

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

TCPA Compliance Monitor

Update: July 2016

Number of Petitions Filed:	59
Number of New Petitions:	6
Number of Petitions Awaiting Decision:	50
Number of Decisions Released:	3

New Petitions:				
Filer	Title; Filing Date; Docket No.	Public Notice	Summary	Primary Issue
Roche Diagnostics Corporation and Roche Diabetes Care, Inc.	Petition of Roche Diagnostics Corporation and Roche Diabetes Care, Inc. for Waiver of Section 64.1200(a)(4)(iv) of the Commission's Rules; June 2, 2016; 02-278 and 05-338		Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Amatheon, Inc.	Petition for Waiver; June 3, 2016; 02-278 and 05-338		Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Consumer and Governmental Affairs Bureau ("CGB")	CGB Seeks Comment on Network Communications International Corp. Petition for Expedited Declaratory Ruling, June 7, 2016, 02-278	Released: June 7, 2016; Comments Due: July 7, 2016; Reply Comments Due: July 22, 2016	CGB seeks comment on Network Communications International Corp.'s ("NCIC") petition asking that FCC clarify that NCIC's use of a one-time informational text message to establish a billing relationship with a party receiving a collect call from an inmate who does not answer or respond to the inmates call does not require prior express consent from the called party. NCIC argues that such texts are covered by an exemption granted by the FCC to other ICS providers, that the text is initiated by an inmate's call (not NCIC), and that the text is not sent by an automatic telephone dialing system. CGB seeks comment on all three arguments raised by NCIC.	Scope of Prior Express Consent
HomeoPet, LLC	Petition for Retroactive Waiver; June 13, 2016; 02-278 and 05-338		Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Synchrony Bank d/b/a CareCredit and Synchrony Financial	Synchrony Bank and Synchrony Financial's Petition for Waiver; June 13, 2016; 02-278 and 05-338		Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver

Cochran Wholesale Pharmaceutical, Inc.	Petition of Cochran Wholesale Pharmaceutical, Inc. for Retroactive Waiver; June 14, 2016 (Amended to correct Petitioners name on July 1, 2016); 02-278 and 05-338		Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Mortgage Bankers Association	Petition for Exemption; June 16, 2016; 02-278		Mortgage Bankers Association ("MBA") seeks an exemption from the TCPA's prior express consent requirements for mortgage servicing calls made cellular telephone numbers. MBA defines mortgage servicing calls to include "all communications related to the receipt and application of payments pursuant to the terms of any loan or security agreement, execution of other rights and obligations owed under the loan or security agreement, the modification of any terms of the loan or security agreement, and any other loss mitigation options," including calls made by HUD-approved housing counselors. MBA argues that numerous federal regulations and state laws require these types of calls to consumers by mortgage servicers and that the consumer benefit of these calls therefore outweighs the privacy interests implicated by the TCPA. Thus, the FCC should grant mortgage servicing calls a similar exemption from the TCPA as the FCC has granted for package delivery and certain calls from medical providers and financial institutions.	Prior Express Consent Exemption
Federal Communications Commission	Declaratory Ruling; July 5, 2016; 02-278		In a declaratory ruling resolving three pending petitions, the FCC determined that calls made by the federal government are not made by a "person" as that term is defined in the TCPA and, therefore, are not subject to TCPA liability. The Commission further ruled that this interpretation extends to agents making calls on behalf of a the federal government, provided the agent is acting within the scope of its agency under common-law principles of agency. The Commission explicitly declined to address whether its reasoning extends to calls placed by state or local governments.	State Action under TCPA

Decisions Released:				
Filer	Title; Decision Date; Docket No.	Public Notice	Summary	Primary Issue
Broadnet Teleservices, LLC	Petition of Broadnet Teleservices LLC for Declaratory Ruling, 9/16/2015, 02-278	Released: Sept 29, 2015; Comments Due: Oct 29, 2015; Reply Comments Due: Nov. 13, 2015.	Petitioner seeks declaratory ruling that calls made by or on behalf of federal, state, and local governments for official purposes, the TCPA rules do not apply.	State Action under TCPA
