October 29, 2010

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Re: WC Docket No. 08-7, Petition of Public Knowledge et al. for Declaratory Ruling Stating that Text Messaging and Short Codes are Title II Services or are Title I Services Subject to Section 202 Nondiscrimination Rules

Dear Chairman Genachowski:

The undersigned write in support of Public Knowledge’s Petition for Declaratory Ruling Stating that Text Messaging and Short Codes are Title II Services or are Title I Services Subject to Section 202 Nondiscrimination Rules.¹

Text messaging is a necessary tool for many members of our organizations and for countless public interest and civil rights groups. While many of our constituents do not have Internet access, nearly all of them have wireless cell phones. Wireless service providers should not be permitted to discriminate against certain types of text messages at the expense of the general public.² We thus urge the Commission to swiftly exercise its lawful jurisdiction over text messaging services so that we can continue using such services to help our constituents participate in our democracy.

If service providers are allowed to continue the discriminatory practices outlined in Public Knowledge’s Petition, our constituents will be adversely affected. Communities of color have been using short code and SMS messaging to encourage democratic participation and galvanize support for important causes. One example, our “Text JUSTICE” campaign, relies on short code and text messages to mobilize communities across the nation whenever action is needed to support immigration reform. With over 100,000 subscribers, some estimate that “Text JUSTICE” is the largest text message action list in the country.³ This has given voice to many who, traditionally, have not been heard in this important debate. And it has been used to great effect. For instance, in May of this year, the “Text JUSTICE” campaign was implemented to

² However, wireless carriers should be able to continue protecting their customers from text message spam.
assemble over 500,000 people in 30 states in support of just and humane immigration reform. This is just one of the many examples of how text messaging plays a vital role in activism in our communities.

However, in recent history, mobile providers have begun a troubling trend of discriminating amongst text messaging traffic and refusing to deliver texts with which they disagree. Our organizations invest a great deal of time and money into text message advocacy and should not have to worry about the uncertainty of whether or not a service provider will deem our ideas worthy of transmittal.

We know that the FCC is aware of the various attempts at limiting or censoring text messages over the past years. However, in the face of inaction, these episodes bear repeating. In September 2007, Verizon Wireless prevented Naral Pro-Choice America from leasing a short code for their text message subscription service claiming that they “did not accept issue-oriented programs.” Verizon reversed their decision within a week and allowed the service to operate. In March 2010, Sprint Nextel shut down Catholic Relief Services efforts to raise money for the Haitian earthquake due to the inclusion of a feature that allowed donors to initiate a voice connection with the donation center. The donation service was never re instituted. And just last month, T-Mobile faced a lawsuit claiming that the provider blocked users from signing up for a text messaging service that provided information about licensed medical marijuana dispensaries. T-Mobile settled the case out-of-court. The details of the settlement are confidential.

Public Knowledge’s petition has been pending before the FCC for nearly three years. In the meantime, wireless service providers have attempted increasingly bold actions to limit free speech on their networks. It is time for the Commission to put an end to these unfair practices and exercise its rightful jurisdiction over text messaging.

4 More than Half a Million March on May 1, Demand Federal Action on Immigration Reform, available at http://reformimmigrationforamerica.org/blog/more-than-half-a-million-march-on-may-1-demand-federal-action-on-immigration-reform/ (last visited Oct. 15, 2010).
6 Id.
8 Id.
11 Id.
Respectfully submitted,

Alex Nogales, President & CEO  
National Hispanic Media Coalition (NHMC)

Frank Sharry, Executive Director  
America’s Voice

Jose Gomez, Director  
Arkansas Community Council

Gustavo Torres Yotagri, Executive Director  
Casa de Maryland, Inc.

Francisco Lopez, Executive Director  
CAUSA Oregon

Deepak Bhargava, Executive Director  
Center for Community Change

Reverend David Ostendorf, Executive Director  
Center for New Community

Angelica Salas, Executive Director  
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)

Kyle de Beausset, Founder  
Citizen Orange

Juan Soto, Civil Rights of Immigrants, Director  
Gamaliel Foundation

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