

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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

**OPPOSITION TO  
PETITION FOR TEMPORARY LIMITED WAIVER  
OF SECTION 64.1200(a)(6) OF THE COMMISSION'S RULES**

I, Dennis C. Brown, pursuant to Section 1.45 of the Commission's Rules, 47 C.F.R. §1.45, hereby file my Opposition to the Petition for Temporary Limited Waiver of Section 64.1200(a)(6) of the Commission's Rules (Waiver Request) filed by WorldCom, Inc. d/b/a MCI (WorldCom). In support of my position, I show the following.

WorldCom requested grant of a 60-day waiver of Rule Section 64.1200(a)(6), 47 C.F.R. §64.1200(a)(6) (The Rule), to allow it to abandon an unlimited number of calls and to not identify itself to consumers who are the victims of its abandoned calls. WorldCom failed to show good cause for grant of the requested waiver. Its request should therefore be denied.

WorldCom is hardly uniquely situated within its neighborhood. Every telemarketer who is not subject to the jurisdiction of the Federal Trade Commission was on notice since at least the release of the Commission's Notice of Proposed Rulemaking and Memorandum Opinion and Order in CC Docket No 92-90, 17 FCC Rcd 17459 (2002), that the Commission was considering adoption of rules such as The Rule. WorldCom apparently simply failed to anticipate and to plan appropriately.

The Commission has explained that

waiver is appropriate only if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than would strict adherence to the general rule. Generally, the Commission may grant a waiver of its rules in a particular case only if the relief requested would not undermine the policy objective of the rule in question and would otherwise serve the public interest,

Echostar Satellite Corporation (DA 03-2560 Released August 1, 2003) (footnote omitted).

WorldCom failed to demonstrate that there was anything special about its circumstances that prevent it from complying with The Rule. WorldCom did not even claim that it faced any unique or unforeseeable obstruction beyond of its control which would prevent it from complying with The Rule.

WorldCom failed to demonstrate that it had taken any positive step toward compliance. WorldCom demonstrated that it was aware of the outlines of its situation and it stated in the broadest terms that its “team has been working hard over the past two months,” Declaration of Randy Hicks at 12. However, WorldCom provided no evidence of even one concrete step which it had taken toward compliance before requesting relief.

There are reasonable alternatives to waiver for WorldCom which are in compliance with the Commission’s Rules. A few alternatives follow:

Like every other telemarketer, WorldCom could simply suspend its telemarketing activities until such time as it was prepared to comply with The Rule. WorldCom should not incur any

out-of-pocket costs from merely suspending telemarketing and might even save money in labor, power, and telephone service costs.

WorldCom could have its sales staff actually dial the telephone manually. Little training time should be required in the use of the telephone instrument. Its agents would thereby be prepared to speak to anyone who answered and WorldCom would not abandon any call. One may assume that WorldCom has a supply of manual telephone instruments on hand which it could use for the interim.

For the interim, WorldCom might hire an outside telemarketing firm which is prepared to comply with The Rule. Although WorldCom's costs might briefly be higher, it could continue to advertise its services through a third-party contractor.

The waiver requested by WorldCom would strike directly at the purpose of The Rule. The purpose of The Rule is to 1) protect telephone consumers against abandonment of telemarketing calls, and 2) to allow the consumer to identify the caller so that the telephone consumer can request to be placed on the caller's customer-specific do-not-call list and can know against whom to take legal action if the telemarketer violates the Commission's Rules. The waiver requested by WorldCom would adversely affect me by depriving me of the protection which The Rule provides.

The public interest would not be served by grant of WorldCom's Waiver Request. The Rule provides the telephone consuming public with specific protections. A victim of a call abandoned by WorldCom would not know whether he had been hung up on by WorldCom, by a different telemarketer, or by a stalker. The victim would not be able to exercise his right to take action against a violation of either WorldCom's company-specific list or the national list. There is a large number of competing providers of both local and inter-LATA telephone service. The public would not suffer from lack of effective competition by denial of the requested waiver.

If not denying the requested waiver on its face, the Commission should conduct a hearing to determine whether WorldCom has the requisite character qualifications to be eligible for waiver of The Rule. In just the past six months prior to the filing of WorldCom's Waiver Request, the Commission found in 31 instances that WorldCom had engaged in an unauthorized change of a telephone consumer's telecommunications service provider, *see, e.g.*, Order (DA 03-249 Released July 31, 2003 CGB). In view of this record of WorldCom's wilful and repeated violation of the Commission's Rules in the marketing of telephone service, the Commission should examine fully WorldCom's character qualifications.

Conclusion

For all the foregoing reasons, the Commission should deny the requested waiver or should hold a hearing to determine whether WorldCom is qualified by character for grant of the requested waiver.

Respectfully submitted,

/s/ Dennis C. Brown

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Dated: September 2, 2003

CERTIFICATE OF SERVICE

I hereby certify that on this second day of September, 2003, I served a copy of the foregoing Opposition to Petition for Temporary Limited Waiver of Section 64.1200(a)(6) of the Commission's Rules on each of the following persons by placing a copy in the United States Mail, first-class postage prepaid:

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