National Employment Network Association	Petition for Expedited Declaratory Ruling; 08/05/2014; 02-278	Released: Sept. 19, 2014; Comments Due: Oct. 20, 2014; Reply Comments Due: Nov. 3, 2014	National Employment Network Association ("NENA") requests that the Commission clarify that an individual's long-standing relationship with 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 Relationships
RTI International	Petition for Expedited Declaratory Ruling; 09/29/2014; 02-278	Released: Nov. 19, 2014; Comments Due: Dec. 23, 2014; Reply Comments Due: Jan. 12, 2015	RTI International seeks clarification that the TCPA and the Commission's TCPA rules do not restrict research survey calls made by or on behalf of the federal government. RTI International argues that the plain language of the TCPA refers only to a call made by a "person," and it argues that rules of statutory construction and court precedent typically do not include the United States within the meaning of "person" unless the statute explicitly includes the United States within the definition, which the TCPA does not. Moreover, RTI International argues that the legislative history of the TCPA shows that Congress did not intend to restrict federal government research calls and that such a restriction would limit the ability of government agencies to perform their statutorily mandated functions.	Applicability of TCPA to Federal Agencies

Pending Petitions:				
Filer	Title; Filing Date; Docket No.	Public Notice	Summary	Primary Issue
Network Communications International Corp.	Petition for Expedited Declaratory Ruling, May 10, 2016, 02-278	Released: June 7, 2016; Comments Due: July 7, 2016; Reply Comments Due: July 22, 2016	Petition to confirm that NCIC may utilize a single follow-up text message protocol, rather than already permitted prerecorded calls, for unsuccessful collect calls initiated by individuals calling from prisons within NCIC's network.	Scope of Prior Express Consent
Warner Chilcott Corporation	Petition of Warner Chilcott Corporation, Inc. For Waiver of Section 64.1200(a)(4)(iv) of the Commission's Rules; May 19, 2016; 02-278 and 05-338	Released: May 31, 2016, Comments Due June 14, 2016, Reply Comments Due June 21, 2016	Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Wedgewood Village Pharmacy, Inc.	Petition of Wedgewood Village Pharmacy, Inc., For Waiver of Section 64.1200(a)(4)(iv) of the Commission's Rules; May 24, 2016; 02-278 and 05-338	Released: May 31, 2016, Comments Due June 14, 2016, Reply Comments Due June 21, 2016	Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Mobile Media Technologies	Petition of Mobile Media Technologies for Declaratory Ruling or, in the Alternative, Retroactive Waiver; April 5, 2016; 02-278 and 07-135	Released: April 27, 2016 Comments Due: May 27, 2016; Reply Comments Due: June 13, 2016	Petitioner requests that the Commission clarify that neither the TCPA nor the FCC's rules require a party sending a text to offer a particular method by which a consumer may revoke consent and, further, that to be reasonable, a consumer's method of revocation must actually reach the texting party. In the alternative, Petitioner seeks a retroactive waiver of the Commission's July 2015 Declaratory Ruling through November 7, 2015 to permit Petitioner to implement a text system that recognizes a reply text "stop" as a revocation of consent.	Revocation of Consent
Jeana Fleitz, LLC d/b/a The X-Ray Lady	Petition for Waiver; April 6, 2016; 02-278 and 05-338	Released: April 29, 2016 Comments Due: May 13, 2016 Reply Comments Due: May 20, 2016	Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
C. Specialties, Inc.	Petition for Waiver of Section 64.1200(a)(4)(iv) of the Commission's Rules; April 26, 2016; 02-278 and 05-338	Released: April 29, 2016 Comments Due: May 13, 2016 Reply Comments Due: May 20, 2016	Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Buccaneers Limited Partnership	Petition of Buccaneers Limited Partnership for Retroactive Waiver; April 28, 2016; 02-278 and 05-338	Released: April 29, 2016 Comments Due: May 13, 2016 Reply Comments Due: May 20, 2016	CGB seeks comment on three petitions seeking retroactive waiver of Section 64.1200 (a)(4)(iv) of the FCC's rules.	Fax Opt-Out Waiver

