



**National Association
of Federal Credit Unions**

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NAFCU | Your Direct Connection to Education, Advocacy & Advancement

May 2, 2016

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street SW,
Washington, DC 20554

RE: Response to CG Docket No. 02-278

Dear Ms. Dortch:

On behalf of the National Association of Federal 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 regarding the Federal Communications Commission's (FCC) public request for comment on the petition for declaratory ruling filed by Todd C. Bank (Bank) asking the Commission to clarify whether a telephone line in a home that is used for business purposes can be considered a "residential" line under the Telephone Consumer Protection Act (TCPA). *See Petition for Declaratory Ruling to Clarify the Scope of Rule 64.1200(a)(2)*, CG Docket No. 02-278, filed by Todd C. Bank on Mar. 7, 2016 (Petition). While NAFCU and our members appreciate the FCC's effort to clarify and modernize its regulations with respect to the TCPA, we are deeply concerned that the FCC's distinction between mobile and residential lines creates a discrepancy in the law. As a growing number of consumers use their mobile phone as their primary phone line, NAFCU urges the FCC to develop a common sense interpretation of "residential" line to ensure that consumers are able to receive important notifications and timely updates about developments from their financial services providers on both mobile and landline residential phone lines.

NAFCU and our members have serious concerns that the Commission's dated regulations related to the treatment of mobile phones will create significant risks for credit unions that wish to contact their members via telephone. In general, the TCPA regulates the way credit unions may use automatic telephone dialing systems, prerecorded voice message systems or "robocalls," messages sent to fax machines, and abandoned calls. The FCC treats advertisement and telemarketing calls differently from calls with another "commercial purpose." The regulation still states that a phone call may not be made using an automatic telephone dialing system for telemarketing purposes unless the credit union has the "prior express written consent" of the member, unless the call is made for "a commercial purpose but does not include or introduce an advertisement or constitute telemarketing." *See* 47 CFR 64.1200 (a)(3). However, for mobile

phone lines, the FCC requires prior express written consent for all automated calls regardless of the purpose of the call. This distinction is problematic for many credit unions because more and more consumers today do not have landline home phones anymore, but still expect to receive the same service from their credit union as they would if they had a landline residential telephone number listed. Additionally, this situation can be even more complicated because the credit union may not know if the telephone number that the consumer has provided is for a residential landline or a cell phone. NAFCU urges the FCC to remove this antiquated distinction that does not adequately reflect the way consumers use telephone services today.

As the use of mobile and online technologies have largely replaced residential phone lines as the most pervasive mechanism of communication between financial institutions and their consumers, the FCC must ensure that its regulations do not have the unintended consequence of reducing consumers' access to vital information about their financial accounts. In 2013, the FCC amended some of its rules relating to telemarketing, including removing a previously-existing "established business relationship" for certain kinds of calls. However, the FCC has chosen to apply a different standard to mobile phone lines, and does not distinguish between calls for telemarketing and informational purposes to a mobile number. NAFCU strongly urges the FCC to further modernize its regulations to ensure that credit unions and other financial institutions are able to provide essential and timely information to consumers through mobile and texting channels about their existing financial accounts.

NAFCU understands that the TCPA is a consumer protection statute. As the use of mobile and online technologies have become the most pervasive mechanism of communication between financial institutions and their consumers, the FCC must ensure that its regulations do not have the unintended consequence of reducing consumers' access to vital information about their financial accounts.

NAFCU looks forward to continuing a dialogue with you and your staff on modernizing the FCC's implementation of the TCPA to ensure that it continues to allow consumers to have unhindered access to important financial information. Should you have any questions or if you would like to discuss these issues further, please feel free to contact me by telephone at (703) 842-2234, or Kavitha Subramanian, NAFCU's Regulatory Affairs Counsel at (703) 842-2212 or ksubramanian@nafcuhq.org.

Sincerely,



Carrie R. Hunt

Executive Vice President of Government Affairs and General Counsel