

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	CG Docket No. 02-278
Rules and Regulations Implementing the)	
Telephone Consumer Protection Act of 1991)	
)	
Petition for Expedited Declaratory Ruling)	
and/or Rulemaking of Professional Association)	
for Customer Engagement)	

Reply Comments of BetterWRX

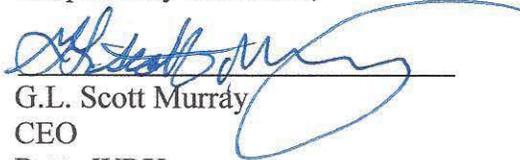
BetterWRX, a leading provider of cloud based contact center software and technology solutions, submits these reply comments supporting the Petition for Expedited Declaratory Ruling or Rulemaking (Petition) filed by the Professional Association for Customer Engagement (PACE) requesting the Commission to clarify that: (1) a system is not an automatic telephone dialing system (ATDS) unless it has the capacity to, among other things, dial numbers without human intervention; and (2) a system's capacity is limited to what it is capable of doing, without further modification, at the time the call is placed.

For the same reasons outlined in the Petition and the numerous comments filed in support of the Petition, BetterWRX believes these interpretations comport with the plain language of the TCPA, Congressional intent and the Commission's prior TCPA rulings. Equally as important, the interpretations comport with basic common sense and sound public policy, as alternative interpretations would sweep almost every phone system and/or computer within the definition of ATDS. BetterWRX implores the Commission to follow the common sense approach outlined in the Petition and taken by the Northern District of Alabama in *Hunt v. 21st Mortg. Corp.* (where it

held that the term "capacity" is limited to what the equipment is capable of doing, *without further modification*, at the time the call is placed).

Furthermore, BetterWRX believes clarification from the Commission is vitally important. As outlined in numerous petitions pending before the Commission (and comments filed in response to such petitions), the percentage of cell phone only households in the United States is increasing dramatically each year. Not being able to contact customers on their cell phones (for marketing and/or non-marketing purposes) is not a viable option for most businesses; therefore, businesses are increasingly turning to manual dialing equipment to call their customers (subject to applicable Do Not Call laws). Given the proliferation of class action TCPA lawsuits over the past several years, however, these businesses need protection against unnecessary and potentially crippling litigation costs, settlements and/or penalties that primarily benefit class action plaintiffs' attorneys rather than consumers. The TCPA settlements outlined in the Comment filed by the American Financial Services Association on December 19, 2013 (which provide between \$3-8 million in attorneys fees while providing less than \$6 to each class member) are but a few examples of who truly benefits from TCPA litigation. Granting the Petition would provide much needed protection and prevent courts from reaching inconsistent and/or nonsensical opinions regarding what constitutes an ATDS.

Respectfully submitted,


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