LKN Communications, Inc. d/b/a ACN, Inc.	Petition of LKN Communications, Inc. d/b/a ACN, Inc. For Waiver of Section 64.1200(a)(4)(iv) of the Commission's Rules; March 1, 2016; 02-278 and 05-338	Released: March 25, 2016 Comments Due: April 8, 2016 Reply Comments Due: April 15, 2016	Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Todd C. Bank	Petition for Declaratory Ruling to Clarify the Scope of Rule 64.1200(a)(2); March 7, 2016; 02-278	Released: March 31, 2016 Comments Due: May 2, 2016 Reply Comments Due: May 17, 2016	Petition seeks clarification that prohibited pre-recorded calls to residential numbers under Section 64.1200(a)(2) of the Commission's Rules includes all numbers registered as residential numbers, regardless of whether the number is used by the residential user as a business line. Petitioner argues that, as more and more people work from home, it would subvert the purpose of the TCPA to permit pre-recorded calls to residential lines on the basis that the line is also used for business purposes. Petitioner seeks a bright-line rule that any telephone number registered with a telephone company as a residential line is residential for purposes of the TCPA.	Scope of Prior Express Written Consent Rule
Educational Testing Service	Petition of Educational Testing Service For Retroactive Waiver of 47 C.F.R. § 64.1200(a)(4)(iv); March 16, 2016; 02-278 and 05-338	Released: March 25, 2016 Comments Due: April 8, 2016 Reply Comments Due: April 15, 2016	Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Kohll's Pharmacy & Homecare Inc.	Petition of Kohll's Pharmacy & Homecare Inc.'s for Declaratory Ruling and Waiver; March 24, 2016; 02-278	Released: April 21, 2016 Comments Due: May 23, 2016 Reply Comments Due: June 6, 2016	Kohll's seeks a declaratory ruling that a fax it sent to businesses informing the businesses of the potential productivity losses associated with employee illness and encouraging the businesses to provide corporate flu shots was not an unsolicited advertisement under the TCPA. Petitioner claims the fax was informational in nature and that a prompt on the fax to call for a quote about corporate flu shots was incidental to its informational purpose. Kohll's also argues the Commission should grant it an exemption from the TCPA based on the recent healthcare related exemptions created by the Commission in the residential and wireless calling context. Kohll's further suggests that failure to grant its declaratory ruling would violate the First Amendment. Alternatively, Kohll's seeks a retroactive waiver from the Commission's rules for its fax.	Definition of Unsolicited Advertisements
INTER-MED, Inc. d/b/a VISTA DENTAL PRODUCTS	Petition of INTER-MED, INC. d/b/a VISTA DENTAL PRODUCTS for Retroactive Waiver of 47 C.F.R. § 64.1200(a)(4)(iv); March 25, 2016; 02-278 and 05-338	Released: April 29, 2016 Comments Due: May 13, 2016 Reply Comments Due: May 20, 2016	Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Legal & General America, Inc.	Petition of Legal & General America, Inc., for Waiver of Section 64.1200(a)(4)(iv) of the Commission's Rules; March 31, 2016; 02-278 and 05-338	Released: April 29, 2016 Comments Due: May 13, 2016 Reply Comments Due: May 20, 2016	Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Lifetime Entertainment Services, LLC	Lifetime Entertainment Services, LLC Petition for Declaratory Ruling to Clarify Scope of Rule 64.1200(a)(3) or, in the Alternative, for Retroactive Waiver; Dec. 11, 2015 (posted 02/02/2016); 02-278	Released: Feb. 5, 2016 Comments Due: March 7, 2016 Reply Comments Due: March 21, 2016	Lifetime seeks clarification that prerecorded calls from a cable operator or a cable programming network to a residential telephone line of a subscriber already entitled to watch the programming about which the call is made are informational calls. As such, the calls would be subject to the Commission's exemption from the TCPA for non-commercial calls made to residential lines. Alternatively, Lifetime asks for a retroactive waiver of the Commission's rules for any calls it made to subscribers of its channels.	Scope of Prior Express Consent Rule

