

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of GroupMe,
Inc./ Skype Communications
S.A.R.L, Petition For
Expedited Declaratory Ruling

CG Docket No. 02-278

COMMENTS OF ROBERT BIGGERSTAFF

Introduction

By this Petition, GroupMe specifically “asks the Commission to adopt a definition of ATDS that excludes technologies with a theoretical capacity, but not the actual capability.” (Pet. at ii) This request is 1) contrary to prior Commission orders; 2) contrary to the express intent of Congress on this precise issue; 3) creates unintended consequences; and 4) is contrary to public policy.

Context of the GroupMe petition

The context of GroupMe’s Petition is also telling for what was included, and omitted, from the documents GroupMe has filed. Group me makes a repeated and prominent claim that its service prohibits and is not intended for commercial use or solicitations:

“GroupMe is Not a Marketing Tool and Prohibits Commercial Use”¹

¹ Pet. at 8.

“GroupMe is not a marketing tool, does not generate commercial advertisements, and has implemented policies and procedures to prevent individuals from using the service for commercial purposes.”²

“[T]he terms of service prohibit sending spam or using the service for a commercial purpose.”³

“[GroupMe] is meant to allow for personalized, non-commercial communications among a user-defined group where the communication is of the user’s, and then the group’s, choosing.”⁴

“GroupMe does not send advertising or other marketing messages to GroupMe users”⁵

Contrasting those statements with the future plans of GroupMe published by *Inc. Magazine* (attached hereto), can be quite instructive as to how a ruling on the Petition could be abused:

“Right now we are sending more than two million messages a day,” says Hecht, who says the company plans to add revenue-generating advertising to the app in the next couple of months. “In June, that will be more than 100 million messages a month.” At the end of this year the company will start testing highly targeted, opt-in advertising. “We will mine keywords,” explains Martocci. “So if your group says ‘sushi’ five times, we can send you an ad for a sushi place.”^{6, 7}

² *Id.*

³ *Id.*, at 18.

⁴ *Id.*, at 5.

⁵ Ex Parte Notice of Ex Parte Communication - GroupMe, Inc.’s Petition for Declaratory Ruling and Clarification in CG Docket No. CG 02-278, July 18, 2012, p.2.

⁶ Eilene Zimmerman, *Jared Hecht and Steve Martocci, Founders of GroupMe*, <http://www.inc.com/30under30/2011/profile-jared-hecht-steve-martocci-founders-groupme.html>

⁷ GroupMe has analogized its service to doing a “reply all” response to an e-mail. What is described, however, is an eavesdropper intercepting an e-mail that discusses sushi, and then this third party who was not a participant or a recipient of the original e-mail doing a “reply all” to the intercepted e-mail, sending a commercial advertisement for the sushi restaurant.

Both Mr. Hecht and Mr. Mattocci were directly involved in the filings and ex parte presentations in this proceeding.

GroupMe's filings and ex parte presentations to the Commission, less than a year after their candid disclosures in *Inc.* magazine quoted above, seem to be inconsistent. The documents filed in this proceeding repeatedly eschew that any commercial messages are ever sent using its service, making claims such as "GroupMe does not send advertising or other marketing messages to GroupMe users"⁸ and reciting its terms of service prohibiting users from sending such messages. Yet according to the words of the company's founders who were direct participants in these proceedings, sending commercial advertising appears to be the *sin qua non* of GroupMe's business plan. This begs the question of what other tactical omissions were made by petitioner and its supporters?

GroupMe is not an innocuous social media application provider improvidently snared by an overzealous regulatory scheme. It is not a mere text message platform with an API and totally removed from creation or examination of the content of the text messages like a common carrier or a legitimate text broadcaster. Based on the statements of the company's principals, it is a text message advertising provider. GroupMe clearly *does* intend to send commercial text ads of its own choosing and on behalf of its advertising clients.

⁸ Ex Parte Notice of Ex Parte Communication - GroupMe, Inc.'s Petition for Declaratory Ruling and Clarification in CG Docket No. CG 02-278, July 18, 2012, p.2.

