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National Association of Federally-Insured Credit Unions

April 10, 2019

The Honorable John Thune
Chairman
Subcommittee on Communications,
Technology, Innovation, and the Internet
Committee on Commerce, Science,
& Transportation
United States Senate
Washington, D.C. 20510

The Honorable Brian Schatz
Ranking Member
Subcommittee on Communications,
Technology, Innovation, and the Internet
Committee on Commerce, Science,
& Transportation
United States Senate
Washington, D.C. 20510

Re: Tomorrow's Hearing on "Illegal Robocalls: Calling All To Stop The Scourge"

Dear Chairman Thune and Ranking Member Schatz:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing entitled "Illegal Robocalls: Calling All To Stop The Scourge." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 116 million consumers with personal and small business financial service products. NAFCU and our members appreciate the Subcommittee tackling the scourge of unwanted, illegal robocalls, but we would caution the Subcommittee to ensure that efforts do not hamper the ability of credit unions to make legitimate communications to their members.

In particular, NAFCU would like to reiterate our concerns regarding the Federal Communications Commission's (FCC) continuing work on defining "automatic telephone dialing system" ("autodialer") issues with the *Telephone Consumer Protection Act* (TCPA). Since the FCC issued its problematic 2015 Declaratory Ruling and Order (2015 Order), the risk of facing a costly lawsuit over inadvertent TCPA violations has kept many credit unions from freely communicating with their members. The March 2018 *ACA International v. FCC* decision invalidated the 2015 Order's overly expansive definition of "autodialer" and the FCC's approach to liability for calls to reassigned numbers under the TCPA. Since then, courts have taken a variety of approaches in determining what qualifies as an "autodialer," leading to a maze of judicial interpretations of Congress's intent and meaning in passing the TCPA.

NAFCU supports a broad definition of "autodialer" that only includes equipment that uses a random or sequential number generator to store or produce numbers and dial those numbers without human intervention. NAFCU also supports other reforms to help credit unions contact their members with important information about their existing accounts, such as permitting callers to establish a reasonable opt-out method for revoking their consent to be contacted.

We appreciate the Subcommittee's continued oversight of the FCC and examination of this issue and would urge the Subcommittee to modernize the TCPA to combat illegal robocalls, while also

protecting credit unions' ability to freely communicate with their members on important issues related to their existing accounts. We also urge you to support the changes to S. 151, the TRACED Act, that we outlined in a letter to the Committee on April 1st of this year. We believe these changes would help ensure efforts to stop illegal robocalls do not negatively impact the ability of credit unions to contact their members for legitimate business purposes.

On behalf of our nation's credit unions and their more than 116 million members, we thank you for your attention to this important matter. Should you have any questions or require any additional information, please contact me or Alex Gleason, NAFCU's Associate Director of Legislative Affairs, at 703-842-2237 or agleason@nafcu.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad Thaler', with a long horizontal flourish extending to the right.

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the U.S. Senate Committee on Commerce, Science, & Transportation