

# The New York Times

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## Verizon Blocks Messages of Abortion Rights Group

By ADAM LIPTAK

Saying it had the right to block “controversial or unsavory” text messages, Verizon Wireless has rejected a request from Naral Pro-Choice America, the abortion rights group, to make Verizon’s mobile network available for a text-message program.

The other leading wireless carriers have accepted the program, which allows people to sign up for text messages from Naral by sending a message to a five-digit number known as a short code.

Text messaging is a growing political tool in the United States and a dominant one abroad, and such sign-up programs are used by many political candidates and advocacy groups to send updates to supporters.

But legal experts said private companies like Verizon probably have the legal right to decide which messages to carry. The laws that forbid common carriers from interfering with voice transmissions on ordinary phone lines do not apply to text messages.

The dispute over the Naral messages is a skirmish in the larger battle over the question of “net neutrality” — whether carriers or Internet service providers should have a voice in the content they provide to customers.

“This is right at the heart of the problem,” said Susan Crawford, a visiting professor at the University of Michigan law school, referring to the treatment of text messages. “The fact that wireless companies can choose to discriminate is very troubling.”

In turning down the program, Verizon, one of the nation’s two largest wireless carriers, told Naral that it does not accept programs from any group “that seeks to promote an agenda or distribute content that, in its discretion, may be seen as controversial or unsavory to any of our users.” Naral provided copies of its communications with Verizon to The New York Times.

Nancy Keenan, Naral’s president, said Verizon’s decision interfered with political speech and activism.

“No company should be allowed to censor the message we want to send to people who have asked us to send it to them,” Ms. Keenan said. “Regardless of people’s political views, Verizon

customers should decide what action to take on their phones. Why does Verizon get to make that choice for them?”

A spokesman for Verizon said the decision turned on the subject matter of the messages and not on Naral’s position on abortion. “Our internal policy is in fact neutral on the position,” said the spokesman, Jeffrey Nelson. “It is the topic itself” — abortion — “that has been on our list.”

Mr. Nelson suggested that Verizon may be rethinking its position. “As text messaging and multimedia services become more and more mainstream,” he said, “we are continuing to review our content standards.” The review will be made, he said, “with an eye toward making more information available across ideological and political views.”

Naral provided an example of a recent text message that it has sent to supporters: “End Bush’s global gag rule against birth control for world’s poorest women! Call Congress. (202) 224-3121. Thnx! Naral Text4Choice.”

Messages urging political action are generally thought to be at the heart of what the First Amendment protects. But the First Amendment limits government power, not that of private companies like Verizon.

In rejecting the Naral program, Verizon appeared to be acting against its economic interests. It would have received a small fee to set up the program and additional fees for messages sent and received.

Text messaging programs based on five- and six-digit short codes are a popular way to receive updates on news, sports, weather and entertainment. Several of the leading Democratic presidential candidates have used them, as have the Republican National Committee, Save Darfur and Amnesty International.

Most of the candidates and advocacy groups that use text message programs are liberal, which may reflect the demographics of the technology’s users and developers. A spokeswoman for the National Right to Life Committee, which is in some ways Naral’s anti-abortion counterpart, said, for instance, that it has not dabbled in text messaging.

Texting has proved to be an extraordinarily effective political tool. According to a study released this month by researchers at Princeton and the University of Michigan, young people who received text messages reminding them to vote in November 2006 were more likely to go to the polls. The cost per vote generated, the study said, was much smaller than other sorts of get-out-the-vote efforts.

Around the world, the phenomenon is even bigger.



“Even as dramatic as the adoption of text messaging for political communication has been in the United States, we’ve been quite slow compared to the rest of the world,” said James E. Katz, the director of the Center for Mobile Communication Studies at Rutgers University. “It’s important in political campaigns and political protests, and it has affected the outcomes of elections.”

Timothy Wu, a law professor at Columbia, said it was possible to find analogies to Verizon’s decision abroad. “Another entity that controls mass text messages is the Chinese government,” Professor Wu said.

Jed Alpert, the chief executive officer of Mobile Commons, which says it is the largest provider of mobile services to political and advocacy groups, including Naral, said he had never seen a decision like Verizon’s.

“This is something we haven’t encountered before, that is very surprising and that we’re concerned about,” Mr. Alpert said.

