



January 5, 2026

*Submitted via [www.fcc.gov/ecfs](http://www.fcc.gov/ecfs)*

Federal Communications Commission  
Office of the Secretary  
45 L Street NE  
Washington, DC 20554

**RE: Ninth Further Notice of Proposed Rulemaking, Seventh Further Notice of Proposed Rulemaking Further Notice of Proposed Rulemaking and Public Notice (NPRM), in CG Docket No. 17-59; WC Docket No. 17-97; CG Docket Nos. 02-278 and 25-307.**

Dear Secretary Dortch:

The Retail Industry Leaders Association (RILA) appreciates the opportunity to submit comments on the Federal Communications Commission's (FCC's or Commission's) Notice of Proposed Rulemaking on Advanced Methods To Target and Eliminate Robocalls<sup>1</sup>, specifically the Commission's interest in calling-related rules that can be simplified, streamlined, or eliminated, including certain provisions of the Telephone Customer Protection Act (TCPA) Consent Order (2024) (Final Rule or 2024 Rule).<sup>2</sup>

As background, RILA is a trade association of the world's largest, most innovative, and recognizable retail companies and brands. We convene decision-makers, advocate for the retail industry, and promote operational excellence and innovation. RILA aims to elevate a dynamic retail industry by transforming the environment in which retailers operate.

RILA members include more than 200 retailers, product manufacturers, and service suppliers, who together employ over 42 million Americans across hundreds of thousands of stores, manufacturing facilities, and distribution centers both domestically and abroad, and account for \$2.7 trillion in annual sales.

RILA and its members appreciate the Commission's review of the Final Rule to address many concerns raised by multiple stakeholders, including RILA. We also acknowledge and

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<sup>1</sup> 90 Fed. Reg. 56101 (Dec. 5, 2025).

<sup>2</sup> 89 Fed. Reg. 15756 (Feb. 15, 2024) and 89 Fed. Reg. 82518 (Oct. 11, 2024).

appreciate the Commission’s delay of the universal revocation requirement<sup>3</sup> in the Final Rule until April 11, 2026.<sup>4</sup> RILA wishes to raise ways the Commission can use this opportunity to support customer choice, avoid confusion, and reduce undue regulatory burden on various industries, including the retail industry. RILA urges the Commission to revise the Final Rule and prevent the harmful impact that will certainly result if the Commission does not revise the Final Rule.

**The Commission should:**

- Eliminate the Final Rule’s presumption in favor of universal revocation to support customer control, avoid confusion, and prevent harmful impacts of universal revocation;
- Provide companies with flexibility to develop innovative and creative methods of sharing information regarding opting in or out of specific types of communications and the impact of revocation to their customers;
- Eliminate the Final Rule’s requirement that retailers treat a customer’s failure to respond to a retailer’s clarifying text as universal revocation of consent to all communications;
- Modify the Final Rule to eliminate customers’ ability to use obscure and vague wording in consent revocations texts and make the current list of “per se” reasonable words the exclusive list of words which customers may use to revoke consent via text;
- Adopt a balanced approach to the totality of circumstance standard and require customers using consent revocation methods outside of those listed in the Rule’s section (a)(10) or other reasonable methods provided by the sender, prove that the revocation communication was delivered and that the method used to communicate revocation was reasonable; and
- Publish advanced notice of enforcement discretion for the previously delayed rule set to take effect on April 11, 2026, during the Commission’s review of the Rule. Doing so will prevent the implementation of a rule that the Commission has acknowledged as flawed.

The comments below illustrate everyday scenarios of customers’ reliance on communications for important and time-sensitive information, and the potential harm and undue burden that may result from certain provisions within the Rule.

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<sup>3</sup> 47 § CFR 64.1200(a)(10).

<sup>4</sup> Order, Fed. Communications Comm’n, CG Docket No. 02-278 (April 7, 2025) *available at* <https://docs.fcc.gov/public/attachments/DA-25-312A1.pdf>.

## **I. The Commission Should Support Customer Choice and Eliminate the Final Rule’s Presumption in Favor of Universal Revocation in any Future Consent Revocation Rule**

As discussed in RILA’s April 11, 2025 comments, the Final Rule’s presumption in favor of universal revocation undermines both customer choice and retailers’ ability to effectively engage with customers.<sup>5</sup> Universal revocation assumes that customers who opt out of one type of communication (e.g., marketing messages) intend to opt out of *all communications* from the sender regardless of the topic (e.g., retail pharmacy messages, loyalty rewards etc.). This presumption risks unintended adverse consequences for customers (e.g., unintentionally missing a prescription recall notice after intending to only opt out of marketing messages).

