



1704 Maxwell Drive
Wall, NJ 07719
P: 732.455.9737
F: 732.709.5150

Jeremy M. Glapion
Partner/Founder
jmg@glapionlaw.com

December 4, 2017

Filed Electronically

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

**Re: Notice of Ex Parte Presentation, CG Docket No. 02-278, in relation to
Petition of ContextMedia, Inc. d/b/a Outcome Health For Clarification,
or, in the Alternative, for Declaratory Ruling**

Dear Ms. Dortch:

On November 30, 2017, George Slover and Maureen Mahoney (Consumers Union), Remington Gregg (Public Citizen), Christine Hines (National Association of Consumer Advocates), Margot Saunders (National Consumer Law Center), and I (Glapion Law Firm, on behalf of consumer-Plaintiff Christy Griffith) met with Mark Stone, Kristi Thornton, Christina Clearwater, and Lauren Wilson, all of the FCC. While multiple items were on the agenda, my presence at this meeting was exclusively to discuss the Petition of ContextMedia, Inc. d/b/a Outcome Health for Clarification or, in the Alternative, for a Declaratory Ruling. I defer to, and join in, the forthcoming notice of ex parte presentation filed by the other individuals present at this meeting for details on aspects of the meeting unrelated to the aforementioned petition.

At this meeting, I handed out a booklet containing the comments I had filed, as well as exhibits B, D, E, F, I, and L. These documents are attached hereto. The substance of my oral presentation is recounted as follows.

* * *

Outcome's request for an exemption is both unworkable and ripe for abuse. Any purported technical error was a direct result of, at best, Outcome's own negligence and, at worst, part and parcel of fraud for which Outcome is now being sued by its investors and investigated by the Department of Justice.

Outcome claims that the supposed "technical error" leading to the unwanted text messages was caused by an error in its subscriber database. Specifically, Outcome claims that when migrating telephone numbers from an old database to a new database, the numbers

contained an additional character that made it impossible for the supposed opt-out mechanism to match phone numbers seeking to opt-out (which did not contain the extra character) with numbers in the database containing that extra character. By way of analogy, if a number was placed in the database with a “+1” but the opt-out phone number did not have a “+1”, the system would fail to realize that these were the same numbers and thus fail to unsubscribe that phone number.

Outcome, however, has submitted no objective evidence on this point – for example, an expert report – and discovery is now closed.

Furthermore, though Outcome attempts to link its petition to the *SoundBite* declaratory ruling, which exempted opt-out confirmation texts, the texts at issue in the case are *not* opt-out confirmation texts. Opt-out confirmation texts are expressly carved out of the case, and have been from the beginning. Instead, the text messages at issue are all substantive text messages sent to consumers after those consumers asked Outcome to stop. Some consumers in the putative class were sent more than 200 text messages, Ms. Griffith was sent 83, and the average is about 57.

These unwanted text messages mattered to and negatively impacted consumers. In her deposition, Ms. Griffith explained that these text messages would come while she was at home, at her daughter’s school, at work, and at the hospital with her daughter. In addition, in an independently-sent email to Outcome, a consumer named Carmella Markovich wrote that she could not stop the text messages and they were using her text message allowance.

Even if there were a technical error that caused these unwanted text messages, this error was the result of Outcome’s own negligence. Outcome developed a text messaging program in house, but rushed program’s development and put it in use while it was still in an unfinished state. This directly contributed to any “technical error.”

In addition, Outcome kept the program running for months after it had been put on notice that its opt-out process was not working. In an October 2015 email from a consumer named Benny Inman, Mr. Inman – who had apparently tried to opt out in August 2015 – asked how to stop Outcome’s text messages. This inquiry was forwarded along with a note “we have another one”, suggesting that, though this was the earliest opt-out inquiry produced, it was not the first inquiry. There was also the aforementioned March 2016 email from Ms. Markovich.

Despite being put on notice, Outcome did not shut down the program until being threatened with Ms. Griffith’s lawsuit – 128,000 unwanted text messages later. Prior to that point, Outcome did not so much as implement an auditing or monitoring process that would have shown that its opt-out process was not working. Such a process would have caught Ms. Griffith’s repeated texts such as “Stop”, “Please stop”, “For the love of God, please stop” and “stop stop stop stop stop.” It would have caught the repeated texts of other putative class members who sought, unsuccessfully, to opt-out.

It is also not clear that Outcome’s failure to honor opt-out requests was an error. Outcome is currently being sued and investigated for fraud related to advertising metrics and engagement. This news broke in an October 2017 Wall Street Journal article. It is possible that Outcome’s failure to honor opt-outs was part of an effort to inflate engagement numbers as part of this alleged fraud. At least one member of Outcome’s sales team believed metrics from the text

messaging program were relevant for use in sales as a measure of patient engagement. At Outcome's 30(b)(6) deposition, it could not confirm or deny that metrics related to the program were used in sales pitches.

There are two possibilities in this regard. The first is that Outcome intentionally failed to honor opt-outs in order to inflate the number of subscribers it could claim in pitches to potential advertisers, in an effort to "fluff" the value of its advertising (the more engaging an advertising platform, the more it is worth). The second is that Outcome intended to honor opt-outs, but intended to do so in a way that does not comport with best practices. Specifically, Outcome supposedly intended to mark opt-out requests with a toggle, rather than removing persons from its database altogether. This allowed Outcome to artificially inflate its engagement, for example, by saying "we have x persons in our database" without noting how many had opted out. This approach makes the opt-out process more prone to failure.

Finally, section 227(b) intentionally does not allow for the "good faith" exemption Outcome requests. There is no language allowing for such a defense to a 227(b) claim, despite such a defense being explicitly allowed for 227(c) claims. This is strong and persuasive Congress did not intend for there to be a "good faith" exemption to 227(b), nor did it give the Commission the authority to create one.

Thank you again for your time and consideration. Should you have any questions, please do not hesitate to contact me. I can be reached via telephone at 732-455-9737 or email at jmg@glapionlaw.com.

Sincerely,

A handwritten signature in black ink, reading "Jeremy Glapion". The signature is written in a cursive, flowing style.

Jeremy M. Glapion

**Comments, and Selected Exhibits from Comments, Opposing ContextMedia, Inc.'s Petition
for Declaratory Ruling, filed by Jeremy M. Glapion on behalf of Consumer-Plaintiff
Christy Griffith.**

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Rules and Regulations
Implementing the Telephone Consumer Protection
Act of 1991,

Petition for Declaratory Ruling by ContextMedia,
Inc. d/b/a Outcome Health

CG Docket No. 02-278

DA 17-1054

**Comments Opposing the Petition for Declaratory Ruling, filed by Jeremy M. Glapion on
behalf of Consumer-Plaintiff Christy Griffith.**

Summary

I, Jeremy M. Glapion, Plaintiff's counsel in the matter against ContextMedia, Inc. d/b/a Outcome Health, file these comments on behalf of consumer-Plaintiff Christy Griffith, Plaintiff in the case against Outcome, opposing Outcome's request for an exemption from the Telephone Consumer Protection Act based on a claimed technical error.

Outcome seeks to paint itself as the innocent victim of an unpredictable technical glitch that led to its failures to honor opt-out requests, but this is far from the truth. Outcome, in its haste to implement its automated text messaging program, rushed the program's development, including the precise aspect of the program that contributed to the alleged glitch. Once live, Outcome left the program to fend for itself, failing to implement even a cursory monitoring process that would have easily allowed Outcome to discover that its subscribers were unable to opt out (based on the dozens of repeated opt-out requests). Furthermore, even after being put on actual notice that its opt-out process may not be working, Outcome continued the program, and still failed to implement any sort of monitoring process. Outcome only stopped the program once it was threatened with the lawsuit it now faces.

Outcome's failures to properly honor opt-out requests may also have root in the fraud it allegedly perpetrated against its clients and investors, for which it is now being investigated by the Department of Justice, and for which it is now being sued. Outcome appears to have used its text messaging program to show "engagement" with its advertising. Had Outcome properly tracked opt-outs, the "engagement" numbers would not have been as strong as they were if Outcome chose to ignore them (as it did).

Whatever the reason(s) for a subscriber's inability to opt-out from Outcome's text messaging program, it was Outcome's own failures that led to consumers, like my client, Plaintiff Christy Griffith, to be bombarded with dozens – sometimes hundreds – of unwanted text messages for months after explicitly asking Outcome to "stop" texting.

More broadly, Outcome's petition, and the facts and circumstances surrounding the related case, show just why Outcome's proposed exemption is both undesirable and unworkable. It is impossible to determine where Outcome's negligence ended and the purported "technical glitch" began, and it is difficult to imagine a meaningful exemption that would not be so broad as to exempt such negligence, or so narrow as to be unnecessary. Any exemption would also necessarily be intensely factual (and invariably pled as a defense), meaning cases in which the exemption was anticipated would still be filed and proceed to discovery. However, these cases would now be subject to increased costs on both sides, as the parties would be forced to undertake lengthy, intrusive, and expensive discovery to uncover the "genesis" of any "technical error." This would also increase the burden on our courts.

Simply put, Outcome's proposed exemption is a last-ditch effort to escape responsibility for its own negligent conduct. It is unworkable and would harm both businesses and consumers. Accordingly, I respectfully request that the Commission deny Outcome's petition.