Professor Wu pointed to a historical analogy. In the 19th century, he said, Western Union, the telegraph company, engaged in discrimination, based on the political views of people who sought to send telegrams. “One of the eventual reactions was the common carrier rule,” Professor Wu said, which required telegraph and then phone companies to accept communications from all speakers on all topics.

Some scholars said such a rule was not needed for text messages because market competition was sufficient to ensure robust political debate.

“Instead of having the government get in the game of regulating who can carry what, I would get in the game of promoting as many options as possible,” said Christopher S. Yoo, a law professor at the University of Pennsylvania. “You might find text-messaging companies competing on their openness policies.”



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## Verizon Reverses Itself on Abortion Messages

By ADAM LIPTAK

Reversing course, Verizon Wireless announced yesterday that it would allow an abortion rights group to send text messages to its supporters on Verizon's mobile network.

"The decision to not allow text messaging on an important, though sensitive, public policy issue was incorrect," said Jeffrey Nelson, a spokesman for Verizon, in a statement issued yesterday morning, adding that the earlier decision was an "isolated incident."

Last week, Verizon rejected a request from the abortion rights group, Naral Pro-Choice America, for a five-digit "short code." Such codes allow people interested in hearing from businesses, politicians and advocacy groups to sign up to receive text messages.

Verizon is one of the two largest mobile carriers. The other leading carriers had accepted Naral's request for the code.

In turning down the request last week, Verizon told Naral that it "does not accept issue-oriented (abortion, war, etc.) programs — only basic, general politician-related programs (Mitt Romney, Hillary Clinton, etc.)."

In yesterday's statement, Mr. Nelson called that "an incorrect interpretation of a dusty internal policy" that "was designed to ward against communications such as anonymous hate messaging and adult materials sent to children." The policy, Mr. Nelson said, had been developed "before text messaging protections such as spam filters adequately protected customers from unwanted messages."

But the program requested by Naral would have sent messages only to people who had asked to receive them.

Nancy Keenan, Naral's president, expressed satisfaction yesterday. "The fight to defeat corporate censorship was won," she said. But Ms. Keenan added that her group "would like to see Verizon make its new policy public."

Verizon did not respond to repeated requests for copies of the policy or an explanation for why it is withholding it.

Text messaging is an increasingly popular tool in American politics and an established one abroad. In his statement, Mr. Nelson acknowledged that the technology is “being harnessed by organizations and individuals communicating their diverse opinions about issues and topics.” He said Verizon has “great respect for this free flow of ideas.”

But the company did not retreat from its position that it is entitled to decide what messages to transmit.

Legal experts said Verizon’s position is probably correct under current law, though some called for regulations that would require wireless carriers of text messages to act like common carriers, making their services available to all speakers on all topics.

“This incident, more than ever, shows the need for an open, nondiscriminatory, neutral Internet and telecommunications system that Americans once enjoyed and took for granted,” said Gigi B. Sohn, the president of Public Knowledge, a consumer advocacy group.

Some of Verizon’s customers said they were outraged by the company’s initial stance.

Gary Mitchell, a lawyer in New Jersey, said he called a Verizon customer sales representative yesterday morning to cancel his wireless service in protest. After spending a few minutes on hold, he said, the representative read him an e-mail message that she said all the customer service representatives had just received. The message instructed representatives to tell callers that the policy had been reversed.

Verizon kept Mr. Mitchell’s business but lost some of his respect. “It was an incredibly foolish corporate decision,” he said.

Wyn Hoag, a photographer in California, said he was still mulling whether to cancel his Verizon service.

“I’m a supporter of abortion rights, but I could be a Christian-right person and still be in favor of free speech,” Mr. Hoag said. “If they think they can censor what’s on my phone, they’ve got another thing coming.”

## **NARAL's case for net neutrality**

EDITORIAL

September 28, 2007

NARAL Pro-Choice America, an abortion-rights group, recently offered a new way for members to stay in the loop: mobile-phone text messages. But the operator of the country's second most popular mobile phone network, Verizon Wireless, turned down NARAL's request for a text-messaging "short code" -- the five-digit address that NARAL members would use to get updates. The company explained that its messaging system was closed to groups with content or an agenda that "may be seen as controversial or unsavory to any of our users."

This ill-considered decision breathed new life into the drive for "Net neutrality" rules, which would bar Internet access providers from favoring or blocking any legal content, application or service. It also may help stiffen the Federal Communication Commission's resolve to keep a small group of frequencies in the 700-megahertz band open to any device or application.

