



PUBLIC NOTICE

Federal Communications Commission
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**CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION
FOR EXPEDITED DECLARATORY RULING FILED BY
NATIONAL EMPLOYMENT NETWORK ASSOCIATION**

CG Docket No. 02-278

Comment Date: October 20, 2014

Reply Comment Date: November 3, 2014

On August 5, 2014, the National Employment Network Association (the Association) filed a petition for declaratory ruling¹ requesting that the Commission clarify certain aspects of the Telephone Consumer Protection Act (TCPA).² According to the Association, the *Petition* arises in the context of the “Ticket to Work” program of the Social Security Administration’s (SSA), which is mandated by the Ticket to Work and Work Incentives Improvement Act of 1999.³ As required by that statute, the SSA contracts with “employment networks,” which provide outreach and services intended to assist beneficiaries of federal disability benefits to return to work.⁴ The Association asks the Commission to clarify that, in such limited circumstances, “a long-standing relationship” between a beneficiary of federal benefits and a federal agency “logically implies” the beneficiary’s consent to receive autodialed and prerecorded non-telemarketing calls and text messages under the TCPA, and that such consent includes calls made by a public or private intermediary or associated third party that “stands in the shoes” of the federal government.⁵ The Association argues that it is in the public interest to use an autodialer to make such calls because it is the most cost-effective means of disseminating non-commercial information as mandated by law and for the purposes of lifting people out of poverty and contributing to the economy.⁶

¹ *Petition for Expedited Declaratory Ruling*, CG Docket No. 02-278, filed by National Employment Network Association on August 5, 2014 (*Petition*).

² The TCPA is codified as 47 U.S.C. § 227.

³ *Petition* at 2.

⁴ *Id.* at 2-3.

⁵ *Petition* at 1-2.

⁶ *Id.* at 2-3.

The TCPA and the Commission's rules prohibit making autodialed or prerecorded non-emergency calls, including texts, to wireless telephone numbers without the prior express consent of the called party.⁷

The Association asserts that beneficiaries of the SSA program expect to be updated as to employment opportunities and that the costs associated with these calls and text messages are negligible.⁸ The Association says that other means of contact are not timely or cost effective, but asserts that the maximum number of contacts to each beneficiary should be limited to four per year, unless the beneficiary opts out first.⁹ We seek comment on these and the other issues raised in the *Petition*.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. 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 the 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 12th Street, 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 12th 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 or call the Consumer & 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.¹⁰ Persons making *ex parte* presentations must file a

⁷ 47 U.S.C. § 227(b)(1)(A)(iii); 47 C.F.R. § 64.1200(a)(1)(iii); *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014, 14115, para. 165 (2003).

⁸ *Id.* at 4-5.

⁹ *Id.* at 5-7.

¹⁰ 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: Karen Johnson, Consumer and Governmental Affairs Bureau, Federal Communications Commission, (202) 418-7706; karen.johnson@fcc.gov .

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