

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

TCPA Compliance Monitor

Update: November 2016

Total Pending Petitions Filed:	66
New Petitions:	4
Existing Pending Petitions:	29
Decisions Released:	33

New Petitions:				
Filer	Title; Filing Date; Docket No.	Public Notice	Summary	Primary Issue
Safemark Systems, LP	Petition of Satemark Systems, LP for Retroactive Waiver of C.F.R. § 64.1200(a)(4)(iv), Oct. 6, 2016, 02-278 and 05-338	Released: Oct. 28, 2016; Comments Due: Nov. 14, 2016; Reply Comments Due: Nov. 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
Consumer and Governmental Affairs Bureau ("CGB")	Order, October 14, 2016, 02-278		CGB grants seven waivers of the Commission's prior-express-written-consent rules for written consent obtained prior to the Commission's 2012 clarification of the prior-express-written-consent rules. CGB found the petitioners were similarly situated to petitioners to whom the Commission granted waiver of the rule in the Commission's 2015 TCPA Declaratory Ruling. As the Commission did in its 2015 Declaratory Ruling, CGB limited the waiver to calls made on or before October 7, 2015.	Prior Express Consent
Cartridge World North America, LLC	Petition of Cartridge World North America, LLC for Retroactive Waiver, Aug. 24, 2016 (posted Oct. 18, 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
Cynosure, Inc.	Petition for Waiver of Section 64.1200(a)(4)(iv) of the Commission's Rules or, in the Alternative, for a Declaratory Ruling, Oct. 26, 2016, 02-278 and 05-338	Released: Oct. 28, 2016; Comments Due: Nov. 14, 2016; Reply Comments Due: Nov. 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. In the alternative, Cynosure asks the Commission to issue a declaratory ruling clarifying that Section 64.1200(a)(4)(iv) does not apply to solicited fax advertisements or Section 227(b) of the TCPA is not the legal basis for Commission's rules.	Fax Opt-Out Waiver
Consumer and Governmental Affairs Bureau ("CGB")	CGB Seeks Comment on Petitions Concerning the Commission's Rule of Opt-Out Notices on Fax Advertisements, Oct. 28, 2016, 02-278 and 05-338	Released: Oct. 28, 2016; Comments Due: Nov. 14, 2016; Reply Comments Due: Nov. 21, 2016	CGB seeks comment on two Petitions for Retroactive Waiver seeking waiver from Section 64.1200(a)(4)(iv) of the Commission's rules.	Fax Opt-Out Waiver
United Auto Credit Corporation	Petition of United Auto Credit Corporation for Retroactive Waiver, Oct. 28, 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")	Order, Nov. 2, 2016, 02-278 and 05-338		CGB grants 22 waivers of the opt-out notice requirements applied to fax advertisements sent with recipient consent prior to April 30, 2015. It also grants in part one retroactive waiver of the Commission's fax ad opt-out notice requirements for faxes sent with consent prior to April 30, 2015 but denies the petition with respect to faxes sent after that date. Finally, the Commission denies three petitions for retroactive waiver of the Commission's fax ad opt-out notice requirements because the petitioners were not similarly situated to those petitioners for whom the Commission has granted such previous waivers.	Fax Opt-Out Waiver
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Decisions Released:

Filer	Title; Decision Date; Docket No.	Public Notice	Summary	Primary Issue
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
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
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
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
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
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
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
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

Fetch, Inc. d/b/a Petplan	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
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
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
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
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
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
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
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
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
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
North American Bancard, LLC	Petition for Retroactive Waiver, Aug. 16, 2016, 02-278 and 05-338	Released: Aug. 26, 2016; Comments Due: Sept. 9, 2016; Reply Comments Due: Sept. 16, 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

Cartridge World North America, LLC	Petition of Cartridge World North America, LLC for Retroactive Waiver, Aug. 24, 2016, 02-278 and 05-338	Released: Sept 30, 2016; Comments Due: Oct. 14, 2016; Reply Comments Due: Oct. 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
Biolase, Inc.	Petition for Retroactive Waiver, Sept. 9, 2016, 02-278 and 05-338	Released: Sept 30, 2016; Comments Due: Oct. 14, 2016; Reply Comments Due: Oct. 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
Power Products LLC dba Del City Wire Co, Inc.	Petition for Retroactive Waiver, Sept. 9, 2016, 02-278 and 05-338	Released: Sept 30, 2016; Comments Due: Oct. 14, 2016; Reply Comments Due: Oct. 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
Schwabe North America, Inc.	Petition for Retroactive Waiver, Sept. 19, 2016, 02-278 and 05-338	Released: Sept 30, 2016; Comments Due: Oct. 14, 2016; Reply Comments Due: Oct. 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
Amsterdam Printing & Litho, Inc.	Petition for Retroactive Waiver, Sept. 27, 2016, 02-278 and 05-338	Released: Sept 30, 2016; Comments Due: Oct. 14, 2016; Reply Comments Due: Oct. 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

