



# PUBLIC NOTICE

Federal Communications Commission  
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## CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION FOR EXPEDITED DECLARATORY RULING FROM THE CARGO AIRLINE ASSOCIATION

CG Docket No. 02-278

Comments Due: November 15, 2012

Reply Comments Due: November 30, 2012

With this Public Notice, we seek comment on a Petition for Expedited Declaratory Ruling filed by the Cargo Airline Association (CAA)<sup>1</sup> seeking clarification of an issue arising under the Telephone Consumer Protection Act (TCPA)<sup>2</sup> and Section 64.1200 of the Commission's rules.<sup>3</sup> CAA asks the Commission to clarify that package delivery companies can rely upon representations from senders that the package recipient consents to receiving autodialed and prerecorded calls to a wireless telephone number for purposes of notifications regarding shipment of the package.<sup>4</sup> CAA asks the Commission, in the alternative, to declare that package delivery notifications are exempt from the TCPA's requirement to obtain prior express consent before making autodialed or prerecorded calls to a wireless telephone number.<sup>5</sup> CAA states that this clarification is needed because package delivery companies generally do not have any contact with a recipient prior to shipment of a package and that it would be impossible, given the volume of daily package deliveries, to manually dial each delivery notification call to wireless phone numbers or to obtain prior express consent from each package recipient before making autodialed or prerecorded package delivery notification calls to wireless phone numbers.<sup>6</sup>

According to its petition, CAA is "the nationwide trade organization representing the interests of the United States all-cargo air transportation industry." Its members include ABX Air, Atlas Air, Capital Cargo, DHL, FedEx Express, Kalitta Air, and UPS Airlines.<sup>7</sup>

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<sup>1</sup> See *Cargo Airline Association*, Petition for Expedited Declaratory Ruling, CG Docket No. 02-278 (filed Aug. 17, 2012) (*Petition*), a copy of which is attached to this Public Notice.

<sup>2</sup> Codified as 47 U.S.C. § 227.

<sup>3</sup> 47 C.F.R. § 64.1200.

<sup>4</sup> *Petition* at 1, 4-6

<sup>5</sup> *Id.* at 2, 6-9.

<sup>6</sup> *Id.* at 5.

<sup>7</sup> *Id.* at 1 n.1.

Pursuant to sections 1.415 and 1.419 of the Commission's rules,<sup>8</sup> interested parties may file comments and reply comments on or before the respective dates indicated on the first page of this Notice. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

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

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

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>9</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed

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<sup>8</sup> 47 C.F.R. §§ 1.415, 1.419.

<sup>9</sup> 47 C.F.R. §§ 1.1200 *et seq.*

consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

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

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