

**SEPARATE STATEMENT OF
CHAIRMAN MICHAEL K. POWELL**

Re: In the Matter of Policies and Rules Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket Nos. 04-____ and 02-278, Notice of Proposed Rulemaking in CG Docket No. 04-____ and Further Notice of Proposed Rulemaking in CG Docket No. 02-278. (Adopted March 11, 2004)

American consumers have every right to expect that their cell phones will be spam-free zones. With this broad proceeding, we comply with Congress's mandate, pursuant to the CAN-SPAM Act of 2003, to protect consumer and businesses from the cost, inefficiencies, and inconveniences of unwanted messages sent to their wireless devices.

The proceeding explores various options to allow subscribers to avoid such messages, seeks comment on technical mechanisms that can be made available to wireless subscribers; and takes into account the efficacy and cost considerations of these specific mechanisms to fulfill the requirements of the Act.

Similarly, we seek further comment on the various restrictions imposed by the Telephone Consumer Protection Act (TCPA) since implementation of intermodal local number portability.

I look forward to consulting with my colleagues at the Federal Trade Commission on this rulemaking to maximize the consistency of our respective rules and to implement Congress's directive to protect consumers from unwanted mobile service commercial messages.