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National Association of Federally-Insured Credit Unions

March 22, 2018

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

RE: Telephone Consumer Protection Act

Dear Chairman Pai:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally-insured credit unions, I am writing to you in regard to the Telephone Consumer Protection Act (TCPA) and the recent decision in the *ACA International v. Federal Communications Commission* case. The U.S. Court of Appeals for the District of Columbia Circuit invalidated two particularly troublesome portions of the Federal Communications Commission's (FCC) 2015 Omnibus Declaratory Ruling and Order (2015 Order). NAFCU applauds the court's decision and would like to thank you for your continued support in undoing the disastrous 2015 Order. Nonetheless, credit unions are still lacking clarity regarding the TCPA because the court's decision did leave numerous questions unanswered. NAFCU and its member credit unions strongly encourage the FCC to take swift action in providing reasoned interpretations of and guidance on the TCPA's vague language.

The 2015 Order created an uncertain environment that produced absurd results; namely, placing credit unions in the position of deciding between contacting their members and running the risk of violating the TCPA or not contacting their members and thereby withholding vital notifications and updates regarding their existing accounts. As a result, the 2015 Order contravened the TCPA's goal of protecting consumers and actually harmed more individuals than it has helped. Plaintiffs' attorneys have been the primary beneficiaries of the 2015 Order's overly restrictive, yet also vague and contradictory, mandates. Now, with a resolution in the *ACA International* case, the FCC should move forward with further clarifications and interpretations regarding the issues the court invalidated: the definition of "automatic telephone dialing system" or "autodialer" and the standard of liability for calls made to reassigned numbers. NAFCU encourages the FCC to act quickly so that industries and consumers alike have clear guidelines moving forward.

Unfortunately, the court, in its decision last week, did uphold one of the misguided provisions in the 2015 Order: the FCC's standard for revocation of consent. This standard for how a called party may revoke his or her consent has caused immense confusion and operational difficulties

Federal Communications Commission

March 22, 2018

Page 2 of 2

for credit unions across the country. NAFCU urges the FCC to reverse its "any reasonable means" standard for revocation of consent so that credit unions are no longer exposed to limitless liability.

Again, NAFCU thanks you for your continued objection to the problematic provisions in the 2015 Order. NAFCU would also love the opportunity to meet with you to discuss the FCC's next steps to ensure its interpretations of the language in the TCPA actually protect consumers nationwide. If you have any questions or concerns, please do not hesitate to contact me at (703) 842-2212 or akossachev@nafcu.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann Kossachev". The signature is fluid and cursive, with the first name "Ann" being more prominent.

Ann Kossachev
Regulatory Affairs Counsel