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October 31, 2012

Ms. P. Michele Ellison
Bureau Chief
Enforcement Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Ms. Ellison:

We request that the Federal Communications Commission investigate a series of spam texts sent to consumers' wireless telephones in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (the "TCPA"). Based on information and belief, and given the concentration of calls in a short period of time to a large but unknown number of individuals, we ask you to investigate whether the company ccAdvertising has illegally used auto-dialing technology to send unwanted text messages to consumers.

In recent days, individuals supporting the Human Rights Campaign and others have received such text messages as: "Obama endorses the legality of same-sex marriage. Say No to Obama at the polls on Nov 6." The messages were purportedly sent by SMS@Aicett.com. However, the URL Aicett.com simply sends users to a blank web page. The identity of the owner of Aicett.com was hidden, until the internet service firm GoDaddy.com revoked the owner's anonymity due to a violation of the service's terms of use. Investigative journalists now report the sender was ccAdvertising, which the *Washington Post* describes as "a political phone and text-messaging vendor with a history of sending unsolicited messages." *Washington Post*, October 31, 2012 available at tinyurl.com/WPccadv. The consumers did not ask to receive these text messages and did not give their prior express consent to ccAdvertising to have text messages sent to their cell phones. Because ccAdvertising is a repeated violator of the TCPA, and for the reasons outlined below, we urge you to find that ccAdvertising knowingly and willfully violated the TCPA by sending these texts, and impose the maximum fine of \$10,000 per violation.



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The TCPA prohibits unsolicited text messages sent to consumers by automatic messaging systems. See 47 U.S.C. § 227(b)(1)(iii); see also *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Report and Order*, 18

FCC Rcd 14014, 14115 para. 165 (2003) (stating that the TCPA and the FCC's rules apply to both voice calls and text messages). Further, the TCPA prohibits any person within the United States to use a telecommunications service "to cause any caller identification service to knowingly transmit misleading caller-identification information with the intent to defraud [or] cause harm." 47 U.S.C. § 227(e)(1). By disguising the sender of the text messages as "SMS@Aicett.Com," ccAdvertising knowingly and willfully caused the caller-identification service to transmit misleading caller-identification information in an attempt to defraud and harm gay-rights advocates. Each violation of this provision is punishable by a penalty up to \$10,000 per violation, up to a total of \$1,000,000. *Id.* at § 227(e)(5)(A)(i); 47 C.F.R. § 1.80(b)(4).

Swift and forceful action against this text-messaging spammer is necessary to protect consumers from those who subvert communications systems in an attempt to launch a pre-election "October surprise." The TCPA and other laws were created precisely to protect consumers from scammers who send fraudulent messages while hiding behind a cloak of anonymity.

The Human Rights Campaign will assist your investigation in any way possible. Please contact me at _____ if there is any additional information we can provide to bring ccAdvertising and other spammers to account for their illegal activities.

Sincerely,

Robert Falk
General Counsel