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Via Electronic Submission to ECFS

May 29th, 2015

Federal Communications Commission
Attn: Mrs. Marlene H. Dortch
445 12th Street, N.W.
Washington, DC 20036

Dear Mrs. Dortch:

On May 29th, 2015 I submitted a written ex parte communication electronically via email to Mignon Clyburn, Jessica Rosenworcel, Ajit Pai, Michael O'Rielly, Mark Stone, Kurt Schroeder, John Adams, Christine Clearwater, Kristi Lemoine, Aaron Garza, Kris Monteith and Kerri Mullen.

The ex parte communication addresses the proposals of Chairman Wheeler. In particular the ex parte communication addresses three (3) of Chairman Wheeler's proposals:

1. creation of an exemption for one call to reassigned cell numbers,
2. creation of an exemption for urgent messages and,
3. defining autodialer as requiring the capacity to dial random or sequential numbers.

The ex parte communication summarizes the burgeoning case law addressing the "intended" called party petitions. The ex parte communication provides a list of thirty-one (31) cases from Federal district courts and two (2) Federal appellate courts that have defined called party as the current user or subscriber of the cell phone number.

The ex parte communication points out that no rational business gives customers free goods and services out of altruistic motives, but rather do so with the calculated aim of enticing the recipient to couple the freebie with the purchase of other items. Consequently, the 'emergency' messages businesses are asking the Commission to exempt are meant solely to maximize customer satisfaction.

The ex parte communication points out that the definition of autodialer consists of two (2) parts one being the capacity to store numbers and the other being the capacity to produce numbers both being separate conditions. Either condition separately not both conditions combined defines what an autodialer must be capable of.

Respectfully submitted,



Joe Shields