

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of the)
)
Rules and Regulations Implementing)
) **CG Docket No. 02-278**
the Telephone Consumer Protection)
)
Act of 1991)

**Reply Comments of Joe Shields on the Mammoth Mountain Ski Area LLC Petition
for Declaratory Ruling**

I hereby submit these reply comments addressing the Mammoth Mountain Ski Area LLC (hereinafter “Mammoth”) Petition for Declaratory Ruling comments. Curiously, the petitioner themselves never commented on their petition. Apparently the petition is not as important as they claimed.

The two commentors and InfoCision Management Corporation have not provided any evidence that a controversy or any uncertainty exists that the Commission needs to address. When the statutory language is clear, as it is here, there is no need to clarify any statutory ambiguity. *Chevron U.S.A., Inc. v. NRDC*, 467 U.S. 837, 842-43, 104 S. Ct. 2778, 2781, 81 L. Ed. 2d 694 (1984) “If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.”

The commentors Computer & Communications Industry Association and the U.S. Chamber of Commerce and U.S. Chamber Institute for Legal Reform spout the same ubiquitous and *ad nauseam* claim that all TCPA law suits are burdensome and frivolous. Such unfounded *ad nauseam* comments damage the credibility of the commentors.

Very few attorneys are willing to file individual TCPA lawsuits and Commission enforcement has been lackluster at best. Those facts have led to the callous and indifferent treatment of cell numbers by legitimate companies forcing consumers to seek recourse through class action representation. Consequently, class action TCPA law suits have led to increased awareness of the illegal behavior of legitimate companies in regards to their callous and indifferent treatment of cell numbers.

As with most petitions filed with the Commission, the petitioner seeks protection from liability for violating the TCPA. The Commission should be issuing citations to petitioner's that violate the TCPA and come running to the Commission for protection from liability instead of molycoddling them.

The Commission should exercise its duty to the public to protect the privacy and safety of cell phone users. The Commission should deny the Mammoth petition.

Respectfully submitted,

_____/s/_____

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