

**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** )

**Joe Shields Addendum to Comments in Support of the Ex Parte Presentation of the  
National Consumer Law Center**

I respectfully file this addendum to my comments on the National Consumer Law Center (hereinafter “NCLC”) Ex Parte Presentation filed with the Commission on June 8<sup>th</sup>, 2015. In my comments I pointed out that any Commission exemption for calls that are not charged to the called party must be explicitly clear under what section the exemption is made namely 47 U.S.C §227(b)(2)(C) and that the exemption does not change or modify in any way 47 U.S.C §227(b)(1)(A)(iii). Failing to do so will create yet another dubious and confusing defense that defendants in TCPA litigation will stoop to.

To underscore the need to be explicit I am submitting a recent ruling by the 8<sup>th</sup> Circuit Appellate Court that deals with prerecorded survey calls made with the support of politician Michael Huckabee. FreeEats.com d/b/a ccadvertising made 30 million robocalls to a list of cell phone numbers purchased from Axiom Corporation<sup>1</sup>. See highlighted portions of the attached ruling.

The June 8<sup>th</sup>, 2015 ruling addresses survey robocalls that were made as part of an advertising campaign for the movie “Last Ounce of Courage”. In my previous comments I pointed out how ccadvertising claims that:

---

<sup>1</sup> The Commission may note the robocalls to the plaintiffs went to voice mail.

“The FCC's rules state that prerecorded automated calls to cell phones and other mobile devices are permitted by the TCPA of 1991, **as long as the call is political** or non-commercial **and the called party is not charged.**”

It is imperative that the Commission reject such clearly preposterous claims. Further the Commission must reject similar preposterous claims from survey companies that the TCPA was never intended to regulate automatically dialed or prerecorded/text message survey calls to cell phones<sup>2</sup>.

The robocalls referred to in the June 8<sup>th</sup>, 2015 ruling used a political figure and a pretense of a survey call in a blatant attempt to evade the TCPA. The take away here is that exemptions will ultimately be abused by every possible industry. This is evident from the many petitions seeking a release from liability from TCPA law suits.

The Commission must tread carefully in creating any exemption from the TCPA as it is crystal clear from past history that major players from every possible industry will abuse the exemption.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

Joe Shields  
Texas Government & Public Relations Spokesperson for Private Citizen Inc.  
16822 Stardale Lane  
Friendswood, Texas 77546

---

<sup>2</sup> Letter comments filed by CASRO and the Marketing Research Association on June 10<sup>th</sup>, 2015.