

June 27, 2019

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Via ECF Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

**Re: Notice of *Ex Parte* Presentation by Inovalon, Inc., Rules and Regulations
Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278**

Dear Secretary Dortch:

Pursuant to Section 1.1206 of the Federal Communication Commission's ("FCC") rules, the undersigned counsel hereby provides notice that, on June 26, 2019, Inovalon, Inc.'s Associate General Counsel, Kamyar Daneshvar, Senior Corporate Counsel, Anika Steffen, and Director of Operations, Philippe Fregeolle, and Venable LLP attorneys Daniel Blynn, Ian Volner, Liz Rinehart, and Meryl Nolan (collectively "Inovalon") met with Zenji Nakazawa of Chairman Pai's office and Jamie Susskind of Commissioner Carr's office.

During the meetings, Inovalon urged the Commission to grant Inovalon's pending non-controversial Petition for expedited declaratory ruling in the above-referenced proceeding (the "Petition").¹ In the Petition, Inovalon seeks clarification on two issues: (1) that faxes sent by the designee of a health plan to a patient's medical provider, pursuant to an established business relationship between the health plan and provider, requesting patient medical records are not "unsolicited" under the Junk Fax Prevention Act ("JFPA");² and (2) faxes that offer the free collection and/or digitization of patient medical records, and which do not offer any commercially available product or service to the recipients are not "advertisements."

Inovalon is currently the defendant in litigation arising out of a single fax that it sent advising of the methods by which Eric B. Fromer Chiropractic, Inc. ("Fromer"), a health care provider and serial JFPA litigant, could meet its obligations to provide patient medical records to a health plan with which Fromer had contracted. Inovalon offered nothing for sale or lease to Fromer (or any

¹ Inovalon, Inc., Petition for Expedited Declaratory Ruling, CG Docket No. 02-278 (filed Feb. 19, 2018).

² Junk Fax Prevention Act of 2005, Pub. L. No. 109-21, 119 Stat. 359 (2005).

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other recipient for that matter) as Inovalon did not have any commercially available product or service that a recipient could even purchase. Rather, Inovalon merely informed Fromer that it could fulfill its contractual obligations to the insurer at “no cost” to itself by using Inovalon’s services. Nevertheless, because it offered Fromer a no cost way to comply with its contractual obligation to provide medical records, Fromer insists that it *ipso facto* was sent an unsolicited advertisement via fax in violation of the JFPA. In early September 2018, the court in the Fromer litigation stayed the case pending the Commission’s resolution of Inovalon’s Petition. Thus, Inovalon seeks prompt action on the Petition in order to avoid further needless litigation and burdening the court, which is plainly looking to the FCC for guidance on the issues raised in Inovalon’s Petition.

For the reasons discussed in its Petition and above, Inovalon respectfully requests that the Commission move quickly to grant its non-controversial Petition and declare that faxes with no direct commercial purpose, and offering no commercially available products or services to the recipients, are not “advertisements” under the JFPA.

Respectfully submitted,



Daniel S. Blynn

Counsel to Inovalon, Inc.

cc: Kurt Schroeder
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