### **A. Failure to Eliminate the Final Rule’s Presumption in Favor of Universal Revocation Will Result in Unintended Consequences for Customers**

The Rule’s current presumption in favor of universal revocation will unintentionally capture all types of communications. As illustrated in the re-stated examples below,<sup>6</sup> when a customer indicates his or her intention to stop receiving a communication, it is much more likely the customer intends to revoke consent for *that specific type of communication* – not the entire range of communications a customer may receive from the retailer. The Rule’s presumption in favor of universal revocation will result in adverse consequences for customers and retailers. It does not acknowledge the reality of customers’ reliance on text messages or allow them to easily make decisions on the specific communications they want to receive.

#### **i. Customers Who are Both A Customer and An Employee / Job Applicant**

**Example 1** - Bill has applied for a job at a retailer and has opted to receive updates on the status of his job application. He also uses the retailer’s pharmacy to fill prescriptions for his family. Bill accepts a job at another company and therefore wants to opt out of the retailer’s job application updates. However, he does not intend to opt out of all communication from the retailer as he still wants to receive notifications from the retailer’s pharmacy.

**Example 2** – Lindsey is a retail employee. She receives text message updates on job benefits from her employer. She also is a member of the retailer’s loyalty program. Lindsey

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<sup>5</sup> *Id.* at 4 and 6.

<sup>6</sup> Retail Industry Leaders Association Comments, GN Docket No. 25-133, 5-7, (filed Apr. 11, 2025).

decides to opt out of receiving benefit updates, but she still wants to continue receiving loyalty program communications.

In Examples 1 and 2 above, the Rule's presumption in favor of universal revocation requires the retailer to assume that Bill and Lindsey want to opt out of all communications from the retailer, even though this is contrary to their intentions. Only by *affirmatively* consenting again can Bill and Lindsey receive their desired communications.

## **ii. Customers Who Receive Important Health Information from Retail Pharmacies**

**Example 3** – Gary receives text message updates on his prescription refills from his retail pharmacy. The retail pharmacy also sends automated messages for wellness reminders (vaccine availability, cold and flu season, etc.) Gary opts out of wellness reminders, but he still wants to receive prescription refill communications from the retail pharmacy.

**Example 4** – Cheryl receives text message updates from her retail pharmacy, which is part of big box/grocery retailer's larger operations. She is also a member of that retailer's loyalty program. Cheryl decides to opt out of receiving loyalty program updates but wants to continue receiving pharmacy communications.

As with Examples 1 and 2, the Rule's presumption in favor of universal revocation requires retailers to stop *all communications* with Gary and Cheryl unless they *affirmatively* consent again to receive each of the specific types of communications they want.

## **B. Failure to Eliminate the Final Rule's Presumption in Favor of Universal Revocation Diminishes Customer Control & Creates Unnecessary Hurdles for Customers to Retain Wanted Communications**

The Final Rule's presumption in favor of universal revocation does not afford customers greater control over their right to stop unwanted communications, and instead, hinders customers' control over the communications they receive. Further, the Rule harms customers by requiring them to affirmatively re-consent to each type of message for which they have previously consented, after opting out of one type of communication. And, if a customer fails to respond to the sender's clarification text and reaffirm their consent, the Rule requires retailers to cease sending all communications despite not having clear direction from the customer to do so.

**Example 5** – Revisiting Cheryl's predicament above, after she decides to opt out of receiving loyalty program updates, Cheryl decides she would also like to opt out of

receiving text message updates about her retailer credit card, but as she affirmed before, she would still like to receive pharmacy communications.

In the example above, Cheryl must reaffirm her consent to receive pharmacy communications *two separate times*—once after opting out of loyalty program updates, and once again after opting out of text message updates about her retailer credit card, despite *never intending* to opt out of pharmacy communications.

Further, the presumption undermines retailers’ ability to effectively engage with customers and seek clarity on customers’ true intentions. The retail industry is highly competitive. Now more than ever, customers have many choices about where to shop. Retailers invest significant amounts of time and resources to build brand reputation and develop strong relationships with their customers. To develop and maintain strong customer loyalty and trust, retailers must be able to get clear feedback from their customers about the specific communications that the customer wants to receive. Though the Rule allows a sender to share a one-time confirmation/clarification text, as we previously shared, the number of characters allowed limits retailers’ ability to share adequate information for a customer to make an informed choice.<sup>7</sup> The Commission can easily solve these issues by modifying the Rule as detailed below.

