

Ian D. Volner

202-344-4814

idvolner@venable.com

July 23, 2004

**Via Electronic Submission**

The Honorable Kevin J. Martin  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: DialAmerica's Sponsor Program and the Established Business Relationship  
CG Docket No. 02-278

Dear Commissioner Martin:

Thank you very much for meeting with representatives from DialAmerica Marketing Inc., and Mothers Against Drunk Driving on July 19. At that meeting, we discussed DialAmerica's pending Supplemental Petition for Reconsideration and/or Clarification in the Telephone Consumer Protection Act docket, regarding DialAmerica's Sponsor Program.

You asked with whom the established business relationship ("EBR") existed for those who purchased magazines from the Sponsor Program. As a matter of practice, and more importantly, as a matter of law, the EBR exists between the customer and the charitable organization on whose behalf the call is being made. The EBR does not run between the customer and the magazine publisher. Thus, if an individual is on the National Do-Not-Call Registry, DialAmerica could not use the EBR from the Sponsor Program to place a call on behalf of the publisher of the magazine the individual purchased (nor could it use the EBR for any of its other clients). We believe that this further demonstrates that the call is truly a call made on behalf of a tax-exempt nonprofit organization and that allowing such calls will not open the floodgates to those trying to evade the Do-Not-Call Registry.

Please let us know if you would like any additional information about the Sponsor Program. Pursuant to the Commission's rules, a copy of this letter is being filed electronically with the Secretary's office.

Sincerely,

/s/

Ian D. Volner

cc: Daniel Gonzalez (via e-mail)