



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

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## CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON REVISED TCPA EXEMPTION PROPOSAL FROM THE CARGO AIRLINE ASSOCIATION

CG Docket No. 02-278

**Comment Date: December 17, 2013**

**Reply Comment Date: December 24, 2013**

With this Public Notice, we seek comment on a revised exemption proposal described in an *ex parte* presentation filed by the Cargo Airline Association (CAA) on November 19, 2013,<sup>1</sup> in connection with the proceeding concerning CAA's Petition for Expedited Declaratory Ruling.<sup>2</sup>

CAA's *Petition* sought, among other things, a declaration that autodialed or prerecorded calls to a wireless telephone number for the purpose of notifying the recipient regarding delivery of a package are exempt from the requirement under the Telephone Consumer Protection Act (TCPA)<sup>3</sup> and the Commission's associated rules<sup>4</sup> to obtain prior express consent before making autodialed or prerecorded calls to a wireless telephone number.<sup>5</sup> Section 227(b)(2)(C) of the TCPA states that the Commission "may, by rule or order, exempt from the [section (b)(1)(A)(iii) prior express consent requirement] calls to a telephone number assigned to a cellular telephone service that are not charged to the called party, subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights this section is intended to protect."<sup>6</sup>

CAA's *November 19 Presentation* provides additional information in support of its exemption request. It states that "there are several options available today to send free-to-end-user ('FTEU') text messages to wireless telephone numbers. For example, third-party solutions

<sup>1</sup> Notice of *Ex Parte* Presentation, CG Docket No. 02-278, filed by Mark W. Brennan, Counsel to the Cargo Airline Association on Nov. 19, 2013 (*November 19 Presentation*). According to its petition, CAA is "the nationwide trade organization representing the interests of the United States all-cargo air transportation industry." Its members include ABX Air, Atlas Air, Capital Cargo, DHL, FedEx Express, Kalitta Air, and UPS Airlines.

<sup>2</sup> See *Cargo Airline Association*, Petition for Expedited Declaratory Ruling, CG Docket No. 02-278 (filed Aug. 17, 2012) (*Petition*).

<sup>3</sup> See 47 U.S.C. § 227(b)(1)(A)(iii). The TCPA is codified as 47 U.S.C. § 227.

<sup>4</sup> 47 C.F.R. § 64.1200(a)(1)(iii).

<sup>5</sup> *Petition* at 1-2, 6-9. The Bureau sought comment on the *Petition* on October 16, 2012. See *Consumer and Governmental Affairs Bureau Seeks Comment on Petition for Declaratory Rulemaking from Cargo Airlines Association*, CG Docket No. 02-278, Public Notice, 27 FCC Rcd 13028 (CGB 2012).

<sup>6</sup> 47 U.S.C. § 227(b)(2)(C).

providers offer companies, for a fee, the ability to send FTEU text messages to subscribers of all four national U.S. wireless carriers.”<sup>7</sup> While CAA states that, “subscribers of these four carriers represent approximately 88% of the wireless telephone numbers that are provided today as contact information for residential package deliveries,” it argues that “[s]olutions for other carriers may also be available, and any exemption should provide flexibility for CAA members to work with carriers and third parties to develop additional FTEU voice and text solutions.”<sup>8</sup> CAA proposes that the Commission adopt seven conditions as part of an exemption for voice call and text message package delivery notifications.<sup>9</sup> We seek further comment on CAA’s exemption proposal, including the additional information and proposed conditions described in its *November 19 Presentation*.

Pursuant to sections 1.415 and 1.419 of the Commission’s rules,<sup>10</sup> interested parties may file comments and reply comments on or before the respective dates indicated on the first page of this Notice. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>11</sup> Persons making *ex parte* presentations must file a

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<sup>7</sup> *November 19 Presentation* at 2.

<sup>8</sup> *Id.*

<sup>9</sup> *See id.*

<sup>10</sup> 47 C.F.R. §§ 1.415, 1.419.

<sup>11</sup> 47 C.F.R. §§ 1.1200 *et seq.*

copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

**FOR FURTHER INFORMATION CONTACT:** B. Lynn Follansbee, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 202-418-1514, and [lynn.follansbee@fcc.gov](mailto:lynn.follansbee@fcc.gov).

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