So how will GroupMe obtain the necessary written permission to send such commercial text message solicitations via “opt-in advertising?” Attempting to do so with a text message is itself a solicitation, and thus can’t be made prior to obtaining written permission.⁹ To the extent that GroupMe were to claim that replying to a text message that informed the consumer that they were placed into a distribution list by someone else, constituted “opting in” to later commercial advertising text messages based on the GroupMe terms of service, would cause GroupMe’s original text message itself to be a commercial solicitation for GroupMe’s services, and barred without written consent. Oral permission from a third party is similarly insufficient.

Perhaps GroupMe is now aware of these limitations, which were lost on the founders of the venture in their salad days. To some, the TCPA is not a consumer protection statute, but rather an impediment to text spamming ambitions—and doing what it was intended to do. That would go far in explaining the language in the self-serving interpretation of ATDS and “capacity” that GroupMe seeks to have the Commission adopt.

If the technology employed by GroupMe—that it acknowledges is intended to send 100 million messages a month, and which is intended to include commercial advertising text messages—is not an ATDS, then GroupMe needs no permission *whatsoever* to send text spam advertisements to *anyone*. Nor will any other text

⁹ The Commissions has previously declared that a call or message seeking permission for a future solicitation message, is itself a solicitation. *Rules and Regulations Implementing the TCPA*, 10 FCC Rcd 12391, 12408, ¶15 (1995).

spammer using that technology. I would personally not want to have a cell phone that is capable of receiving text messages were that to come to pass.

GroupMe's request is contrary to prior Commission orders

In the 2003 *TCPA Report and Order*, the Commission interpreted the TCPA's ATDS provisions as applicable to text messages.¹⁰ There has been no change to warrant walking back the cat. If anything, more rigorous interpretation, application, and enforcement of the TCPA is called for.

GroupMe's request is contrary to the express intent of Congress on this precise issue

As comments on this docket over the years have repeatedly stated, Congress clearly was aware of, and intended, the definition of "automatic telephone dialing system" to be broad, and explicitly intended that it would apply to any device that acquires such capability if the device can be "used in conjunction with other equipment:"

It should be noted that the bill's definition of an "automatic telephone dialing system" is broad, not only including equipment which is designed or intended to be used to deliver automatically-dialed prerecorded messages, but also including equipment which has the "capability" to be used in such manner. The Committee is aware of concerns that this broad definition could cover the mere ownership of office computers which are capable, perhaps when used in conjunction with other equipment, of delivering automated messages.

H.R. Rep. No. 633, 101st Cong., 2nd Sess. (1990).

The GroupMe proposal creates unintended consequences and is contrary to public policy.

¹⁰ 2003 TCPA Order, 18 FCC Rcd 14014 ¶165 (2003).

The Commission must be very cautious in the language it uses in any commentary or rules involving the definition or application of the term ATDS. The autodialer restriction that imposes a requirement of express consent, is currently the **only** provision of the TCPA which protects innocent consumers from being inundated with spam text messages.¹¹ If text messages can be sent in any automated or semi-automated fashion without using an ATDS, then no consent of any type is required to send spam text messages to any cell phone using such a scheme.

Whatever technical elements the Commission uses to identify an ATDS, there are marketers and text spammers who have tremendous financial incentives to send spam text marketing messages.¹² 4.5 billion spam messages are sent annually in the U.S., despite the TCPA.¹³ That number will grow by several orders of magnitude without the TCPA. Spammers will quickly develop purpose-built systems to evade

¹¹ New legislation, such as S.788, The m-SPAM Act of 2009, was never passed, in large part due to the presence of the TCPA as an existing bulwark against text message spam. Theoretically, the Commission could construe text messages as a form of “artificial or prerecorded voice” which would, however, raise other unintended consequences.

¹² If anyone doubts such incentives exist, unscrupulous people are currently sending massive numbers of spam text solicitations, despite their patent illegality. Providing a roadmap for sending text messages without involving an ATDS will provide a roadmap to a place where cell phone text messaging will be unusable by consumers. At times, spam e-mail has represented over 90% of the worldwide e-mail volume. Spammers are now turning to social media communications tools, and text messaging services like GroupMe will be used. *See, e.g., ‘Likejacking’: Spammers Hit Social Media*, Businessweek, <http://www.businessweek.com/articles/2012-05-24/likejacking-spammers-hit-social-media> (last visited Aug. 16, 2012).