Verizon, which co-owns Verizon Wireless with European telecommunications giant Vodafone, had been a leading opponent of such regulations. In addition to vigorously lobbying Congress against Net neutrality proposals, it has asked a federal judge to throw out the FCC's openness requirements for the 700-MHz band. The company and its allies have argued that the regulations would impede innovation and that there is no evidence of network operators blocking content.

In recent months, however, Verizon Wireless and AT&T have provided some of that evidence. This summer, AT&T cut off the audio during an online broadcast of a rock concert by Pearl Jam when singer Eddie Vedder started criticizing President Bush. The company said its contractors had made a mistake, but bloggers soon dug up other instances of AT&T silencing other singers' politically charged comments, leading the telco to issue a broader apology.

Verizon Wireless' action denied its customers access to NARAL's newest communications channel. And the rationale it initially gave the group should alarm people across the political spectrum. In essence, it said that its messaging network was off-limits to those working on divisive issues. The same logic could apply to antiabortion groups, the National Rifle Assn. and stem cell researchers, to name just a few.

After NARAL's complaint reached the national media, Verizon Wireless did a quick about-face, reversing itself on Thursday. The company blamed "an incorrect interpretation of a dusty internal policy" and asserted that it has "great respect for this free flow of ideas." Nevertheless, by demonstrating how much power network operators wield over speech, Verizon Wireless and AT&T have strengthened the case for rules that keep the Internet free from their control or anyone else's.

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# The New York Times

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EDITORIAL

## The Verizon Warning

We have long been concerned about the potential threat to free speech and a free press as communications migrate from old-fashioned telephone lines, TV broadcasts and printing presses to digital networks controlled by unregulated private companies. The threat stopped being theoretical recently when Verizon Wireless censored political speech on one of its mobile services.

Verizon did the right thing after the problem was disclosed: it promptly dropped a misbegotten policy and said its new policy is to open its network to any legal communication. But alarm bells should be ringing on Capitol Hill, where industry lobbying, legislative goldbricking and Republican aversion to regulations have bottled up much-needed laws on digital communications.

Late last month, Verizon Wireless denied an application from Nara Pro-Choice America, a reproductive rights group, for a “short code,” a few numbers that a mobile phone user can use to subscribe to a particular source of text messages. Verizon said its policy was to refuse “issue oriented” text-messaging programs from any group that “seeks to promote an agenda or distribute content that, in its discretion, may be seen as controversial or unsavory to any of our users.” The policy also said political candidates may be granted short codes if the content is, “in VZW’s sole discretion, not issue-oriented or controversial in nature.”

Leave aside for the moment the sorry spectacle of a major American company aiming to make campaigns even more substance-free than they already are. The Verizon policy was textbook censorship. Any government that tried it would be rightly labeled authoritarian. The First Amendment prohibits the United States government from anything approaching that sort of restriction.

If Verizon had attempted it on normal phone lines, it would have been violating common carrier laws that bar interference with voice transmissions. Unfortunately, those laws do not apply to text messaging.

Given this chilling experience, the Federal Communications Commission should quickly issue regulations that also bar interference with text messaging. Unfortunately, the F.C.C. is in the

thrall of the carriers, and the Bush administration has an unblemished record of siding with corporations over the rights and safety of American citizens. That means Congress will have to take the lead, as it must on other issues affecting the mushrooming world of digital communications.

Verizon admitted its mistake and pledged not to repeat it, but that's not enough. As admirable as Verizon's retreat was, the company reserved the right to change the rules at any time. Verizon still says "some well-intentioned employee" got too zealous. If its top executives were not engaged on this issue, they should have been.

Our democracy is built on basic freedoms not being left to individuals, or individual companies. And there is special cause for worry in our business. American newspapers can resist government intimidation because the Constitution is on our side, but also because we control the presses. That is the real meaning behind "freedom of the press," and authoritarian societies know it. In the 1980s in the Soviet Union, you had to have a license from the Communist Party to own a Xerox machine; the Soviets understood that it was a printing press.

If newspapers were delivered over mobile phones, a company could simply cut them off because it did not like a particular article. This is not the stuff of a futurist essay. Freedom of speech must be guaranteed, right now, in a digital world just as it has been protected in a world of paper and ink.