



December 16, 2016

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: **In the Matter of the 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 2015 TCPA Omnibus Declaratory Ruling and Order; CG Docket No. 02-278**

Dear Ms. Dortch:

The International Pharmaceutical Privacy Consortium<sup>1</sup> (“IPPC”) writes in support of Eli Lilly and Company’s (“Lilly”) reply comments<sup>2</sup> to the joint petition by Anthem, Inc., Blue Cross Blue Shield Association, WellCare Health Plans, Inc., and the American Association of Healthcare Administrative Management (the “Anthem Petition”).<sup>3</sup> Like Lilly, IPPC urges the Commission to grant the Anthem Petition, and to clarify further that “healthcare provider,” as that term has been used in prior TCPA rulings, also includes pharmaceutical manufacturers when placing calls or sending texts to a patient for purposes closely related to the patient’s treatment. Accordingly, the provision of a telephone number from a patient to a healthcare provider constitutes “prior express consent” under the TCPA for a pharmaceutical manufacturer to communicate with that patient as part of a patient support program or for other purposes closely related to her treatment.

As a group of companies on the cutting edge of pharmaceutical industry innovation, IPPC members provide patient support programs and have seen first-hand the value that patients derive from the voice calls and texts that make such programs possible. Patient support program calls

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<sup>1</sup> The IPPC is an organization formed in 2002 and comprised of chief privacy officers and other data privacy and security professionals from a number of research-based, global pharmaceutical companies. The vision of the IPPC is to be the leading voice in the global bio-pharmaceutical industry to advance innovative privacy solutions to protect patients, enhance healthcare, and support business enablement. Information concerning IPPC membership and mission is further described at [www.pharmaprivacy.org](http://www.pharmaprivacy.org).

<sup>2</sup> *Eli Lilly and Company’s Reply Comments in Support of 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 2015 TCPA Omnibus Declaratory Ruling and Order*, CG Docket No. 02-278 (filed Oct. 04, 2016) (“Lilly Comments”).

<sup>3</sup> *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 2015 TCPA Omnibus Declaratory Ruling and Order*, CG Docket No. 02-278 (filed July 28, 2016).

and texts, as Lilly notes, generally fall into three categories: (1) benefits investigations; (2) device training; and (3) continuity of care.<sup>4</sup>

In the case of each of these three categories, patients receive substantial benefits that often play a vital role in ensuring improved health outcomes. These calls and texts facilitate proper use of medications to ensure effectiveness and safety, enhance patient adherence to treatment parameters, improve patient education levels, and help ensure that treatments remain affordable to those who need them. Moreover, there is a growing body of evidence demonstrating that the failure to adhere to treatment regimens, inadequate access to available therapies, and improper usage of medication contribute to public health problems and rising health care costs.<sup>5</sup> Patient support programs may also provide increased benefits in the context of rare and specialized diseases. Due to the very nature of rare and specialized conditions, these patients represent an at-risk population that has historically had fewer resources for support and education in relation to their disease. These outreach programs ensure patients receive the information they need to make informed and timely decisions in relation to their health care.

Like other healthcare communications, patient support program calls and texts are expected and desired, and they “do not tread heavily upon the consumer privacy interests [that the TCPA intended to protect].”<sup>6</sup> Of course, patients may always opt out of support program calls and texts, should they no longer wish to receive them.

IPPC members can confirm the patient benefits described in Lilly’s comments. Accordingly, IPPC strongly urges the Commission to grant Lilly’s request and ensure that patients continue to receive this much-needed support. The Commission should clarify that the provision of a telephone number from a patient to a healthcare provider constitutes “prior express consent” for a pharmaceutical manufacturer to call or text that patient for purposes closely related to her treatment, including the support programs described in Lilly’s reply comments.

Sincerely,

/s/ Peter Blenkinsop

Peter Blenkinsop

*IPPC Secretariat and Legal Counsel*  
www.pharmaprivacy.org

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<sup>4</sup> Lilly Comments at 4.

<sup>5</sup> See, e.g., CapGemini, *Patient Adherence: The Next Frontier in Patient Care* 5 (9th ed. 2011) (“Adherence to prescribed medications poses a tremendous challenge to the entire healthcare community.”); *id.* at 14 (noting that calls and texts are common elements of adherence intervention efforts); *id.* at 27 (noting that adherence can be addressed “using options like SMS, automatic phone calls or smart packaging, which keeps track of the number and frequency of medicines consumed and reminds the patient when they miss a dosage.”).

<sup>6</sup> *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 27 FCC Rcd 1830 ¶ 63 (2012).

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