

The CommLaw Group - Telephone Consumer Protection Act ("TCPA") Compliance Monitor

TCPA Compliance Monitor Update: September 16, 2014

Number of Petitions Filed:	42
Number of New Petitions:	
Number of Petitions Awaiting Decision:	
Number of Decisions Released:	

New Petitions:				
Filer	Title; Filing Date; Docket No.	Public Notice	Summary	Primary Issue
VoAPPs, Inc.	Petition for Expedited Declaratory Ruling of VoAPPs, Inc.; 07/31/2014; 02-278	Released: Sept. 3, 2014; Comments Due: Oct. 3, 2014; Reply Comments Due: Oct. 20, 2014	VoAPP seeks a declaratory ruling that its "DirectDROP" voicemail technology does not constitute a call that is subject to the prohibitions on the use of an automatic telephone dialing system or an artificial or prerecorded voice that are set forth in the TCPA. VoAPP claims its technology allows customers to deliver a voice message directly to a consumer's mobile voicemail box without causing a call to be placed and that its technology does not result in a charge to the consumer. Alternatively, VoAPP argues the FCC should exempt DirectDROP technology from TCPA prohibitions because VoAPP provides a service in the public interest by allowing more efficient debt collection than traditional cold calling methods without sacrificing any of the consumer protection values embodied by the TCPA.	Scope of Prior Express Written Consent Rule

Pending Petitions:				
Filer	Filing Date	Public Notice	Summary	Primary Issue
Anda, Inc.	Petition for Declaratory Ruling to Clarify That 47 U.S.C. 227(b) Was Not the Statutory Basis for the Commission's Rule Requiring an Opt-Out Notice for Fax Advertisements Sent with Recipients Prior Express Consent; 05/14/2012; 05-338		Anda, Inc. requests that the Commission vacate a 2012 Consumer and Governmental Affairs Bureau Order and grant the relief sought in the underlying petition which asked the petition to clarify that 47 U.S.C. 227(b) was not the statutory basis for the Commission's rule requiring opt-out notice on fax advertisements sent with the recipient's prior consent. Anda alleges that Section 227(b) authorizes the Commission to adopt opt-out notice rules for "unsolicited" fax advertisements.	Opt-Out Notices
Unique Vacations, Inc.	Petition for Declaratory Ruling and/or Waiver of Unique Vacations, Inc.; 08/20/2014; 02-278, 05-338	Released: Aug. 29, 2014; Comments Due: Sept. 12, 2014; Reply Comments Due: Sept. 19, 2014	Unique Vacations, Inc. ("UVI") petitioned the Commission to issue a declaratory ruling clarifying that a fax transmitted pursuant to the prior express invitation of a fax recipient that includes a proper opt out notice on the first page of the fax does not violate either the TCPA or the Junk Fax Prevention Act of 2005. In the alternative, UVI requests that the Commission grant UVI a waiver of Sections 64.1200(a)(4)(iii) and (iv) of the Commission's rules regarding such faxes sent by UVI, or issue a declaratory ruling clarifying that Section 64.100(a)(4)(iv) - which purports to require solicited fax advertisements to include the same opt out notice as unsolicited fax advertisements - was not promulgated pursuant to Section 227(b) of the Communications Act, which is expressly limited to unsolicited faxes.	Scope of Prior Express Written Consent Rule

National Employment Network Association	Petition for Expedited Declaratory Ruling; 08/05/2014; 02-278		National Employment Network Association ("NENA") petitioned the Commission to clarify that an individual's long-standing relationship w/ a federal agency implies consent to receive autodialed and prerecorded non-telemarketing calls/ text messages under the TCPA, as well as calls made through a public/ private intermediary or associated third party that "stands in the shoes" of the federal government. Specifically, NENA requests that the Commission clarify that Employment Networks ("ENs") under contract with the Social Security Administration's "Ticket to Work Program" have a mandate to contact program-eligible beneficiaries about program benefits, thus exempting the ENs from the Commission's TCPA rules restricting autodialed and prerecorded calls/ text messages to wireless telephone numbers. NENA requests that the Commission allow the ENs up to four contacts per year with each beneficiary unless a beneficiary opts-out first.	Scope of Prior Express Written Consent Rule