Posture Pro, Inc.	Petition of Posture Pro, Inc. for Retroactive Waiver of 47 C.F.R. § 64.1200(a)(4)(iv); Feb. 23, 2016; 02-278 and 05-338	Released: March 25, 2016 Comments Due: April 8, 2016 Reply Comments Due: April 15, 2016	Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Papa Murphy's Holdings, Inc. and Papa Murphy's International L.L.C. (collectively, "Papa Murphy's")	Petition for Waiver of Papa Murphy's Holdings, Inc. and Papa Murphy's International L.L.C.; Feb. 22, 2016; 02-278	Released: March 22, 2016 Comments Due: April 21, 2016 Reply Comments Due: May 6, 2016	Papa Murphy's requests a retroactive waiver for any text messages sent to customers between Oct. 16, 2013 (when the FCC's new prior written consent standard went into effect) and June 17, 2015 that were based on prior express written consent obtained before Oct. 16, 2013. Papa Murphy's also requests an 89 day prospective waiver period to allow it to re-opt in customers that provided written consent to receive text messages prior to October 16, 2013. Papa Murphy's argues that it is similarly situated to the marketing companies to whom the FCC granted a similar retroactive waiver in the July 10, 2015 TCPA Omnibus Order.	Prior Express Written Consent
Renaissance Systems and Service, LLC ("RSS")	Renaissance Systems and Service, LLC's Application for Full Commission Review; Jan. 8, 2016; 02-278 and 05-338		In a Dec. 9, 2015 Order, the Consumer and Governmental Affairs Bureau ("CGB") denied RSS's petition for retroactive waiver of Section 64.1200(a)(4)(iv) of the Commission's rules because CGB said the waiver requested admitted Petitioner's ignorance of the relevant rule, which the Commission made clear cannot be the basis for waiver of its rules. However, RSS argues in its Application for Review that CGB misread its waiver request. Specifically, RSS claims that its waiver request does not admit ignorance of the Commission's fax opt-out notice rules; rather, RSS's petition for retroactive waiver admitted to ignorance of the Commission's Oct. 30, 2014 Anda Order as explanation for why it did not file its waiver request sooner.	Fax Opt-Out Waiver
Ohio National Mutual, Inc.	Petition for Reconsideration of December 9, 2015 Order Regarding Retroactive Waiver; Jan. 8, 2016; 02-278 and 5-338		In a Dec. 9, 2015 Order, the Consumer and Governmental Affairs Bureau ("CGB") denied Ohio National Mutual's petition for retroactive waiver of Section 64.1200(a)(4)(iv) of the Commission's rules because CGB said the waiver requested admitted Petitioner's ignorance of the relevant rule, which the Commission made clear cannot be the basis for waiver of its rules. However, Ohio National Mutual argues in its Petition for Reconsideration that CGB misread its waiver request. Petition claims that its waiver request does not admit ignorance of the Commission's fax opt-out notice rules and that the Commission granted previous waivers using similar language to Ohio National Mutual's petition.	Fax Opt-Out Waiver
Wilder Chiropractic, Inc. ("Wilder")	Application for Review; Jan. 8, 2016; 02-278 and 05-338		Wilder argues the Consumer and Governmental Affairs Bureau ("CGB") erred in granting a retroactive waiver of the Commission's fax opt-out rules to Scrip Holding Co. in CGB's Dec. 9, 2015. Wilder claims the waiver request of Scrip Holding Co. and four other petitioners that were granted in the Dec. 9 Order were not timely filed because the petitioners did not "make every effort" to file a waiver petition by April 30, 2015 as suggested by the Commission's Oct. 30, 2014 Anda Order. Wilder also has a pending Application for Review regarding CGB's Aug. 28, 2015 grant of 117 waivers of the Commission's fax opt-out rules.	Fax Opt-Out Waiver
Rita's Water Ice Franchise Company, LLC	Petition of Rita's Water Ice Franchise Company, LLC for Retroactive Waiver in accordance with July 2015 Order; Dec. 2, 2015; 02-278	Released: Dec. 14, 2015 Comments Due: Jan. 13, 2016 Reply Comments Due: Jan. 28, 2016	Rita's requests a retroactive waiver for any text messages sent to customers after Oct. 16, 2013 based on prior express written consent obtained before Oct. 16, 2013, when the FCC's new prior written consent standard went into effect. Rita's argues that it is similarly situated to the marketing companies to whom the FCC granted a similar retroactive waiver in the July 10, 2015 TCPA Omnibus Order.	Prior Express Written Consent
AZCOMP Technologies, Inc. (Filed with FCC as John C. Kelly)	Petition of AZCOMP Technologies, Inc. for Retroactive Waiver of 47 C.F.R. Section 64.1200(a)(4)(iv); Dec. 4, 2015; 02-278 and 05-338	Released: Jan. 29, 2016 Comments Due: Feb. 12, 2016 Reply Comments Due: Feb. 19, 2016	Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver

