

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

In the Matter of:)
)
Rules and Regulations Implementing) **CG Docket No. 02-278**
The Telephone Consumer Protection Act of 1991)
)

**PETITION FOR RECONSIDERATION OF
SATCOM MARKETING, LLC**

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SatCom Marketing, LLC (“SatCom”) requests reconsideration and clarification of the FCC’s February 15, 2012 Report and Order in the above-referenced docket. SatCom is a leading vendor for the cable industry, providing inbound and outbound teleservices to nearly all major MSO’s (multi-state cable systems) for nearly 20 years. SatCom is SRO-Accredited by the American Telemarketing Association/PACE. This accreditation demonstrates SatCom’s commitment to quality and its desire to abide by State and Federal rules.

Concerns about Express Written Consent Requirement Before Calling Cell Phone Users

SatCom is deeply concerned about the FCC’s new rule requiring prior express written consent for sales calls to customers using cellular telephones.¹ SatCom is currently allowed to call customers on their cellular telephones if the customer has provided a cell phone number as their primary contact number. Requiring express written consent before cell phone customers can be called will seriously jeopardize SatCom’s business. It will also hurt consumers by arbitrarily cutting off a convenient and efficient form of communication between consumers and businesses, making it more difficult for consumers to receive information about services they purchase - information that can benefit consumers through savings and better customer service quality.

All customers, wireline or cellular are able to opt out of outbound telemarketing programs already. Do Not Call rules are widely understood by consumers and SatCom routinely honors those requests. The new rule is overinclusive and unduly burdensome on law abiding telemarketing firms. Use and enhanced enforcement of Do Not Call mechanisms is a far more measured approach to dealing with unwanted telemarketing calls. Uniformly and arbitrarily

¹ *In re Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 27 FCC Rcd 1830 (Feb. 15, 2012).

taking away rights telemarketing service providers had to communicate with consumers who choose to use cell phones as their primary contact number unfairly punishes firms like SatCom and others for the sins of less scrupulous market actors.

Clarification Regarding Rules Governing Autodialed Calls to Residential Landline Consumers

SatCom also seeks clarification regarding the Commission's commentary in its order regarding autodialed calls to residential landline customers. Paragraph 2 of the *Report and Order* states that the new rule requires "prior express written consent for all autodialed or prerecorded telemarketing calls to wireless numbers and residential lines" and "eliminate[s] the established business relationship exemption for such calls to residential lines while maintaining the flexibility in the form of consent needed for purely informational calls." However, the final rules included in Appendix A of the *Report and Order* only require prior express written consent for prerecorded calls to residential consumers. While the language of the final rule seems to plainly apply only to prerecorded calls to residential customers, the conflict presents a significant enough risk to SatCom's business interests that SatCom seeks clarification from the FCC on this issue.

Abandoned Call Message Opt-Out

The new rules also require that all abandoned autodialed call messages left during a telemarketing campaign must provide the same automated opt-out mechanism required for prerecorded messages. This requirement will result in a major unnecessary capital investment requirement for many telemarketing companies, including SatCom, who use predictive dialers. SatCom uses predictive dialers to have live conversations, not to play prerecorded messages.

That the FCC was considering applying the opt-out mechanism for prerecorded calls to all abandoned, autodialed calls was not part of the FCC's Notice of Proposed Rulemaking (NPRM). Therefore, SatCom requests the FCC remove the opt-out requirement as it applies to abandoned, autodialed calls. At minimum, the FCC should open a further notice of proposed rulemaking to allow for stakeholder comment on this issue.

Support for Petition for Reconsideration by the Professional Association for Customer Engagement (PACE)

In addition to the points raised herein, SatCom also wishes to express its support for all of the arguments being made by PACE in its petition for reconsideration in this docket.

Conclusion

SatCom respectfully requests the FCC: (i) reconsider and eliminate its rule requiring express written consent prior to placing any telemarketing calls to consumers who have provided their cellular telephone number as their primary contact number to firms with whom they do business; (ii) clarify that prior express written consent is not required in order for businesses using predictive dialers to call residential consumers using landline telephones; and (iii) reconsider and eliminate the rule that abandoned calls using predictive dialers must provide the same opt-out procedures required for telemarketers leaving prerecorded messages. All of these issues pose serious business risks to SatCom and detract from its ability to communicate valuable information about services and products to existing and potential customers.

Respectfully submitted,

SATCOM MARKETING, LLC
By Counsel

A handwritten signature in cursive script, reading "Anthony S. Mendoza".

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