Rubio's Restaurants	Petition for Expedited Declaratory Ruling; 08/11/2014; 02-278	Released: Aug. 25, 2014; Comments Due: Sept. 24, 2014; Reply Comments Due: Oct. 9, 2014	Rubio's seeks a declaratory ruling that TCPA liability does not extend to a party that takes steps to obtain 'prior express consent' from its employees and an employee's number is subsequently reassigned without the employer's knowledge, and it asks the Commission to add an affirmative, bad-faith defense where a defendant shows that the called party purposefully wiated to notify the calling party of the reassignment in order to accrue statutory penalties. Rubio's further petitions the Commission to clarify that TCPA liability does not apply to intra-company, non-marketing communications that inadvertently reach a member of the public.	Scope of Prior Express Written Consent Rule
Santander Consumer USA, Inc.	Petition for Expedited Declaratory Ruling; 07/10/2014; 02-278		Santander Consumer USA, Inc. ("Santander") requests that the Commission clarify the meaning of "prior express consent" w/ respect to non-telemarketing calls to cell phones under the 47 U.S.C. 227. Specifically, Santander requests that the FCC clarify that prior express consent to receive non-telemarketing calls/ text messages to cell phones sent using an ATDS cannot be revoked. Alternatively, Santander requests that the Commission confirm that the caller may designate one of five methods that a consumer must use to effectively revoke prior express consent if the Commission interprets the TCPA to include a right to revoke prior express consent to receive non-telemarketing communications: (1) in writing; (2) by email; (3) by text message; (4) by fax); and/ or (5) as prescribed by the Commission in the future to address emerging technology.	Prior Express Written Consent
Stage Stores, Inc.	Petition for Expedited Declaratory Ruling; 06/03/2014; 02-278		Stage Stores, Inc. requests that the Commission clarify the applicability of the TCPA and the Commission's TCPA rules to a marketing text message sent to a wireless number for which the caller obtained prior express consent but where the wireless number has been reassigned from the consenting consumer to another person w/o notice/ knowledge of the caller. Specifically, Stage Stores requests that the Commission clarify that there is an exception to liability under the TCPA for autodialed marketing calls, including text messages, made to reassigned wireless numbers where the caller had obtained prior express consent to make such marketing calls, but the wireless number has been reassigned w/o notice to the caller. The caller must update his/ her records, and cease calls to that wireless number w/in a reasonable time period after being informed that the number has been reassigned. Stage Stores believes that such a clarification would comport w/ the FCC's recognition of the challenges related to companies' identifying when a wireless number's status has changed, as well as w/ the FCC's TCPA safe harbor for calling numbers that have been recently ported from wireline to wireless service.	Prior Express Written Consent
United Healthcare Services, Inc.	Petition for Expedited Declaratory Ruling; 01/16/2014; 02-278		United Healthcare Services, Inc. requests that the Commission clarify the applicability of the TCPA and the Commission's TCPA rules to informational, non-telemarketing autodialed/ pre-recorded calls to wireless numbers for which valid prior express consent has been obtained but which has subsequently been reassigned from one wireless subscriber to another, unbeknownst to the calling party. Specifically, United requests that the Commission confirm that parties are not liable under the TCPA for such calls, especially healthcare-related calls, to wireless telephone numbers that have been reassigned w/o the caller's knowledge - as long as the caller previously obtained "prior express consent" to place calls to that specific number. Alternatively, United asserts that the Commission could issue a declaratory ruling confirming that the term "called party" encompasses both the consenting party and the new subscriber to a reassigned number until the caller learns from the call recipient that the two parties are not the same. Finally, United asserts that another option would be for the Commission to confirm that a good faith exception to TCPA liability exists for autodialed/ prerecorded informational, non-telemarketing calls to telephone numbers that have been reassigned from a prior express consenting party w/o altering the caller's obligation to obtain prior express consent from the individual that provided his or her telephone number.	Prior Express Written Consent
