Consumer and Governmental Affairs Bureau

Federal Communications Commission

445 12th Street, SW

Washington, DC 20554

Dear Commissioners:

I am writing on behalf of Patelco Credit Union, which serves Northern California. We have over 640,000 members and over $6.2 billion in assets. Patelco Credit Union appreciates the opportunity to provide comments to the Consumer and Governmental Affairs Bureau (CGA) in response to its Public Notice 2018 WL 4801356 (F.C.C.).

While the wording of these two court decisions still leaves ambiguities, and in places seem to conflict with one another, in enforcing the TCPA, the FCC should keep in mind the intent of the law. The TCPA, like CAM-SPAM before it, is intended to protect consumers from intrusive marketing and collections efforts. It is not intended to stop companies from reaching their own customers with important information about their accounts. Interpretations based on definitions of technological limits are going to fail in time due to technological advances. And those who intend to defy the spirit of the law are going to find ways to work within the letter of such technical definitions. The FCC can adhere to the letter of these court decisions and still enforce the law as it was designed, to stop abusers and not punish companies that are simply serving their customers.

Storing phone numbers is not relevant to the intent of the law. As you point out in your request, even smart phones store and retrieve numbers. The key is how the phone calls are placed. If a service representative loads a series of numbers into a dialer to reach out to a set of customers, each number is dialed to initiate a conversation about the account. This is very different from marketing autodialers that run sequences of numbers or randomly dial numbers in an effort to reach whoever will pick up the call. Making random or sequential dialers illegal is a step in the right direction. Limiting autodialed calls to those consumers with whom the business already has a business relationship is even more on point with the intent of the law.

While the courts have been focused on granular definitions of the technology, we are pleased to see some common sense decisions being made. We are pleased that a phone that happens to work off the same server as an autodialer somewhere else in the company is not automatically considered an autodial phone. That would mean every phone in a company could be pulled under the TCPA. We are also pleased that only phones that are actually outfitted for autodialing could be considered, and not also those that could be outfitted at some future time.

Outlawing anything that falls under a definition of “automatic telephone dialing system” does not get to the solution this problem needs. We would like to see the FCC’s final position allow autodialing of known customer numbers. With the current uncertainly, our collections department only uses their automatic devices to pull up numbers of customers we need to call, and the number is then dialed by a person manually. This is not efficient, but we must take a conservative view of the law.

Thank you for allowing public comment and for considering our input on this important issue.

Sincerely,

Jay Hartlove

Compliance Manager

Patelco Credit Union