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March 19, 2013

VIA ECFS

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

Re: Notice of *Ex Parte* Presentation, DISH Network L.L.C.
CG Docket No. 11-50
Petition for Declaratory Ruling Concerning The Telephone
Consumers Protection Act (TCPA)

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, the undersigned counsel hereby provides notice that on March 15, 2013, DISH Network L.L.C. ("DISH") met with the Elizabeth Andron, Acting Chief Counsel and Senior Legal Advisor, and Lyle Elder, Legal Advisor, both with the Office of Chairman Julius Genachowski. In attendance on behalf of DISH were Jeffrey Blum, Senior Vice President and Deputy General Counsel, Alison Minea, Corporate Counsel, Hadass Kogan, Associate Corporate Counsel; and Steven A. Augustino and Alysa Z. Hutnik of Kelley Drye & Warren LLP.

DISH reiterated its position that, if the Commission determines that some third party liability is permissible under the TCPA, federal agency law would govern the scope of such liability. DISH explained that the existing federal common law of agency is sufficient to provide the needed uniformity and predictability for telemarketers and consumers. The FCC should not create a new standard, as urged by the FTC and DOJ, because such a deviation from federal common law would be unlawful, would lead to more litigation, not less, and likely would lead to future referrals to the Commission to explain the new standard.

DISH further expressed its concern that the Commission avoid diluting the federal common law standards in an attempt to provide a telemarketing-specific discussion. DISH stated

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that the common law standards were well known to federal courts and provided meaningful protections for consumers to ensure that telemarketing is conducted in compliance with federal law. DISH expressed concern that any dilution of these well-known standards would amount to strict liability for actions of retailers and would offer sellers no meaningful way to control their potential liability from telemarketing.

DISH therefore urged the Commission to state that the federal common law of agency governs the issue of potential liability for the actions of third-party retailers.

In addition, DISH provides notice that, on March 15 and March 18, the undersigned had further conversations with Ms. Andrion concerning the draft order under consideration. These conversations reiterated the points and concerns described above.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven A. Augustino". The signature is written in a cursive style with a large initial "S" and "A".

Steven A. Augustino

SAA:pab

cc: FCC personnel listed above