



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: The Commission
FROM: Commission Secretary's Office *Reef*
DATE: August 23, 2012
SUBJECT: Comments on Draft AO 2012-30
(Revolution Messaging, LLC)

Attached is a timely submitted comment from Jan Witold Baran and Caleb P. Burns, counsel, on behalf of CTIA – The Wireless Association.

Attachment



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August 23, 2012

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BY HAND DELIVERY AND FAX (202.208.3333)

Federal Election Commission
Office of the Commission Secretary
999 E Street, NW
Washington, DC 20463

Re: Comments to Draft Advisory Opinion 2012-30

Dear Commissioners:

On behalf of CTIA - The Wireless Association® ("CTIA"), we are submitting these comments to Draft Advisory Opinion 2012-30 (the "Draft") made available for public comment yesterday evening.

Our client is concerned that the Draft's allowance for shared short codes by multiple political committees may make it difficult to verify information about participating political committees. As we have previously explained, CTIA conducts a review of short code applications to validate information regarding each content provider - in this case, a political committee - associated with a short code. CTIA conducts this review, in part, to protect consumers against fraud perpetrated by illegitimate content providers and to further compliance with consumer-protection requirements contained in state laws. Shared short codes could frustrate this industry-standard review and compliance with state legal requirements by obfuscating the political committees using each short code.

Shared short codes may also frustrate donor intent. In January 2010, the American Red Cross was soliciting donations for Haiti relief using GIVE and REDCROSS as the keywords on short code 90999. Several months earlier, the American Heart Association had been fundraising using the keyword RED, also on short code 90999. The American Heart Association apparently conceded that, because it had no active media campaign asking the public to text RED to 90999 at the time of the American Red Cross's Haiti relief campaign, pledges made to the keyword RED were likely incomplete attempts to donate to REDCROSS. Sharing codes may lead to confusion and potential misdirection of political contributions, especially if political committees and candidates have similar names, e.g., the Senators Warner of Virginia, and those names are used as keywords in text message campaigns.



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We respectfully request that the Commission answer the Draft's second Question Presented regarding shared short codes in the negative or, at a minimum, refrain from finalizing the Draft until the Commission's next meeting on September 20 to permit CTIA to analyze and, if necessary, comment further on these issues.¹

Ultimately, CTIA and the wireless service providers will exercise their business discretion, as permitted by Advisory Opinion 2012-28, to determine whether shared short codes for political contribution text message campaigns are an acceptable industry practice. CTIA is raising these concerns with the Commission so it can evaluate them for compliance with the Federal Election Campaign Act, as amended.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Baran", written over a horizontal line.

Jan Witold Baran
Calcb P. Burns

cc: Office of General Counsel (FAX 202.219.3923)

¹ A delay until September 20 would still allow the Commission to issue an advisory opinion within the sixty-day statutory time period and would be consistent with the Commission's policy to "provide at least one draft response to the Requestor and the public no later than one week prior to the Commission open meeting at which the advisory opinion will be considered" to permit meaningful comment. 74 Fed. Reg. 32160, 32161 (July 7, 2009).