

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

**Soundbite Communications, Inc. Petition
for Declaratory Ruling**

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GN Docket No. 02-278

**COMMENTS OF
WMC Global**

WMC Global hereby responds to the Federal Communications Commission (FCC) Public Notice requesting comments regarding CG Docket No. 02 . 02-278 SoundBite Communications, Inc. (SoundBite) request for Petition of Expedited Declaratory Ruling.

SoundBite has been named a defendant in a class action lawsuit seeking compensation for alleged violations of the Telephone Consumer Protection Act (TCPA). Soundbite’s alleged violation of the TCPA resulted from its efforts to conform to the Mobile Marketing Association’s (MMA) consumer best practices, which require Soundbite to send customers a confirmation message on satisfying their request to opt out of a service.

The TCPA aims to protect consumers from telephone solicitations. Restrictions on solicitations are exempt when an established business relationship is present.

“(4) The term established business relationship for purposes of telephone solicitations means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of the subscriber’s purchase or transaction with the entity within the eighteen (18) months immediately preceding the date of the telephone call or on the basis of the subscriber’s inquiry or application regarding products or services offered by the entity within the three

months immediately preceding the date of the call, which relationship has not been previously terminated by either party.”¹

By their nature, premium short message services (PSMS) and standard rate short message services (SMS) are alerts, purchased subscriptions, or add-on services to an existing product associated with a consumer. Through texting a keyword to a shortcode, entering a mobile phone number into a MSISDN field on a Website for access to a product or service, or agreeing to this add-on service, the consumer has entered willingly into business with the entity sending the messages. The Code of Federal Regulations pertaining to Telecommunication states that any request to be removed from the entity’s services or advertisements must be completed “within the shortest reasonable time from the date of such request” but no longer than 30 days from the date of the original request.² Opt-out confirmations occur typically within minutes of the request. Based on Soundbite’s having an established business relationship with the consumers and complying with the “STOP” request within the shortest reasonable time, they are complying with the Telephone Consumer Protection Act.

WMC Global is a third-party organization that specializes in monitoring the compliance of PSMS and standard rate services with carrier policies and industry standards. As an industry expert, WMC Global recognizes the need for industry cooperation and coordinating efforts to best protect consumers from spam and deceptive practices. Because of the varied nature of media that experience spam issues and the differences in how consumers are presented with and experience spam, conflicting rules among mediums are likely to occur. Conflicting guidelines and rules must be examined to determine which provide the best customer experience for the specific medium. Industry guidelines developed by mobile carriers and CTIA-The Wireless Association®, as well as consumer best practices established by the MMA specifically, improve customer experiences and increase transparency within the mobile marketing consumer experience.

¹ Federal Communication Commission. “Delivery Restrictions f.” *Electronic Code of Federal Regulations*, Title 47, 64.1200 (a.1.ii), 2011, <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=4db48af70d11c205b436aca7fc5dacfd&rgn=div8&view=text&node=47:3.0.1.1.11.12.9.1&idno=47>, accessed 04-24-12.

² Federal Communication Commission. “Delivery Restrictions C.” *Electronic Code of Federal Regulations*, Title 47, 64.1200 (c.vi), 2011, <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=4db48af70d11c205b436aca7fc5dacfd&rgn=div8&view=text&node=47:3.0.1.1.11.12.9.1&idno=47>, accessed 04-24-12.

WMC Global believes that SoundBite is not in violation of the TCPA. One-time confirmation messages do not violate consumers' rights; on the contrary, they provide a transparent user experience that complies with MMA consumer best practices. We look forward to further communication that will help establish a unified industry stance, thereby improving consumer protection from unsolicited communications and unfavorable practices.

Respectfully submitted,

/s/

Ian Matthews President and Chief Operating Officer
WMC Global
12700 Fairlakes Circle
Suite 260
Fairfax, VA 22033
Tel (703) 222 6280
www.wmcglobal.com