

May 11, 2012

Federal Election Commission  
Office of the General Counsel  
Advisory Opinions  
999 E St. NW  
Washington, DC 20463

FEDERAL ELECTION COMMISSION  
2012 MAY 15 AM 11:00  
OFFICE OF GENERAL COUNSEL

RE: Comment on Advisory Opinion Request 2012-17

Dear Mr. Herman:

Public Knowledge writes in support of Advisory Opinion Request (AOR) 2012-17. Although Public Knowledge has a number of concerns with the current state of the text messaging and short code market,<sup>1</sup> none of those concerns suggest that citizens should be prevented from donating to political campaigns via text message.

Public Knowledge is a nonprofit public interest organization devoted to protecting citizens' rights in the emerging digital information culture. Public Knowledge seeks to guard the rights of consumers, innovators, and creators at all layers of our culture to communicate freely through legislative, administrative, grassroots, and legal efforts, including regular participation in proceedings before the Federal Communications Commission.

Text messages are a critical mode of communication for millions of Americans. While a growing number of individuals have access to smart phones, many more rely on "feature phones" for their daily communications needs. Unlike OS-specific apps text messages work across phone type and carrier, including feature phones. By allowing text message donations, the Commission would allow all citizens – even those without access to smart phones– to donate to the political candidates of their choice via their handset.

Public Knowledge is concerned about some of the types of limitations described in the request.<sup>2</sup> Restrictions such as text message donation limits, delays in payment processing, and limits on the number of short codes (or even a requirement to use short codes) grant wireless carriers, aggregators, and payment processors undue control over text messaging. As such, Public Knowledge urges the Commission to be wary of making a general finding that all restrictions in the Request are necessary for compliance.

<sup>1</sup> See, e.g. Public Knowledge, et al., *Petition for Declaratory Ruling Stating that Text Messaging and Short Codes are Title II Services or are Title I Services Subject to Section 202 Nondiscrimination Rules*, Dec. 11, 2007, available at <http://www.publicknowledge.org/node/1303>.

<sup>2</sup> See *Special Term 4, Special Term 5*.

However, those concerns should not prevent the Commission from granting the Request. Americans can already donate to political campaigns by telephone, internet, and mail. There is no reason to prevent them from donating by way of text message as well.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Michael Weinberg', with a stylized flourish at the end.

Michael Weinberg  
Senior Staff Attorney and Innovation Evangelist  
Public Knowledge