Retail Industry Leaders Association	Petition for Declaratory Ruling of the Retail Industry Leaders Association; 12/30/2013; 02-278		RILA seeks clarification from the Commission that sending a one-time, on demand text offer in response to a consumer's specific request does not constitute "initiating" a call for TCPA purposes. RILA argues that the message is a response to the consumer rather than the initiation of a call. RILA also argues that the response text is not advertising; rather, it is more akin to an informational text, which the Commission has already said do not have to comply with the TCPA prior express written consent rules.	Prior Express Written Consent
Coalition of Mobile Engagement Providers	Petition for Declaratory Ruling of a Coalition of Mobile Engagement Providers; 10/17/2013; 02-278		The Coalition seeks clarification from the Commission that the new requirements for obtaining prior express written consent under the TCPA, which the Commission adopted in Oct. 2013, do not apply to express written consents collected by marketers prior to the adoption of the new rules. The Coalition argues that millions of consumers have already provided express written consent to marketers and that requiring new consents from those consumers would cause consumer confusion, unnecessarily burden marketers, and expose marketers to opportunistic litigation aimed at exploiting the new rules.	Prior Express Written Consent

The Direct Marketing Association	Petition for Forbearance by the Direct Marketing Association; 10/17/2013; 02-278		DMA request the FCC to forbear the requirements in Section 64.1200(f)(8)(i)(A) and (B) of its Rules as applied to consents obtained prior to the FCC's adoption of new TCPA rules in Oct. 2013. The rules from which DMA requests relief require marketers to affirmatively notify consumers, as part of obtaining prior written consent, that an autodialing system may be used to deliver telemarketing calls and the marketer cannot condition the sale of any goods, property, or services on the consumer signing the consent. DMA argues that previously obtained consents did not meet this requirement because the FTC's companion rules do not require affirmative notification and the FCC's explanation of its rules does not mention affirmative notification. DMA argues the FCC should exempt marketers with previously obtained consents from these provisions of the rules to allow marketers to continue using previously obtained consents.	Prior Express Written Consent
Milton H. Fried, Jr. and Richard Evans	Petition for Expedited Declaratory Ruling on Autodialer Issue; 05/27/2014; 02-278		Petitioners are a group of plaintiffs in a pending action against defendant telemarketers. The Petitioners request that the Commission issue a declaratory ruling clarifying that the combined use of multiple pieces of equipment to send out text message advertisements constitutes an autodial system.	ATDS Definition
TextMe, Inc.	Textme, Inc.'s Petition for Expedited Declaratory Ruling and Clarification; 03/18/2014; 02-278	Released: April 7, 2014; Comments Due: May 5, 2014; Reply Comments Due: May 22, 2014	TextMe seeks clarification from the Commission that autodialer equipment falls under the TCPA only if it has the capacity to function as described in the TCPA without human intervention at the time of its use. Textme also requests that the Commission clarify that it does not make calls; rather, its users do. Alternatively, Textme request that the Commission clarify that consent obtained through a third party intermediary, in this case TextMe's users, satisfies the prior express written consent requirement for non-commercial, informational messages.	ATDS Definition