¹³ “The number of U.S. spam text messages rose 45 percent last year to 4.5 billion messages.” Olga Kharif, *Mobile Spam Texts Hit 4.5 Billion Raising Consumer Ire*, <http://www.bloomberg.com/news/2012-04-30/mobile-spam-texts-hit-4-5-billion-raising-consumer-ire.html> (last visited Aug. 28, 2012). *See also*, Eric A. Taub, *Fighting Back Against Spam Texts*, <http://www.nytimes.com/2012/04/05/technology/personaltech/fighting-back-against-spam-text-s.html> (last visited Aug. 28, 2012).

any limited definition of ATDS. While a test that imposes a “human intervention” requirement so that human intervention is required to direct a dialing device to dial each individual phone number may seem at first glance effective, developments in spam and astroturfing on the Internet have shown that large cadres of live persons are available in places like India for marketers to use to do repetitive computer tasks such as clicking on a button to get past systems intended to prevent automated systems from sending spam messages.^{14, 15} These same human robots can be tasked with clicking on a button 200 times a minute to send spam text solicitations, and thus satisfying a “human intervention” requirement for each individual message.

The Commission must also carefully consider that other entities will implement terms of services and practices that are much less rigorous in consumer protection than those claimed by GroupMe, in order to generate a quick buck. Without vicarious liability, they can simply pay “lip service” to policies prohibiting unsolicited or commercial text messages in order to evade liability, while at the same time remaining intentionally ignorant of who their users are and what those users are doing with the service. Notably, GroupMe states there are no fees for using

¹⁴ See, e.g., Dancho Danchev, *Inside India's CAPTCHA solving economy*. ZDNet, <http://www.zdnet.com/blog/security/inside-indias-captcha-solving-economy/1835> (last visited Aug. 27, 2012).

¹⁵ “The spambots use readymade tools from ‘Captcha Relay Service Providers’ (‘Captcha Farms’) to relay the image to human image-solvers from developing countries. These are paid as low a cent to solve 20 captchas, working from home.” *With Old-Guard Captcha Solutions Rendered Ineffective by ‘Captcha Farms’, CAPTCHA2.0 is Now Available From SiteBlackBox*, <http://www.techbriefing.net/modules.php?op=modload&name=News&file=article&sid=153715> (last visited Aug. 27, 2012).

the service, so there is no opportunity for realistic verification of who a user is, beyond having access to a particular cellular telephone number.

Third Party Permission

GroupMe asks the Commission to clarify that “for non-telemarketing, informational calls or text messages to wireless numbers, which can permissibly be made using an ATDS under the TCPA with the called party’s oral prior express consent, the caller can rely on a representation from an intermediary that they have obtained the requisite consent from the called party.”

In one respect, the Petition is unnecessary. GroupMe may certainly chose to rely on, and benefit from, accurate statements of a user that the user has obtained permission from a recipient for GroupMe to send messages composed by the user to that recipient. This is no different from telemarketers that rely on representations of third parties that a particular number is not on the national DNC list, or that rely on third parties to relay consumer DNC requests to the telemarketer.¹⁶ But GroupMe also must consider the possibility that the statement of the user is inaccurate, and the recipient of a message has *not* consented to it. GroupMe’s remedy in that case is its indemnification clause which the user has consented to. GroupMe is totally protected, and needs no ruling from the Commission to assist it in recovering for any injury it incurs due to a misrepresentation of its user, or in benefitting from the accurate representations of its users.

¹⁶ See, e.g., 47 C.F.R. 64.1200(d)(3) and accompanying text of the related Commission orders.

The protestations of GroupMe must therefore be seen as either 1) wholly unnecessary or 2) a subterfuge for objecting to something else.

In this regard, the GroupMe petition is logically inconsistent. GroupMe acknowledges that if the text messages were commercial messages, that written permission would be required. The way GroupMe apparently addresses this issue¹⁷, is through its terms of service, relying on its users to not send commercial messages, just like it relies on users to not add a cell phone number to a distribution list unless the user has permission of the recipient to do so.

