

Before the
UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)

Petition for Expedited Declaratory)
Ruling Filed by Glide Talk, Ltd.)

CG Docket No. CG 02-278

**REPLY COMMENTS OF DIALING SERVICES, LLC REGARDING PETITION FOR
EXPEDITED DECLARATORY RULING FILED BY GLIDE TALK, LTD.**

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Dated: January 21, 2014

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Dialing Services, LLC (“Dialing Services”), by counsel, hereby files its reply comments regarding the Petition for Expedited Declaratory Ruling filed by Glide Talk, Ltd. pursuant to the Public Notice dated December 2, 2013 issued by the Consumer and Governmental Affairs Bureau and states the following in support of same:

I. INTRODUCTION AND SUMMARY

Dialing Services incorporates the introduction and summary from its Comments filed on January 3, 2014. Dialing Services takes this opportunity to address comments filed by Anthony Coffman. Mr. Coffman indicates that he is the lead plaintiff in a class action lawsuit filed against Glide Talk, Ltd. (“Glide Talk”) in federal court in Illinois.¹ Mr. Coffman takes issue with Glide Talk’s characterization of how its software works and its role in transmitting text messages.² Mr. Coffman describes a process by which Glide Talk is allegedly highly involved in the messages’ content and to whom the messages are sent.³ Regardless of the case-specific and underlying facts of Mr. Coffman’s case, which may or may not support Mr. Coffman’s TCPA

¹ Mr. Coffman’s Comments, at 1.

² *Id.* at 4-5.

³ *Id.*

claim against Glide Talk, Dialing Services emphasizes its support for the proposition that the Commission treat providers of transmission services similarly to fax broadcasters and not be held liable for TCPA violations unless they do, in fact, demonstrate a high degree of involvement in the broadcasting campaign.

II. PROVIDERS OF TRANSMISSION SERVICES SHOULD BE TREATED SIMILARLY TO FAX BROADCASTERS AND, ACCORDINGLY, NOT LIABLE UNLESS THEY HAVE A HIGH DEGREE OF INVOLVEMENT IN THE CAMPAIGN.

Whether they transmit text messages or prerecorded voice messages, providers of transmission services should not be held liable unless such providers are highly involved in the underlying campaign. Whether such providers are, in fact, highly involved in a campaign should be determined by analyzing the underlying facts on a case-by-case basis. This principle is also supported by Club Texting, Ltd. (“Club Texting”) in its Petition for Declaratory Ruling filed August 25, 2009 and cited by Glide Talk:

In light of the functional equivalence between text broadcasting and fax broadcasting, the Commission should clarify that text broadcasters, like fax broadcasters, are not “senders” of text messages under the TCPA.⁴

This proposition was also asserted by Noble Systems Corporation (“NSC”), which advocated that “[s]oftware developers, platform providers, or hosted service provider [sic] should not be held to violate the TCPA merely by provided software, a platform, or hosting a service.”⁵ In short, providers of transmission services should be shielded from liability for TCPA violations when they are merely a conduit and lack involvement in the selection of the numbers to be called and the content of the text or prerecorded message unless highly involved in the campaign.

⁴ Club Texting Petition, at 1.

⁵ NSC Comments, at 9.

III. CONCLUSION

In sum, Dialing Services strongly urges the Commission to grant the Glide Talk Petition, consistent with its previously filed comments and these reply comments.

Respectfully submitted,

DIALING SERVICES, LLC
By Counsel

s/

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