Weinberg & Associates, Inc.	Weinberg & Associates, Inc. Petition for Retroactive Waiver of 47 C.F.R. Section 64.1200(a)(4)(iv); Dec. 8, 2015; 02-278 and 05-338	Released: Jan. 29, 2016 Comments Due: Feb. 12, 2016 Reply Comments Due: Feb. 19, 2016	Petitioner seeks a retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioner.	Fax Opt-Out Waiver
Humana Insurance Company, Humana Inc., HumanaDental Insurance Company, Humana Health Plan, Inc., CompBenefits Insurance Company, CompBenefits Dental, Inc., American Dental Plan of North Carolina, Inc., The Dental Concern, LTD, and Golden West Dental and Vision (collectively "Petitioners")	Petition for Retroactive Waiver; Dec. 18, 2015; 02-278 and 05-338	Released: Jan. 29, 2016 Comments Due: Feb. 12, 2016 Reply Comments Due: Feb. 19, 2016	Petitioners seek retroactive waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of the petitioners.	Fax Opt-Out Waiver
Fetch, Inc. d/b/a Petaplan	Petition for Retroactive Waiver of 47 C.F.R. 64.1200(a)(4)(iv), Nov. 25, 2015, 02-278, 05-338	Released: Dec. 4, 2015 Comments Due: Dec. 18, 2015 Reply Comments Due: Dec. 30, 2015	Petitioner requests retroactive waiver of 47 C.F.R. 64.12000(a)(4)(iv) with respect to the opt-out notice requirement for solicited facsimile advertisements sent to recipients by or purportedly on behalf of Petitioner. The Petitioner argues that the FCC should grant a waiver because: (1) of the special circumstances acknowledged in a October 30, 2014 Order, FCC 14-164 paras. 24-25; (2) such relief would not threaten 47 C.F.R. 64.12000(a)(4)(iv)'s purpose in curtailing unwanted faxes and would serve the public interest; and (3) Petitioner is a similarly situated to the parties granted waivers by the Commission in the Oct. 30, 2014 Order.	Fax Opt-Out Waiver
Advanced Care Scripts, Inc.	Petition for Declaratory Ruling to Clarify Statutory Basis for Rule 64.100(a)(3)(iv) and/or for Ruling Regarding Substantial Compliance with Section 64.1200(a)(4)(iii) and (iv) and/or Waiver; 02-278 and 05-338; Nov. 12, 2015	Released: Dec. 4, 2015 Comments Due: Dec. 18, 2015 Reply Comments Due: Dec. 30, 2015	Petitioner requests a retroactive waiver of 47 C.F.R. 64.12000(a)(4)(iv) with respect to any faxes transmitted on or behalf of Petitioner prior to April 30, 2015. Petitioner argues that good cause exists for waiver as there is uncertainty regarding the opt-out requirements for solicited fax advertisements.	Fax Opt-Out Waiver
Virbac Corporation	Petition for Waiver of Virbac Corporation, Nov. 9, 2015, 02-278, 05-338	Released: Dec. 4, 2015 Comments Due: Dec. 18, 2015 Reply Comments Due: Dec. 30, 2015	Petitioner requests a retroactive waiver of 47 C.F.R. 64.12000(a)(4)(iv) with respect to any faxes transmitted on or behalf of Petitioner prior to April 30, 2015. Petitioner argues that good cause exists for waiver as there is uncertainty regarding the opt-out requirements for solicited fax advertisements.	Fax Opt-Out Waiver
Joseph T. Ryerson & Son, Inc.	Petition for Declaratory Ruling, Nov. 3, 2015, 02-278, 05-338	Released: 11/04/2015 Comments Due: 12/8/2015 Reply Comments Due: 12/15/2015	Petitioner requests declaratory ruling that faxes both initiated and received in digital form are exempt from the TCPA. Petitioner contends that such transmissions should instead be governed by the CAN-SPAM Act (15 U.S.C. 7701).	Applicability of TCPA to Faxes in Digital Form

Sumotext Corp.	Petition for Expedited Clarification or, in the alternative, for Declaratory Ruling, 9/03/2015, 02-278 and 07-135	Released: 11/12/2015 Comments Due: 12/18/2015 Reply Comments Due: 01/08/2016	Petitioner seeks clarification of a July 10, 2015 Declaratory Ruling and Order, FCC 15-72 para. 3. The clarification sought is related to the elements that a business can use to prove if TCPA disclosures were provided in a "clear and conspicuous" manner. The FCC wrote that a program where a consumer sends a company a key word and the company then sends a coupon complies with the TCPA but only as long as the business sends no more than one text as a response. If a company sends more than one text, FCC rules "require prior express written consent with the specified disclosures." Petitioner requests that the FCC clarify this last requirement.	Scope of Prior Express Written Consent Rule