ACA International	Petition for Rulemaking of ACA International; 01/31/2014; 02-278		ACA requests the FCC to: "(1) confirm that not all predictive dialers are categorically automatic telephone dialing systems ('ATDS' or 'autodialers'); (2) confirm that 'capacity' under the TCPA means present ability; (3) clarify that prior express consent attaches to the person incurring a debt, and not the specific telephone number provided by the debtor at the time a debt was incurred; and (4) establish a safe harbor for autodialed 'wrong number' non-telemarketing calls to wireless numbers."	ATDS Definition
Glide Talk, Ltd.	Petition of Glide Talk, LTD. For Expedited Declaratory Ruling; 10/28/2013; 02-278		Glide Talk requests that the Commission clarify that "(a) the TCPA's automatic telephone dialing system restriction applies only to equipment that can, at the time of the call, be used to store or generate sequential or randomized telephone numbers, (b) software and app providers that enable consumers to choose to send invitational text messages do not 'make' calls under the TCPA merely by facilitating the ability of their users to send the text messages, and (c) in the event the Commission considers the provider to 'make' the call, third-party consent is sufficient for non-telemarketing, user-initiated invitational text messages to wireless numbers."	ATDS Definition
Professional Association for Customer Engagement (PACE)	Professional Association for Customer Engagement's Petition for Expedited Declaratory Ruling and/or Expedited Rulemaking; 10/18/2013; 02-278, and PRM13CG		PACE requests clarification that: "(1) a system is not an automatic telephone dialing system unless it has the capacity to, inter alia, dial numbers without human intervention; and (2) a system's 'capacity' is limited to what it is capable of doing without further modification, at the time the call is placed." In the alternative, PACE requests that the Commission open a rulemaking proceeding to amend its rules and bring them into line with the above clarifications PACE is requesting in its Petition.	ATDS Definition
YouMail, Inc.	Petition for Expedited Declaratory Ruling; 04/19/2013; 02-278		YouMail seeks a declaratory ruling that its service is not violating the TCPA. It argues that its service is not an ATDS because "it lacks the current capacity to 'store or produce numbers to be called using a random or sequential number generator.'" YouMail also argues it does not initiate a call within the meaning of the TCPA and that callers consent to receiving a responsive text message when leaving voicemail messages.	ATDS Definition
Revolution Messaging, LLC	Revolution Messaging's Petition for an Expedited Clarification and Declaratory Ruling; 01/19/2012; 02-278		"The ruling requested by RM would clarify that Internet-to-phone text messaging technology is a type of 'automated telephone dialing system' within the meaning of the Commission's regulation, 47 CFR § 64.1200(a), and therefore subject to the prohibitions against initiating noncommercial unsolicited text messages without prior express consent of the recipient."	ATDS Definition
MedLearning, Inc. and Medica, Inc.	Petition for Declaratory Ruling and/or Waiver; 07/16/2014; 02-278, and 05-338		MedLearning requests that the Commission clarify that "Section 64.1200(a)(4)(iv) of the Commission's regulations does not apply to fax advertisements sent with the prior express consent or permission of the recipient. In the alternative, the petitioners respectfully request that the Commission clarify that the statutory basis for Section 64.1200(a)(4)(iv) is not 47 U.S.C. 227(b). At a minimum, the Commission should clarify that solicited faxes sent with effective opt-out notices do not violate the Rule or any other regulations promulgated by the Commission under the TCPA."	Junk Faxing Rules
