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December 8, 2010

VIA ELECTRONIC DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Room TWA325
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation
CG Docket No. 02-278

Dear Ms. Dortch:

Yesterday, Stephen Alterman, President of the Cargo Airline Association ("CAA"); CAA member representative Bill Brown; and the undersigned of Hogan Lovells US LLP, Counsel to CAA, met with Kurt Schroeder and Karen Johnson of the Commission's Consumer and Governmental Affairs Bureau.

During the meeting, the representatives discussed issues raised in the above-captioned proceeding, consistent with CAA's prior filings and the attached outline circulated at the meeting. Specifically, the representatives encouraged the Commission to ensure that any new written consent requirements for prerecorded calls apply only to telemarketing calls. The representatives also encouraged the Commission to clarify that in certain limited circumstances, prior express consent to receive autodialed or prerecorded calls can be provided through an associated party for non-telemarketing calls.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, I am filing this notice electronically in the above-referenced docket. Please contact me directly with any questions.

Respectfully submitted,

/s/ Michele C. Farquhar

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cc: Kurt Schroeder
Karen Johnson

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12/7/10

Outline for FCC Meeting

1. **Introduction: Brief background on CAA and scope of members' businesses / overview of concerns arising within the FCC's TCPA jurisdiction**
   A. CAA is the nationwide trade organization representing the interests of the U.S. all-cargo air transportation industry; CAA members transport approximately 85% of domestic Revenue Ton Miles and sort and deliver millions of packages nightly
   B. Problem: At times, CAA members may need to notify package recipients of scheduled deliveries or failed attempts to deliver specific packages; these calls merely provide a customer service and do not contain any solicitation or product marketing (but are potentially constrained by TCPA rules)
   C. Solution: Two of the FCC's current TCPA proceedings provide vehicles to clarify or remove current constraints (or CAA could pursue a separate Declarative Ruling, waiver, or proceeding)
2. **CAA FCC Filings: CAA has a substantial interest in (and has been an active participant in) the FCC's pending TCPA rulemaking and in the Global Tel*Link Declaratory Ruling proceeding**
   A. CAA filed Reply Comments in the TCPA rulemaking
   B. CAA filed Comments in the Global Tel*Link proceeding
3. **TCPA rulemaking: Any new written consent requirements for prerecorded calls (or other rule changes stemming from the NPRM) should apply only to *telemarketing* calls – the proposed rules would impose additional constraints on CAA members**
   A. The FCC has already recognized the significant difference between telemarketing calls and non-telemarketing service, information, or delivery notification calls; for example, it has exempted such non-telemarketing calls from the ban on pre-recorded messages made to residential phones
   B. As numerous parties commented, extending written consent requirements to non-telemarketing calls to mobile phones would be unduly burdensome, costly, impractical, detrimental to consumers, and contrary to the FTC's Telemarketing Sales Rule
4. **TCPA rulemaking and Global Tel*Link proceeding: As advocated by many parties, the FCC should allow non-telemarketing commercial calls to cellular phones as a general matter and exempt such calls from the TCPA ban, as such calls are effectively not charged to the called party** [broad solution]
5. **TCPA rulemaking and Global Tel*Link proceeding: The FCC should clarify that in certain limited circumstances, prior express consent can be provided through an associated party for *non-telemarketing* calls** [narrowly tailored solution]
   A. For customer service and delivery notification calls made by CAA members, phone numbers are given to carriers by package senders, presumably so they or the intended recipient can be contacted if necessary regarding the shipment; this is very similar to the Global Tel*Link petition scenario
   B. The FCC should clarify that associated third parties (*e.g.*, prisoners, package senders) can provide prior express consent for the called party (*e.g.*, prisoner contacts, package recipients) to receive a cell phone call (including prerecorded or autodialed calls); specifically, the FCC should find that package senders have and can transfer prior express consent to delivery companies on behalf of the intended package delivery recipients by providing contact information, including cellular phone numbers for recipients
      i. The FCC has long recognized the importance of a business's ability to engage in "normal business communications" using telephone numbers that have been provided for that purpose
      ii. The FCC has also recognized that a party that obtains consent to make an automated call can transfer that consent to an associated party (ACA International and State Farm Insurance Orders)
      iii. In the CAA context, there is a relationship between the call recipient and the package sender, on whose behalf the call is made; the package sender is effectively acting as an associated party for the customer or intended package recipient consistent with the flow of goods within the supply chain
      iv. By giving the sender a contact number, the recipient has authorized calls to that number, whether by the shipper or any other member of the supply chain (*e.g.*, other parties that facilitate delivery); thus, the FCC should clarify that package senders have and can transfer prior express consent by the fact that they were given the relevant contact information, including cell phone numbers