So what does GroupMe do if a prohibited commercial text message is sent using its service?¹⁸ Presumably it would rely on its terms of service for indemnification from the user who violated the terms of service. Why is that not an appropriate solution when the user violates the provision in the terms of service regarding accurately stating permission of the recipient was obtained? Or perhaps the next petition from GroupMe will be to be allowed to “rely” on representation from the user that it will only use the service to send noncommercial messages, and then have no responsibility when commercial messages are sent in violation of the terms of service.

¹⁷ GroupMe claims that the limited length of text messages “effectively discourages commercial use” (Pet. at 5) but as anyone with a cell phone can attest, unsolicited commercial solicitations are commonly sent via spam text messages. This also calls into question the integrity of GroupMe’s entire filing, since clearly GroupMe intends to send commercial text ads, despite the “limited” size of text messages.

¹⁸ GroupMe asserts that it does not monitor, edit, or otherwise censor users’ messages.

GroupMe can and already does rely on its users for its compliance with the TCPA. GroupMe also requires its users to indemnify it if GroupMe suffers any harm, including attorney fees, arising out of the use of the service. What GroupMe is actually seeking, is effectively a blanket *exemption* from the TCPA. However, GroupMe's remedy already exists—seek indemnification from the user. GroupMe apparently doesn't want to seek this already available remedy. It would rather neuter the TCPA for everyone.

Insulation from responsibility will create a moral hazard

The oft used maxim in the law *sic utere tuo ut alienum non laedes*¹⁹ is applicable here. GroupMe has the onus to act responsibly so that no one is harmed by its service. If GroupMe wants to rely on representations of its user for benefits that flow from those representations, it must bear the responsibility of that reliance, or otherwise a moral hazard is created where there is no incentive at all to act as a gatekeeper to keep the pigs out of the parlor. The operator of a service such as GroupMe that can so easily be abused, must have an incentive to vet its users and have proper controls to prevent exploitations at the expense of the innocent bystander. Indeed, strict vicarious liability is the only bar to wholesale abuse of all cost-shifted advertising mediums, including SPAM e-mail (CAN-SPAM Act) and junk faxes (TCPA).

¹⁹ *Arizona Copper Co., Ltd. v. Gillespie*, 230 U.S. 46 (1913). (Use your own property so as not to injure another's property.)

Suppose a GroupMe user creates a group of 24 consumers, which according to GroupMe, will result in text messages sent to those consumers “welcoming” them to the service. And suppose further, that none of these consumers chose to spend the money and time to reply to the unwelcome text messages. Based on GroupMe’s own materials, that act of the group creator will result in 96 text messages about the GroupMe service (each person getting 4 text messages according to GroupMe’s filings). One human action produces 96 text messages to people who don’t want them. It is GroupMe alone, not the user, that is solely responsible for at least 72 of those messages.

Delegation of compliance

By relying on a third party to get consent for GroupMe, GroupMe is essentially delegating compliance with the law to a third party. This is similar to telemarketers relying on third parties for DNC list compliance and managing DNC requests. The nondelegable duty doctrine applies here.

Nondelegable duties are frequently recognized in consumer protection statutes and for protection of the public.²⁰ By holding the advertiser liable for violations of TCPA, the Commission has recognized the applicability of the nondelegable duty doctrine. Nondelegable duties are a well established principle in

²⁰ See, e.g., *Carson v. Vance*, 485 S.E.2d 126, 130 (S.C. Ct. App. 1997) (bail bondsmen); *Durkin v. Hansen*, 437 S.E.2d 550, 553 (S.C. Ct. App. 1993) (landlords); *Jenkins v. E.L. Long Motor Lines, Inc.*, 103 S.E.2d 523 (S.C. 1958) (common carriers); *Simmons v. Tuomey Reg’l Med. Ctr.*, 498 S.E.2d 408, 412 (S.C. Ct. App. 1998) (hospitals).

