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National Association of Federally-Insured Credit Unions

April 1, 2019

The Honorable Roger Wicker
Chairman
Committee on Commerce, Science,
& Transportation
United States Senate
Washington, D.C. 20510

The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science,
& Transportation
United States Senate
Washington, D.C. 20510

Re: Wednesday's Mark-up of S. 151, the *Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*

Dear Chairman Wicker and Ranking Member Cantwell:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with the scheduled mark-up of S. 151, the TRACED Act. 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 Committee tackling the scourge of unwanted, illegal robocalls, but we would caution the Committee to consider additional changes to the TRACED Act so as to not hamper the ability of credit unions to make legitimate communications to their members.

As we have previously shared with the Committee, NAFCU has engaged with the Federal Communications Commission (FCC) regarding our concerns with their 2015 Order's definition of "autodialer" under the *Telephone Consumer Protection Act (TCPA)*, among other issues that have had a chilling effect on credit unions' ability to communicate with their members. We appreciate the Committee's continued oversight of the FCC on this issue and would urge the Committee to modernize the TCPA and protect credit unions' ability to freely communicate with their members on important issues related to their existing accounts.

Additionally, while the TRACED Act before the Committee this week is an important step to fight illegal robocalls, there are some changes to the bill that credit unions and others in the financial services community would like to see as the bill moves through the legislative process:

- Clarifying the "intent" requirement for a TCPA violation to prevent good-faith communications by legitimate callers from being swept into the provisions of the bill. Additionally, the bill must ensure that penalties are not issued to good actors without a fair and reasonable opportunity to come into compliance;
- Requiring voice service providers to consult with call originators as they implement the STIR/SHAKEN call authentication framework and then provide a report to the FCC that

analyzes any legal calls that are blocked (intentionally or unintentionally) and any disclosures used to implement STIR/SHAKEN; and,

- Requiring the FCC to promulgate rules for the safe harbor available to voice service providers that establish a process to give notice to legitimate callers prior to their calls being blocked and, subsequently, correct any unintended blocking.

We urge the Committee to be open to these improvements as the bill moves through the legislative process.

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