Contents

I.	Introduction.....	1
II.	Background of Griffith v. ContextMedia, Case No. 16-cv-2900 (N.D. Ill.)	1
a.	Case History	1
b.	Outcome’s Automatic Telephone Dialing System	4
c.	The “Glitch”	5
III.	Discussion	6
a.	Outcome’s Own Negligence Directly Caused the Supposed “Glitch.”	7
b.	Outcome Was Put On Notice That its Opt-Out Process Was Not Working.	9
c.	Outcome is Currently Being Sued for Fraud and Investigated by the Department of Justice for Fraud, and its Text Message Program May Have Been Part of that Fraud.	11
d.	A Simple, cursory Audit Process would have discovered this “Glitch.”	13
e.	This Case Is Not About Opt-Out Confirmation Texts.	14
IV.	Outcome’s Conduct Shows Why Its Proposed Exemption is Unworkable.	14
V.	Conclusion	16

I. Introduction

Petitioner, ContextMedia, Inc. d/b/a Outcome Health (“Outcome”), asks the Commission to exempt from the Telephone Consumer Protection Act’s (“TCPA”) purview calls or text messages that resulted from a purported technical glitch. But, in looking to paint itself as a good actor being unfairly persecuted, Outcome omits key facts that show just why this proposed exemption is unworkable. It is impossible to separate where Outcome’s negligence ended and the “technical glitch” began. The two are intertwined, as would almost always be the case.

Indeed, the mere fact that Outcome’s omission of a few key facts could make it look like the victim of a machine gone unpredictably and unforeseeably rogue – when this was not actually the case – in and of itself shows how unworkable is Outcome’s request. Were an exception to be granted, “technical glitch” will become an invariably pled defense in every 227(b) TCPA case. Unpacking the legitimacy and contours of such defense, and determining the ultimate responsibility for the glitch, will significantly increase litigation costs to both sides and further burden the courts.

Accordingly, and for the reasons set forth in more detail below, I, on behalf of Glapion Law Firm, oppose.

II. Background of *Griffith v. ContextMedia*, Case No. 16-cv-2900 (N.D. Ill.)

Outcome’s Petition arises from the putative class action in *Christy Griffith v. ContextMedia Health, LLC d/b/a Outcome Health*, 16-cv-2900 (N.D. Ill.).

a. Case History

On March 7, 2016, Plaintiff, Christy Griffith, filed a putative class action (followed by an Amended Complaint on June 9, 2016 and a Second Amended Complaint¹ on July 26, 2017),

¹ Exhibit A.

related to Outcome's "Healthy Tips" text message campaign. The text messages sent as part of this campaign were substantially in the form as follows:

CMH TIPS: Eat a healthy breakfast, and smaller meals throughout the day. This will help keep your energy up and your metabolism going.

* * *

CMH TIPS: Plate your food! When you portion food onto a plate & put the bag away before eating, it is much easier not to overeat.

Eventually, Outcome added opt-out language² to these texts:

CMH TIPS: If you live in a cold climate, still exercise! Walk around the mall or workout in your living room to get your heart pumping.
To opt-out, reply STOP

* * *

CMH TIPS: Try swapping potatoes for cauliflower for a low-carb meal. Mash them, broil them, or make a cauliflower "potato" salad.
To opt-out, reply STOP

Plaintiff does not dispute that she initially provided her consent for these messages. Instead, Plaintiff alleges that, on more than two dozen occasions, she replied to one of these "Healthy Tips" text messages with "stop," as instructed by several of the text messages themselves.³ For example, in 2015, on November 29, December 23, December 24, December 27, December 28, December 29, among other dates, Plaintiff replied "STOP" in response to Outcome's messages. In 2016, Plaintiff replied "STOP" on January 1, January 2, January 3, January 5, January 23 (five times), February 4, and February 5. Despite these revocations of consent, the text messages continued. Plaintiff was sent more than 80 text messages after the first time she revoked consent.⁴

² Outcome's assertion that its messages "always included clear opt-out instructions", Outcome Petition at p. 5, is false.

³ Exhibit A, ¶¶ 23-24.

⁴ This contradicts Outcome's assertion that, after someone opted out, "Outcome would not send

Far from being a frivolous case, these unstoppable text messages were particularly offensive and annoying to Plaintiff Griffith. As Plaintiff Griffith stated in her deposition:

I was very frustrated that by ignoring my requests for them to stop, I would get these text messages at home, at work. I'd get them volunteering at my kids' school. I would get them while I was in the hospital with my daughter and her oncologist. I would get them while I was driving. I would get them on vacation. I told them to stop and they wouldn't.⁵

The fact that Outcome's texts would disturb Plaintiff Griffith's trips to the hospital with her daughter is particularly significant. Plaintiff Griffith's daughter had recently beaten cancer, and these trips were follow up appointments related to that cancer. It is not difficult to understand the added frustration that would come from receiving text messages on such occasions from a company (or anyone) that has been repeatedly told to stop.

The case was exclusively brought under 47 U.S.C. § 227(b), and is based only on texts sent after documented revocation.

Discovery has since shown that 2,239 others continued to receive text messages from Outcome after texting "stop" or "stop cmh tips" (the latter was another method Outcome advertised for persons to unsubscribe.) Some of these persons were sent as many as 270 text messages after saying stop. The median is 49 and the average is 57. There are 128,293 total text messages.

The Court-ordered fact discovery period has concluded. Plaintiff's Motion for Class Certification is fully briefed. The proposed Class is defined as:

Plaintiff and all persons within the United States to whose cellular telephone number Defendant ContextMedia Health, LLC sent, between July 28, 2015 and March 31, 2016, a text message, other than an opt-out confirmation text message, as part of its "Healthy Tips" campaign, after Defendant's records or the records of any entity with whom Defendant contracted to provide text messaging services, indicate that the telephone number to which the text messages were sent had

any further text messages to these mobile numbers." Outcome Petition, p.5.

⁵ Exhibit B (Griffith Depo., 41:25-42:7).

previously sent a text message with the single word “STOP” or the single phrase “STOP CMH TIPS”, regardless of capitalization.

(“Class”).

Plaintiff has submitted an expert report. Outcome has not submitted any expert report, nor has it sought to rebut or depose Plaintiff’s expert. The deadline for Outcome to submit its own report has long passed.

b. Outcome’s Automatic Telephone Dialing System

Outcome built and developed an in-house application called “HealthBlaster” for use with its “Healthy Tips” program (“HealthBlaster” or the “Application”). The HealthBlaster application used a third-party company, Twilio, to interface to the telephone company networks, enabling text messages to be sent and received. The HealthBlaster application automated the sending of these text messages by operating in conjunction with a scheduling process. At a specific time each day, this scheduler would invoke a bulk transmission facility in the Application. The bulk transmission facility would fetch that day’s healthy tip message from an external list. It would then scan the database and extract every telephone number marked as “subscribed.” The Application would then send a request to Twilio containing the phone number and the message to be sent, and it would do this for each of the telephone numbers extracted. Twilio would then pass this to the carriers for delivery to the corresponding telephone number.

HealthBlaster had several other pertinent functions. First, it automatically tracked subscriptions. To do this, the application automatically analyzed incoming text messages (sent to its dedicated short code and passed along by Twilio). If a text message was received from a number not already in the database of subscribers, the Application assumed it was a subscription request, regardless of the content of the message. In other words, a text message containing *anything* other than “stop” or one of two other related phrases would be taken as a subscribe request from that

particular telephone number. It then added this number to its database, and sent a message back to the telephone number asking them to confirm the subscription request by responding with a “Y”.

Second, the Application allowed administrators to provide it with a computer file containing a list of telephone numbers. When provided, the Application would add each of these numbers to the database, and would automatically flag each telephone number as subscribed, so that numbers added using this method would automatically receive subsequent HealthBlaster text messages. Per Outcome’s 30(b)(6) testimony and information in discovery, this was used to import subscribers from an old database (for use with a previous text message provider, Signal HQ) into the newly created HealthBlaster database, to be used with Twilio.⁶

Finally, the application was ostensibly intended to automate the process of allowing subscribers to opt-out by sending the message “STOP” or “STOP CMH TIPS”. When HealthBlaster received such a message from a number, it would find that number in the database and unset the subscribed status. However, the entry was not removed from the database.

c. The “Glitch”

According to Outcome, an “unknowable” and “inadvertent” technical error in its HealthBlaster application led to the applications failure to properly honor opt-out requests. Specifically, Outcome claims that Signal HQ, its previous text message provider, included a “carriage return” character after each number. Twilio, when extracting incoming telephone numbers, did not. Accordingly, when Outcome manually imported the telephone numbers from Signal HQ into the new HealthBlaster database for use with Twilio, those subscribers were added to the HealthBlaster database with the carriage return character. When one of these imported subscribers sought to unsubscribe, the HealthBlaster application would look for the unsubscribe

⁶ Exhibit C (Pathervellai Depo., 26:7-27:20).

request *without* the “carriage return” character and would be unable to find it to properly unsubscribe that number. Outcome claims that those who unsubscribed while Outcome’s text messages were under the management of Signal HQ had no issues, but the population of people it manually transferred from the Signal HQ database to the Twilio database were unable to opt out.

This theory requires the Commission (and opposing commenters) to take Outcome’s word on this. Outcome has submitted absolutely no evidence supporting its claim. It has not submitted an expert report explaining the glitch, nor has it provided any discovery or testimony demonstrating that this was indeed a reason, or the only reason, Outcome failed to honor opt out requests. It has also not produced any documents related to opt-out requests received while using Signal HQ, making it impossible to evaluate its claims that its opt-out request was flawless at that time.

III. Discussion

Taking Outcome’s claims as to the genesis of the glitch at face value, this glitch was not unknowable, and it may not have been inadvertent. Instead, it was the result of Outcome’s own negligent decisions in the development process. It was Outcome that rushed the development of the HealthBlaster application, and rushed it live with inadequate testing. It was Outcome that chose to include the “carriage return” character in the telephone numbers when manually importing those numbers into its HealthBlaster application. And it was Outcome that chose to allegedly defraud its investors and advertising partners by inflating metrics, which may have included metrics related to the Healthy Tips program. *See* Section II(c), *infra*.

