

Parties who choose to file by paper must send an original and four (4) copies of each filing. Filings can be sent by hand or messenger delivery, by electronic media, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial and electronic media sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capital Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-B204, Washington, DC 20554.

This proceeding shall be treated as a "permit but disclose" proceeding in accordance with the Commission's *ex parte* rules, 47 CFR 1.1200. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclosed proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

The full text of this document and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, (202) 418-0270. This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing (BCPI), Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site:

<http://www.bcpiweb.com> or by calling 1-800-378-3160.

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 or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). The *Public Notice* can also be downloaded in Word or Portable Document Format (PDF) at <http://www.fcc.gov/cgb>.

Synopsis

On September 13, 2004, FreeEats.com, Inc., dba ccAdvertising (Petitioner or ccAdvertising) filed a petition for expedited declaratory ruling, asking the Commission to preempt certain provisions of North Dakota state law. Petitioner explains that it is a Virginia-based company that uses prerecorded messages to conduct political polling, most of which involves interstate calls. According to Petitioner, the North Dakota attorney general's office has notified ccAdvertising that its use of autodialed, prerecorded message technology is regulated by the state's telemarketing statutes, and that the state intends to enforce against ccAdvertising section 51-28-02 of the North Dakota Century Code, which prohibits the use of prerecorded messages without authorization from the called party. Petitioner contends that North Dakota's law is inconsistent with the Telephone Consumer Protection Act (TCPA) and with the Commission's telemarketing rules, both of which permit political polling calls using prerecorded messages. Therefore, Advertising requests that the Commission preempt North Dakota's more restrictive regulation of interstate political polling calls.

Federal Communications Commission.

Jay Keithley,

Deputy Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 04-23293 Filed 10-15-04; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 02-278; DA 04-3186]

Consumer & Governmental Affairs Bureau Seeks Comment on Express Consolidation, Inc. Petition for Declaratory Ruling on Preemption of Florida Telemarketing Rules

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document seeks comment on a petition for declaratory ruling filed by Express Consolidation, Inc., asking the Commission to preempt a Florida telemarketing law, Florida Statute, section 501.059 which restricts the making of certain telephonic sales calls to Florida citizens.

DATES: Comments are due November 17, 2004, and reply comments are due December 2, 2004.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kelli Farmer, Consumer Policy Division, Consumer & Governmental Affairs Bureau, (202) 418-2512.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Public Notice*, CG Docket No. 02-278, DA 04-3186, released October 4, 2004. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments in this proceeding on or before November 17, 2004, and reply comments may be filed on or before December 2, 2004. When filing comments, please reference CG Docket No. 02-278. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must send an original and four (4) copies of each filing. Filings can be sent by hand or messenger delivery, by electronic media, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue,

NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial and electronic media sent by 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 mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-B204, Washington, DC 20554.

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Synopsis

On July 28, 2004, Express Consolidation, Inc. (Express or Petitioner) filed a petition for declaratory ruling asking the Commission to preempt a Florida telemarketing law, Florida Statute, section 501.059 (Florida Statute). According to Petitioner, Express has been charged in a complaint by the Florida Department of Agriculture and Consumer Services with violating the Florida Statute, which restricts the making of telephonic sales calls to Florida citizens whose names appear on the state's quarterly "no sales solicitation calls listing." The Florida law also restricts the use of automatic dialing systems and artificial or prerecorded messages to make sales calls. Express contends that the Florida Statute is inconsistent with the Telephone Consumer Protection Act (TCPA) by placing more onerous restrictions on the making of interstate telephone calls by a tax-exempt nonprofit organization. Express indicates that, unlike the Florida Statute, the TCPA exempts calls made by tax-exempt nonprofit organizations from the restrictions on "telephone solicitations." Express further explains that the calls that are the basis of the state's enforcement action are made on behalf of Express, a nonprofit corporation with offices in Florida, by a California company. Express maintains that the TCPA authorizes a state to implement more restrictive regulations only with respect to intrastate calls; therefore, the state law should be preempted.

Federal Communications Commission.

Jay Keithley,

Deputy Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 04-23295 Filed 10-15-04; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

Performance Review Board

As required by the Civil Service Reform Act of 1978 (Pub. L. 95-454), Chairman Michael K. Powell appointed the following executives to the Performance Review Board: Julius Knapp, Renee Licht, Mary Beth Richards, and David Solomon.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 04-23291 Filed 10-15-04; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act; Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that, at 10:30 a.m. on Tuesday, October 12, 2004, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and liquidation activities.

In calling the meeting, the Board determined, on motion of Vice Chairman John M. Reich, seconded by Director Thomas J. Curry, concurred in by Director James E. Gilleran (Office of Thrift Supervision), Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice of the meeting earlier than October 7, 2004, was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: October 12, 2004.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E4-2689 Filed 10-15-04; 8:45 am]

BILLING CODE 6714-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) allow the proposed information collection project: