

Comments of Michael C. Worsham on the GroupMe/Skype petition to the FCC regarding the definition of “automatic telephone dialing system” under the Telephone Consumer Protection Act, 47 U.S.C. § 227.

I oppose the GroupMe/Skype petition to redefine “automatic telephone dialing system” (ATDS) under the Telephone Consumer Protection Act, 47 U.S.C. § 227. The TCPA’s purpose, as embodied in its name, is consumer protection. However the Skype Petition is an attempt to thwart and defeat consumer protection, to enable Skype to make money sending commercial text messages. This was demonstrated in Inc. magazine, where GroupMe founder Jared Hecht stated the intent to send 100 million message per month. *See Eilene Zimmerman, Jared Hecht and Steve Martocci, Founders of GroupMe,* <http://www.inc.com/30under30/2011/profile-jared-hecht-steve-martocci-founders-groupme.html>

I am a consumer attorney, and can provide some insight as to how this could and likely will be abused based on an actual case.

In a case I handled, a debt collector used an ATDS to call my client numerous times for a debt that was owed by somebody else. The collector obtained my client’s number automatically from a skip trace service, automatically downloaded the number into its ATDS, and then started autodialing repeatedly, in violation of the TCPA. My client is charged for calls made to the client’s number.

After my client complained, the calls stopped. But a few months later the same collector obtained my client’s number a second time from the same skip trace service, as part of an effort to collect yet another, different debt, which was also not my client’s debt. The same process occurred, with my client’s same number being automatically downloaded into the collector’s ATDS, and then repeated calls being made in violation of the TCPA to the client’s number for which the client was charged.

The collector disputed that their equipment was an ATDS but eventually acknowledged it was. This collector had received a large fine not long ago when operating under a different name. If the GroupMe/Skype Petition is granted, I am sure debt collectors like this one will flock to any equipment that will give them an out, exception, exemption or relief from the protection the TCPA currently provides from calls and text messages made by an ATDS to cell phone numbers and numbers for which the called party is charged, and exploit the exemption or new definition for commercial profit at much detriment to the public. The experience of my client described above is an example of the damage that would result.

The FCC should deny the Petition in its entirety, and rather than weaken the TCPA, as this Petition clearly seeks to do, should consider and find ways to strengthen the Commission’s rules.

Thank you

Michael C. Worsham