



PUBLIC NOTICE

Federal Communications Commission
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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT REGARDING PETITION SEEKING A DECLARATORY RULING CLARIFYING THE REGULATORY STATUS OF MOBILE MESSAGING SERVICES

WT Docket No. 08-7

Comments Due: November 20, 2015
Reply Comments Due: December 21, 2015

By this Public Notice, the Wireless Telecommunications Bureau seeks comment on a petition for a declaratory ruling on the regulatory status of mobile messaging services.

On August 28, 2015, Twilio Inc. filed a petition for an expedited declaratory ruling, asking the Commission “to declare that messaging services are governed by Title II” of the Communications Act.¹ Today’s Public Notice seeks comment on the Twilio Petition and seeks to refresh the record in this proceeding in light of marketplace and legal developments since the Commission sought comment in 2008 on a similar petition.²

Twilio describes itself as a “cloud-based developer-platform company” that facilitates “merging cloud computing, web services, and traditional voice and messaging communications.”³ In its Petition, Twilio asserts that wireless providers engage in a variety of discriminatory and anti-competitive practices that cannot be adequately addressed absent a declaratory ruling classifying messaging services under Title II.⁴ Twilio further asserts that, under judicial and Commission precedent, messaging services constitute telecommunications services and commercial mobile radio services and are thus subject to Title II.⁵

We invite comment on the issues raised in the Twilio Petition and we seek to refresh the record on the Joint Petition. We invite commenters to offer detailed estimates – numerical estimates if available

¹ In the Matter of Petition of Twilio Inc. for an Expedited Declaratory Ruling Stating That Messaging Services Are Title II Services, filed August 28, 2015 (“Twilio Petition”), at 39.

² In the Matter of Petition of Public Knowledge et. al for Declaratory Ruling Stating Text Messaging and Short Codes are Title II Services or are Title I Services Subject to Section 202 Nondiscrimination Rules, filed Dec. 11, 2007 (“Joint Petition”); “Wireless Telecommunications Bureau Seeks Comment on Petition for Declaratory Ruling that Text Messages and Short Codes are Title II Services or are Title I Services Subject to Section 202 Non-Discrimination Rules,” Public Notice, DA 08-78, rel. Jan. 14, 2008.

³ Twilio Petition at 4.

⁴ *Id.* at 2-25.

⁵ *Id.* at 25-36.

– of any costs or benefits claimed.

Procedural Matters

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated above. All filings should refer to **WT Docket No. 08-7**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).⁶

- 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. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

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 12th 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 12th 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 or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁷ 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

⁶ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

⁷ See 47 C.F.R. §§ 1.1200(a), 1.1206.

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 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 regarding this proceeding, contact Daniel Ball, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at (202) 418-1310 or via email at daniel.ball@fcc.gov; or Pramesh Jobanputra, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at (202) 418-1323 or via email at pramesh.jobanputra@fcc.gov.

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