CARFAX, Inc.	Petition of Carfax, Inc. for Declaratory Ruling and/or Waiver of Section 64.1200(a)(4)(IV) of the Commission's Rules; 07/11/2014; 02-278, and 05-338		Carfax requests that the Commission clarify that Section 64.1200(a)(4)(iv) of its rules does not apply to faxes sent with "prior express invitation or permission" of the recipient. Alternatively, Carfax requests that the Commission issue a declaratory ruling that 47 U.S.C. 227 is not the statutory basis of the rule. If the FCC does not issue a declaratory ruling, Carfax requests waiver of Section 64.1200(a)(4)(iv) as applied to any solicited fax sent by Carfax after the effective date of the regulation. Finally, to the extent the Commission decides waiver or other relief is appropriate where "prior express invitation or permission" of the recipient is not secured but the sender and receiver have an established business relationship, Carfax requests that it also be granted such relief.	Junk Faxing Rules

UnitedHealth Group Incorporated	Petition of UnitedHealth Group Incorporated for Declaratory Ruling and/or Waiver; 07/11/2014; 02-278, and 05-338		UnitedHealth requests that the Commission clarify that Section 64.1200(a)(4)(iv) is its rules does not apply to faxes sent with "prior express invitation or permission" of the recipient. Alternatively, UnitedHealth requests that the Commission issue a declaratory ruling that 47 U.S.C. 227 is not the statutory basis of the rule. If the FCC does not issue a declaratory ruling, UnitedHealth requests waiver of Section 64.1200(a)(4)(iv) as applied to any solicited fax sent by UnitedHealth after the effective date of the regulation. Finally, to the extend the Commission decides waiver or other relief is appropriate where "prior express invitation or permission" of the recipient is not secured but the sender and receiver have an established business relationship, UnitedHealth requests that it also be granted such relief.	Junk Faxing Rules
Merck & Company, Inc.	Petition for Declaratory Ruling and/or Waiver; 07/11/2014; 02-278, and 05-338		Merck requests that the Commission clarify that Section 64.1200(a)(4)(iv) is its rules does not apply to faxes sent with "prior express invitation or permission" of the recipient. Alternatively, Merck requests that the Commission issue a declaratory ruling that 47 U.S.C. 227 is not the statutory basis of the rule. If the FCC does not issue a declaratory ruling, Merck requests waiver of Section 64.1200(a)(4)(iv) as applied to any solicited fax sent by Merck after the effective date of the regulation.	Junk Faxing Rules
American CareSource Holdings, Inc.	Petition of American CareSource Holdings, Inc. for Declaratory Ruling and/or Waiver; 06/30/2014; 02-278, and 05-338		American CareSource requests that the Commission: (1) clarify that Section 64.1200(a)(4)(iv) does not apply to solicited faxes; (2) clarify that 47 U.S.C. 227(b) is not the statutory basis for Section 64.1200(a)(4)(iv); or (3) grant it a retroactive waiver for faxes sent by American CareSource since the effective date of the regulation.	Junk Faxing Rules
Stericycle, Inc.	Petition of Stericycle, Inc., for Declaratory Ruling and/or Waiver Regarding 47 C.F.R. § 64.1200(a)(4)(iv); 06/06/2014; 02-278, and 05-338		Stericycle requests that the Commission: (1) clarify that Section 64.1200(a)(4)(iv) does not apply to solicited faxes; (2) clarify that 47 U.S.C. 227(b) is not the statutory basis for Section 64.1200(a)(4)(iv); or (3) grant it a retroactive waiver for faxes sent by Stericycle since the effective date of the regulation.	Junk Faxing Rules
Cannon & Associates LLC d/b/a Polaris Group	Petition of Cannon & Associates LLC D/B/A Polaris Group for Declaratory Ruling and/or Waiver; 05/15/2014; 02-278, and 05-338		Cannon & Associates requests that the Commission: (1) clarify that Section 64.1200(a)(4)(iv) does not apply to solicited faxes; (2) clarify that 47 U.S.C. 227(b) is not the statutory basis for Section 64.1200(a)(4)(iv); or (3) grant it a retroactive waiver for faxes sent by Cannon & Associates since the effective date of the regulation.	Junk Faxing Rules
S&S Firestone, Inc.	Petition of S&S Firestone, Inc., d/b/a/ S&S Tire for Declaratory Ruling and/or Waiver; 05/07/2014; 02-278, and 05-338		S&S Firestone requests that the Commission: (1) clarify that Section 64.1200(a)(4)(iv) does not apply to solicited faxes; (2) clarify that 47 U.S.C. 227(b) is not the statutory basis for Section 64.1200(a)(4)(iv); or (3) grant it a retroactive waiver for faxes sent by S&S Firestone since the effective date of the regulation.	Junk Faxing Rules
