



EAST

RESOLUTION # EX-1020-01

RESOLUTION REQUESTING THAT CONGRESS AMEND THE TELEPHONE CONSUMER PROTECTION ACT (TCPA) TO EXPLICITLY STATE THAT STATE GOVERNMENTS ARE NOT A “PERSON” AND THEREFORE NOT SUBJECT TO THE TCPA IN ORDER TO ENABLE PROPER COMMUNICATION WITH CONSTITUENTS

Whereas, the Telephone Consumer Protection Act (TCPA) governs the conduct of telephone solicitations and restricts autodialing to mobile phones without prior express consent; and

Whereas, in 2015 the Federal Communications Commission (FCC) issued a declaratory ruling recognizing that the “government” is not subject to the TCPA, but limited this only to the federal government; and

Whereas, this ruling was restated in the recent U.S. Supreme Court decision issued in *Barr v. the American Association of Political Consultants*, which explained “government” is not a “person” as defined by the Communications Act, and therefore not subject to the TCPA; and

Whereas, the levels of “government” that are not subject to the TCPA remains unclear; and

Whereas, state and local governments need clarity on their ability to utilize autodialing communications technology to reach constituents; and

Whereas, autodialing is especially important in light of the COVID-19 pandemic, as shelter-in-place orders and social distancing practices restrict in-person communications opportunities; and

Whereas, recent statistics indicate governments can best reach minority populations by leveraging smartphone technology, notably, according to a 2019 Pew Research study, 80 percent of African Americans and 79 percent of Hispanics own a smartphone, while only 58 percent of the same populations have home broadband; and

CT • DE • MA • MD • ME • NB • NH • NJ • NY • NS • ON • PA • PE • PR • QC • RI • VI • VT

Sen. Sharon Carson, NH, *Co-Chair*
Rep. Lucy Weber, NH, *Co-Chair*

Hon. Ted Arnott, Speaker, Ontario, *Co-Vice Chair*
MPP Gila Martow, Ontario, *Co-Vice Chair*

Wendell M. Hannaford, *Director*

WWW.CSG-ERC.ORG • 212.482.2320 • 22 CORTLANDT STREET, 22ND FLOOR • NEW YORK, NY 10007



Whereas, state and local governments are limited in their ability to share critical information with all constituents, including but not limited to information on community impacts of COVID-19, 2020 census information, and 2020 election information.

Therefore, Be It Resolved, that CSG East requests a clarification to the FCC's declaratory ruling so that all levels of government and their contractors can confidently use autodialing communications technology for official government business; and

Be It Further Resolved, that CSG supports state and local governments in their efforts to provide relevant, up-to-date information to their constituents using the best outreach tools available to them; and

Be It Further Resolved, that CSG recognizes the importance of establishing parity on such issues between federal, state, and local governments; and

Be It Further Resolved, that CSG East request that the U.S. Congress ensure that state and local governments and their contractors are able to successfully communicate with constituents by amending the TCPA to explicitly state both state and local governments are not a "person" as defined by the Communications Act, and are therefore not subject to the TCPA.