

Text Messaging Provider Sues T-Mobile for Unlawful Call Blocking

September 22, 2010

As consumers increasingly rely on mobile phones, marketers naturally are following. Text messaging, in particular, has proven to be a popular marketing method. It is not surprising, therefore, that we are seeing an increase in litigation over the obligations of senders and mobile carriers with respect to text messaging campaigns.

The latest example of this trend is a complaint brought in US District Court by text broadcaster EZ Texting, Inc. against T-Mobile USA. In the [complaint](#), EZ Texting alleges that T-Mobile unlawfully blocked EZ Texting's "short code" (a six digit number to which consumers may direct text messages) on T-Mobile's network. The reason, as alleged by EZ Texting, was that T-Mobile "did not approve" of an EZ Texting customer that provided information concerning the location of legal medical marijuana dispensaries in California.

EZ Texting alleges that text messages are "calls" and that Title II's common carrier obligations apply, most notably, Section 201's prohibition on unjust and unreasonable practices and Section 202(a)'s non-discrimination requirement. EZ Texting also seeks a temporary restraining order and a preliminary injunction. The court set a hearing on the request for September 30.

The complaint already has garnered a fair amount of attention from others. Public Knowledge [posted on its blog](#) about the case, arguing that the case illustrates the need for the FCC to act on Public Knowledge's 2007 Petition for Declaratory ruling seeking classification of text messaging as a Title II service. About 75 parties filed comments or replies in response to that petition.