



January 5, 2018

VIA Electronic Delivery

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Room TWA325  
Washington, DC 20554

Re: Notice of Ex Parte Presentation, CG Docket Numbers 02-278 and 17-59

Dear Ms. Dortch:

On January 3, 2018, representatives of the National Council of Higher Education Resources (NCHER) met with Ms. Nirali Patel, Acting Legal Advisor, Media, Consumer Protection, and Enforcement, Office of Commissioner Brendan Carr.

NCHER is a national, nonprofit trade association that represents higher education service agencies that administer education programs that make grant and loan assistance available to students and parents to pay for the costs of postsecondary education. Our membership includes organizations under contract with the U.S. Department of Education to service and recover outstanding loans made under the Federal Direct Loan Program and organizations that service and recover outstanding loans made under the Federal Family Education Loan Program (FFELP).

Those in attendance at the meeting from NCHER were:

- James Bergeron, President
- Shelly Repp, Senior Advisor and Counsel

As background, we provided Ms. Patel with copies of NCHER's August 28, 2017 response to the Notice of Inquiry on Reassigned Numbers; the July 19, 2017, ex parte notice of a meeting we had on July 19, 2017, with Zengi Nakazawa from Chairman Ajit Pai's office; and our supportive comment, dated February 1, 2017, on the Petition for Reconsideration, filed by Great Lakes Higher Education Corp., Navient Corp., Nelnet Servicing LLC, Pennsylvania Higher Education Assistance Agency and the Student Loan Servicing Alliance, of the Commission's Report and Order released on August 11, 2016 ("the "Order"). All these documents are on file with the Federal Communications Commission (the "Commission").

Generally, at the meeting NCHER discussed the restrictions imposed by rulings and orders of the Commission on calling and texting student loan borrowers on their mobile devices. The following is a summary of the major points made during the meeting:

- We referred to the tools servicers and collectors of federal student loans have to help struggling borrowers. These tools, which are unique in the consumer credit space, were made available by the Congress and the U.S. Department of Education specifically to help struggling borrowers. Servicers and collectors serve as counselors in helping struggling borrowers understand and qualify for these complicated programs.
- The importance of having a phone conversation with borrowers was emphasized. The fact that the U.S. Department of Education announced on September 27, 2017, that the 3-year cohort default rate on federal student loans had trended upwards underscores the need to work with student loan borrowers.
- We also pointed out that there is only a limited ability for borrowers to discharge their student loans in bankruptcy, which makes the need to work with distressed borrowers to encourage them to utilize available relief programs even more compelling, as otherwise they could be stuck in default for an indefinite period.
- We pointed out how the Commission's Declaratory Ruling and Order released on July 10, 2015, (the "Ruling") restricts the ability of student loan servicers and collectors to have live conversations with student loan borrowers.
- We also mentioned that Section 301 of the Bipartisan Budget Act of 2015 ("BBA") was intended by the Congress to provide relief from the Ruling's restriction in the context of collecting debt owed to or guaranteed by the federal government, and that around 90 percent of outstanding student loans are federally owned or guaranteed. However, the Order, which imposes a three-call-attempt-per-thirty-day period limit in the collection of federal debt, is so restrictive as to completely thwart the intent of Congress. Further, we stated that the one-call-attempt limit on calls to reassigned numbers where the caller has no knowledge that the number has been reassigned is so restrictive that it has caused many participants to refrain from any calling, for fear of being sued. We stated that NCHER supports the Petition for Reconsideration.
- Further, we pointed out the need for the Order to be clarified to ensure that federally guaranteed loans made under the FFELP are covered by the relief granted by the BBA. Footnote 54 to the Order raises a question on this issue.
- We mentioned that the National Consumer Law Center, in an Ex Parte letter dated June 6, 2015, [sic] and posted on the Commission's Electronic Comment Filing System on June 12, 2014, recommended that: "The FCC should limit collection calls to three calls per week, voicemail messages to one per week, and call-backs to once per week unless the consumer gives specific consent at the time of the call." This recommendation by a leading consumer advocacy group is significantly more permissive than the Ruling or the Order.
- We expressed support for the Commission's initiative, launched in the Notice of Inquiry approved by the Commission on July 13, 2017, to explore the possibilities of developing a system that will allow callers to identify numbers that have been reassigned.
- In summary, we emphasized the need for relief from the three-call-attempt per 30-day period and the one-call-attempt limit for calling reassigned numbers that are found in the Ruling and the Order, as such relief is not sufficient to permit live conversations to make struggling borrowers aware of the tools the Congress and the U.S. Department has made available to help borrowers.

If you have any questions, please feel free to contact me at [srepp@ncher.us](mailto:srepp@ncher.us) or (202)822-2106.

Sincerely,

A handwritten signature in blue ink, reading "Sheldon Repp". The signature is fluid and cursive, with the first name "Sheldon" and last name "Repp" clearly distinguishable.

Sheldon Repp  
Special Advisor and Counsel

Cc: Ms. Nirali Patel