

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Rules and Regulations Implementing)	CG Docket No. 02-278
the Telephone Consumer Protection Act)	
of 1991)	
)	
Petition of Paul D.S. Edwards for)	
Declaratory Ruling and Clarification)	
)	

To: Chief, Consumer & Governmental Affairs Bureau

**REPLY COMMENTS OF
THE ALARM INDUSTRY COMMUNICATIONS COMMITTEE**

The Alarm Industry Communications Committee (“AICC”), on behalf of its members, submits these Reply Comments in accordance with the Commission’s Public Notice, DA 09-542 (released March 3, 2009) seeking comment on Paul D. S. Edwards’s Petition For An Expedited Clarification And Declaratory Ruling Concerning The Telephone Consumer Protection Act (TCPA) Rules (the “Edwards Petition”). For the reasons set forth below, AICC agrees with the majority of commenters that the Edwards Petition should be denied.

Statement of Interest

AICC is comprised of representatives of the Central Station Alarm Association (CSAA), National Burglar & Fire Alarm Association (NBFAA), the Security Industry Association (SIA),¹ Bosch Security Systems, Digital Monitoring Products, Digital

¹ CSAA, NBFAA and SIA are associations comprised of central station alarm companies, alarm monitoring centers, alarm installation companies and alarm manufacturing companies. Their memberships represent the majority of such companies operating in the United States.

Security Control, Telular, Stanley Tool (alarm division, formerly known as Honeywell Monitoring), Honeywell Security, Vector Security, Inc., ADT Security Services, Inc., AES- IntelliNet, GE Security, Alarm.com, Emizon LLC, Intertek Testing and Security Network of America. NBFAA, and CSAA representing the alarm dealer segment, have 2434 member companies providing alarm service to the public. AICC member companies protect a wide range of sensitive facilities and their occupants from fire, burglaries, sabotage and other emergencies. Protected facilities include government offices, power plants, hospitals, dam and water authorities, pharmaceutical plants, chemical plants, banks, and schools and universities. In addition to these commercial and governmental applications, alarm companies protect an increasing number of residences and their occupants from intruders, burglary and fire. Alarm companies also provide medical alert services for obtaining ambulances in the event of medical emergencies. Therefore, it is important that AICC member companies have a reasonable way to stay in touch with their customers without fear of inadvertently blundering into TCPA violations.

**It is Unreasonable to Punish Service Providers for Contacting a Customer
Using the Contact Number Provided by That Customer**

The Edwards Petition seeks a declaratory ruling from the Commission on a narrow issue, that landline numbers given to creditors by debtors, then later ported to wireless, are not exempted from the TCPA ban on autodialed or automated voice calls to wireless numbers. Edwards bases his argument on language in the *2008 Declaratory*

Ruling,² and is primarily concerned with the charges that result when “unsolicited” calls are made to a wireless phone.

AICC concurs with those comments filed in support of an order denying the Edwards Petition. As many of those comments point out, when a customer gives a vendor or creditor a particular phone number, that customer expects to be contacted on that number in connection with its relationship with that vendor, including any outstanding debt.³ A number of alarm companies use the contact number provided by their customer to not only contact that customer about debt, but also to verify installation/maintenance appointments. Auto dialers or recorded messages can be used for this purpose. In addition, certain alarm companies that have detected an alarm signal and have tried to contact the customer via live operator will use an auto dialer to continue calling the designated contact number, while the operator takes other steps to address the alarm. This use of auto dialers often results in reaching the customer. The ability to make these calls has dramatically reduced false dispatches of law enforcement and is highly recognized by the law enforcement community as a valuable approach to reducing false alarms. Thus, it is important that alarm companies not be subjected to penalties for these legitimate uses of auto dialers and recorded messages.

AICC agrees with the United States Telecom Association’s (“USTA”) analysis of the Commission’s “prior consent” exemption, in which the most logical course is to require the owners of landline numbers provided and then subsequently ported to wireless

² *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Request of ACA International for Clarification and Declaratory Ruling*, Declaratory Ruling, 23 FCC Rcd 559 (2008).

³ See, e.g., Comments of the United States Telecom Association, filed April 2, 2009 at page 1.

to “opt-out” of continued calls. When a customer provides a telephone number to a vendor/creditor to be used as that customer’s contact, permission to call that number should not hinge on whether the number is a landline number or a wireless number. If it is a landline number, and subsequently becomes a wireless number, the Commission should not assume this to be a revocation of that consent. If the customer wishes to have privacy or avoid airtime charges in connection with his or her wireless phone, then that customer can easily have a different phone number assigned to the wireless device. If instead the customer ports their landline number to a wireless phone, the customer can only expect the possibility that any person or entity that has ever been given the landline number may call the wireless phone.

Moreover, alarm companies and other vendors have no way of knowing whether a customer’s landline number has subsequently been ported to a wireless device. Furthermore, the decision to port a number from landline to wireless is a unilateral change by the customer over which the vendor has no control. It would be patently unfair to create the risk of regulatory sanctions against a company that cannot control or even detect a customer’s decision to port their phone number to a wireless phone.

As the comments of SoundBite point out, allowing the port of a previously provided landline number to a wireless line could result in a situation where the creditor has no numbers it is permitted to call.⁴ Consumers rarely convert a landline number to a wireless number, and then obtain another landline number to replace it. This places

⁴ Comments of SoundBite Communications, filed April 2, 2009, at page 4.

legitimate creditors at an unfair disadvantage. And in the case of alarm companies, this disadvantage would hinder more than debt collection efforts.

AICC recognizes the position of commenters in support of the Edwards Petition, but submits that granting the Edwards Petition is an overly broad method of dealing with the issues they cite. Some commenters note that individuals intentionally provide landline numbers to creditors in order to avoid distraction while they are out of their homes. The Commission should not condone porting a number from landline to wireless as method of restricting or removing the ability of a creditor to contact a debtor. As discussed above, AICC submits that where an individual elects to port a number, it becomes the individual's responsibility to change preferences with vendors/creditors as well. Creditors often have no way of knowing a customer has ported his or her number.

Many of the comments in support of the Edwards Petition reach issues plainly outside the scope of that Petition. The Petition expressly deals with the situation where a number, at the time it was given, was a landline number, not a wireless number, and later becomes wireless. The comments of Robert Biggerstaff, for example, deal almost entirely with situations where the debt or the wireless number itself has changed hands.⁵ The law already requires that consent be given to a particular party before that party can call the debtor.

In conclusion, AICC respectfully submits that the Commission should deny the Edwards Petition. As other commenters in favor of this result have indicated, there are

⁵ Comments of Robert Biggerstaff, filed April 1, 2009, at pages 2-4.

numerous drawbacks to a grant of the Petition that create unnecessary disruptions in customer relationships. Most of the reasons commenters supplied in favor of granting the Petition seek to use the Petition as a roundabout, blanket method of dealing with problems outside the specific issue described in the Petition.

Respectfully submitted,

**Alarm Industry Communications
Committee**

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