Best Buy Builders, Inc.	Petition of Best Buy Builders, Inc. for Declaratory Ruling and/or Waiver; 04/07/2014; 02-278, and 05-338		Best Buy Builders requests that the Commission: (1) clarify that Section 64.1200(a)(4)(iv) does not apply to solicited faxes; (2) clarify that 47 U.S.C. 227(b) is not the statutory basis for Section 64.1200(a)(4)(iv); or (3) grant it a retroactive waiver for faxes sent by Best Buy Builders since the effective date of the regulation.	Junk Faxing Rules
Masimo Corporation	Petition for Declaratory Ruling and/or Waiver of Masimo Corporation; 04/01/2014; 02-278, and 05-338		Masimo requests that the Commission: (1) clarify that Section 64.1200(a)(4)(iv) does not apply to solicited faxes where an opt-out that substantially complies with the rules in Section 64.1200(a)(4)(iii) appears on the first page; (2) clarify that 47 U.S.C. 227(b) is not the statutory basis for Section 64.1200(a)(4)(iv); or (3) grant it a retroactive waiver for faxes sent by Best Buy Builders since the effective date of the regulation.	Junk Faxing Rules
Magna Check, Inc.	Petition of Magna Chek, Inc. for Declaratory Ruling and/or Waiver; 03/28/2014; 02-278, and 05-338		Magna Chek seeks a declaratory ruling that Sectoin 64.1200(a)(4)(iv) of the Commission's rules was not promulgated pursuant to Section 277(b) of the Communications Act. It also requests that the Commission clarify that faxes for which prior express consent was obtained and effective opt-out notices appear on the first page do not violate Section 227(b) of the Communications Act. Finally, Magna Chek requests a retroactive waiver of Section 64.1200(a)(4)(iii) and (iv).	Junk Faxing Rules
Crown Mortgage Company	Petition of Crown Mortgage Company for Declaratory Rulings and/or Waiver of the "Opt Out" Requirement; 02/21/2014; 02-278, and 05-338		Crown Mortgage requests that the Commission clarify that its "opt-out" rules do not apply to faxes where prior express consent was obtained. Alternatively, it requests a retroactive waiver of the rules for faxes it sent without opt-out language.	Junk Faxing Rules
TechHealth, Inc.	Petition of TechHealth, Inch for Declaratory Ruling and/or Waiver; 01/06/2014; 02-278		TechHealth requests that the Commission: (1) clarify that Section 64.1200(a)(4)(iv) does not apply to faxes where prior express consent was obtained; (2) clarify that 47 U.S.C. 227(b) is not the statutory basis for Section 64.1200(a)(4)(iv); or (3) grant it a retroactive waiver for faxes sent by TechHealth since the effective date of the regulation.	Junk Faxing Rules
Prime Health Services, Inc.	Petition of Prime Health Services, Inc. for Declaratory Ruling and/or Waiver; 12/17/2013; 05-338		Prime Health Services requests that the Commission: (1) clarify that Section 64.1200(a)(4)(iv) does not apply to faxes where prior express consent was obtained; (2) clarify that 47 U.S.C. 227(b) is not the statutory basis for Section 64.1200(a)(4)(iv); or (3) grant it a retroactive waiver for faxes sent by Prime Health Service since the effective date of the regulation.	Junk Faxing Rules
Purdue Pharma L.P.	Petition for Declaratory Ruling and/or Waiver; 12/12/2013; 02-278, and 05-338		Purdue Pharma requests that the Commission clarify that its "opt-out" rules do not apply to faxes where prior express consent was obtained. It also requests that the Commission clarify that its "opt-out" rules were not promulgated pursuant to Section 227(b) of the Communications Act. Alternatively, it requests a retroactive waiver of the rules for faxes it sent without opt-out language.	Junk Faxing Rules

All Granite & Marble Corp.	Petition of All Granite & Marble Corp. for Declaratory Ruling and/or Waiver; 10/28/2013; 02-278, and 05-338		All Granite & Marble requests that the Commission clarify that its "opt-out" rules do not apply to faxes where prior express consent was obtained. It also requests that the Commission clarify that its "opt-out" rules were not promulgated pursuant to Section 227(b) of the Communications Act. Alternatively, it requests a retroactive waiver of the rules for faxes it sent without opt-out language.	Junk Faxing Rules