Pending Petitions:

Filer	Title; Filing Date; Docket No.	Public Notice	Summary	Primary Issue
Cynosure, Inc.	Petition of Cynosure, Inc. for Rulemaking and Declaratory Ruling, Sept. 30, 2016, 02-278 and 05-338; WITHDRAWN Oct. 26, 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
RingCentral, Inc.	Petition for Expedited Declaratory Ruling; July 6, 2016; 02-278	Released: July 29, 2016; Comments Due: Aug. 29, 2016; Reply Comments Due: Sept. 13, 2016	RingCentral seeks clarification that a fax broadcaster whose facilities or services are used by a third party content generator is not itself the "sender" of a fax for TCPA purposes. It also asks that de minimis promotional phrases contained in otherwise informational, transactional, or third party fax advertising do not constitute unsolicited advertisements under the TCPA. Alternatively, RingCentral asks that fax broadcasters be permitted to rely on third party consent for sending de minimis information about the fax broadcaster as part of a fax that is otherwise lawfully sent by a fax broadcaster's customer.	Fax Broadcaster Liability
National Consumer Law Center	Petition for Reconsideration of Declaratory Ruling and Request for Stay of Pending Reconsideration; July 26, 2016; 02-278	Released: Aug. 1, 2016; Comments Due: Aug. 11, 2016 and 31; Reply Comments Due: Aug. 16 and Sept. 15, 2016	Petitioner asks the FCC to reconsider its Broadnet Ruling, which found the TCPA does not apply to the federal government or its contractors. Specifically, Petitioner seeks reconsideration of the FCC's extension of its order to federal government contractors. Petitioner also requests that the FCC stay its Broadnet Ruling.	TCPA Application to Government and Government Contractors

Anthem, Inc.; Blue Cross Blue Shield Association; WellCare Health Plans, Inc.; and the American Association of Healthcare Administrative Management	Joint Petition of Anthem, Inc., Blue Cross Blue Shield Association, WellCare Health Plans, Inc., and the American Association of Healthcare Administrative Management for Expedited Declaratory Ruling and/or Clarification of the TCPA Omnibus Declaratory Ruling and Order; July 28, 2016; -	Released: Aug. 19, 2016; Comments Due: Sept. 19, 2016; Reply Comments Due: Oct. 4, 2016	Petitioners ask the FCC to clarify that the use of health plan member telephone numbers under the TCPA is the same as regulations governing use of those number under HIPAA. Petitioners argue that the FCC's 2015 Omnibus Order could limit non-telemarketing healthcare calls more than HIPAA already does, which petitioners argue could prevent certain valuable healthcare calls from being made.	Prior Express Consent Exemption
Professional Services Council	Petition for Reconsideration; Aug. 4, 2016; 02-278	Released: Aug. 15, 2016; Comments Due: Sept. 14, 2016; Reply Comments Due: Sept. 29, 2016	The Professional Services Council seeks reconsideration of the FCC's Broadnet Ruling because the FCC's reliance on common law principles narrows the decision more than the Council believes the FCC intended. Specifically, the Council argues that 1) none of the petitions resolved by the decision sought relief on common law agency grounds; 2) contractors acting on behalf of the federal government are not generally considered agents of the government; and 3) long-standing precedent does not require an agency relationship for a government contractor to benefit from derivative sovereign immunity.	TCPA Application to Government and Government Contractors
Mortgage Bankers Association	Petition for Exemption; June 16, 2016; 02-278	Released: Aug. 3, 2016; Comments Due: Sept. 2, 2016; Reply Comments Due: Sept. 19, 2016	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
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
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
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
Kohl's Pharmacy & Homecare Inc.	Petition of Kohl'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	Kohl'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. Kohl'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. Kohl's further suggests that failure to grant its declaratory ruling would violate the First Amendment. Alternatively, Kohl's seeks a retroactive waiver from the Commission's rules for its fax.	Definition of Unsolicited Advertisements

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
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
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, WITHDRAWN March 1, 2016	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
American Bankers Association (ABA)	Petition for Reconsideration of the American Bankers Association, 8/102015, 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
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
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