



# NAACP

July 6, 2018

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Petition for Clarification filed by The P2P Alliance, CG Docket No. 02-278**

Dear Ms. Dortch:

The National Association for the Advancement of Colored People (NAACP) appreciates the opportunity to provide comments to the Federal Communications Commission (“Commission”) regarding the petition recently filed by the P2P Alliance requesting clarification that peer-to-peer (“P2P”) text messaging is not subject to the Telephone Consumer Protection Act (“TCPA”) restrictions on calls to wireless phone numbers that are made using an automatic telephone dialing system (“autodialer”).<sup>1</sup> For the reasons set forth below, we support the Petition and request that the Commission clarify accordingly.

Founded in 1909, the NAACP is the nation’s oldest and largest nonpartisan civil rights organization. Its members throughout the United States and the world are the premier advocates for civil rights in their communities. The NAACP is one of an increasing number of organizations that use P2P text messaging to communicate with its members, supporters and advocates.

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<sup>1</sup> Petition for Clarification of The P2P Alliance, CG Docket No. 02-278 (filed May 3, 2018) (“Petition”).

As the P2P Alliance describes in the Petition, P2P text messaging is not conducted using an autodialer, nor does P2P equipment constitute an autodialer. Every message that the NAACP sends using a P2P platform is sent by an individual, who manually dials each number and transmits each message one at a time to a single recipient. P2P text messages cannot be transmitted “without human intervention,”<sup>2</sup> meaning that such messages are not sent using an autodialer. Nor does a P2P platform include equipment that “has the capacity ... to store or produce telephone numbers to be called, using a random or sequential number generator”<sup>3</sup> Thus, P2P text messages are not made using an autodialer, and P2P equipment itself does not constitute an autodialer. We urge the Commission to clarify as such in response to The P2P Alliance’s petition.

Additionally, P2P text messages (like the ones the NAACP sends to its members, supporters, and advocates are communications that recipients want and expect. These communications are routine, and are the “normal, expected, and desired business communications” that the Congress did not intend to inhibit when it drafted the TCPA.<sup>4</sup> The recipients of the NAACP P2P texts have consented to receive them by providing their phone number to NAACP. As the Commission has confirmed, “persons who knowingly release their phone number have in effect given their invitation or permission to be called at the number which they have given.”<sup>5</sup>

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<sup>2</sup> Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Declaratory Ruling and Order, CG Docket No. 02-278, 30 FCC Rcd 7961, 7975, ¶ 14 (2015) (“2015 Order”).

<sup>3</sup> 47 U.S.C. § 227 (a)(1).

<sup>4</sup> GroupMe, Inc./Skype Communications S.A.R.L., Declaratory Ruling, CG Docket No. 02-278, 29 FCC Rcd 3442, ¶ 8 (2014)

<sup>5</sup> Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Report and Order, FCC 92-443, 7 FCC Rcd. 8752, 8769, ¶ 31 (1992) (“1992 Order”); Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Request of ACA International for Clarification and Declaratory Ruling, CG Docket No. 02-278, Declaratory Ruling, 23 FCC Rcd 559, 566, ¶ 9 (2008); 2015 Order at ¶ 49.

P2P text messaging is an important means of communication between the NAACP and its members and supporters - allowing the NAACP to easily and effectively communicate with these individuals in a manner such individuals expect and prefer. Where, in the past, the NAACP would communicate with its members and supporters through email (which is often ignored) or phone calls (which are often disruptive to the recipient), P2P text messaging allows us to communicate with the same individuals in a manner that does not disrupt their daily lives, while increasing the likelihood that they will take note of the communication. In other words, P2P text messaging allows organizations like ours to provide members and supporters with the information they want or need in the manner in which they wish to receive it.

P2P text messaging has provided the NAACP with a new way to communicate with the most valued members of our community - our members and supporters. We ask that the Commission approve the Petition.