



STATE OF INDIANA  
**OFFICE OF THE ATTORNEY GENERAL**

INDIANA GOVERNMENT CENTER SOUTH, FIFTH FLOOR  
302 WEST WASHINGTON STREET • INDIANAPOLIS, IN 46204-2770

**STEVE CARTER**  
ATTORNEY GENERAL

TELEPHONE (317) 232-6201

April 1, 2005

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
Room TW-B204  
445 12th Street, SW  
Washington, DC 20554

Re: Notice of *Ex Parte* Communications in the Matter of the Consumer Bankers Association  
Petition for Expedited Declaratory Ruling with Respect to Certain Provisions of the  
Indiana Revised Statutes and Indiana Administrative Code, CG Docket No. 02-278

Dear Ms. Dortch:

Pursuant to 47 C.F.R. § 1.1206 of the Federal Communications Commission's ("Commission") Rules governing *ex parte* permit but disclose proceedings, the Indiana Office of the Attorney General hereby submits an original and three (3) copies of the following notice of its meetings with Commission staff on March 16, 2005 in the above-captioned proceeding. Please date-stamp and return the additional copy in the self-addressed, stamped envelope provided.

On Wednesday, March 16, 2005 at 10:00 a.m., Steve Carter, Attorney General for the State of Indiana and Gregory Zoeller, Chief Executive Officer for the Indiana Office of the Attorney General met with Daniel Gonzalez, Senior Legal Counsel to Commissioner Kevin Martin. Mr. Zoeller expressed concern over the limited period for public comment on a state program that has seen over 1,600,000 citizens of Indiana register. The 30 day comment period also fell within the Thanksgiving and Christmas holidays. In addition, Mr. Zoeller outlined the competing interests of Indiana citizens' personal rights to privacy in the home with the telemarketers' commercial interests in pursuing sales over a home telephone. Mr. Zoeller asserted that conforming to the Indiana statute works a negligible burden on the telemarketers' business practices, and that minimal burden on their practices did not justify such an invasion of personal privacy.

A second meeting was held on Wednesday March 16, 2005 at 2:00 p.m. Attending the meeting were Gregory Zoeller and Tom Fisher from the Indiana Office of the Attorney General; Delbert Smith and Michael Mendelson from Jones Day on behalf of the State of Indiana; and Jay Keithley, Erica McMahon, and Genaro Fullano from the FCC's Consumer and Government Affairs Bureau. Mr. Zoeller and Mr. Fisher declared that states have been regulating the content of phone calls in the interest of consumer protection under their inherent police powers since the

Ms. Marlene Dortch  
Federal Communications Commission  
April 1, 2005  
Page Two

enactment of the 1934 Communications Act. The effect of these calls on Indiana citizens is no different if the call originates within Indiana or extraterritorially. Additionally, they informed Commission staff that prior to the promulgation of the Commission's Rules, telemarketers had successfully complied with a far more complex tapestry of state statutes and regulations, and that compliance with both the Commission's Rules and the Indiana Rules posed no hardship.

Respectfully submitted,

s/ Thomas M. Fisher  
Thomas M. Fisher  
Special Counsel  
Office of Indiana Attorney General

TMF/bg  
Attachment

cc: Charles H. Kennedy, *as counsel for Consumer Bankers Association*



STATE OF INDIANA  
**OFFICE OF THE ATTORNEY GENERAL**

INDIANA GOVERNMENT CENTER SOUTH, FIFTH FLOOR  
302 WEST WASHINGTON STREET • INDIANAPOLIS, IN 46204-2770

**STEVE CARTER**  
ATTORNEY GENERAL

TELEPHONE (317) 232-6201

Pursuant to the Commission's ex parte rule under 47 C.F.R. 1.1206 governing permit but disclose proceedings, this letter is also being filed with the Commission and served on the parties to this proceeding.

March 18, 2005

Kevin J. Martin  
Chairman Designate  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A204  
Washington, DC 20554

Re: Notice of Meeting

Dear Commissioner Martin:

I write to provide notice of the meeting I had this past Wednesday, March 16, 2005, at 10:00am in your conference room with your senior legal counsel, Daniel Gonzalez, and my chief deputy attorney general, Greg Zoeller. This meeting was originally scheduled to be with you. Your absence is understandable and it seems appropriate to pass along my congratulations for having President Bush's confidence to be nominated as chairman of the FCC.

The meeting concerned the petition to preempt the Indiana statute regarding telephone privacy. I expressed concern over the limited period for public comment on a state program that has seen over 3,600,000 citizens of Indiana participate. The 30 day comment period also fell immediately after the Thanksgiving and Christmas holidays.

In addition I outlined the competing interests of person rights to privacy in the home with the commercial interests in telemarketing sales over a home telephone. It is my belief that there is negligible impact on commerce to justify such an invasion of personal privacy.

Again, thanks for your willingness to hear my concerns.

Sincerely,

A handwritten signature in cursive script that reads "Stephen Carter".

Stephen Carter  
Indiana Attorney General

SC/GZ:rb217203