

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL,
CONCURRING**

Re: *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Broadnet Teleservices LLC Petition for Declaratory Ruling; National Employment Network Association Petition for Expedited Declaratory Ruling; RTI International Petition for Expedited Declaratory Ruling, Declaratory Ruling, CG Docket No. 02-278*

No matter the source, consumers are frustrated by robocalls. In fact, robocalls represent the single largest category of complaints the Commission receives. Month after month complaints pile in to this agency with consumers justifiably angry with calls for services that they do not want, did not sign up for, and do not need.

Nonetheless, in light of the Supreme Court's recent opinion in *Campbell-Ewald v. Gomez*, the Commission here finds that one class of callers—the federal government and those calling on its behalf—fall outside of the Telephone Consumer Protection Act. This outcome is apparently compelled by the doctrine of sovereign immunity. Our decision also recognizes that government has legitimate reasons for reaching out to citizens, including providing information about government programs and promoting greater civic engagement and debate.

While these considerations are important, I concur because this declaratory ruling does not fully consider the impact of recent changes in the Telephone Consumer Protection Act that are presently before this agency.

In last year's Bipartisan Budget Act, Congress modified the Telephone Consumer Protection Act to make clear that calls "made solely to collect a debt owed to or guaranteed by the United States" were not subject to the consent requirements for robocalls that otherwise apply under the law. At the same time, Congress instructed the Commission to conduct a rulemaking within nine months to consider regulations that "may restrict or limit the number and duration" of such calls.

This rulemaking began last month. It is still ongoing. So our actions here have an odd result. In effect, we prejudge the outcome of our narrower proceeding under the Bipartisan Budget Act by here providing a blanket exemption from the Telephone Consumer Protection Act to the federal government and its agents. Moreover, I am concerned that our decision risks trampling on the will of Congress. After all, if the federal government is truly outside the scope of the Telephone Consumer Protection Act, it is unclear why Congress would need to have specifically provided a debt-related exception to the law in the first place.

Finally, I am concerned that this decision gives short shrift to consumer frustration with robocalls. This frustration is real—and going forward I hope the Commission will redouble its efforts to decrease these calls—no matter who makes them.