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June 15, 2016

**VIA ECFS**

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

**Re: CG Docket No. 02-278  
Blackboard Inc. Petition for Expedited Declaratory Ruling**

Dear Secretary Dortch:

Blackboard Inc. (“Blackboard”), the Calcasieu Parish (Louisiana) School Board (“CPSB”), the Board of Education of the City of Chicago and Chicago Public Schools (“CPS”), and Fairfax County (Virginia) Public Schools (“FCPS”) respectfully urge the Federal Communications Commission (“Commission”) to take action on Blackboard’s Petition for Expedited Declaratory Ruling (“Petition”). The Petition seeks critical declarations concerning the application of the Telephone Consumer Protection Act (“TCPA”) to important, education-related messages sent by educational institutions to their school communities.<sup>1</sup> A draft order addressing the Petition has been on circulation since December 21, 2015.<sup>2</sup> Swift action on the Petition is necessary to make clear that the messages sent by educational institutions for emergency purposes are not subject to the requirements of the TCPA.

Grant of Blackboard’s Petition will ensure that America’s families can continue to receive time-sensitive and vital information on their wireless devices without subjecting

<sup>1</sup> CG Docket No. 02-278, *Consumer and Governmental Affairs Bureau Seeks Comment on Petition for Declaratory Ruling filed by Blackboard, Inc.*, DA 15-364, Public Notice (rel. March 23, 2015).

<sup>2</sup> FCC Items on Circulation, *available at* [http://transition.fcc.gov/fcc-bin/circ\\_items.cgi](http://transition.fcc.gov/fcc-bin/circ_items.cgi).

Blackboard or its educational institution customers to the risk of TCPA liability. The undersigned appreciate the strong support expressed by the Commission, and especially Commissioner Rosenworcel, for the need to bring educational institutions into the digital age<sup>3</sup> and to ensure educational institutions can utilize the most modern technologies available to communicate with their school community. As Commissioner Rosenworcel has stated, the Commission must

give serious consideration to how [its] robocall policies impact schools. To prevent truancy and create early warning for possible child abduction, many school districts call parents to alert them when students are not in class. But their efforts are getting caught in a web of lawsuits and the Commission needs to take a hard look at how to fix this.<sup>4</sup>

Commissioner O’Rielly echoed this concern stating the

current state of affairs, where companies must choose between potentially crushing damages under the TCPA or cease providing valuable communications specifically requested by consumers, contravenes Congress’s intent for the statute not to interfere with normal, expected, and desired communications that consumers have expressly consented to receive. . . . [such as] alerts from a school that a child did not arrive at school, or that the building is on lockdown.<sup>5</sup>

The record contains numerous examples of why messages sent by schools fall within the definition of “emergency purposes” under the TCPA, and in many instances are required to be sent under state or local law.<sup>6</sup> The recent lockdown of Alexandria City Public Schools and the fire at Woodson High School in Fairfax County, Virginia present additional examples of why school districts need the flexibility to send messages to their constituent communities to provide timely and instructive information affecting the health and safety of the school community.<sup>7</sup>

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<sup>3</sup> See, e.g., Jessica Rosenworcel, Kevin Johnson, and Doris Matsui, “Viewpoints: Let’s upgrade our schools for the digital age,” *The Sacramento Bee* (Apr. 25, 2014); WC Docket No. 13-184, Statement of Jessica Rosenworcel Approving in Part, Concurring in Part; Sen. Angus King, Jessica Rosenworcel, “Let’s Give Our Students a Chance to Compete in the Digital Age,” Roll Call (Dec. 10, 2014).

<sup>4</sup> CG Docket No. 02-278, Statement of Commissioner Jessica Rosenworcel Approving in Part, Dissenting in Part (June 18, 2015).

<sup>5</sup> CG Docket No. 02-278, Statement of Commissioner Michael O’Rielly Dissenting in Part and Approving in Part (June 18, 2015).

<sup>6</sup> See, e.g., Comments of Blackboard (filed Apr. 22, 2015); Reply Comments of Blackboard (filed May 7, 2015); Blackboard Notice of Ex-Parte Presentation (filed Apr. 30, 2015); Comments of Fairfax County Public Schools (filed Apr. 15, 2015); Comments of Los Angeles Unified School District (filed Apr. 20, 2015); Comments of District of Columbia Public Schools (filed Apr. 22, 2015); Comments of Kecia Ray (filed Apr. 22, 2015); Comments of Washington University in St. Louis (filed May 4, 2015); Comments of Campus Safety Health and Environmental Management Association (filed May 4, 2015); Reply Comments of Chicago Public Schools (filed May 7, 2015).

<sup>7</sup> See, e.g., Matthew Stabley, “Man Shot, Killed in Alexandria; Public Schools Lock-In Lifted” (June 8, 2016), *available at* <http://www.nbcwashington.com/news/local/Alexandria-Public-Schools-Locked-in-Police-Activity-382248851.html>; Tom Jackman, “6 injured in chemistry classroom fire at Woodson High in Fairfax,”

The Commission should act now and grant the pending Petition. Schools are responsible for the education of children in the United States, and are charged with the health and safety of students while in their care. The telephone numbers expressly provided by their guardians every year (and updated throughout the year) are the only vehicle schools have to initiate important, time-sensitive communications with their school community to address matters critical to student health and safety. Issuance of the requested declaratory ruling will ensure Blackboard and its educational institution customers can continue to provide these critical life-saving messages that benefit the public without risking prosecution under the TCPA.

Respectfully submitted,

**CALCASIEU PARISH  
SCHOOL BOARD**

*/s/ Sheryl Abshire*

Sheryl Abshire, Ph.D.  
Chief Technology Officer

**BLACKBOARD INC.**

*/s/ Cherie R. Kiser*

Cherie R. Kiser  
Counsel for Blackboard Inc.

**BOARD OF EDUCATION OF THE  
CITY OF CHICAGO AND  
CHICAGO PUBLIC SCHOOLS**

*/s/ Sunil Kumar*

Sunil Kumar  
Deputy General Counsel  
Board of Education

**FAIRFAX COUNTY PUBLIC  
SCHOOLS**

*/s/ Maribeth Luftglass*

Maribeth Luftglass  
Assistant Superintendent and  
Chief Information Officer

cc: Chairman Tom Wheeler  
Commissioner Mignon Clyburn  
Commissioner Jessica Rosenworcel  
Commissioner Ajit Pai  
Commissioner Michael O'Rielly  
Edward "Smitty" Smith  
Rebekah Goodheart  
Travis Litman  
Matthew Berry  
Amy Bender

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Washington Post (Oct. 30, 2015), *available at* [https://www.washingtonpost.com/local/public-safety/three-injured-after-fire-at-woodson-high-school-in-fairfax/2015/10/30/7f6b6aac-7f10-11e5-afce-2afd1d3eb896\\_story.html](https://www.washingtonpost.com/local/public-safety/three-injured-after-fire-at-woodson-high-school-in-fairfax/2015/10/30/7f6b6aac-7f10-11e5-afce-2afd1d3eb896_story.html).