

July 27, 2004

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
12th Street Lobby, TW-A325
Washington, D.C. 20554

Re: *Ex Parte* Presentation; CG Docket Nos. 04-53, 02-278

Dear Ms. Dortch:

On Monday, July 26, 2004, Diane Cornell, Vice President, Regulatory Policy, and Paul Garnett, Director, Regulatory Policy, CTIA-The Wireless Association™, spoke via telephone to Jay Keithley, Deputy Chief, Consumer and Governmental Affairs Bureau, regarding the Commission's implementation of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 ("CAN-SPAM Act").

In particular, Ms. Cornell and Mr. Garnett emphasized that the Commission should exercise its discretion under section 14(b)(3) of the CAN-SPAM Act to enable CMRS providers to send mobile service commercial messages ("MSCMs") to their customers subject to customer opt-out. Ms. Cornell and Mr. Garnett noted that the Commission could exercise this discretion in a way that protects customers from third party solicitations unrelated to their mobile wireless service. Ms. Cornell and Mr. Garnett also noted that CMRS providers have every incentive not to abuse their relationships with wireless subscribers by sending unwanted messages to their customers – especially in light of the extent of wireless competition.

Pursuant to Section 1.1206 of the Commission's Rules, this letter is being electronically filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Paul Garnett

Paul Garnett

cc: Jay Keithley

