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February 6, 2014

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

Re: Notification of Ex Parte Presentations, CG Docket Nos. 02-278, 05-338

Dear Ms. Dortch:

On February 4, 2014, the following parties met with Clint Odom, Policy Director for Commissioner Rosenworcel; Amy Bender, Legal Advisor for Commissioner O'Rielly; Adonis Hoffman, Chief of Staff and Senior Legal Advisor for Commissioner Clyburn; and Stephanie Frank from Commissioner Clyburn's office: Anda, Inc., represented by the undersigned and Matthew Murchison of Latham & Watkins LLP; Forest Pharmaceuticals, Inc., Gilead Sciences, Inc., Purdue Pharma L.P., Purdue Pharma Inc., and Purdue Products L.P., represented by Yaron Dori and Michael Beder of Covington & Burling LLP; Douglas Walburg, Richie Enterprises, LLC, and Futuredontics, Inc., represented by Samuel Feder of Jenner & Block LLP; and Staples, Inc. and Quill Corp., represented by Thomas McCarthy of Wiley Rein LLP. On the same day, the undersigned and Messrs. Murchison, Dori, Beder, and McCarthy met with Matthew Berry, Chief of Staff for Commissioner Pai, and Nicholas Degani, Legal Advisor for Commissioner Pai. On February 5, 2014, the undersigned and Messrs. Murchison, Dori, and McCarthy met with Maria Kirby, Legal Advisor for Chairman Wheeler.

In each meeting, we argued in support of several pending petitions seeking declaratory rulings, waivers, and other relief in connection with Section 64.1200(a)(4)(iv) of the Commission's rules, as described in a Public Notice released on January 31, 2014.[1] We urged the Commission to take prompt action in response to these petitions and reiterated that each party faces class action lawsuits under Section 64.1200(a)(4)(iv) seeking massive statutory damages based solely on the sending of faxes to recipients with their prior express consent. We explained

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[1] *See* Public Notice, *Consumer and Governmental Affairs Bureau Seeks Comment on Petitions Concerning the Commission's Rule on Opt-Out Notices on Fax Advertisements*, CG Docket Nos. 02-278, 05-338, DA 14-120 (rel. Jan. 31, 2014).

that, if these class actions were certified and resolved in favor of the plaintiffs, they could result in catastrophic damage awards despite the absence of any harm. Consistent with prior meetings and ex parte submissions, we reiterated that our potential inability to present statutory and constitutional defenses in pending judicial proceedings (in light of several courts' construction of Hobbs Act limitations) underscores the need for Commission action in response to the pending petitions.

Please contact the undersigned if you have any questions regarding these issues.

Sincerely,

/s/ Matthew A. Brill

Matthew A. Brill
Counsel for Anda, Inc.

cc: Maria Kirby
Adonis Hoffman
Matthew Berry
Nicholas Degani
Clint Odom
Amy Bender