It is not unfair “to require that one who deliberately goes perilously close to an area of proscribed conduct shall take the risk that he may cross the line.”⁷ Outcome, in its haste to grow,

⁷ *Boyce Motor Lines, Inc. v. United States*, 342 U.S. 337 (1952).

released an unfinished and poorly designed application to manage its automated text message program, with little in the way of continued monitoring or auditing, despite its supposedly acute awareness of the TCPA.⁸ This alleged glitch did not occur “despite” Outcome’s diligence⁹; it occurred because of Outcome’s lack of diligence. Outcome’s failures before, during, and after creation of the HealthBlaster application – not some rogue machine – are what led to the TCPA violations complained about, and caused immense frustration to thousands of persons, including Plaintiff Griffith. The case against Outcome is not frivolous, but instead directly implicates the very purposes of the TCPA.

a. Outcome’s Own Negligence Directly Caused the Supposed “Glitch.”

During the development of the HealthBlaster application, several employees expressed concerns that the product was not finished as the “go live” date approached. On July 28, 2015, Ernesto Rodriguez, an Outcome employee involved in the development of HealthBlaster, expressed concerns about the possibility of double messaging (i.e. messages being sent to the same number twice).¹⁰ In response, Lee Ebreo, another Outcome employee involved in the development of HealthBlaster, said this should not be a problem and instructed the Outcome team to “accelerate” transitioning the subscribers from the old database to the new database.¹¹

Based on outgoing text message logs Outcome produced in discovery, the program went live two days later – July 30, 2015 – for at least some of the subscribers. Yet the application was not finished and Outcome knew this to be the case. On that same day, Ryan Postel, an Outcome employee involved in the development of HealthBlaster, wrote that prior to going live, the development team needed to build a process for opt-in confirmations, a weekly opt-out message,

⁸ Outcome Petition, p.5.

⁹*Id.* at p.9.

¹⁰ Exhibit D.

¹¹ *Id.*

and opt-out confirmations.¹²

On August 4, the same employee followed up and said that Outcome needed to be live with the text program as of the previous Friday, and asked for an update on the requirements that were supposed to be implemented before going live “ASAP”.¹³ The employee most responsible for the code-level development, Jonathan Pauli, wrote back asking if they should just go live with what they had, stating that “it seems to be working fine.”¹⁴ Mr. Pauli stated that all he had to do to go live is import about 9,000 people. He was instructed to do so, and that they would work on the remaining requirements while it was live. These 9,000 people to be imported were imported through the text-file process discussed in Section I(B), *supra* – the process which Outcome now claims contributed to its “unknowable” technical glitch.¹⁵

This last point is important for a separate reason: it was Outcome that chose which subscribers to import into its HealthBlaster database and how to import those subscribers. Outcome programmed a custom “task” into its application that would import any number placed into a text file into its database. These numbers were manually entered into the text file, and then a command was run to add those numbers to the HealthBlaster database and mark those numbers as subscribed.¹⁶ As such, whether the numbers added had a “carriage return” character was *directly* the fault of Outcome in choosing how to enter those numbers. Presumably, the rush to go live directly contributed to Outcome making the wrong decision on how to import them.

This was just not the unknown, unknowable, and inadvertent technical glitch Outcome claims it to be. Outcome’s opt-out process failed because it chose to rush its product to market

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Exhibit C (Pathervellai Depo., 26:7-27:20).

¹⁶ *Id.* at 51:2-6.

despite its awareness that the program was incomplete, and despite inadequate testing. Outcome, and nothing or no one else, is to blame.

b. Outcome Was Put On Notice That its Opt-Out Process Was Not Working.

Outcome claims in its petition that “in March 2016” outcome received notice that its unsubscribe process may not have been working properly, and, “[a]s soon as Outcome learned about this issue, the company immediately halted the Healthy Tips program to ensure its compliance with the TCPA and the Commission’s rules.”¹⁷ This is not true. Outcome was put on notice of the problems more than five months before it stopped its program.

On October 2, 2015, an individual named Benny Inman reached out to Outcome via the contact form on its website, stating “I want to know to [sic] stop your texts to my phone” and providing his phone number.¹⁸ The following morning, this was forwarded by an Outcome employee named Matt Garms to Marshall Shen, an Outcome employee involved with the development of the HealthBlaster application.¹⁹ Mr. Garms wrote “Marshall – We have another one ...”, suggesting that, although Benny Inman’s request was the earliest opt-out related communication produced in discovery, it was not the first instance in which someone contacted Outcome about its flawed opt-out process.

This request made its way to Ernesto Rodriguez, another Outcome employee involved with the development of the HealthBlaster application, who asked Mr. Shen to confirm, among other things, whether “this user was removed from the list from the fix you applied a few days ago.”²⁰

¹⁷ Outcome Petition at pp. 5, 9.

¹⁸ Exhibit E.

¹⁹ *Id.*

²⁰ *Id.* Later in the email chain, Mr. Rodriguez suggests the person may have just been following up on an old unsubscribe request from August 14, 2015 but had not received any more messages. This is illogical. If the messages had stopped when requested, there would be no need for Mr. Inman to have followed up two months later asking how to stop the messages.

This further suggests that Outcome was aware of a flaw in its opt-out process and that a previous fix may have failed.

On March 4, 2016²¹ an individual named Carmella Markovich wrote to Outcome that she would “like to OPT-OUT of CMH TIPS and I have tried several time (sic) to opt-out via text message by replying stop to no avail. These messages are using up to (sic) much of my text allowance and I want them to stop. I’ve tried calling the phone number 1-866-500-6346 and cannot get through ... PLEASE STOP SENDING ME TEXT MESSAGES WITH DIETARY TIPS (21831).”²²

As with Mr. Inman, this request was forwarded along. It was first forwarded from Mr. Garms to an individual named Travis Kemp, asking “Who can stop these?”, and Mr. Kemp responding “Ernesto can remove these ...”.²³ The request made its way to Lee Ebreo, then Outcome’s Vice President of Engineering, who sent the request over to Brian Clarkson and Ernesto Rodriguez writing “here is another to unsubscribe from CMH Tips.”²⁴

Once again, the language used in the email forward – “another to unsubscribe” – confirms that Outcome was previously contacted by individuals unable to subscribe through the automated process, and that had made a practice of manually unsubscribing persons, rather than explaining to them the automated opt-out process, which it appears to have known was not working, or shutting down the program while the issue was determined.

Despite these complaints (both produced and unproduced), one of Outcome’s 30(b)(6)

²¹ This is around the same time Plaintiff Griffith’s counsel contacted Outcome. However, Ms. Markovich made contact with Outcome independently and Plaintiff Griffith’s counsel only learned of her existence and request in discovery.

²² Exhibit F.

²³ *Id.*

²⁴ *Id.*

witnesses testified that these requests were not considered in deciding whether to shut down the program.²⁵

Furthermore, despite these complaints, Outcome did not even undertake so much as a manual auditing or review process for incoming text messages to confirm that opt-out requests were being honored.²⁶ Had Outcome had a policy of manually reviewing even *some* of the incoming text messages individuals sent in response to the CMH Tips text messages, it would have found that many individuals were repeatedly texting “stop” or “stop CMH tips” to Outcome to no avail, well before March of 2016. *See also*, Section II(d), *infra*.

Outcome’s failures all contributed to any “technical glitch” it now claims to have caused the TCPA violations at issue. Outcome rushed development of its HealthBlaster application, and failed to fix the glitch, shut down the program, or implement any sort of auditing process despite being put on notice. Outcome is a perfect example of how companies would seek to abuse any proposed exemption to cover up their own negligence.

c. Outcome is Currently Being Sued for Fraud and Investigated by the Department of Justice for Fraud, and its Text Message Program May Have Been Part of that Fraud.

Outcome Health has been front page news of the Wall Street Journal and multiple other outlets for defrauding its advertising partners and investors by, among other things, manipulating the numbers it provided to its advertising partners.²⁷ This includes, for example, providing doctored screenshots of an ad running on an Outcome computer, editing it to add a timestamp and doctor identification number, and sending it to an advertiser which had requested that Outcome provide a screenshot showing their ad had run in doctor’s offices. This also includes inflating

²⁵ Exhibit G (Deposition of Brad Purdy, 66:10-67:2).

²⁶ Exhibit C (Pathervellai Depo. 102:5-23); Exhibit H (Deposition of Jonathan Pauli, 34:11-19, 172:11-15)

²⁷ Exhibit I.

survey numbers when advertisers had asked Outcome to survey patients and doctors to see how they responded to ads. And in a situation where early data for ads running on tablets for one of Outcome's advertising clients did not match what Outcome had shared with the partner, Outcome internally discussed the "poor engagement" and agreed to keep the numbers inflated.

Just last week, Outcome's investors – who had invested \$484m in the company in May 2017 – sued Outcome for fraud.²⁸ These investors allege that Outcome manipulated case studies, provided misleading financial statements, and made other false representations, largely in reliance and expansion on the WSJ article.

The Department of Justice, U.S. Attorneys, and the Securities and Exchange Commission are also investigating Outcome's fraud.²⁹

I have suspected since prior to the WSJ article that Outcome may have been lax with its opt-out process (choosing to "mark as unsubscribed" rather than delete an entry) to inflate engagement numbers. After all, what better way to exemplify engagement with Outcome's advertising methods than by using subscriber numbers for a text messaging program advertised through those methods? When I pressed Outcome's 30(b)(6) witness on whether Outcome ever used the number of subscribers as part of its sales pitches, the witness repeatedly responded "I don't know".³⁰ However, emails produced show that one of Outcome's sales representatives had specifically asked for "numbers we have subscribed and what the signup and opt out numbers look like (is it growing and at what rate)" because "knowing how many people sign up for the daily texts shows actual numbers behind patient engagement."³¹

²⁸ Exhibit J.

²⁹ Exhibit K.

³⁰ Exhibit G (Purdy Depo., 89:24-90:12).

³¹ Exhibit L.

