

April 18, 2025

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Subject: Concerns Regarding House Bill 3865A and its Potential Impact on Internet Communications

Dear Members of the Senate Committee on Judiciary,

The Voice on the Net Coalition (VON),¹ which represents the nation's leading technology companies, writes to express its concerns regarding Oregon House Bill 3865A, as amended, and the potential harm for businesses that utilize mobile messaging to connect with consumers. VON is a trade association formed in 1997 comprised of companies whose products support a wide range of internet communications, include voice and messaging services. VON works with regulators and legislators to find solutions that address specific concerns rather than imposing far-reaching regulations that could hinder innovation and competition.

House Bill 3865A seeks to regulate telephone solicitations within Oregon. While we understand the intent behind this legislation to protect consumers from unwanted communications, we are concerned that the members of the House Committee on Commerce and Consumer Protection have not fully considered the practical consequences of the proposed legislation. We have identified several provisions that pose significant challenges for businesses and service providers that could inadvertently hinder desired communications, creating unintended negative consequences that extend beyond the state of Oregon.

Regulation of RCS. One concern is the bill's proposed regulation of Rich Communication Services (RCS). HB 3865 would expressly regulate RCS, a modern messaging protocol that offers enhanced features compared to SMS and MMS. To our knowledge, this would represent the first state law to specifically regulate RCS. It is noteworthy that the Federal Communications

¹ For more information see www.von.org.

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Commission (FCC) has confirmed that RCS is not subject to the federal Telephone Consumer Protection Act (TCPA).² Introducing state-specific regulations for a nascent technology that is not yet widely available and operates across networks and national borders creates a complex and potentially conflicting regulatory landscape for businesses to navigate.

Moreover, a technical challenge arises because it is practically impossible for a business to definitively know when it is sending an RCS message to a recipient physically located within Oregon. Mobile phone users travel frequently, and privacy protections prevent businesses from accessing real-time location-based data from wireless carriers. Imposing regulations that hinge on the recipient's real-time location, without the ability to reliably determine that location, places an unreasonable burden on businesses and creates a significant risk of unintentional non-compliance. This could lead to unwarranted legal exposure, particularly for companies operating on a national or global basis.

Quiet Hours. Furthermore, we are concerned about the "quiet hours" provision in HB 3865A, which reportedly proposes to start at 7 PM Pacific Time, and the limitation on three communications within a 24 hour period. The proposed quiet hours' provision deviates from the federal "quiet hours" standard of 8 a.m. to 9 p.m., which generally applies to calls and text messages sent without prior express consent. The discrepancy between state and federal "quiet hours" regulations exacerbates the technical difficulties associated with location determination and will encourage frivolous lawsuits and unnecessary enforcement.

Three-message limit will constrain wanted traffic. Moreover, the limit of three communications within 24 hours will unnecessarily restrict businesses who engage in subsequent conversational calls and messaging after the initial marketing call or message. Today's consumers demand personalized engagement from the brands they shop with, favoring meaningful, two-way conversations over one-way, generic messaging. VON members empower businesses to meet these expectations by enabling seamless and responsive communication. Brands must be permitted to use messaging to address follow-up questions, provide product clarifications, and assist with orders in real time. Restricting their ability to respond promptly and effectively would not only compromise the customer experience but also hinder their ability to achieve optimal sales outcomes. Therefore, any subsequent conversational traffic should be included as an exemption in Section 1, subsection (b).

All Providers subject to FCC traffic should be included in exception. Finally, the exceptions provided in Section 5, subsection 7(a), are too narrowly drafted and should be expanded to include providers of interconnected Voice over Internet Protocol Service, as defined by the FCC in 47 CFR § 9.3. Limiting the exception to wireless carriers, telecommunications utilities or

² *In the Matter of Targeting and Eliminating Unlawful Text Messages; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 38 FCC Rcd 12247, 12249 (2023), at n.7 ("We use the definition of text message in section 64.1600(o) of our rules in this proceeding. The scope of our decision regarding text messages is limited to those originating from North American Numbering Plan (NANP) numbers that use the wireless networks, e.g., SMS and MMS, not over-the-top (OTT) messaging, such as iMessage and WhatsApp, or Rich Communications Services (RCS); 47 CFR § 64.1600(o) *et seq.*").

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cooperatives providing telecommunications and operating as a common carrier, ignores the reality of the today's communications ecosystem. Many Oregon residents and business rely on interconnected VoIP for both messaging and voice calls. There is no discernable reason to impose the rules on VoIP providers while exempting others that provide functionally similar services.

The cumulative effect of these provisions could have a chilling effect on the adoption of innovative communications technologies. The increased risk of non-compliance and potential litigation may deter companies from leveraging these enhanced communication methods, ultimately disadvantaging Oregon consumers.

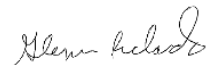
For businesses operating across state lines and internationally, consistency in regulatory frameworks is paramount. Divergent state-specific regulations create significant operational burdens and costs. This can stifle innovation, increase compliance overhead, and potentially lead businesses to limit their engagement with consumers in states with particularly complex or technically challenging requirements.

We urge the members of the Senate Committee on Labor and Business to carefully consider the limitations inherent in regulating internet communications and the potential negative impact that HB 3865A, in its current form, could have on businesses both within the US and beyond. We believe that a more harmonized approach, aligned with federal regulations where they exist would better serve Oregon consumers and businesses.

VON members are committed to working constructively with policymakers to ensure a safe, effective, and innovative communication. We would welcome the opportunity to discuss these concerns further with the Committee and offer our expertise on the technical and regulatory landscape of the global mobile messaging ecosystem.

Thank you for consideration and please contact me if you have questions.

Sincerely,



Glenn Richards
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