Bais Yaakov of Spring Valley; Roger H Kaye; and Roger H Kaye MD PC	Application for Full Commission Review, In the Matter of Petitions for Declaratory Ruling and Retroactive Waiver of 47 C.F.R. § 64.1200(a)(4)(iv) Regarding the Commission's Opt-Out Notice Requirement for Faxes Sent with the Recipient's Prior Express Permission, 9/25/2015, CG 02-278 and CG 05-338.		Petitioners appeal decision granting 117 waiver requests in Aug 28, 2015 CGB action (see Decisions Released section below). The petitioners state that by granting the ruling in "one fell swoop," CGB acted "in excess of the Bureau's authority and without consideration of any individual facts (or lack thereof) underlying those requests." Petitioners have filed a private TCPA class action against ACT, Inc.	Fax Opt-Out Waiver
Craftwood II, Inc., dba Bay Hardware, and Craftwood Lumber Company	Application for Review, In the Matter of Petitions for Declaratory Ruling and Retroactive Waiver of 47 C.F.R. § 64.1200(a)(4)(iv) Regarding the Commission's Opt-Out Notice Requirement for Faxes Sent with the Recipient's Prior Express Permission, 9/28/2015, CG 02-278 and CG 05-338.		Petitioner appeals decision granting retroactive waiver to Senco Brands, Inc., calling the Aug. 28 Order arbitrary and capricious. The petitioner also argues the FCC violated the separation of powers and set a precedent that is against public policy. The Petitioner has filed a private TCPA lawsuit against Senco Brands.	Fax Opt-Out Waiver
Edward Simon	Application for Review, In the Matter of Petitions for Declaratory Ruling and Retroactive Waiver of 47 C.F.R. § 64.1200(a)(4)(iv) Regarding the Commission's Opt-Out Notice Requirement for Faxes Sent with the Recipient's Prior Express Permission, 9/28/2015		Petitioner appeals decision granting retroactive waiver to "RadNet Entities", calling the Aug. 28 Order arbitrary and capricious. The petitioner also argues the FCC violated the separation of powers and set a precedent that is against public policy. The Petitioner has filed a private TCPA lawsuit against "RadNet Entities".	Fax Opt-Out Waiver
Craftwood Lumber Co.	Application for Review, In the Matter of Petitions for Declaratory Ruling and Retroactive Waiver of 47 C.F.R. § 64.1200(a)(4)(iv) Regarding the Commission's Opt-Out Notice Requirement for Faxes Sent with the Recipient's Prior Express Permission, 9/28/2015		Petitioner appeals decision granting retroactive waiver to United Stationers, Inc., calling the Aug. 28 Order arbitrary and capricious. The petitioner also argues the FCC violated the separation of powers and set a precedent that is against public policy. The Petitioner has filed a private TCPA lawsuit against United Stationers.	Fax Opt-Out Waiver
Beck Simmons et al	Application for Review, In the Matter of Petitions for Declaratory Ruling and Retroactive Waiver of 47 C.F.R. § 64.1200(a)(4)(iv) Regarding the Commission's Opt-Out Notice Requirement for Faxes Sent with the Recipient's Prior Express Permission, 9/28/2015		Petitioners appeal decision granting 117 waiver requests in Aug 28, 2015 CGB action, saying that the FCC did not have the authority to grant the waivers and that the record shows that there was no "industry-wide confusion" about opt-out regulation. Petitioners have filed a private TCPA class action against Allscripts-Misy's Health Care Solutions Inc, Alma Lasers Inc., and McKesson Corp.	Fax Opt-Out Waiver
National Cable & Telecommunications Association ("NCTA")	National Cable & Telecommunications Association Petition for Waiver, 10/1/2015, 02-278	Released: Nov. 3, 2015; Comments Due: Dec. 3, 2015; Reply Comments Due: Dec. 18, 2015	NCTA, on behalf of its members, requests a retroactive and prospective waiver of the Commission's prior express written consent requirement for telemarketing messages, which the Commission promulgated in 2012. The waiver would cover the period of Oct. 16, 2013 (the effective date of the requirement) through Oct. 7, 2015 (89 days after the Commission's recent TCPA Omnibus Order). NCTA seeks the waivers on the same basis as the waivers the Commission granted to the Coalition of Mobile Engagement Providers, the Direct Marketing Association, and the Retail Industry Leaders Association in the TCPA Omnibus Order.	Prior Written Consent Requirement
