



John W. Cosgriff
UnitedHealthOne
9700 Health Care Lane
Minnetonka, MN 55343
Tel: 952-931-5373

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Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Targeting and Eliminating Unlawful Text Messaging Proposed Rule
(CG Docket Nos, 02–278 and 21–402)

Submitted Electronically: <http://apps.fcc.gov/ecfs/>

Dear Sir/Madam:

UnitedHealthcare (UHC) is responding to a Proposed Rule published by the Federal Communications Commission (FCC) in the Federal Register on April 7, 2023 (88 FR 20800). The Proposed Rule addresses a number of issues related to telephone and text contacts with consumers governed by the Telephone Consumer Protection Act (TCPA). Our comments are focused on the discussion in the FCC's March 17, 2023 Report and Order regarding the ability of consumers to consent to be contacted by multiple marketers.

UHC is dedicated to helping people live healthier lives and making the health system work better for everyone by simplifying the health care experience, meeting consumer health and wellness needs, and sustaining trusted relationships with care providers. In the United States, UnitedHealthcare offers the full spectrum of health benefit programs for individuals, employers, and Medicare and Medicaid beneficiaries, and contracts directly with more than 1.3 million physicians and care professionals, and 6,500 hospitals and other care facilities nationwide. The company also provides health benefits and delivers care to people through owned and operated health care facilities in South America.

UHC and other health insurers typically market insurance to consumers through a network of agents and brokers. These agents and brokers are licensed by state insurance regulators in the states in which they conduct business, and depending on the type of coverage they offer, may also be certified by federal agencies. Consumers rely on these licensed agents and brokers to help them understand important features about their coverage options including benefits, health care provider networks, cost-sharing, and prescription drug coverage.

Although our comments are limited to the health insurance market, the FCC's potential rulemaking on this issue will have broad application to consumers who are seeking information across a wide range of products that are lawfully marketed by businesses, and which rely on lead generators to connect interested consumers with the applicable business. Overly-restrictive limits on the ability of consumers to request and consent to contact from legitimate businesses could ultimately harm consumers by limiting their ability to interact with companies who provide goods or services in which they have expressed an interest.

While we understand the intention behind the Proposed Rule, we have concerns about the potential negative unintended consequences any future rulemaking could have on both consumers and businesses by limiting opportunities for consumer education and product comparison.

Specific to the field of health coverage in which UHC operates, navigating health-coverage options can be challenging for many consumers. Many consumers seek help with understanding their health insurance options by reaching out to licensed agents to help evaluate and obtain information concerning the coverage options available in the market, including benefits, premiums, and other plan features. Connecting interested consumers with licensed agents is a critically important function in ensuring the consumer is not only aware of their coverage options, but can make informed decisions concerning their needs.

Outside of the employer-group and certain government programs markets, consumers frequently are contacted by licensed agents representing health insurers after they provide consent through a website maintained by lead generation companies. These lead generators are typically not selling coverage themselves, but rather serve as a critically important conduit connecting interested consumers with licensed insurance agents pursuant to a consent from the consumer. Depending on the vendor and type of lead, the consumer may be connected with several different licensed agents who represent a range of health insurance companies and coverage options.

Consumers benefit from contact from multiple companies and/or their licensed agents in a host of beneficial ways including the following:

1. **Education**: Discussions with multiple licensed brokers allows consumers to learn more about the different companies in the market, and the different plans they offer. This can help them make better informed decisions about their healthcare needs and coverage.
2. **More Options and Comparison Shopping**: Contact from multiple companies and/or their licensed agents can give consumers more options when it comes to selecting a health insurance plan. By hearing from multiple companies, consumers

can compare different plans and choose the one that best fits their needs and budget

3. **Competitive Pricing**: With multiple companies competing for their business, consumers can often find better pricing for coverage that meets their needs and budget.
4. **Convenience**: Rather than having to research and contact multiple insurers on their own, consumers can save time and effort by being contacted directly by multiple licensed insurance agents. This can make the process of finding and selecting a health insurance plan more convenient and streamlined.
5. **Avoiding Scams**: It is an unfortunate reality that there are some individuals and companies who do not offer legitimate insurance products. Contact from multiple companies allows consumers to better understand the marketplace, and conduct appropriate research into the companies, and thereby avoid scams and fraudulent health insurance providers that may not provide adequate coverage, or may charge excessive fees.

We believe the TCPA allows individuals to provide a single affirmative consent to be contacted by telephone or text from multiple marketers, and that such permission can be beneficial to the consumer by giving them access to different purchase options through a sole source. The current TCPA regulations already provide significant protections for consumers, including the ability to revoke consent at any time.

We recognize that the FCC may wish to establish reasonable safeguards for the consent process such as limiting the number of business contacts or requiring clarifying language regarding the scope of the consent. We would, however, caution the FCC to consider any potential operational challenges that may result – for example, requiring a listing of all approved marketing contacts on the internet landing page (rather than through a web link) may result in a listing that is difficult for consumers to read or understand given page and type size limits.

In broad terms, UHC agrees with the FCC's suggestion that the consumer's consent should be limited to the subject matter about which the consumer requested contact. For instance, if a consumer provided consent to a lead generation website related to health coverage, that lead should only result in contact from companies that operate in the health coverage market. From UHC's perspective, it would be inappropriate, for example, for such a health insurance lead to then be sold to a company that provides non-health insurance products.

We also believe that clear and consistent standards should be defined around such requirements. While the FCC's proposal speaks in terms of consent that is "logically" and "topically" related to the website content, no operative definitions of these terms are provided. The lack of definitions could create a vague and uncertain regulatory environment with unknown, and potentially differing and subjective standards applied. As a result, the number of legitimate businesses that are able to contact consumers who have expressed an interest in the product, and consented to contact by those that participate in the market, would be unnecessarily restricted.

Additionally, if limits are applied to the number of companies or their authorized licensed agents that may contact a consumer in response to their request for information through a lead, consumers may miss out on valuable information and opportunities for education and comparison shopping if they are only contacted by a limited number of businesses or licensed agents. For example, if an unreasonable limit is placed on the number of contacts that a consumer can consent to, it may restrict the consumer's ability to access information from the range of businesses that could provide them with goods or services (e.g., limiting consent to contact from five authorized agents in a market with ten health insurance issuers).

UHC appreciates the opportunity to provide input on this issue, and is hopeful that an appropriate middle ground can be found that accomplishes the FCC's objectives, giving appropriate consideration to the interest of both consumers and businesses that could be negatively impacted by limiting legitimate, consent-based communications between interested consumers and companies that provide the good or services about which the consumer seeks information. Please feel free to contact me if you have any questions.

Sincerely,



John W. Cosgriff
Chief Executive Officer
UnitedHealthOne