Further, Matt Garms – the Outcome employee who had first received and forwarded the “opt out” inquiries from Mr. Inman and Ms. Markovich – and several sales associates who reported to him have previously been implicated in making deceptive statements in the marketing of Outcome’s products.³²

Given that Outcome was apparently engaged in fraud related to all aspects of its advertising platforms, I believe that Outcome was manipulating the Healthy Tips numbers as well. This would also explain why *any* text other than certain key words would add a number to a database – such an aggressive approach inflates the number of telephone numbers in the database for use in sales.

As the Wall Street Journal article came to light after discovery closed in this matter, I anticipate asking the court to re-open discovery into the relationship of Outcome’s fraud and the Healthy Tips program at issue.

d. A Simple, Cursory Audit Process Would Have Discovered This “Glitch.”

Setting aside everything discussed above – Outcome’s negligence, its notice, and its fraud – Outcome’s petition would still not justify an exemption. Above all else, if Outcome did not know about the “glitch”, it is only because it chose not to monitor or audit its text messaging program.³³ This is not a case where a haywire piece of equipment malfunctioned and sent 1,000 gibberish texts in an hour to one recipient. This was a “one text per person, per day” process. Some of these persons, like Plaintiff Griffith, sought to stop the texts on dozens of occasions, including not just saying “stop”, but literally writing, on February 16, 2016, “[f]or the record, I am opting out every time I reply stop.”

Had Outcome spent an hour a week – even an hour a month – reviewing its incoming text

³² Exhibit M.

³³ Exhibit C (Pathervellai Depo. 102:5-23); Exhibit H (Deposition of Jonathan Pauli, 34:11-19, 172:11-15)

logs, during any of the 10 months of the proposed class period, it would have immediately seen that something was amiss, and could have rectified the problem. But it did not. It rushed its program out the door, half-finished, and moved on without looking back, leaving consumers like Ms. Griffith with no recourse to terminate Outcome's unstoppable text messages.

e. This Case Is Not About Opt-Out Confirmation Texts.

Outcome attempts to link its Petition to the Commission's previous declaratory ruling in *SoundBite*,³⁴ but *SoundBite* is irrelevant to Outcome's request. *Soundbite* dealt with a company sending a single opt-out confirmation message to a consumer who made a request to unsubscribe. The Commission considered such messages to be desirable and included within a consumer's original consent. Such messages are expressly carved out from Plaintiff Griffith's claims. Petitioner's attempt to link its request to the *SoundBite* decision is a sympathy play, but nothing in *SoundBite* supports exempting a company from the results of its own negligence in sending indisputably unwanted text messages.

IV. Outcome's Conduct Shows Why Its Proposed Exemption is Unworkable.

As explained above, Outcome's own negligent conduct directly contributed to the supposed glitch. It is impossible to determine where Outcome's negligence ended and the glitch began, because the two are related. But this is not just an Outcome problem – it would be a problem in any case in which the defendant alleged that the unwanted calls or texts were the result of a technical glitch.

If a company uses an intern to create an in-house program in a coding language he or she had only recently learned, does a failure of that program constitute a technical glitch deserving of

³⁴ *SoundBite Communications, Inc. Petition for Expedited Declaratory Ruling*, Declaratory Ruling, 27 FCC Rcd 15391 (2012) ("*SoundBite*").

exemption? If a company rushes a half-finished program out the door without testing, does a failure of that program constitute a technical glitch deserving of exemption? If a company purchases or leases auto-dialing equipment from a company, but does not undertake independent analysis or testing (nor ask for such analysis or testing), does a failure of that program constitute a technical glitch deserving of exemption? If a company does not implement any manual review or auditing process to ensure that any automated text process is working as intended, and the program is not working as intended, is that a technical glitch deserving of exemption?

The questions and possibilities are endless. For just about every “technical glitch” imaginable in the autodialer context, there are, at some point along the way, human failures or negligence that contributed to that glitch to varying degrees. It seems impossible to craft an exemption for “technical glitches” that would not either be (1) overly broad, absolving companies from their own negligence and leaving consumers to suffer, or (2) so narrow as to be pointless.³⁵

Further, being forced to litigate this exemption – which would invariably appear as a defense in every autodialer case, no matter the true cause of the unwanted messages – would significantly increase costs to both parties, third-parties, and the court. Deposition costs would skyrocket, as parties would be forced to depose the creator of a particular autodialer and anyone else who may have made modifications to that autodialer, and would be forced to inquire into aspects not typically necessary in a TCPA case – for example, mental state, fatigue, impairment, and/or skill level at the time the dialer was created. Expert costs would increase, as a fight about whether equipment qualifies as an autodialer would also become one about the root cause of a call or text. Motion practice would increase in quantity, as increased discovery would lead to more

³⁵ It is also difficult to think of an exemption that would not merge 227(b)’s strict liability provision with its “willful” or “knowing” provision.

discovery fights, motions, and complexity, as the parties fight over whether the system “glitched” and what caused the “glitch.” All of this would increase costs and the burden on our courts.

On the flip side, such an exemption would do little to reduce the amount of litigation under the TCPA. Any “technical glitch” defense would be intensely factual, leaving it for resolution after discovery rather than at the pleadings stage. Suits will still be filed. As a result, the end-game liability calculus for businesses facing such suits would not materially change, but the costs in reaching that end game would increase for all involved.

V. Conclusion

Outcome is the perfect example of why its proposed exemption is unworkable and is a bad idea for consumers, our court system, and businesses. For these reasons, as detailed further herein, I, on behalf of consumer-Plaintiff Christy Griffith, respectfully request that the Commission reject Outcome’s petition.

Date: November 27, 2017

/s/ Jeremy M. Glapion
Jeremy M. Glapion
THE GLAPION LAW FIRM, LLC
1704 Maxwell Drive
Wall, New Jersey 07719
Tel: 732.455.9737
Fax: 732.709.5150
jmg@glapionlaw.com

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CHRISTY GRIFFITH, individually)
and on behalf of all others)
similarly situated,)
) Civil Case No.
Plaintiff,) 16-2900
)
vs.)
)
CONTEXTMEDIA, INC., and DOES)
1-25,)
)
Defendant.)

Deposition of CHRISTINA L. GRIFFITH
Chicago, Illinois
Tuesday, April 18, 2017

Reported by:
Sandra L. Rocca, CSR, RMR, CRR
Job No. 122613

1 C. GRIFFITH

2 Q. What do you mean by "your space"?

3 A. My personal space, my property.

4 Q. Before you spoke with Mr. Glapion, did you think
5 these text messages constituted a trespass to your phone?

6 MR. GLAPION: Objection, calls for legal
7 conclusion.

8 THE WITNESS: I do feel like that they were coming
9 into my personal space unwanted.

10 Q. So before you talked with Mr. Glapion, you
11 considered these text messages to be a trespass?

12 MR. GLAPION: Objection, asked and answered.

13 THE WITNESS: Yes.

14 Q. Before you talked to Mr. Glapion, did you view
15 these text messages as an invasion of your privacy?

16 A. Yes.

17 Q. And why?

18 A. Because I repeatedly opted out with their
19 instructions and they disregarded my instructions and kept
20 texting me.

21 Q. And you view that as an invasion of your privacy?

22 A. I do.

23 Q. Anything else that makes you regard it as an
24 invasion of your privacy?

25 A. Yes. I was very frustrated that by ignoring my

1 C. GRIFFITH

2 requests for them to stop, I would get these text messages at
3 home, at work. I'd get them volunteering at my kids' school.
4 I would get them while I was in the hospital with my daughter
5 and her oncologist. I would get them while I was driving. I
6 would get them on vacation. I told them to stop and they
7 wouldn't.

8 Q. Do you think that every person who received a text
9 message after texting "STOP" would also find them to be the
10 same invasion of privacy that you just described?

11 A. I would imagine they would.

12 Q. Why?

13 A. For the reason that I just said.

14 Q. How much time did you spend reading each of the
15 texts?

16 A. I'd imagine five to ten seconds.

17 Q. And then how long did it take you to reply "STOP"?

18 A. When I was just replying "STOP" it would only take
19 a few moments. When I got more creative, it got a little bit
20 longer.

21 Q. Approximately how long would the more creative ones
22 take?

23 A. About 30 seconds to think of how I wanted to reply
24 "STOP" that day.

25 Q. Now, you didn't delete any of the texts, correct?

EXHIBIT D

From: Ernesto Rodriguez [ernesto.r@contextmediainc.com]
Sent: Tuesday, August 04, 2015 5:16 PM
To: Jon Pauli
CC: Ryan Postel; Work; Arielle Angel; Lee Ebreo; Mike Williams
Subject: Re: Signal Replacement Early Adopters...

Yes JP, go live with it and we'll have Marshall work with the remaining requirements after I review it over with him tomorrow.

-Beats

On Tuesday, August 4, 2015, Jon Pauli <jon.pauli@contextmediainc.com> wrote:

Do you want me to go live with what we have in production? It seems to be working fine, I just need to import about 9,000 people and they'll get their message tomorrow.

On Tue, Aug 4, 2015 at 12:12 PM, Ryan Postel <ryan.postel@contextmediainc.com> wrote:

Hey guys,

Just a heads up that we needed to be live on this as of Friday. All requirements for first iteration should be 100% completed. Our Signal contract is done and this is our only service for our 11k subscribers. Has the entire list been converted over? Has there been a newly developed process for manual messaging made? I would like an update ASAP today on the requirements I laid out last week.

Thank you,
Ryan

Sent from my iPhone

On Aug 4, 2015, at 11:52 AM, Work <marshall.shen@contextmediainc.com> wrote:

Sure thing! Tomorrow sounds good.

