

May 23, 2012

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Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Ex Parte Notice – SoundBite Communications, Inc., Petition for Declaratory Ruling in CG Docket No. CG 02-278**

Dear Ms. Dortch:

On May 23, 2012, Monica Desai, of Patton Boggs, LLP, counsel to SoundBite Communications, Inc. (“SoundBite”) and SoundBite executives - Bob Leahy (Chief Operating Officer and Chief Financial Officer) and John Tallarico (Vice President of Product Management) – participated in separate meetings with Gene Fullano (Legal Advisor to Commissioner Pai), Angela Kronenberg (Wireline Legal Advisor to Commissioner Clyburn) and Erin McGrath (Media Legal Advisor to Commissioner McDowell). On May 21, 2012, Jamie Goldstein, board member of SoundBite, met with Federal Communications Commission Chairman Julius Genachowski at an event in Boston, Massachusetts, attended by a group of local businesses, and also spoke with Zachary Katz (Chief of Staff to Chairman Genachowski) and Josh Gottheimer (Senior Counselor to Chairman Genachowski) during that same event.

During these meetings, SoundBite discussed its Petition for Declaratory Ruling (“Petition”) requesting an expeditious ruling on the narrow issue that sending a single confirmatory opt-out text message does not violate the Telephone Consumer Protection Act (“TCPA”) or Section 64.1200 of the Commission’s rules.¹ SoundBite emphasized that several factors underscore the need for the Commission to rule expeditiously in favor of its Petition.

In the meetings, SoundBite explained that not only is there widespread agreement throughout the industry and within consumer groups that having a “receipt” for opt out confirmation is a good consumer practice and wise public policy, but such confirmation texts are required by the Mobile

¹ *SoundBite Communications, Inc.*, Petition for Expedited Declaratory Ruling, CG Docket No. 02-278 (filed Feb. 16, 2012) (“Petition”); *see also* Comments of SoundBite Communications, Inc., CG Docket No. 02-278 (filed Apr. 30, 2012); *see also* Reply Comments of SoundBite Communications, Inc., CG Docket No. 02-278 (filed May 15, 2012).

Marketing Association as part of its guidelines on consumer best practices.² As a result, the practice of sending confirmatory opt-out messages is widespread, engaged in by consumer groups (including Consumers Union and the National Consumers League), political organizations (including the Obama for America and Romney for President campaigns), government agencies (including the FCC, USA.gov and the Federal Emergency Management Agency), and non-profit and for-profit entities (including the American Automobile Association and Black Entertainment Television). Furthermore, social media - which is an enormous economic growth engine - and other entities use text messaging as a way to communicate with millions of Americans on important issues, providing consumer benefits through reminders, alerts, and other information requested by users.

SoundBite also described the myriad of complaints and litigation surrounding the narrow issue of single confirmatory text messages of an opt-out. Such disputes are costing the industry millions of dollars in legal fees and potentially billions of dollars in settlements and adverse rulings. These lawsuits are on the rise and exert tremendous pressure on the industry.

Finally, SoundBite noted that the comment cycle for its Petition has closed and that the time is ripe for a ruling clarifying that a single confirmation text of an opt-out is not a violation of the TCPA or Commission rules. As each day passes, more and more resources are being diverted from jobs and instead into defending against mounting frivolous lawsuits.

Respectfully submitted,



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² See Mobile Marketing Association, U.S. Consumer Best Practices, Version 6.0, § 1.6 (March 1, 2011), available at mmaglobal.com/bestpractices.pdf.