

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

In the Matter of )  
 )  
Rules and Regulations Implementing the ) CG Docket No. CG 02-278  
Telephone Consumer Protection Act of 1991 )  
 )  
Petition for Declaratory Ruling of a Coalition )  
of Mobile Engagement Providers )

To: The Commission

**COMMENTS OF THE MOBILE MARKETING ASSOCIATION**

The Mobile Marketing Association (MMA) is writing in support of the Petition filed by the Coalition of Mobile Engagement Providers requesting the Federal Communications Commission (FCC) to explicitly declare that in those cases where a mobile marketer has, prior to October 16, 2013, already received a consumer's express consent in writing to receive certain mobile marketing communications, the consumer does not have to take additional steps in order to continue receiving those messages, and the mobile marketer does not need to take steps to obtain the revised forms of written consent applicable to *new* customers starting October 16, 2013.<sup>1</sup>

The MMA is an international, not-for-profit trade association that represents all players in the mobile industry, including brand marketers, enabling technology providers, and sellers of advertising and marketing services.<sup>2</sup> A central tenet of the MMA is that brand marketers and their marketing partners must always provide consumers with transparency, notice and choice. Requiring transparency is good business and is the right way to operate – it engenders trust among consumers,

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<sup>1</sup> *A Coalition of Mobile Engagement Providers*, Petition for Declaratory Ruling, CG Docket No. 02-278 (filed Oct. 17, 2013) (“Petition”); see also *Consumer and Governmental Affairs Bureau Seeks Comment on Petition for Declaratory Ruling From A Coalition of Mobile Engagement Providers*, Public Notice, CG Docket No. 02-278, DA 13-2118 (rel. Nov. 1, 2013) (“Public Notice”).

<sup>2</sup> See <http://www.mmaglobal.com/member-center/members> for a list of members.

and this trust is essential to creating a healthy marketplace and ecosystem for marketers and consumers alike.

From the beginning of the MMA's existence, we have worked diligently to grow the mobile industry responsibly and ensure that consumers are comfortable with outreach from brands on their mobile devices. In 2005, when mobile marketing was still in its infancy and messaging was still in development, the MMA brought together an industry coalition that created a set of rules and disclosures called the Consumer Best Practices Guidelines. All senders and recipients of messages through the short code channel are subject to these comprehensive wireless industry guidelines that serve as de facto rules. These de facto rules contain rigorous requirements before a mobile text messaging telemarketing campaign can be launched, including a requirement that express written consent must be obtained before a mobile marketer can send any telemarketing messages to a consumer via text message.

The MMA updated these rules twice per year to stay in stride with the industry's rapid evolution until the final version 7.0 was posted in 2012. The CTIA- the Wireless Association, on behalf of the carriers, is now charged with maintaining these rules, while also auditing industry compliance and taking enforcement measures when necessary. The existence and enforcement of these rules have helped make mobile messaging one of the safest consumer media channels.

With such rigorous rules and industry-wide compliance, many mobile marketing companies, large and small, have invested heavily in creating and maintaining "opt-in databases," aptly named because they represent a list of customers who have proactively and unambiguously agreed to accept messaging from the database owner. The value and utility of these customer lists, which are real assets for mobile marketing companies, would be threatened if every consumer who has already provided verifiable written express consent is sent a new message requesting an additional opt-in in order to continue participating in the same marketing programs. The confusion resulting from

receiving a re-opt in request will most likely lead consumers to ignore the request altogether. This will render the immense investment that companies have made in mobile marketing databases worthless.

In light of the mobile marketing industry's dedication to establishing and abiding by rigorous rules for all senders and recipients of text messages and, specifically, in light of the fact that these industry rules already require that express written consent must be obtained before a mobile marketer can send any telemarketing messages to a consumer via text message, the MMA asks that the FCC explicitly clarify the prior express written consent rule. Specifically, the MMA asks the FCC to declare that where a mobile marketer has, prior to October 16, 2013, already received a consumer's express consent in writing to receive certain mobile marketing communications, the consumer does not have to re-opt in to continue receiving such communications, and the mobile marketer does not need to take steps to obtain the revised forms of written consent applicable to *new* customers starting October 16, 2013.

Respectfully submitted,

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