American Bankers Association (ABA)	Petition for Reconsideration of the American Bankers Association, 8/10/2015, 02-278 and 07-135		ABA seeks reconsideration of the exemption granted to financial institutions in the TCPA Omnibus Order. Specifically, ABA asks the Commission to reconsider its requirement that financial institutions make calls or send texts only to a wireless number provided by the customer of the financial institution. ABA argues this requirement will impose an unnecessary recordkeeping requirement on financial institutions, limit the ability of banks to send urgent information to customers, and undermine the Commission's stated purpose in adopting the exemption.	Scope of Prior Express Consent Rule

National Association of Broadcasters (NAB)	National Association of Broadcasters Petition for Retroactive Waiver, 8/18/2015, 02-278	Released: Sept 25, 2015; Comments Due: Oct. 26, 2015; Reply Comments Due: Nov. 9, 2015	Petitioner seeks a retroactive waiver for prior express written consents that do not conform to the Commission's prior express written consent rules but were obtained prior to the Commission's adoption of its prior written consent rules for telemarketing. Petition also seeks a waiver of the prior written consent rule for 89 days after the release of the TCPA Omnibus Order, during which time compliant prior written consents can be obtained.	Scope of Prior Express Written Consent Rule
F-19 Holdings, LLC and Affiliated Franchisees (collectively "F-19")	Petition for Retroactive Waiver, 7/29/2015, 02-278	Released: Sept 25, 2015; Comments Due: Oct. 26, 2015; Reply Comments Due: Nov. 9, 2015	F-19 requests a retroactive waiver of 47 U.S.C. 227, and <i>In the Matter of Rules and Regulations Governing the Telephone Consumer Protection Act of 1991</i> , Report and Order, 27 FCC Rcd 1830 (2012), with respect to the requirement to obtain additional express consent from customers prior to sending text message marketing correspondence through an automated telephone dialing system ("ATDS") where initial prior express written consent was obtained from customers via Membership Agreements and "opt-in" sign-up sheets.	Scope of Prior Express Written Consent Rule
Kale Realty, LLC ("Kale")	Petition for Retroactive Waiver, 7/23/2015, 02-278	Released: Sept 25, 2015; Comments Due: Oct. 26, 2015; Reply Comments Due: Nov. 9, 2015	Kale requests retroactive waiver of the prior written consent requirements contained in Section 64.1200(a)(2) of the Commission's rules where Kale had a personal relationship with the customer, had previously been in merger negotiations with customer, and received customer's cell phone number by means of numerous written emails from customer.	Scope of Prior Express Written Consent Rule
Coalition of Higher Education Assistance Organizations ("COHEAO"), et al.	Letter; June 5, 2015; 02-278		COHEAO requests reform of the TCPA for organizations acting on behalf of the federal government with respect to federal student loan servicing and collection. Specifically, COHEAO asks the FCC to confirm, through a declaratory ruling or rulemaking, that student loan organizations and institutions of higher education are permitted to use automatic dialing systems and prerecorded voice and text messages when contacting borrowers on their wireless phones.	Scope of Prior Express Consent Rule
Anthem, Inc.	Petition for Declaratory Ruling and Exemption Regarding Non-Telemarketing Healthcare Calls; June 10, 2015; 02-278	Released: 10/28/2015; Comments Due: 09/30/2015; Reply Comments Due: 10/15/2015	Anthem requests a declaratory ruling expressly exempting non-telemarketing health care related calls and texts from current TCPA rules. Specifically, Anthem requests that non-telemarketing health care related calls and text messages, including calls and texts related to case management, preventative medicine, and using or maintaining medical benefits, be subject to an "opt out" rather than "opt in" prior consent regime.	Scope of Prior Express Consent Rule
Puget Sound Energy, Inc.	CG Docket No. 02-278; Apr. 3, 2015; 02-278	Released: May 8, 2015; Comments Due: May 22, 2015; Reply Comments Due: May 29, 2015	Petitions the FCC to confirm that providing a telephone number to an energy utility constitutes "prior express consent" to receive non-telemarketing, informational calls related to the customer's utility service, which are placed using an autodialer or prerecorded voice.	Prior Express Consent
