



December 22, 2015

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington DC 2055

Re: December discussions regarding Petitions of Blackboard Inc. and Edison Electric Institute, and other pending petitions, CG Docket No. 02-278

Dear Ms. Dortch:

On Friday December, 18 and Monday, December 21, 2015, I had several phone conversations with FCC staff regarding interpretations of the scope of consent provided when someone provides a phone number to a school or a utility company. I had separate conversations with Mark Stone and Kurt Schroeder of the FCC's Consumer and Governmental Affairs Bureau Policy Division, with Travis Litman of Commissioner Rosenworcel's staff, and with Gigi Sohn and Edward Smith of Chairman Wheeler's staff.

During these phone conversations, we discussed the Declaratory Ruling in response to the petitions filed by Blackboard, Inc.,¹ and Edison Electric Institute and American Gas Association (Edison).² The primary point proffered to FCC staff was that calls made pursuant to the purpose for which the consent was provided should be limited to those for which the called party has specifically agreed.

We are concerned that the order will articulate that certain types of calls are implicitly included in the scope of the "purpose for which the consent was provided." While we have no problems with the content of any of the specific types of calls that we understand may be included in the order, we do have a problem with the idea that the statute's requirement for *express* consent is being interpreted to mean that consent for some types of calls can be *implied*. There is some history

¹ See, Petition for Expedited Ruling, Blackboard, Inc. <http://apps.fcc.gov/ecfs/comment/view?id=60001020430>.

² See Petition for Expedited Ruling, Edison Electric Institute and American Gas Association. <http://apps.fcc.gov/ecfs/comment/view?id=60001016327>.

for this in previous Commission orders, and it seems important for the concept to be limited, rather than expanded.

Parents have no choice but to provide schools with their phone numbers. This is likewise often true for utility customers. We agree that requiring phone numbers is essential to reach parents and customers in emergencies. However, the simple provision of the cell phone number should not be inferred to be consent for some non-emergency calls.

We have seen school systems bombard all of the telephone numbers provided by parents (work, home, cell -- for both parents) with *multiple* notices for things like band practice. This means that one, rather meaningless, event, can trigger several calls to several phones. At the least this is inconvenient and annoying. But for low-income parents who rely on Lifeline or limited prepaid calling plans, this is expensive, and potentially dangerous -- because it leads to a depletion of scarce calling minutes.

Accordingly, we have been requesting that the order articulate the following:

1. Parents – and utility customers – should be permitted to provide their numbers for emergency purposes only, while not consenting to calls for other – non-emergency – purposes. The best practice would be for the Commission to require that school systems and utilities – and indeed all callers who request phone numbers for emergency purposes – to ask called parties which of the variety of different automated calls they specifically consent to receive. Automated and pre-recorded non-emergency calls should then only be made to those parties who have specifically agreed to the type of call being made.
2. Parents – and utility customers – should clearly be permitted to revoke consent to some non-emergency calls (delineated by type), while still providing an updated phone number for emergency purposes.
3. Callers should be required to *inform* their customers (and parents, in the case of a school system) of these rights.

Thank you for your attention to our concerns. If you have any questions, please contact me.

Sincerely,

Margot Saunders
National Consumer Law Center
1000 Connecticut Avenue, NW
Washington, D.C. 20036
202 452 6252, extension 104
msaunders@nclc.org