—
Sent from [Mailbox](#)

On Tue, Aug 4, 2015 at 8:49 AM, Ernesto Rodriguez <ernesto.r@contextmediainc.com> wrote:

+Marshall (the new Rails dev and our new HealthBlaster dev)

Hey JP,

- How far did you get into these newer requirements (what would be left to do once you leave)?
- Is today your last day, or tomorrow?

-Beats

On Thu, Jul 30, 2015 at 12:17 PM, Ryan Postel <ryan.postel@contextmediainc.com> wrote:
Got it, definitely makes sense.

Other project requirements before we can go live include:

- Welcome message for new subs - do we have it built in? Our current one reads: *We have received your request to add your mobile number to receive daily CMH nutrition tips. Reply Y to confirm your subscription. Msg&data rates may apply*

- Follow up opt-in confirmation: *Thanks for signing up for CMH TIPS. To unsubscribe, reply STOP CMH TIPS. Up to 10 msgs per week, Msg&data rates may apply*

- Weekly Opt out message: *You are currently subscribed to receive alerts from CMH TIPS. To opt-out, reply STOP CMH TIPS.*

-Opt-out confirmation: *You are now unsubscribed from CMH TIPS, sorry to see you go. To provide us feedback, reply "C" if cost prohibitive, "V" if content not valuable. Thank you*

On Thu, Jul 30, 2015 at 11:58 AM, Jon Pauli

<jon.pauli@contextmediainc.com> wrote:

Dynamically scheduled background jobs are kind of a problem for rails apps using our current system, so for now you have to ask myself or Brian if you want to reschedule the jobs. I've been experimenting with a pre-built solution to schedule jobs at run time, but it sucks.

For now I'll focus on the reporting features and get back to you on the other stuff.

On Thu, Jul 30, 2015 at 11:47 AM, Ryan Postel

<ryan.postel@contextmediainc.com> wrote:

Let's select Thursday for our Opt-out time.

Also, our standard SMS send time is 10:30am CST for the daily tip. Where do I control this function?

Thank you JP!

On Thu, Jul 30, 2015 at 11:14 AM, Jon Pauli

<jon.pauli@contextmediainc.com> wrote:

Sure I can get started on these features. These could take a couple of days to get into production.

What date time would you like the weekly opt-out reminder and what would you like the text to be?

On Thu, Jul 30, 2015 at 10:45 AM, Ryan Postel

<ryan.postel@contextmediainc.com> wrote:

Hey JP,

Love the new app! Needs:

Can I get on the dashboard, by day, of Total Successful sends, Total Unsuccessful sends, Total Opt-outs.

Per Brad's requirements, is there a way to schedule a reoccurring weekly text to remind people how to Opt-out?

On Wed, Jul 29, 2015 at 4:23 PM, Ryan Postel

<ryan.postel@contextmediainc.com> wrote:

Hey Mike,

Can we use this attached screenshot as the new foundation for the full-screen one? (yup, welcome to the new decade of cell phones!)

On Wed, Jul 29, 2015 at 4:07 PM, Mike Williams <mike.w@contextmediahealth.com> wrote:

Screen shots of live sidebar and Mainframe.

□

□

□

Mike Williams
Network Engineer

www.contextmediahealth.com

330 N Wabash, STE 2500

Chicago, IL 60611

O: (312) 646-1182

C: (219) 629-2981

Named one of America's Most Promising Companies by [Forbes](#)

From: Ernesto Rodriguez <ernesto.r@contextmediainc.com>

Sent: Wednesday, July 29, 2015 03:37 PM

To: Jon Pauli <jon.pauli@contextmediainc.com>

Cc: Ryan Postel <ryan.postel@contextmediainc.com>; Mike Williams

<mike.w@contextmediahealth.com>; Lee Ebreo

<lee.ebreo@contextmediainc.com>; Arielle Angel

<arielle.a@contextmediahealth.com>

Subject: Re: Signal Replacement Early Adopters...

Ok.

Mike said he made the change to the TVs so we should have some natural subscribers slowly coming in.

- JP, Add 100 contacts tomorrow.

-Beats

On Wed, Jul 29, 2015 at 12:28 PM, Jon Pauli <jon.pauli@contextmediainc.com> wrote:

Our first live test to early adopters just finished. It looks like all was successful.

Dashboard is at <https://healthblaster.contextmediahealth.com>

I will send you logins for the dashboard individually.

On Wed, Jul 29, 2015 at 12:13 PM, Ryan Postel

<ryan.postel@contextmediainc.com> wrote:

I would love access to the dashboard. Not sure I have it yet.

Sent from my iPhone

On Jul 29, 2015, at 12:10 PM, Ernesto Rodriguez <ernesto.r@contextmediainc.com> wrote:

Ryan,

Do you have access to the dashboard?

I would assume you would want visibility into that progress bar.

-Beats

On Wed, Jul 29, 2015 at 11:21 AM, Jon Pauli

<jon.pauli@contextmediainc.com> wrote:

Ok so I added a rake task which imports phone numbers from a file. I imported the early adopters (including Ryan), and I changed the time the text is sent to 12:15pm cst so that its relatively friendly to all timezones. The progress bar on the dashboard should tell us the sending status in real time (you do need to refresh the page to update it).

On Wed, Jul 29, 2015 at 8:21 AM, Mike Williams <mike.w@contextmediahealth.com> wrote:
I can change it today.

From: Ernesto Rodriguez <ernesto.r@contextmediainc.com>
Sent: Tuesday, July 28, 2015 02:59 PM
To: Lee Ebreo <lee.ebreo@contextmediainc.com>
Cc: Jon Pauli <jon.pauli@contextmediainc.com>; Mike Williams <mike.w@contextmediahealth.com>; Ryan Postel <ryan.postel@contextmediainc.com>; Arielle Angel <arielle.a@contextmediahealth.com>
Subject: Re: Signal Replacement Early Adopters...
Sounds good Lee.

I just signed up using the new shortcode (21831) and it worked.

- JP, Lets get 50 on today for a new message tomorrow morning
- **Mike, how soon can you add the new shortcode phone number into the code for the waiting rooms?**

-Beats

On Tue, Jul 28, 2015 at 2:47 PM, Lee Ebreo <lee.ebreo@contextmediainc.com> wrote:

I believe Signal is currently down, because they need some compliance paper work from us. So, when transitioning our current subscribers to the new system it shouldn't be a problem in terms of double messaging. In fact, we should just accelerate the plan of transition for current subscribers.

We should just schedule the new short code on WR now.

On Tue, Jul 28, 2015 at 1:53 PM, Ernesto Rodriguez <ernesto.r@contextmediainc.com> wrote:
Ok JP,

Lets move forward with Early Adopters.

However, if we include 50 current subscribers onto our new system...Can we remove them from the old list?

I want us to move forward with testing this but want to make sure we don't double message our current subscribers (once from each system)

-Beats

On Tue, Jul 28, 2015 at 1:40 PM, Jon Pauli <jon.pauli@contextmediainc.com> wrote:

Our official short code is 21831
I have just adjusted the production version of the app to start sending from that short code and tested it with myself as the only subscriber.

On Mon, Jul 27, 2015 at 3:22 PM, Ernesto

Rodriguez <ernesto.r@contextmediainc.com>
wrote:

+Lee

Hey Jon,

Is getting our new official shortcode something we can get soon? I would like to get Mike Williams and Ryan as much time as possible to set this up properly on the media players before we go full network with this.

-Beats

On Mon, Jul 27, 2015 at 11:09 AM, Ernesto Rodriguez <ernesto.r@contextmediainc.com> wrote:

Hey Jon,

When will you have the shortcode?

-Beats

On Fri, Jul 24, 2015 at 1:47 PM, Ernesto Rodriguez <ernesto.r@contextmediainc.com> wrote:

Hey Jon,

How soon will we have our official shortcode?

-Beats

On Fri, Jul 24, 2015 at 1:31 PM, Mike Williams

<mike.w@contextmediahealth.com> wrote:

This is very easy. Change the line of code that has 50101 to whatever the new domain is and we are done. The only catch is the player will need to download the new image. Not a problem if the player is connected but those players with no network connection or unable to reach the sms server will continue to display the last image downloaded. I can make the changes whenever the time is right.

From: Ryan Postel

<ryan.postel@contextmediainc.com>

Sent: Friday, July 24, 2015 12:15 PM

To: Ernesto Rodriguez

<ernesto.r@contextmediainc.com>

Cc: Jon Pauli

<jon.pauli@contextmediainc.com>; Arielle Angel

<arielle.a@contextmediahealth.com>;

Michael Williams

<mike.w@contextmediahealth.com>

Subject: Re: Signal Replacement Early Adopters...

Hey ER and JP,

1. Yes, I can work with Mira to get that done.
2. Random 50, plus my team, should be good
3. I don't... But need to involve Mike Williams asap! (+MW)
 - Mike - We are changing the short code for the SMS program. We will need to plan a swap of that short code across the network.

On Fri, Jul 24, 2015 at 11:28 AM, Ernesto

Rodriguez
<ernesto.r@contextmediainc.com> wrote:
Hey Ryan,

JP and I would need this by Monday
since the rollout has to be completely
done by EOW next week.

-Beats

On Thu, Jul 23, 2015 at 5:37 PM, Ernesto
Rodriguez
<ernesto.r@contextmediainc.com>
wrote:

Hey Ryan,

It looks like we will plan for a rollout of
deploying our Signal replacement.

We need the following for us to begin
planning next steps.

1. Can you use the google doc
provided and insert the health tips you
would like to use for the next month?

2. Do you have a specific set of early
adopter numbers you would prefer us
to start testing with or randomly
selecting 50 numbers for early
adopters is good enough?

3. Do you have a rollout plan in
regards to updating the media players
with the new text message shortcode
to signup with?