federal law²¹ and under the Commission's administration. "Further, the Commission has explained that under long established principles of common law, statutory duties are nondelegable and that employers are routinely held liable for breach of statutory duties by their independent contractors." *In re Eure Family Ltd. P'ship*, 17 FCC Rcd. 21,861, 21,864 (2002); "Employers are routinely held liable for breach of statutory duties, even where the failings are those of an independent contractor, and even where the party seeking redress is other than the government." *In re Vista Servs. Corp.*, 15 FCC Rcd. 20,646, 20,650 n.24 (2000). *See also, Alva Steamship Co., Ltd. v. City of New York*, 616 F.2d 605, 609 (2d Cir. 1980) (exception to the rule of nonliability for the negligence of independent contractor if "the negligence of an independent contractor who performs a duty imposed by statute on the employer."); *Marr v. Rife*, 503 F.2d 735, 741 (6th Cir. 1974) ("[T]he duty to obey the law is non-delegable.") (quoting *United States v. Youritan Const. Co.*, 370 F. Supp. 643, 649 (N.D. Cal. 1973), *aff'd in part and remanded in part by*, 509 F.2d 626 (9th Cir. 1975)). *See also* RESTATEMENT (SECOND) OF TORTS § 409, comment b at 371 (employers routinely held liable for breach of statutory duties, even where the failings are those of an independent contractor, and even where the party seeking redress is other than the government.) A nondelegable duty applying strict vicarious liability under the TCPA is amply justified.

²¹ *See, e.g., Shenker v. Balt. & O. R. Co.*, 374 U.S. 1, 7 (1963) (FELA); *McCloy v. U.S. Dept. of Agric.*, 351 F.3d 447 (10th Cir. 2003) (Horse Protection Act); *MBH Commodity Advisors, Inc. v. Commodity Futures Trading Comm'n*, 250 F.3d 1052 (7th Cir. 2001) (Commodities Exchange Act); *Walker v. Crigler*, 976 F.2d 900, 904 (4th Cir. 1992) (Fair Housing Act).

There is no bright-line test for recognizing a nondelegable duty. The essence of such a determination is a policy decision, where deference to the administrative agency is even more appropriate. Assuming, *arguendo*, the Commission guidance was unavailable, the courts look to public policy:

It is difficult to suggest any criterion by which the non-delegable character of such duties may be determined, other than the conclusion of the courts that the responsibility is so important to the community that the employer should not be permitted to transfer it to another.

Simmons v. Tuomey Reg'l Med. Ctr., 498 S.E.2d 408 (S.C. Ct. App. 1998) *citing* W. Page Keeton et al., PROSSER AND KEETON ON THE LAW OF TORTS § 71, at 511 (5th ed. 1984). The sanctity of the home to be free from what Senator Hollings called “telephone terrorism”²² when he introduced the TCPA in the Senate, is certainly an important responsibility to the community. Once again, the Commission has made the policy determination in its prior rulemaking proceedings, and there is no basis for questioning that interpretation.

The discussion in *Walker v. Crigler*, 976 F.2d 900 (4th Cir. 1992) is instructive. In interpreting the Fair Housing Act to place a nondelegable duty on the property owner for compliance with the act, the court noted that imposing such a nondelegable duty serves the “overriding societal priority” and “ensure[s] that similar harm will not occur in the future.” The property owner is not without recourse however – “The [real estate] agent [who violated the FHA] may be subject to liability to his principal because he has ... committed a tort or a crime upon a third

²² 137 Cong. Rec. 30,821 (1991) (statement of Sen. Hollings).

person for which the principal is liable.” *Id.* at 905 n.9. Such a provision also discourages the principle from using fly-by-night contractors who disappear or are otherwise judgment-proof.

Third Party Permission Paradigms

There is an important difference in the following two scenarios:²³

User A tells company B that consumer C gave permission to A to send text messages to C, and A wishes to use company B’s system to send messages composed by A to C.

User A tells company B that B has permission to send messages composed by B to consumer C.

In the former example, company B is acting as a text broadcaster, and like a voice broadcaster or fax broadcaster, could be a disinterested neutral platform operator or an unscrupulous shill knowingly serving spammers or having another form of a high degree of involvement or knowledge of the intentions of the user.

