

**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 Expedited Declaratory Ruling)
Of United Healthcare Services, Inc. (United))

To: The Commission

COMMENTS OF ACA INTERNATIONAL

ACA International (“ACA”), through counsel, submits these Comments in support of the Petition for Expedited Declaratory Ruling filed by United Healthcare Services, Inc. (“United”) in the above captioned proceeding.¹ ACA is an international trade organization of credit and collection companies that provide a wide variety of accounts receivable management services. With offices in Minneapolis, Minnesota, and Washington, D.C., ACA represents nearly 5,000 members ranging from collection agencies, attorneys, and credit grantors to vendor affiliates.²

In its Petition, United seeks a narrow declaratory ruling to clarify that callers do not incur liability under the TCPA³ and the FCC’s rules⁴ when they make informational, non-telemarketing,

¹ United Healthcare Services, Inc., *Petition for Expedited Declaratory Ruling*, CG Docket No. 02-278 (filed Jan. 16, 2014) (“United Petition” or “Petition”); see also, *Consumer and Governmental Affairs Bureau Seeks Comment on Petition for Expedited Declaratory Ruling from United Healthcare Services, Inc.*, Public Notice, CG Docket No. 02-278, DA 14-149 (rel. Feb. 6, 2014).

² For more information regarding ACA International, please see <http://www.acainternational.org/>.

³ Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227.

⁴ 47 C.F.R. § 64.1200.

autodialed or prerecorded calls to wireless numbers for which they have obtained prior express consent, and such numbers have been reassigned without the caller's knowledge.⁵

Similarly, ACA recently petitioned the Commission to, among other things, establish a safe harbor for "wrong number" non-telemarketing calls, and in doing so, strongly supported the United Petition.⁶ ACA explained that callers, such as debt collectors, cannot be held to a standard of omniscience when a consumer chooses not to update an account or otherwise communicate changes to his or her telephone number information. ACA proposed that the FCC establish a safe harbor for non-telemarketing calls to apply in those circumstances when the caller had previously obtained appropriate consent and in good faith intended to contact the person who had provided consent to be called.⁷ There is no public directory of reassigned numbers and consumers may change numbers without notifying callers – accordingly there is no practical way to be completely certain that the number provided by the consumer still remains with that consumer.

ACA agrees with United that there is no incentive to make informational, non-telemarketing calls of the type described by United and by ACA other than to the specific person who had provided consent to be called. ACA also continues to urge the Commission to adopt an extension of the existing TCPA safe harbor for wrong numbers, as presented in its Petition to address such

⁵ See United Petition at 1, 5, 12.

⁶ ACA International, *Petition for Rulemaking of ACA International*, CG Docket No. 02-278 (filed Jan. 31, 2014) at 15-17 & n.46 ("ACA Petition" or "Petition" as made clear by context); see also, *Consumer and Governmental Affairs Bureau Public Notice*, CG Docket No. 02-278, Report No. 2999 (rel. Feb. 21, 2014).

⁷ ACA Petition at 15.

calls.⁸ The challenge to callers in the number reassignment scenario, along with other similar situations such as a reassignment to a plan where the called party would now be charged for the call, is even greater because there is no readily available data source in such number reassignment scenarios.

For these reasons, ACA supports the United Petition and respectfully urges the FCC to address reassignment situations under the TCPA, including the wrong number wireless telephone number reassignment problem that United has so effectively detailed.

Respectfully submitted,



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⁸ See ACA Petition at 15-16. See also *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Order, 19 FCC Rcd 19215, 19218-19220 ¶¶ 7-13 (2004).