-Beats

----- Forwarded message -----

From: **Jon Pauli (via Google Sheets)**

<drive-shares-noreply@google.com>

Date: Thu, Jul 23, 2015 at 4:22 PM

Subject: HealthTips - Invitation to edit

To:

Ernesto.Rodriguez@contextmediainc.com

Jon Pauli has invited you to **edit** the following spreadsheet:

▫ [HealthTips](#)

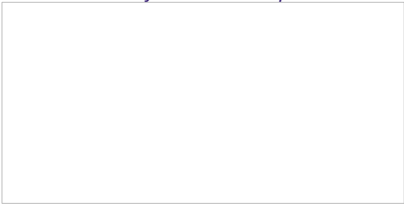
[Open in Sheets](#)

Google

Sheets:

Create and edit spreadsheets online.

--
Ernesto Rodriguez
[Scrum Master](#)
Software Quality Assurance Specialist

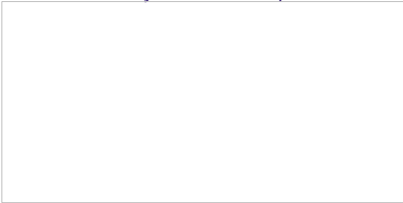


www.contextmediainc.com

330 N Wabash Ave, Suite 2500
Chicago, IL 60611

"Named one of America's Most Promising Companies by [Forbes](#)"

--
Ernesto Rodriguez
[Scrum Master](#)
Software Quality Assurance Specialist

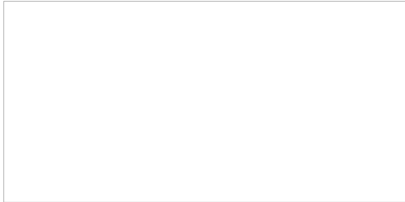


www.contextmediainc.com

330 N Wabash Ave, Suite 2500
Chicago, IL 60611

"Named one of America's Most Promising Companies by [Forbes](#)"

--



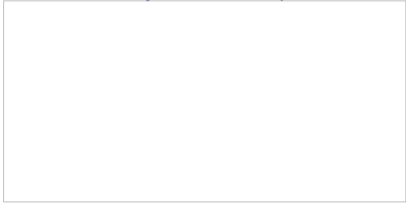
Ryan Postel | Media Team Manager
www.contextmediahealth.com
P: [\(312\) 239-6050](tel:(312)239-6050)

330 N Wabash Ave, Suite 2500, Chicago, IL 60611
Named one of America's Most Promising Companies by [Forbes](#)
Please consider the environment before printing this email.

--

Ernesto Rodriguez

[Scrum Master](#)
Software Quality Assurance Specialist



www.contextmediainc.com

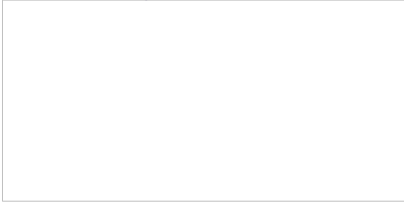
330 N Wabash Ave, Suite 2500
Chicago, IL 60611

"Named one of America's Most Promising Companies by [Forbes](#)"

--

Ernesto Rodriguez

[Scrum Master](#)
Software Quality Assurance Specialist



www.contextmediainc.com

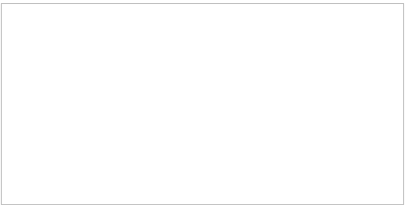
330 N Wabash Ave, Suite 2500
Chicago, IL 60611

"Named one of America's Most Promising Companies by [Forbes](#)"

--

Ernesto Rodriguez

[Scrum Master](#)
Software Quality Assurance Specialist



www.contextmediainc.com

330 N Wabash Ave, Suite 2500
Chicago, IL 60611

*"Named one of America's Most Promising
Companies by [Forbes](#)"*

--

Ernesto Rodriguez

[Scrum Master](#)
Software Quality Assurance Specialist



www.contextmediainc.com

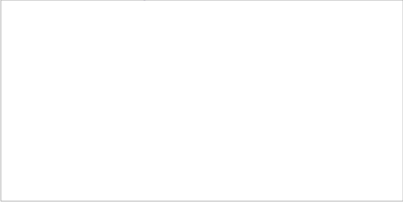
330 N Wabash Ave, Suite 2500
Chicago, IL 60611

*"Named one of America's Most Promising
Companies by [Forbes](#)"*

--

Ernesto Rodriguez

[Scrum Master](#)
Software Quality Assurance Specialist



www.contextmediainc.com

330 N Wabash Ave, Suite 2500
Chicago, IL 60611

*"Named one of America's Most Promising
Companies by [Forbes](#)"*

--

iPhone iTypos iApologize

EXHIBIT E

Re: Inquire [#489]

email: "ernesto.r@contextmediainc.com Ernesto Rodriguez"

Monday, October 5, 2015 at 10:55:17 AM Central Daylight Time

To: email: "marshall.shen@contextmediainc.com Marshall Shen"

Cc: email: "matt.garms@contextmediainc.com Matt Garms"

If the user was already unsubscribed then they may not have received the confirmation message that they have been unsubscribed.

Can you find out if that was sent to their subscribing phone number?

It's possible they reached out to us even though another message wasn't coming but they were making sure it was done.

-Beats

On Mon, Oct 5, 2015 at 9:50 AM, Marshall Shen <marshall.shen@contextmediainc.com> wrote:

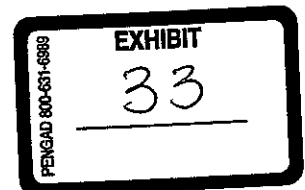
Hi all,

The user was already unsubscribed (texted "stop" and unsubscribed on Aug 14th). Could this be an out-dated ticket?

Please let me know if the user is still complaining about receiving text message.

Thanks.

Sent from Mailbox



On Sat, Oct 3, 2015 at 9:16 AM, Ernesto Rodriguez <ernesto.r@contextmediainc.com> wrote:

Hey Marshall,

Please confirm the following:

1. Did this user ever attempt to unsubscribe? (I'm wondering if the question came because the person was unaware of how to unsubscribe and decided to ask before trying)

2. Find out when this user signed up and was it long enough to receive the weekly reminder of how to unsubscribe.

3. Determine if this user was removed from the list from the fix you applied a few days ago.

-Beats

On Sat, Oct 3, 2015 at 9:02 AM, Matt Garms <matt.garms@contextmediainc.com> wrote:

Marshall --

We have another one...

Sent from my iPhone

Begin forwarded message:

From: "Wufoo" <no-reply@wufoo.com>
Date: October 2, 2015 at 9:55:16 PM EDT
To: matt.g@contextmediainc.com
Subject: Inquire [#489]
Reply-To: brinman@sccoast.net

Your Name *

Benny Inman

Email *

brinman@sccoast.net

Phone number where we can reach you *

(843) 283-0704

Comments

I want to know to stop your texts to my phone.

Ernesto Rodriguez

Technical Project Manager

Software Quality Assurance Specialist

ContextMedia
Health

**101st BEST
BOUGHT**

330 N Wabash Ave, Suite 2500

Chicago, IL 60611

"Winner of 2015 ICX Excellence Award for Best Healthcare Deployment"

--
Ernesto Rodriguez

*Technical Project Manager
Software Quality Assurance Specialist*

ContextMedia
Health

101 BEST
DESIGN

330 N Wabash Ave, Suite 2500
Chicago, IL 60611

"Winner of 2015 ICX Excellence Award for Best Healthcare Deployment"

EXHIBIT F

From: Lee Ebreo [lee.ebreo@contextmediainc.com]
Sent: Monday, March 07, 2016 9:11 AM
To: Brian Clarkson
CC: Ernesto Rodriguez
Subject: Fwd: Inquire [#731]

Hey BC, here is another to unsubscribe from CMH Tips.

----- Forwarded message -----

From: **Travis Kemp** <travis.kemp@contextmediahealth.com>
Date: Mon, Mar 7, 2016 at 8:59 AM
Subject: Fwd: Inquire [#731]
To: Matt Garms <matt.g@contextmediahealth.com>, Ernesto Rodriguez <ernesto.r@contextmediainc.com>
Cc: Lee Ebreo <lee.e@contextmediainc.com>

Ernesto can remove these...

□ **Travis Kemp**

Product Operations Manager
www.contextmediahealth.com

330 N. Wabash Ave. STE 2500
Chicago , IL 60611

O: (312) 646-1276

C: [\(312\) 399-9857](tel:3123999857)

Winner of 2015 [ICX](#) Excellence Award for Best Healthcare Deployment



Please consider the environment before printing this email.

----- Forwarded message -----

From: **Matt Garms** <matt.garms@contextmediainc.com>
Date: Sat, Mar 5, 2016 at 6:41 PM
Subject: Fwd: Inquire [#731]
To: Travis Kemp <travis.kemp@contextmediahealth.com>

Who can stop these?

Sent from my iPhone

Begin forwarded message:

From: "Wufoo" <no-reply@wufoo.com>
Date: March 5, 2016 at 6:26:41 PM CST
To: matt.g@contextmediainc.com
Subject: Inquire [#731]
Reply-To: mjcarm@hotmail.com

Your Name *

Carmella Markovich

Email *

mjcarm@hotmail.com

Phone number where we can reach you * [\(412\) 758-8925](tel:(412)758-8925)

Comments

I would like to OPT-OUT of CMH TIPS and I have tried several time to opt-out via text message by replying STOP to no avail. These messages are using up to much of my text allowance and I want them to stop. I've tried calling the phone number [1-866-500-6346](tel:1-866-500-6346) and cannot get through. My call is automatically disconnected by an automated attendant.

PLEASE STOP SENDING ME TEXT MESSAGES WITH DIETARY TIPS (21831).

Thank you, Carmella Markovich [\(412-758-8925\)](tel:(412)758-8925)

The information contained in this email is the property of ContextMedia:Health. If you have received this email in error, please notify the sender as soon as possible.