Edison Electric Institute ("EEI") and American Gas Association ("AGA")	Petition for Expedited Declaratory Ruling; 02-278; Feb. 12, 2015	Released: Feb. 24, 2015; Comments Due: March 26, 2015; Reply Comments Due: April 10, 2015	EEI and AGA argue that electric and gas utilities around the country must routinely call their customers to inform them of potential service interruptions, maintenance work, outages, service restoration, and other issues related to the customers' service. Therefore, EEI and AGA ask the Commission to clarify that providing a telephone number to an energy utility constitutes "prior express consent" to receive non-telemarketing, informational calls at that number related to the utility service.	Scope of Prior Express Consent Rule
Mammoth Mountain Ski Area, LLC	Petition for Expedited Declaratory Ruling or Forbearance of Mammoth Mountain Ski Area, LLC; 02-278; Feb. 23, 2015	Released: Mar 9, 2015; Comments Due: Apr 6, 2015; Reply Comments Due: Apr 21, 2015	Mammoth Mountain seeks clarification that consents received prior to the Commission's October 16, 2013 rule changes remain valid consents. Alternatively, Mammoth Mountain seeks a declaratory ruling that the Commission's changes to its rules to require written, signed consents misinterprets the term "prior express consent" under the TCPA.	Scope of Prior Express Consent Rule

Blackboard Inc.	Blackboard Inc. Petition for Expedited Declaratory Ruling; 02-278; Feb. 24, 2015		Blackboard provides a mass notification platform, which allows its customers to send notifications and other informational messages to a targeted audience, for example school closing notifications to parents, guardians, students, and faculty. Blackboard seeks a declaratory ruling that the TCPA and the Commission's rules do not apply to these informational, non-commercial, non-advertising, and non-telemarketing calls and messages. Alternatively, Blackboard seeks a declaratory ruling that a recipient who gives his or her phone number to a Blackboard customer has given prior express consent to receive messages and calls from Blackboard.	Scope of Prior Express Consent Rule
Citizens Bank, N.A.	Petition for Declaratory Ruling and/or Clarification Brought by Citizens Bank, N.A.; 02-278; Jan. 16, 2015	Released Feb 12, 2015; Comments Due: Mar 16, 2015; Reply Comments Due: Mar 31, 2015	Citizens Bank requests a declaratory ruling that a called party who purposefully and affirmatively takes steps to release his or her cell phone number to the public for regular use in normal business communications has given prior express consent under the TCPA.	Scope of Prior Express Written Consent Rule
Sales Verification Company, LLC	Petition to Seek Retroactive Waiver for Temporary Relief from Past Requirements of 47 C.F.R. § 64.1200(a)(4)(iv) as Applicable to Solicited Faxes; 02-278 and 05-338; Jan. 29, 2015	Released: Jan. 30, 2015; Comments Due: Feb. 13, 2015; Reply Comments Due: Feb. 20, 2015	Sales Verification seeks a waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of petitioner.	Fax Opt-Out Waiver
AGR Group, LLC; AGR Group, Inc.; AGR Group California, LLC; AGR Group Nevada, LLC; Utilities Marketing Group, LLC; AGR Field Services, LLC; Energy Professionals, LLC; U.S. Power and Gas, Inc.; and All Global Resources, LLC	Petition to Seek Retroactive Waiver for Temporary Relief from Past Requirements of 47 C.F.R. § 64.1200(a)(4)(iv) as Applicable to Solicited Faxes; 02-278 and 05-338; Jan. 29, 2015	Released: Jan. 30, 2015; Comments Due: Feb. 13, 2015; Reply Comments Due: Feb. 20, 2015	AGR Group seeks a waiver from Section 64.1200(a)(4)(iv) of the Commission's rules for any fax sent by or on behalf of petitioner.	Fax Opt-Out Waiver
Florence Mussat, M.D., S.C.	Petition for Reconsideration of Retroactive Waiver to Power Liens, LLC; Nov. 18, 2014; 02-278 and 05-338		Petitioner seeks reconsideration of the retroactive waiver granted by the Commission to Power Liens, LLC on Oct. 30, 2014. Petitioner is the plaintiff in an ongoing TCPA lawsuit involving Power Liens, and Petitioner argues the Commission should not have granted a waiver for any fax advertisements sent without an appropriate opt-out notice after Feb. 24, 2012 when the Commission filed its Amicus Brief urging reversal in <i>Nack v. Walburg</i> . Petitioner claims the Commission's Amicus Brief made clear that all faxes, both solicited and unsolicited, must comply the Commission's opt-out notice requirements. Petitioner further argues that the Commission failed to make the necessary individualized findings of fact to warrant the retroactive waiver it provided in its Oct. 30 Order.	Fax Opt-Out Waiver Petition for Reconsideration
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
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