### **C. Retailers Encourage the Commission to Significantly Modify the Final Rule’s Presumption in Favor of Universal Revocation to Avoid Customer Confusion and Potential Unintended Adverse Consequences**

The Final Rule’s universal revocation requirement is fatally flawed, and the Commission should significantly modify it before its effective date on April 11, 2026, effective date.

RILA reiterates its prior request for the Commission to consider customer intent and propose a new rule with a presumption *against* universal revocation to replace the current Rule’s presumption *in favor* of universal revocation.<sup>8</sup> A presumption *against* universal revocation better reflects most customers’ intentions, reduces customer confusion, and helps to avoid unintended adverse consequences. A presumption against universal revocation allows customers to tailor his or her communication preferences without having to repeatedly reaffirm consent to wanted communications.

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<sup>7</sup> *Id.* at 7 (A standard SMS text message can hold up to 160 characters when using GSM-7 encoding, but this limit reduces to 70 characters when using UCS-2 encoding, which is necessary for special characters and emojis).

<sup>8</sup> *Id.* at 7-8.

Further, the final language of a revised rule should provide companies with flexibility to develop innovative and creative methods of sharing information regarding opting in or out of specific types of communications and the impact of revocation to their customers. This will enable retailers and other senders to discern their customers' true intentions.

Finally, the Commission should *eliminate* the Final Rule's requirement that retailers treat a customer's failure to respond to a retailer's clarifying text as universal revocation. As illustrated throughout the comments, this action is not indicative of the customer's actual intent. Requiring retailers to infer customer intent and stop all future communications, regardless of type, will force companies to take an action which is directly contrary to what the customer wants. Eliminating this language from a future final rule and allowing for flexibility in how retailers express communication preferences to customers will allow companies to have the opportunity to engage with customers to determine their actual intent.

## **II. RILA Urges the Commission to Designate the List of "Per Se Reasonable" Words as the Exclusive Words for Consent Revocation Text Messages.**

The Commission seeks comment on previous proposals to permit senders to designate the exclusive means by which customers may revoke prior express consent rather than requiring senders to honor all revocation requests made using any "reasonable means."

RILA reiterates its support for the Commission's inclusion of a standardized list of words deemed to be *per se* reasonable for customers to revoke consent via a reply text message. Specifically, RILA finds that using the commonly understood words "stop," "quit," "end," "revoke," "opt out," "cancel," or "unsubscribe" via reply text message constitute a reasonable and unambiguous means to revoke consent. The clearly enumerated list provides welcome guidance to retailers and customers.

Moreover, as the Commission contemplates potential revisions to the Final Rule, RILA strongly urges the Commission to go beyond merely creating a list of *per se* reasonable words, and instead, permit senders to use the enumerated words as the exclusive words customers can use to revoke prior consent via response text.

Customers currently have the option to use any of the enumerated *per se* reasonable words or any other reasonable method to clearly express a desire not to receive further calls or text messages from the caller or sender.<sup>9</sup> The lack of exclusive words of revocation for text responses creates ambiguity for customers and imposes a significant burden on

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<sup>9</sup> 47 CFR 64.1200(a)(10).

retailers who must track all customer responses, even if the response is obscure, vague or overly lengthy, to try to discern the customer's intent. Further, the required acceptance of any text message response's wording provides opportunities for unscrupulous plaintiff attorneys to allege that a customer's text message using unclear and obscure wording is reasonable.

A list providing several exclusive and commonly understood words for customers to use via response text will alleviate any customer confusion or uncertainty about how to revoke consent and help to reduce burdens and costs for senders / retailers.

### **III. RILA Encourages the Commission to Require Customers Who opt in via Text Message to Revoke Consent Using the Same Method**

In addition to creating an exclusive list for text revocation responses, the Commission should also take the opportunity to require customers who opt in to retailers' communications via text message to revoke consent using the same method. If a customer opts in via text message, it should not be burdensome to then revoke consent via text message. Moreover, this approach alleviates potential customer confusion, ensures retailers can fulfill the consumer's request, and helps to reduce challenges retailers may encounter when tracking and fulfilling customers' requests.