The information contained in this email is the property of ContextMedia:Health. If you have received this email in error, please notify the sender as soon as possible.

--

Lee Ebreo
VP of Engineering
ContextMedia Health

The information contained in this email is the property of ContextMedia:Health. If you have received this email in error, please notify the sender as soon as possible.

EXHIBIT I

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <http://www.djreprints.com>.

<https://www.wsj.com/articles/outcome-a-hot-tech-startup-misled-advertisers-with-manipulated-information-sources-say-1507834627>

TECH

Outcome, a Hot Tech Startup, Misled Advertisers With Manipulated Information, Sources Say

With funding from Goldman Sachs and Google's parent, Chicago-based firm reported a \$5.5 billion valuation. The company says it is reviewing allegations against employees and has strengthened policies



Outcome Health runs pharmaceutical ads on screens like this one in a California waiting room. PHOTO: JASON HENRY FOR THE WALL STREET JOURNAL

By Rolfe Winkler

October 13, 2017

In an era of celebrity tech entrepreneurs, Chicago has its own local star in Rishi Shah, a charismatic 31-year-old who has parlayed his advertising startup into connections with political and financial heavyweights.

A major donor to the Democratic Party, Mr. Shah has recently held private meetings at his office with Sens. Chuck Schumer and Elizabeth Warren. Fortune named him to its “40 Under 40” list. Forbes crowned him one of the world’s newest billionaires.

Mr. Shah’s startup, Outcome Health, installs video screens in doctors’ offices and charges pharmaceutical companies to run ads on them aimed at patients. After investors including Goldman Sachs Group Inc. and Google parent Alphabet Inc. poured around \$500 million into Outcome at what the Chicago company said was a valuation of \$5.5 billion in May, prominent venture capitalist Bill Gurley tweeted that Mr. Shah, its chief executive, was “the real deal.”

Somewhat less real were aspects of some deals Outcome cut with pharmaceutical advertisers, say former employees along with several advertisers. Interviews with these people as well as internal documents and other material from Outcome reviewed by The Wall Street Journal show how some employees misled pharmaceutical companies by charging them for ad placements on more video screens than the startup had installed.

Some Outcome employees also provided inflated data to measure how well ads performed, created documents that inaccurately verified that ads ran on certain doctors’ screens and manipulated third-party analyses showing the effectiveness of the ads, according to some of these people and documents.

The altered reports and data, they say, helped increase business for Outcome, whose customers have included drug companies such as Bristol-Myers Squibb Co. and Novo

A tweet from the opening of Outcome Tower. From left, Outcome CEO Rishi Shah, Chicago Mayor Rahm Emanuel and Outcome President Shradha Agarwal.

Nordisk A/S. Those two companies declined to comment. Outcome doesn't publicly disclose results. It told investors it estimated 2016 sales at about \$130 million, up from about \$7 million in 2012, according to a presentation reviewed by the Journal.

Lanny Davis, a lawyer Outcome hired as spokesman after the Journal's inquiries, says the company has hired the law firm of former U.S. attorney Dan Webb "to review allegations about certain employees' conduct that have been raised internally." He says Outcome "has always upheld the highest ethical standards" and has adopted new policies throughout 2017 to comply with customer contracts.

Mr. Davis, former special counsel to President Bill Clinton, says Outcome has put three employees on paid leave, including Ashik Desai, a top lieutenant of Mr. Shah's, "while concerns that have been raised about his conduct are reviewed." Mr. Desai didn't respond to inquiries, and Outcome didn't make him available for comment.

"We are proud of the company we and our employees have built," said Mr. Shah and Outcome President Shradha Agarwal, in an emailed statement responding to questions about Outcome employees' alleged misleading of clients. "Of course, we have had growing pains as we scaled from 4,000 to 40,000 doctors' offices—every high-growth company does. That is why we have taken many steps to implement best practices."

The two executives declined to be interviewed. The Journal review found nothing to demonstrate top executives' involvement in the alleged misleading of advertisers.

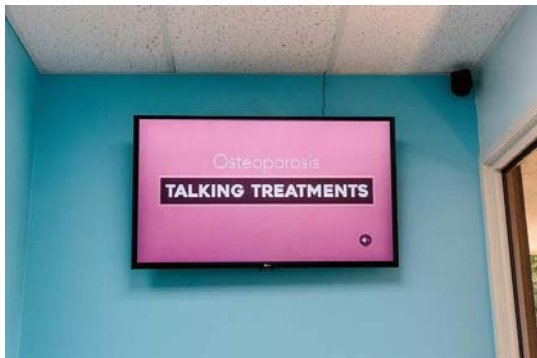
Outcome is the latest in a series of highly valued startups that promise to overturn old industries with new technologies. Outcome has said its mission is to "activate the best health outcome possible for every person in the world" and provide "actionable health intelligence at the moment of care."

In practice, it puts flat screens and tablets in doctors' offices and gets paid by pharmaceutical companies to run ads on them. The screens, which also run educational content, are free to the doctors. The approach digitizes an industry that long tried to reach patients by placing posters, pamphlets and closed-loop television in waiting rooms.

'Make goods'

Outcome is now providing tens of millions of dollars in free advertising to customers, including Sanofi SA and Biogen Inc., people familiar with the arrangements say. It returned millions of dollars in cash to Pfizer Inc., say people familiar with the refund.

Mr. Davis says Outcome as a policy offers "make goods" to advertisers when it fails to meet contract terms. He says Outcome can't discuss specific cases involving clients because of confidentiality agreements, including all the pharmaceutical companies mentioned in this article.



An Outcome screen in a medical office this month. PHOTO: JASON HENRY FOR THE WALL STREET JOURNAL

A week before Outcome announced the funding round in May,

Mr. Shah warned his staff during an employee meeting that the first quarter was “very tough” and that the company had missed expectations, according to a recording of the staff meeting reviewed by the Journal.

To save money, Outcome recently slashed employee travel, according to a staff memo reviewed by the Journal. At least seven executives have departed this year, some shortly after joining, including an operating chief, Sameer Kazi, who confronted Mr. Shah with concerns about business practices, say people briefed on the discussion. Mr. Kazi in a brief phone conversation this summer said he was at the company “two weeks and three days” early this year, declining to comment on his departure.

Mr. Davis says Mr. Kazi’s departure was amicable and that some two dozen executives have also been added in 2017.

Outwardly, Outcome projects a bright future. In late September, Mr. Shah stood next to Chicago Mayor Rahm Emanuel for a ceremony in the lobby of the 29-story glass building to be renamed “Outcome Tower” where the company recently leased 394,000 square feet, typically enough space for roughly 2,500 staff, though it has fewer than 500 in the city today. The Chicago-area native announced that his company planned to expand its Chicago workforce by 2,000 by 2022. Mr. Emanuel pronounced that “as Outcome goes, so goes Chicago.” Mr. Emanuel’s office didn’t respond to inquiries.

Hours later, Mr. Shah met with executives in a hotel conference room to finalize plans for layoffs, says a person familiar with the planning. By the end of the week, they had laid off at least 76 of their 600-plus total employees. Mr. Davis says Outcome hired more people in the third quarter than it cut that week and has hired about 20 more since.

Outcome, registered in Delaware as ContextMedia Health LLC, was founded in 2006. It began its swift ascent after 2012, and with it rose Mr. Shah’s profile. He regularly flies on private planes and helicopters for business and pleasure, say people familiar with the travel. Mr. Davis says Mr. Shah personally pays for the flights.

Mr. Shah donated over \$600,000 to the Democratic Party’s joint fundraising committee for the 2016 election and held a \$50,000-a-plate fundraiser for Hillary Clinton at his Chicago mansion. In July, Sen. Warren stopped by his office, followed in September by Sen. Schumer.

A spokesman for Mrs. Clinton and a spokeswoman for Sen. Warren didn’t respond to inquiries. A spokesman for Sen. Schumer confirmed the meeting with Mr. Shah.

Mr. Shah holds a majority stake in Outcome after the fundraising round with Goldman and Alphabet’s CapitalG unit, making him a billionaire on paper in the deal.

Representatives for Goldman and Alphabet didn’t respond to inquiries. Mr. Gurley, the venture capitalist who lauded Mr. Shah at the time, declined to comment; his firm isn’t invested in the company.

A pharmaceutical company wanting to advertise on Outcome’s doctor network typically gives the startup a list of specific doctors whose patients the pharmaceutical company wants to target. A diabetes-medication company, for instance, might want to advertise in endocrinologists’ offices.

Outcome’s analysts match the drug company’s target list against its own list of offices with its screens installed, called its “list match” process. Outcome typically billed clients for what it said was the number of matched screens.

From at least 2014 through 2016, Outcome sometimes charged companies for a list match showing more screens than it had installed, sometimes by as much as double, say people familiar with the process.

Asked if there were cases where clients weren’t informed that a match list included doctors without screens, Mr. Davis says: “Yes. These are among the issues” that the independent counsel will review.



An Outcome tablet in a patient room. PHOTO: JASON HENRY FOR THE WALL STREET JOURNAL

Outcome
sometimes
charged for
doctors it
hoped would
install its
screens but
hadn't yet, say
some of the
people. Other
times, it
charged for
multiple
doctors

practicing at the same address, but in different office suites, even if not all had its screens installed.

Mr. Davis says that when the company fails to meet contract terms, it offers make-goods. "Company policy, both currently and historically, is to communicate an accurate list match with transparency to our clients."

Outcome would give advertisers the numbers of doctors and screens but sometimes declined to provide a full list of matched doctor names, citing privacy concerns, making it more difficult for advertisers to independently verify ads were running, say some of the people familiar with Outcome's processes.

Mr. Davis says Outcome shares doctors' identifying information with clients if they agree not to disclose it.