In the latter example, company B is clearly highly involved, as B is creating the content of the message, and has delegated compliance with the law (i.e. ensuring consent was obtained) for its own messages through reliance on a third party.

Liability of company B in the first example requires an inquiry into additional facts to distinguish the disinterested neutral platform operator from an unscrupulous shill knowingly serving spammers. However, liability of company B in the second example is already established through the stated facts.

²³ The concept that a GroupMe user could authoritatively claim permission for GroupMe to send a text message on behalf of a fourth-party sushi restaurant is even farther fetched than these.

GroupMe describes its service to make it appear to fall within the first example, and it may be for messages composed solely by the user. But GroupMe composes its own messages, and sends them to the consumers that were added to a distribution lists by the user. That places—at least some of GroupMe messages—squarely within the second example.

Lack of Candor

GroupMe’s filings display a carefully crafted campaign of providing only selective information and deceptive descriptions of its service. This lack of candor should not be rewarded.

GroupMe’s attempt to paint itself as analogous to a school notifying parents of a school closing is deceptive at best. Such messages obviously fall under the emergency nature exception of the TCPA. If, however, a school is using text messages or prerecorded message to advertise a commercial activity such as a sushi restaurant, a school is required to get express written consent from the recipient before sending such text messages.

RECOMMENDED FINDINGS

I respectfully suggest that the Commission should make the following findings:

- Make no departure from previous rulings on ATDS and the interpretation of “capacity” other than to elaborate that consistent with modern technology and in concert with congressional intent, “capacity” expressly

includes a capabilities realized if a device can be “used in conjunction with other equipment”

- For invitation, permission, or consent to any form of call or message to be “express” it must be set forth in words (oral or written) in an affirmative and individual manner and not obtained in an adhesive manner.²⁴ In particular it can not merely be one of multiple clauses in contract boilerplate or terms of use of a website. This truism is supported on all fours by the well settled definition of “express:”

Clear; definite; explicit; plain; direct; unmistakable; not dubious or ambiguous. Declared in terms; set forth in words. Directly and distinctly stated. Made known distinctly and explicitly, and not left to inference. *Minneapolis Steel & Machinery Co. v. Federal Surety Co., C.C.A.Minn.*, 34 F.2d 270, 274. Manifested by direct and appropriate language, as distinguished from that which is inferred from conduct. The word is usually contrasted with “implied.”²⁵

- Consistent with the determinations of the FTC, consent for ADTS or prerecorded calls can not be obtained as a condition of service.
- Consistent with the Commission’s existing administration of the TCPA, senders may use a third party to fulfil the sender’s obligations imposed by

²⁴ See, e.g., *Gambelia v. XYZ Corp.*, 802 N.E.2d 745 (Ohio 2003) (express consent in the context of faxes can not be obtained without clear disclosures); *Schumacher Fin. Svcs., Inc. v. Metropark Comm.*, 2003 TCPA Rep. 1093 (Mo. Cir. Feb. 14, 2003) (same). See also, 1992 TCPA Order, 10 FCC Rcd 12391, ¶11 (1995). (“Express permission or invitation” must be clearly stated and specifically identify the elements of what being consented to.)

²⁵ *Black’s Law Dictionary* (Revised 6th ed.)

the TCPA, but senders bear the responsibility for any failures of the third party.²⁶

CONCLUSION

At one time in the course of history, travel outside the city walls was fraught with highwaymen and peril. But expansion of commerce, and the elevation of the standard of living for all, demanded travel and trade. The presence of rigorous law enforcement was a crucial element in that expansion because it made trade possible by making travel safer.

Text messaging, cell phones, and the ubiquity of other modern communications technologies have the capacity to expand and enhance our lives. Yet the digital highwaymen are making consumers cautious—and for good reason. I am among many people who are reluctant to share a cell phone number or e-mail address with *any* business because of the risk of it being abused.²⁷ Like the law enforcement programs of the past that enabled greater trade and its attendant benefits, more rigorous protections of our newest communications mediums will actually encourage more consumers to share the contact information that

²⁶ See 47 C.F.R. 64.1200(d)(3)(party on whose behalf a call is made is liable for failures of a third party to correctly record do-not-call requests); See also 47 U.S.C. § 217 (users of national telecommunications infrastructure like GroupMe are liable for acts of a person acting for such a user).

