

November 15, 2012

Via ECFS

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

*Re: CG Docket No. 02-278, Communication Innovators Petition for Declaratory Ruling,
Public Notice DA 12-1653*

Dear Secretary Dortch:

Global Connect, pursuant to the Federal Communications Commission's ("Commission") Public Notice in the above-referenced proceeding,¹ hereby submits these comments in support of the Communication Innovators Petition for Declaratory Ruling ("CI Petition"). Global Connect is a leading provider of hosted dialer and automated voice messaging for the debt collection market and offers innovative, customizable predictive dialer solutions to clients and consumers, including emergency notification alerts such as the ones many received during Hurricane Sandy. The dialer does not have the ability to randomly generate or sequentially dial numbers but is currently classified as an ADAD under the recent court rulings. Global Connect requests that the Commission grant the CI Petition and confirm that when predictive dialers are not used for telemarketing purposes and do not have the ability to generate and dial random or sequential numbers, they are not "automatic telephone dialing systems" ("autodialers") under the Telephone Consumer Protection Act ("TCPA") and the Commission's related TCPA rules."²

As CI discusses in its Petition, predictive dialers provide significant benefits to both consumers and businesses. For example, they enable companies with a legitimate need to contact a large number of specific customers for non-telemarketing purposes to do so accurately, efficiently, and cost-effectively. They also significantly increase the amount of time that live representatives are available to discuss and address non-telemarketing matters with customers by eliminating the time spent waiting for busy signals and answering machine recordings. In addition, they reduce the need for callers to rely on prerecorded messages to provide time-sensitive, non-telemarketing information to their customers. Companies are now using these dialers to place a variety of non-telemarketing calls, such as for service and repair appointments, fraud and identity theft warnings, transportation delays, data breach notifications, and insurance coverage interruption. One very important example and use of this technology is the emergency notification calls to residents that during Hurricane Sandy, where many peoples lifeline to the outside world. Global Connect made over 40 million calls during Hurricane Sandy for local municipalities, utility company's, first responders and so forth. We received e-mails after e-mails thanking us for this wonderful technology.

Consumer-friendly predictive dialers also enhance consumer privacy in many ways, including by preventing "wrong number" dialing caused by manual number entry. They can also limit calls to certain times of the day or days of the week and provide a specified amount of time between calls. In addition, predictive dialers can enable personalized calling preferences such as contacting an

¹ *Consumer and Governmental Affairs Bureau Seeks Comment on Petition for Declaratory Ruling from Communications Innovators*, CG Docket No. 02-278, Public Notice, DA 12-1653 (CGB rel. Oct. 16, 2012).

² *Id.*

individual at one telephone number during the day and another in the evening or placing scheduled callbacks requested by a customer. As noted above, they also help protect against fraud and identity theft. They are also a critical tool in helping companies comply with Federal and state consumer protection laws.

Predictive dialers used for non-telemarketing calls do not enable any new unwanted calls or impose any new costs on consumers. The TCPA allows callers to place live, non-telemarketing calls to consumers. Because predictive dialers require human representatives on the phone, they do not allow companies to make *any* new non-telemarketing calls that they would not otherwise be able to make under the TCPA. They cannot, for example, place thousands of calls in minutes as would be the case with prerecorded “robocalls.” Predictive dialers used for non-telemarketing calls likewise do not impose any new charges on consumers (as such calls can already be placed manually under the TCPA). In fact, by avoiding misdialed wrong-number calls, predictive dialers actually reduce the costs imposed on consumers.

Global Connect also agrees with CI that today’s predictive dialers are not autodialers under the plain language of the TCPA. Simply put, many predictive dialers do not have “the capacity . . . to store or produce numbers to be called, using a random or sequential number generator.”³ For example, the predictive dialers that Global Connect provides rely on the user to enter specific telephone numbers via existing customer lists—the dialers cannot generate random or sequential numbers (and therefore also cannot call such numbers or store them in a database).

Global Connect also notes that the Commission can grant the CI Petition without spurring *any* unwanted telemarketing calls. The TCPA does not define “predictive dialer,” and the Commission has discretion to interpret the scope of the term autodialer differently based on whether a company is placing a telemarketing or a non-telemarketing call – the same distinction that it made in the *Robocall Report and Order*.⁴ A telemarketing/non-telemarketing call distinction aligns precisely with any potential incentive a company would have for abuse. For example, companies placing non-telemarketing calls to their own customers have no need to generate, store, or dial random or sequential telephone numbers. Telemarketers, on the other hand, may be trying to cold-call new individuals and are thus likely to push the envelope in using predictive dialers.

For the foregoing reasons, the Commission should grant the CI Petition and confirm that parties may use predictive dialers to place non-telemarketing calls with live representatives without running afoul of the TCPA’s autodialer restrictions.

Respectfully Submitted,

³ 47 U.S.C. § 227(a)(1)A).

⁴ See *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 27 FCC Rcd 1830 (2012) (“*Robocall Report and Order*”).

Darrin R Bird
Chief Operating Officer
Global Connect LLC
5218 Atlantic Avenue Suite 300
Mays Landing, New Jersey 08330
609.837.8200
dbird@gc1.com