The executive directing the list-match process has long been Mr. Desai, whom Mr. Shah hired in 2012. In October 2014, Mr. Desai gave instructions to prepare a match of doctors for Boehringer Ingelheim GmbH, which wanted to run ads for its drug Spiriva, according to internal messages reviewed by the Journal.

Mr. Desai gave instructions to send to a salesman a list of 4,000 doctors and 2,100 offices for the client, which included some doctors without screens installed, says a person familiar with the matter. The salesman, and by extension the client, weren't informed of that fact, says this person.

A Boehringer spokeswoman says the company doesn't discuss advertising partnerships, saying: "We are looking into this matter further."

Earlier that summer, Johnson & Johnson complained to Outcome after its field representatives noticed there were no screens in some offices where J&J was being charged to run ads for an arthritis drug, according to documents and people familiar with the dispute. Mr. Desai and Mr. Shah apologized and agreed to decrease J&J's cost, say these people.

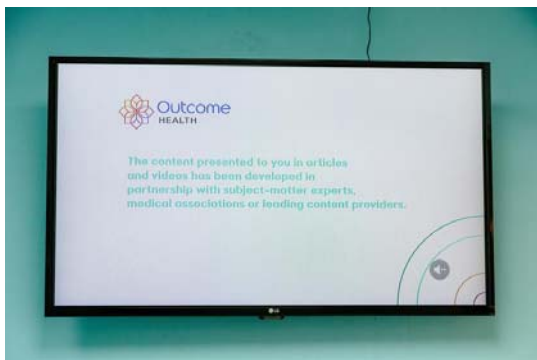
A J&J spokeswoman declined to comment on the episode. J&J, she says, expects suppliers to "represent their capabilities accurately."

The incidents of charging advertisers for doctors without screens continued at least through the end of 2016, say some of the people familiar with the company's practices.

This summer, Outcome hired media-audit firm BPA Worldwide to audit its network. BPA's Senior Vice President of Auditing, Richard Murphy, says his firm verified the size of Outcome's network and delivery of ads for one ad campaign.

Doctored screenshots

Some advertisers required Outcome to provide affidavits with screenshots showing their ads had run in doctors' offices. Outcome employees sometimes grabbed a screenshot of an ad from their own computers, edited it to add a timestamp and doctor identification number to make them appear genuine, and affixed Mr. Desai's electronic



An Outcome screen in a waiting room. PHOTO: JASON HENRY FOR THE WALL STREET JOURNAL

signature, say people who prepared the documents.

Mr. Davis says such use of screenshots would violate company policy. “We do not know of any instance in which this

happened, but these are among the issues” that the independent counsel will review, he says. Outcome is able to capture “live” screenshots remotely from doctors’ offices, he says.

Advertisers also asked Outcome to survey patients and doctors to see how they responded to ads. The surveys sometimes got little response, say people with knowledge of the surveys. In one case, an employee asked Mr. Desai to approve a made-up number of respondents to a survey for client Tandem Diabetes Care Inc., according to an internal message.

“Yea I’d inflate it a bit more :),” Mr. Desai said in response. Tandem declined to comment.

Mr. Davis says Outcome doesn’t know of any instance of providing inaccurate survey results.

Outcome has also been accused of altering third-party reports. To convince advertisers their ad campaigns are worthwhile, Outcome commissions agencies including QuintilesIMS, also known as IMS, to estimate how many more prescriptions are written for a drug thanks to ads it runs. Outcome passes the reports to clients.

In May 2016, a representative for Boehringer’s diabetes drug Tradjenta contacted IMS about data in a report forwarded by Outcome, says a person familiar with the episode. When IMS compared the report Boehringer had received with the one IMS had sent to Outcome, it noticed discrepancies in the data, according to an email reviewed by the Journal.

In the email, an IMS representative complained to Mr. Desai, listing inconsistencies and erroneous numbers and emphasizing the importance of “strong ethics.” Mr. Desai responded in an email that IMS’s findings were “terribly concerning,” pledging to get to the bottom of what happened. In a later email, he blamed an unnamed data scientist.

The incidents of altering IMS reports before sending them to clients happened multiple times, say people familiar with the reports.

The Boehringer spokeswoman declined to comment on the incident. An IMS spokesman says: “We expect clients to use our data in a responsible and appropriate manner.” Mr. Davis says Outcome has policies to ensure metrics are reported accurately to clients.

In November 2014, an employee expressed nervousness to Mr. Desai when early data for ads running on tablets for a J&J ulcerative-colitis drug showed clicks were a minute fraction compared with numbers previously shared with J&J, internal messages reviewed by the Journal show. The two discussed what the employee called “very poor engagement” for that tablet campaign. They also discussed similar discrepancies in tablet campaigns run by Novo Nordisk, Biogen, AbbVie Inc., Tandem and Astellas Pharma Inc., the messages show.

Mr. Desai outlined a plan to “use the holidays” to slowly lower numbers shown to those clients, according to a message reviewed by the Journal.

“I mean not to the extremes of reality,” he said. “But lower.”

Mr. Davis says “these are among the issues” to be addressed by the independent counsel. “The company strongly denies the practice of misreporting of campaign information,” he says. “The company’s policy is to accurately report information to every customer on every program.”

The pharmaceutical companies declined to comment.

Over all, Mr. Davis says that “if there was any intentional misconduct, and the company finds out, severe actions will be taken.”

Write to Rolfe Winkler at rolfe.winkler@wsj.com

Appeared in the October 13, 2017, print edition as ‘A Hot Startup Misled Advertisers.’

Copyright ©2017 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <http://www.djreprints.com>.

EXHIBIT L

From: Linsey Bierschbach [linsey.bierschbach@contextmediainc.com]
Sent: Monday, August 10, 2015 7:45 AM
To: Marshall Shen
CC: Randy Gorecki; Lee Ebreo; Lisa Wolkoff
Subject: Re: Patient Portal Analytics

I do not need daily reporting. I am just looking for a snapshot to show the numbers we have subscribed and what the signup and opt out numbers look like (is it growing and at what rate?). From a sales perspective knowing how many people sign up for the daily texts shows actual numbers behind patient engagement. Patients are not only watching the programming, but are also interested in the content and sign up to continue receiving that content. That is why I am looking for the specifics.

On Mon, Aug 10, 2015 at 8:36 AM, Marshall Shen <marshall.shen@contextmediainc.com> wrote:

Hi Linsey:

Also can you help us clarify the purpose of the daily SMS reporting?

Thanks!

—
Sent from [Mailbox](#)

On Fri, Aug 7, 2015 at 5:09 PM, Marshall Shen <marshall.shen@contextmediainc.com> wrote:

Hi all:

A quick update on reporting on SMS health tips service (Health Blaster):

1. I'm actively developing it as I'm writing this email. Once again to verify what we need on the report:

Given one day we sent out SMS to subscribers, we want:

- a. The number of CMH TIPS messages successfully send (excluding welcome messages for subscription and feedback message. for unsubscription.)
- b. The number of CMH TIPS messages failed to send (excluding welcome messages for subscription and feedback message. for unsubscription.)
- c. The number of unsubscriptions.

2. Before reporting, we have multiple features we need to rollout to production. We scheduled to QA those features on Monday morning and plan to roll it out on Monday if all is well. The reporting is going to ship after the feature deploy because the reporting depends on those features in production.

Let me know if you have any questions!

Have a great weekend!

—
Sent from [Mailbox](#)

On Thu, Aug 6, 2015 at 4:41 PM, Marshall Shen <marshall.shen@contextmediainc.com> wrote:

Hi Randy:

We don't have any analytics built around health tip service yet. It's going to be my focus this Friday & Monday to provide some basic reporting around:

- 1) Sms received by users daily
- 2) Unsubscription activity and why people unsubscribe.

I will keep you guys posted on the progress, if by the end of Monday you still haven't heard anything, give me a holler!

Cheers,
Marshall

—
Sent from [Mailbox](#)

On Thu, Aug 6, 2015 at 4:18 PM, Randy Gorecki <randy.gorecki@contextmediainc.com> wrote:

I can definitely pull the counts for patient portal types (Mixpanel event: custom-website-tap). Are you interested in a specific system, clinic, etc?

Marshall/Lee,

Is there any analytics around SMS?

On Thu, Aug 6, 2015 at 4:14 PM, Linsey Bierschbach <linsey.bierschbach@contextmediainc.com> wrote:

Hi Randy!

Ryan had mentioned that you could pull data on how many clicks we get on the patient portal on each tablet per day. Is that data you can pull or are there any analytics you can pull related to patient portal?

He also had mentioned that we have 11,000 patients signed up for our healthy tip of the day text. Do you have additional figures in terms of how often people subscribe, unsubscribe, how quickly that number grows, etc.? Also - what are some example tips go out on that text?

Thanks!

Linsey

--

□ **Linsey Bierschbach**

Wellness Solutions Consultant, Integrated Health Systems

www.contextmediahealth.com

O: [312.881.4884](tel:312.881.4884) / C: [312.550.7544](tel:312.550.7544)

330 N. Wabash Ave. STE 2500

Chicago , IL 60611

Named one of America's Most Promising Companies by [Forbes](#)

Please consider the environment before printing this email.

--

□

Randy Gorecki

Product Analytics Manager

www.contextmediahealth.com

C: [\(708\) 217-8861](tel:(708)217-8861)

330 N. Wabash Ave. STE 2500

Chicago , IL 60611

Named one of America's Most Promising Companies by [Forbes](#)

Please consider the environment before printing this email.

--

□

Linsey Bierschbach

Wellness Solutions Consultant, Integrated Health Systems

www.contextmediahealth.com

O: 312.881.4884 / C: 312.550.7544

330 N. Wabash Ave. STE 2500

Chicago , IL 60611

Named one of America's Most Promising Companies by [Forbes](#)

Please consider the environment before printing this email.