Trump campaign angry that cell carriers blocked spammy texts to voters



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President Trump’s re-election campaign has accused Verizon, AT&T, and T-Mobile of “suppression of political speech” over the carriers’ blocking of spam texts sent by the campaign.

The fight was described Wednesday in an in-depth article by Business Insider and other reports. “The Trump campaign has

been battling this month with the biggest US cellphone carriers over an effort to blast millions of cell users with texts meant to coax them to vote or donate," Business Insider wrote. "President Donald Trump's adviser and son-in-law, Jared Kushner, didn't appreciate it when AT&T, Verizon, and T-Mobile blocked mass campaign texts to voters. He called the companies to complain, setting off the legal wrangling."

When contacted by Ars, a Trump campaign spokesperson said that "any effort by the carriers to restrict the campaign from contacting its supporters is suppression of political speech. Plain and simple." The Trump campaign statement also said it "stands by the compliance of its texting programs" with the US Telephone Consumer Protection Act (TCPA) and Federal Communications Commission guidelines.

We asked the Trump campaign to explain exactly why the texts are legal and shouldn't have been blocked but did not get a response. The Trump campaign also did not answer our questions about how many people it tried to send the texts to and about whether the texts were unsolicited or sent to people who had signed up for campaign communications.

We also asked both the Trump campaign and carriers if they've come to any agreement on how to handle texts for the rest of this year's presidential campaign but did not get any answers.

Business Insider wrote that "the showdown got serious at the start of July when Trump's team sent a blast of texts to people who hadn't signed up for them," and "a third-party firm hired to screen such messages for the major cellphone companies blocked the texts." The article said that campaign lawyers and the carriers "are still fighting over what kinds of messages the campaign is allowed to send and what the companies have the power to stop."

Politico wrote about the dispute on Monday. "People familiar with the chain of events said Verizon, T-Mobile and AT&T

flagged potential regulatory problems with the peer-to-peer messaging operation, which differs from robo-texting in that texts are sent individually, as opposed to a mass blast," Politico wrote. "But within Trump's orbit, the episode has further fueled suspicions that big tech companies are looking to influence the election."

"Hi it's Pres. Trump."

One Trump-campaign text reportedly sent this week said, "Hi it's Pres. Trump. I need your help ASAP to FIGHT BACK against the radical left & take back my majority. Take a stand NOW." Trump-campaign texts reviewed by Business Insider did not include an option to unsubscribe, the news outlet's article said.

Carriers "viewed the texts as a possible violation of federal anti-robocall laws and Federal Communications Commission rules that come with hefty fines," Business Insider reported, citing information provided by "two Republicans familiar with the effort."

Trump "campaign operatives" contend that its texting "exists in a legal gray area that allows campaigns to blast cellphone users if the messages are sent manually," Business Insider also wrote. TCPA restrictions apply to messages sent with an "automatic telephone dialing system."

The FCC says its rules "ban text messages sent to a mobile phone using an autodialer unless you previously gave consent to receive the message or the message is sent for emergency purposes," and that customers "should be able to opt out of receiving texts."

Business Insider said the Trump campaign also argues that a recent FCC ruling "loosened the rules on what counted as spam." That FCC order, which is being challenged by the National Consumer Law Center and other consumer-advocacy

groups, says the following:

> *By this Declaratory Ruling, we clarify that the fact that a calling platform or other equipment is used to make calls or send texts to a large volume of telephone numbers is not probative of whether that equipment constitutes an autodialer under the TCPA. Instead, we make clear that if a calling platform is not capable of originating a call or sending a text without a person actively and affirmatively manually dialing each one, that platform is not an autodialer and calls or texts made using it are not subject to the TCPA's restrictions on calls and texts to wireless phones. We further confirm that, even when a party uses an autodialer to send a message, it may still avoid TCPA liability by obtaining the recipient's prior express consent.*

We asked the FCC if it is investigating whether the Trump-campaign texts violated robotext and spam rules, and will update this article if we get a response.

CTIA: Senders need "prior consent"

Carriers are remaining silent publicly on the dispute with Trump's campaign. When contacted by Ars, Verizon, AT&T, and T-Mobile all declined to give statements or answer our questions. T-Mobile told Ars there has been "inaccurate reporting" on this topic but did not say what has been inaccurately reported. Verizon and AT&T referred our questions to the CTIA mobile-industry lobby group, but CTIA declined to answer our questions about the Trump texts.

CTIA did, however, provide a general statement saying, "We expect all senders—whether airlines, schools, banks or campaigns—to include clear opt-out language and gain prior consent before sending a text. These simple steps help protect consumers from spam, and maintain text messaging as a trusted medium for everyone."

The third-party firm that blocked the texts on behalf of the carriers is Zipwhip, according to a Republican source quoted by Business Insider. Zipwhip told Ars that it is “not able to comment on our contracts, customers or their texting traffic.”

“Zipwhip’s compliance process requires all texting traffic to follow industry-standard guidelines, including where appropriate, a requirement to obtain consent from the message recipient,” the company told Ars. “The goal of the industry standard is to protect consumers from receiving unwanted messages and spam and maintain trust in texting as a communications medium.”

CTIA last year issued a set of “Messaging Principles and Best Practices” to “clarify that organizations should obtain opt-in consent before sending text messages to consumers.”

Consumers get more unwanted political texts

Last week, CTIA posted a blog specifically about spam texts from political campaigns. “Text messaging can be a very powerful and effective way to organize, inform and engage voters, but only if used the right way,” CTIA wrote. “Billions of texts will be sent from political campaigns of both parties, and we are increasingly hearing from customers that they are getting texts they didn’t ask to receive.”

Text senders should be “communicating only with consumers who have opted in, telling consumers how to opt out—by replying ‘STOP,’ for example—honoring those opt-out requests, and establishing clear privacy and security policies and practices,” CTIA said.

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