²⁷ I have had to abandon many e-mail addresses because the business I gave that (unique) e-mail address to abused it by either sending spam e-mails itself, or giving the address to others who used it to send spam.

businesses want us to share. Give consumers *greater* protection from the digital highwaymen and we will be free to use that highway to its fullest benefit.

Respectfully submitted, this the 28th day of August, 2012.

/s/ Robert Biggerstaff

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Eilene Zimmerman

Jun 27, 2011

Jared Hecht and Steve Martocci, Founders of GroupMe



Courtesy Company

Last May, Jared Hecht's fiancée was heading to a music festival in Colorado and complaining that she and her friends had no reliable way to stay in touch with each other while there. Hitting "reply all" to emails was cumbersome and not everyone in her group had a smart phone. Even if they did, they couldn't count on a data connection. Hecht called his friend, software engineer Steve Martocci, and asked for help.



Founders: Jared Hecht, 24 (pictured right); Steve Martocci, 29

Company: GroupMe

Year founded: 2010

Location: New York

2010 Revenue: Undisclosed

2011 Projected Revenue: Undisclosed

Employees: 19

Website: GroupMe.com

Facebook: Facebook.com/GroupMe

Twitter: [@GroupMe](https://twitter.com/GroupMe)

\$850,000 from a group of investors that included First Round Capital, Lerer Ventures, and Silicon Valley angel Ron Conway, whose investments include Google and Facebook.

In September 2010 they launched the beta version of GroupMe at TechCrunch Disrupt in San Francisco. By the time they introduced a 2.0 version in March of this year, they had \$10.6 million from a second round of fundraising in December, an office in New York City's Union Square, and 19 full-time employees. At South by Southwest this year, GroupMe won the Breakout Digital Trend award.

"Right now we are sending more than two million messages a day," says Hecht, who says the company plans to add revenue-generating advertising to the app in the next couple of months. "In June, that will be more than 100 million messages a month." At the end of this year the company will start testing highly targeted, opt-in advertising. "We will mine keywords," explains Martocci. "So if your group says 'sushi' five times, we can send you an ad for a sushi place."

Hecht says people use GroupMe in ways he and Martocci never imagined—for bible studies, to rally around a friend undergoing chemotherapy, to organize a neighborhood watch. "We just wanted to be able to stay in touch at concerts and make going to the bar with our friends easier," he says. "So this is pretty incredible."



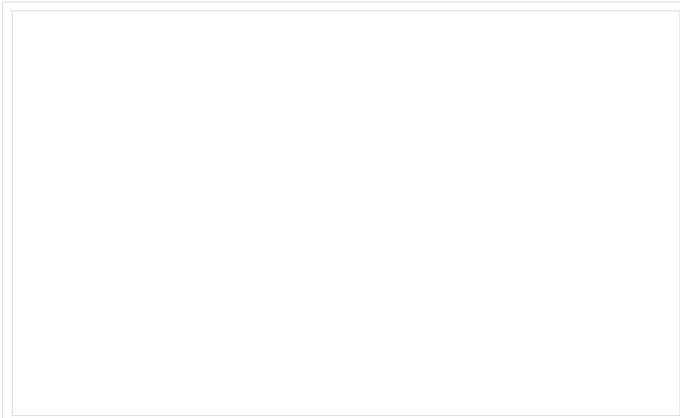
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- **2009** The founders of Mashable, ModCloth, Thrillist, IdeaPaint, and Justin.TV are included on our annual list of the most fascinating entrepreneurs under the age of 30. Kylie Smitley of Barley & Birch and Jamail Larkins of Larkin Enterprises were voted the favorites on the list by Inc.com readers.
- **2008** Meet Mint.com's Aaron Patzer, the 20-something who built a \$170 million personal-finance powerhouse, Bobby Kim and Ben Shenassafar, law-school classmates who started a popular streetwear brand called The Hundreds, and more.





GroupMe

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