Futuredontics, Inc.	Petition of Futuredontics, Inc. for Declaratory Ruling and/or Waiver; 10/18/2013; 02-278, and 05-338		Futuredontics requests that the Commission clarify that its "opt-out" rules do not apply to faxes where prior express consent was obtained. It also requests that the Commission clarify that its "opt-out" rules were not promulgated pursuant to Section 227(b) of the Communications Act. Alternatively, it requests a retroactive waiver of the rules for faxes it sent without opt-out language.	Junk Faxing Rules
Douglas Paul Walburg and Richie Enterprises, LLC	Petition of Douglas Paul Walburg and Richie Enterprises, LLC for Declaratory Ruling and/or Waiver; 08/19/2013; 02-278, and 05-338		Petitioners request a declaratory ruling that the Commission either (1) did not have authority to enact its "opt-out" rules under the TCPA; or (2) that the "opt-out" rules were not promulgated based on the TCPA. Petitioners also requests retroactive waiver of the "opt-out" rules.	Junk Faxing Rules
Gilead Sciences, Inc. and Gilead Palo Alto, Inc.	Petition for Declaratory Ruling and/or Waiver; 08/09/2013; 02-278, and 05-338		Gilead Sciences requests that the Commission: (1) clarify that Section 64.1200(a)(4)(iv) does not apply to solicited faxes where an opt-out that substantially complies with the rules in Section 64.1200(a)(4)(iii) appears on the first page; (2) clarify that 47 U.S.C. 227(b) is not the statutory basis for Section 64.1200(a)(4)(iv); or (3) grant it a retroactive waiver for faxes sent by Gilead Sciences since the effective date of the regulation.	Junk Faxing Rules
Staples, Inc. and Quill Corporation	Petition of Staples, Inc. and Quill Corporation for Rulemaking and Declaratory Ruling; 07/19/2013; 02-278, and 05-338		Staples requests a declaratory ruling that the Commission either (1) did not have authority to enact its "opt-out" rules under the TCPA; or (2) that the "opt-out" rules were not promulgated based on the TCPA. Staples also requests retroactive waiver of the "opt-out" rules, and it asserts that the "opt-out" rules should be repealed because they threaten the First Amendment interests of companies and individuals that transmit solicited faxes.	Junk Faxing Rules
Westfax, Inc.	Westfax, Inc. Petition for Consideration and Clarification; 10/23/2012; 02-278		Westfax seeks a declaratory ruling clarifying: (1) what an "efax" is; (2) whether the TCPA, JFPA, and the Commission's "opt-out" rules apply to "efaxes;" and (3) to clarify who the recipient of an "efax" is. The petition also seeks clarification of the Commission's "opt-out" requirements and the creation of a "safe harbor" opt-out notice.	Junk Faxing Rules
Vincent Lucas	Petition for Expedited Declaratory Ruling; 06/18/2014; 02-278		Petition seeks a declaratory ruling "holding that a person is vicariously or contributorily liable if that person provides substantial assistance or support to any seller or telemarketer when that person knows or consciously avoids knowing that the seller or telemarketer is engaged in any act or practice that violates 47 U.S.C. 227(b) or (c).	Vicarious Liability
National Grid USA, Inc.	Petition for Expedited Declaratory Ruling and/or Waiver; 02/18/2014; 02-278		National Grid requests clarification that a "d/b/a" name that is registered with the relevant State Corporation Commission (or comparable authority) satisfies the Commission's rule requirements in 47 C.F.R. 64.1200(b)(1). Alternatively, National Grid requests a waiver to allow it to use its registered d/b/a name.	Identity of Business Rules: "d/b/a's"
Acurian, Inc.	Petition for Declaratory Ruling; 02/05/2014; 02-278		Acurian seeks a declaratory ruling clarifying that "a telephone call to a residential landline seeking an individual's participation in a clinical pharmaceutical trial is exempt from the restrictions on prerecorded calls enacted as part of the TCPA..." Acurian claims these calls fall within Commission created exemptions (i.e., calls "not made for a commercial purpose" or calls that do "not introduce or include an advertisement or constitute telemarketing").	E-Faxes

Decisions Released:

Filer	Decision Date	Public Notice	Summary	Primary Issue