



*If You Can Dream It, You Can Achieve It at an HBCU!*

July 9, 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 Secretary Dortch:

The National Association For Equal Opportunity in Higher Education (NAFEO) 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 (“auto dialer”).<sup>1</sup> For the reasons set forth below, we support the Petition and request that the Commission clarify accordingly.

NAFEO is the 501(c)(3), tax-exempt, not-for-profit umbrella organization of the nation’s Historically Black Colleges and Universities (HBCUs) and Predominantly Black Institutions (PBIs). Founded in 1969, NAFEO is the only membership association of its kind, representing the presidents and chancellors of the diverse black colleges and universities: public, private and land-grant, two-year, four-year, graduate and professional, historically and predominantly black colleges and universities. NAFEO was founded to provide an international voice for the nation’s HBCUs; to place and maintain the issue of equal opportunity in higher education on the national agenda; to advocate policies, programs, and practices designed to preserve and enhance HBCUs; and to increase the active participation of blacks at every level in the formulation and implementation of policies and programs in American higher education. An increasing number of organizations have begun using P2P text messaging to communicate with its various stakeholder groups including donors, members, students, employees, etc., and as the P2P Alliance describes in the Petition, P2P text messaging is not conducted using an auto dialer, nor does P2P equipment constitute an auto dialer.

Every message that is sent 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 never using an auto dialer. Since P2P text messages are not made using an auto dialer, and P2P equipment itself does not constitute an auto dialer, we urge the Commission to clarify that P2P text messaging is not subject to the TCPA’s ban on calls to wireless phones using an auto dialer in response to The P2P Alliance’s petition.

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

<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”).

Additionally, P2P text messages 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>3</sup> The recipients of P2P texts have consented to receive them by providing their phone number to the organization that is using the P2P messaging platform. 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>4</sup>

P2P text messaging is an important means of communication allowing organizations to easily and effectively communicate with these individuals in a manner such individuals expect and prefer. In the past, organizations would be limited to email or disruptive phone calls to communicate with its stakeholders. Now, P2P text messaging allows us to communicate with the same individuals in a manner in which they wish to receive it that does not disrupt their daily lives. P2P text messaging has provided organizations with a new and more effective way to communicate with their stakeholder communities and we ask that the Commission approve the Petition.

Sincerely

*Lezli Baskerville*

Lezli Baskerville  
President & CEO

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<sup>3</sup> GroupMe, Inc./Skype Communications S.A.R.L., Declaratory Ruling, CG Docket No. 02-278, 29 FCC Rcd 3442, ¶ 8 (2014)

<sup>4</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.