ready to support other common-sense efforts.

BY FIFTY-ONE (51) STATE ATTORNEYS GENERAL:



Leslie Rutledge
Arkansas Attorney General



Josh Stein
North Carolina Attorney General



Josh Shapiro
Pennsylvania Attorney General



Steve Marshall
Alabama Attorney General



Treg R. Taylor
Alaska Attorney General



Mark Brnovich
Arizona Attorney General



Rob Bonta
California Attorney General

¹⁵ *Id.* at ¶ 4.



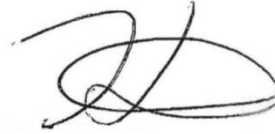
Phil Weiser
Colorado Attorney General



William Tong
Connecticut Attorney General



Kathleen Jennings
Delaware Attorney General



Karl Racine
District of Columbia Attorney General



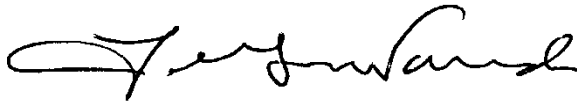
Ashley Moody
Florida Attorney General



Christopher M. Carr
Georgia Attorney General



Holly T. Shikada
Hawaii Attorney General



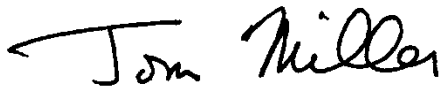
Lawrence Wasden
Idaho Attorney General



Kwame Raoul
Illinois Attorney General



Todd Rokita
Indiana Attorney General



Tom Miller
Iowa Attorney General



Derek Schmidt
Kansas Attorney General



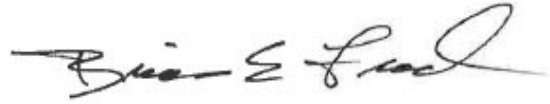
Daniel Cameron
Kentucky Attorney General



Jeff Landry
Louisiana Attorney General



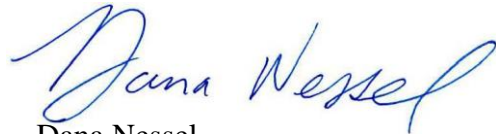
Aaron M. Frey
Maine Attorney General



Brian Frosh
Maryland Attorney General



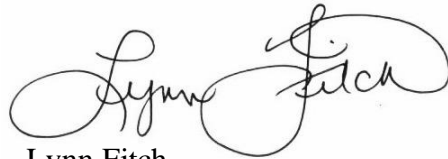
Maura Healey
Massachusetts Attorney General



Dana Nessel
Michigan Attorney General



Keith Ellison
Minnesota Attorney General



Lynn Fitch
Mississippi Attorney General



Eric S. Schmitt
Missouri Attorney General



Austin Knudsen
Montana Attorney General



Douglas Peterson
Nebraska Attorney General



Aaron D. Ford
Nevada Attorney General



John M. Formella
New Hampshire Attorney General



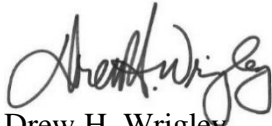
Matthew J. Platkin
New Jersey Attorney General



Hector Balderas
New Mexico Attorney General



Letitia James
New York Attorney General



Drew H. Wrigley
North Dakota Attorney General



Dave Yost
Ohio Attorney General



John O'Connor
Oklahoma Attorney General



Ellen F. Rosenblum
Oregon Attorney General



Peter F. Neronha
Rhode Island Attorney General



Alan Wilson
South Carolina Attorney General



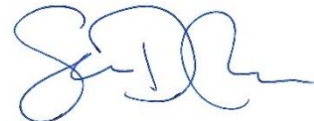
Mark Vargo
South Dakota Attorney General



Jonathan Skrmetti
Tennessee Attorney General



Ken Paxton
Texas Attorney General



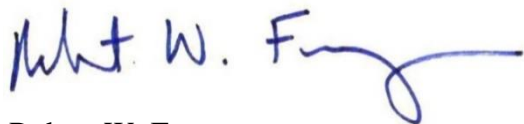
Sean D. Reyes
Utah Attorney General



Susanne Young
Vermont Attorney General



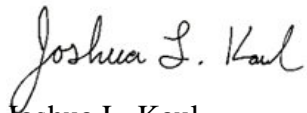
Jason Miyares
Virginia Attorney General



Robert W. Ferguson
Washington Attorney General



Patrick Morrissey
West Virginia Attorney General



Joshua L. Kaul
Wisconsin Attorney General



Bridget Hill
Wyoming Attorney General