

October 5, 2010

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

RE: Notice of *Ex Parte* presentation in: WT Docket No. 08-7

Dear Ms. Dortch:

On behalf of Public Knowledge, this letter is to provide information relating to discussions between Public Knowledge (PK) and members of the Commission's staff on October 5, 2010.

Present at the meeting were: Harold Feld and Michael Weinberg, PK; Jim Schlichting, Wireless Bureau, Paul Murray, Wireless Bureau, Nese Guendelsberger, Wireless Bureau/Spectrum and Competition Policy Division, Brenda Boykin, Wireless Bureau/Spectrum and Competition Policy Division, Pramesh Jobanputra, Wireless Bureau/Spectrum and Competition Policy Division, Jenifer Salhus, Wireless Bureau/Spectrum and Competition Policy Division, Jessica Elder, Wireless Bureau/Spectrum and Competition Policy Division, and Sharif Shahrier, Wireless Bureau/Spectrum and Competition Policy Division.

Public Knowledge urged the Commission to move forward on its almost three year old petition, and highlighted some recent incidents that illustrate the inadequacy of the current text message and short code system.

PK noted that the mere classification of text messaging would not impact any potential First Amendment rights of carriers – only regulations implemented after classification could potentially have First Amendment ramifications. Although PK continues to believe that the record is sufficient, particularly with regard to phone-to-phone SMS text messaging, if the Commission seeks further comment in light of changes in law and the market since placing the Petition on Notice in 2008, the Commission should issue a public notice highlighting those areas where it requires additional information. Also, when clarifying the regulatory status of text messaging, the Commission must look to the nature of the service itself, not how the service compares to other services.

PK described the current text messaging and short code systems as increasingly incapable of supporting the growth and diversity of offerings. Recent events prove that unmoderated industry self reform can not solve the problem. Although short codes may have originally been conceived as an advertising platform, today they are used for a multitude of non-advertising related activities that are beyond the scope of current industry structures.

A classification decision by the Commission would help the entire text message industry – wireless carriers, aggregators, mobile marketing companies, and individual users – come together to find a sustainable way forward. Clarification of authority would establish FCC

authority as a backstop to address unwanted actions, would facilitate intra-industry discussions, and could create an open, standard, and fair process for resolving disputes.

In accordance with the FCC's *ex parte* rules, this document is being electronically filed in the above-referenced dockets today.

Sincerely,

_____/s/_____
Michael Weinberg
Staff Attorney
Public Knowledge

CC: Brenda Boykin
Jessica Elder
Nese Guendelsberger
Pramesh Jobanputra
Paul Murray
Jenifer Salhus
Jim Schlichting
Sharif Shahrier