When a customer opts in to a retailer's communications via text messaging / SMS, the retailers' system typically only captures the sender's mobile number and does not always associate the mobile number with the customer's name or account information. If a customer opts in via text message and later decides to opt out via certified mail,<sup>10</sup> for example, the retailer may not have a way to associate the customer's revocation request with the customer's previous opt in via text message. This imposes a significant burden on retailers who must track all customer requests, even if the retailer has no way of connecting such requests to the correct customer. This scenario also opens the door for plaintiff attorneys to take advantage of understaffed mail rooms and/or work from home offices.

RILA and its members urge the Commission to adopt this logical approach to reduce consumer confusion and prevent undue burden on retailers.

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<sup>10</sup> At least one RILA member has experienced this scenario frequently where a customer conveyed their request to be opted out via certified mail and did not also attempt to opt out via text.

#### **IV. RILA Urges the Commission to Modify the Burden of Proof Framework Provided under the Rule’s Totality of the Circumstances Standard.**

The Commission should also take the opportunity to modify the burden of proof framework under the Rule’s “totality of circumstances” standard. The current Rule’s burden of proof framework creates a rebuttable presumption that the customer has revoked consent when he or she produces evidence that such a request has been made, absent evidence to the contrary. The burden then shifts to the sender to demonstrate that the customer did not convey his or her request to revoke consent in a reasonable manner. The Commission’s framework creates an unbalanced and burdensome requirement for senders / retailers.

In addition to consent revocation texts, retailers currently provide customers with multiple reasonable means by which they can revoke their consent to receiving unwanted communications. For example, a customer can call, chat, and/or email a retailer’s customer service department, log into his or her loyalty program account to change communication preferences, and/or update delivery communication preferences when ordering a product online.

However, the Rule’s current wording allows a customer to use other means than the reasonable methods provided by retailers described above or those provided for in section (a)(10) of the Rule, opening the door for unscrupulous customers and plaintiff attorneys to create a TCPA claim by using more obscure, noncommon sense ways to revoke consent (e.g., telling a cashier when going through a checkout line and/or sending a letter to a store). Under this scenario, customers would only need to prove that the retailer “received” the communication. The burden then shifts to the retailer under the totality of circumstance standard to prove to the trier of fact that the method used was not reasonable.

The Commission could easily eliminate the uncertainty and undue burden by requiring customers, when using a method of communication other than those listed in the Rule’s section (a)(10) or words outside of the enumerated per se reasonable list, to prove that their consent revocation request was delivered to the sender **and** that the method used to communicate the request was reasonable.

RILA and its members urge the Commission to adopt this balanced and common-sense approach. It provides customers with multiple means of revoking consent to unwanted texts (via revocation texts or other reasonable means provided by the sender). It also guards against bad actors looking to exploit the TCPA’s private right of action enforcement

mechanism by revoking consent using intentionally vague, wordy, and/or unconventional means in blatant attempts to “beat the system” and manufacture non-compliance claims.

**V. The Commission Should Issue Enforcement Discretion in Advance of The Final Rule’s Effective Date While the Final Rule is under Further Review**

Retailers commend the Commission for the one year pause in enforcement of the Final Rule and strongly urge the Commission to take further action and initiate a new rulemaking to revise the Final Rule along the lines detailed above. Further, during its forthcoming review and rulemaking, the Commission should publish advanced notice of enforcement discretion for the previously delayed rule set to take effect on April 11, 2026. Doing so will prevent the implementation of a rule that the Commission has acknowledged as flawed. Moreover, providing notice of enforcement discretion will ease the undue burden and regulatory uncertainty for retailers, as the current effective date is merely four months away. Without such certainty from the Commission, retailers and businesses alike will spend significant resources on compliance programs and procedures to comply with a flawed Rule.

**Conclusion**

RILA’s retail members work hard to serve customers and meet customer expectations through automated communications, which are crucial to the retailer-customer relationship. RILA appreciates the opportunity to provide these comments on the Commission’s *Further Notice of Proposed Rulemaking in CG Docket No. 02-278*, in connection with the Commission’s TCPA Consent Order Final Rule. We would welcome an opportunity to discuss our feedback with the Commission.

If you have any questions or need any additional information, please contact Susan Kirsch, VP Regulatory & Assistant General Counsel at [susan.kirsch@rila.org](mailto:susan.kirsch@rila.org) or Allie Sauers, Senior Director Legal & Regulatory Affairs at [allie.sauers@rila.org](mailto:allie.sauers@rila.org).

Sincerely,



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