

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
Rules and Regulations Implementing the)	
Telephone Consumer Protection Act of 1991)	CG Docket No. 02-278
Petition of AmeriCredit Financial Services)	
Inc. d/b/a GM Financial for Waiver)	
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PETITION FOR WAIVER

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I. INTRODUCTION AND SUMMARY

In this Petition, AmeriCredit Financial Services Inc. d/b/a GM Financial (“GM Financial” or “company”) seeks a limited waiver of section 64.1200(b)(1) of the Federal Communications Commission (“FCC” or “Commission”) rules to allow it to satisfy the Telephone Consumer Protection Act’s (“TCPA’s”) Identification Requirement by providing only its “doing business as” (“DBA”) name when placing artificial or prerecorded voice calls. GM Financial offers retail financing and vehicle leases to consumers through its dealer network. GM Financial provides auto finance solutions to 14,000 dealers worldwide, and it is the assignee and servicer for millions of auto lease and finance consumers.

GM Financial respectfully requests that the Commission grant the requested limited waiver to allow it to use its authorized DBA name—GM Financial—instead of its legacy name—AmeriCredit Financial Services Inc.—when placing artificial or prerecorded voice calls. Good cause exists for the Commission to grant this relief. *First*, allowing GM Financial to use

only its DBA name when placing artificial or prerecorded voice calls will avoid customer confusion and, accordingly, will *better* serve the purposes of the TCPA’s Identification Requirement for artificial or prerecorded voice calls.¹ GM Financial’s customers are unfamiliar with the legacy AmeriCredit Financial Services Inc. name because the GM Financial name alone is used nationwide in all customer-facing communications and interactions. As a result, those customers are not likely to recognize or understand the identity of the calling party if AmeriCredit Financial Services Inc. is the name provided; however, they will recognize and understand the identity of the calling party if the GM Financial name is provided. **Second**, allowing GM Financial to use only its DBA name when placing artificial or prerecorded voice calls will not hinder consumers’ ability to search for and find GM Financial’s contact information. GM Financial is authorized by the appropriate regulatory authority in every state plus Guam, Puerto Rico, and the Virgin Islands to use the GM Financial DBA name, and as such, GM Financial consumers can access relevant contact and other corporate information using only the DBA name.² Accordingly, grant of the limited waiver is consistent with the Commission’s rules and its precedent.

¹ See *Petition for Expedited Declaratory Ruling and/or Waiver Filed by National Grid USA, Inc.*, CG Docket No. 02-278, Order, 30 FCC Rcd. 13276, ¶ 1 (Nov. 16, 2015) (“*National Grid Order*”) (“We conclude that granting this limited waiver will better serve the public interest by ensuring that National Grid’s customers understand the identity of the calling party and are not confused by the use in prerecorded messages of unfamiliar legacy utility names.”).

² See *id.* (explaining that limiting the waiver to the use of the registered DBA name “affords . . . customers a reasonable opportunity to search for and find the contact information for the calling party”).

II. THE COMMISSION’S TELEPHONE CONSUMER PROTECTION ACT RULES REQUIRE A CALLING PARTY TO IDENTIFY ITS BUSINESS NAME TO THE CALLED PARTY.

Under the Commission’s TCPA rules, Section 64.1200(b)(1) sets forth the “Identification Requirement” for artificial or prerecorded voice calls. Specifically, this section requires that:

[a]ll artificial or prerecorded voice telephone messages shall . . . [a]t the beginning of the message, state clearly the *identity of the business*, individual, or other entity that is responsible for initiating the call. *If a business is responsible for initiating the call, the name under which the entity is registered to conduct business with the State Corporation Commission (or comparable regulatory authority) must be stated.*³

The Commission has clarified that “[w]ith respect to the caller’s name, the prerecorded message must contain, at a minimum, the *legal name* under which the business, individual or entity calling is registered to operate.”⁴ In the Commission’s view, “adequate identification information is vital so that consumers can determine the purpose of the call, possibly make a do-not-call request, and monitor compliance with TCPA rules.”⁵

Recognizing that businesses can have DBA names, the Commission has also clarified that its requirement “does not prohibit the use of such [DBA names], provided the legal name of the business is also stated.”⁶ However, the Commission previously granted a limited waiver of this rule for National Grid to use *only* its registered DBA name to satisfy this requirement.⁷

³ 47 C.F.R. § 64.1200(b)(1) (emphasis added).

⁴ See *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd. 14014, ¶ 144 (July 3, 2003) (“*2003 TCPA Order*”) (emphasis added). In every state plus Guam, Puerto Rico, and the Virgin Islands, GM Financial is (1) authorized to do business in its DBA name and (2) searchable at the state-level by its DBA name.

⁵ *Id.*

⁶ *Id.*

⁷ *National Grid Order* ¶ 10 (“We conclude that National Grid’s petition meets the standard for granting a limited waiver of section 64.1200(b)(1), and that such waiver would not undermine the policy objectives of that rule.”).

III. GOOD CAUSE EXISTS TO GRANT THE REQUESTED LIMITED WAIVER FOR GM FINANCIAL TO USE ONLY ITS DBA NAME TO SATISFY THE COMMISSION'S IDENTIFICATION REQUIREMENT FOR ARTIFICIAL OR PRERECORDED VOICE CALLS UNDER THE TELEPHONE CONSUMER PROTECTION ACT.

A. The Commission Has Broad Discretion To Waive Its Rules When Special Circumstances Warrant a Deviation from the General Rule and Such a Deviation Would Better Serve the Public Interest.

Section 1.3 of the Commission's rules allows the Commission to waive its rules, in whole or in part, for "good cause shown."⁸ "A waiver may be granted if: (1) the waiver would better serve the public interest than would application of the rule; and (2) special circumstances warrant a deviation from the general rule."⁹ As the FCC has explained, "[t]he Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest."¹⁰ Further, "the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis."¹¹

⁸ 47 C.F.R. § 1.3 ("The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.").

⁹ *National Grid Order* ¶ 9 (citing *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)).

¹⁰ *In the Matter of Rural Health Care Support Mechanism*, WC Docket No. 02-60, *Order*, 32 FCC Rcd 5065, ¶ 3 (June 23, 2017) (citation omitted).

¹¹ *Id.* (citation omitted); see also *Allband Communications Cooperative, Petition for Waiver of Sections 69.2(hh) and 69.601 of the Commission's Rules*, WC Docket No. 05-174, *Order*, 20 FCC Rcd 13566, ¶ 5 (Aug. 11, 2005). The D.C. Circuit has recognized the Commission's discretion to waive its rules and has noted that the agency's waiver determinations are entitled to heightened deference. See *AT&T Wireless Servs., Inc. v. FCC*, 270 F.3d 959, 965 (D.C. Cir. 2001) (explaining that the Commission may grant a waiver where there are "unique" circumstances and "significant public" interest benefits); *Office of Comm'n of United Church of Christ v. FCC*, 911 F.2d 803, 812 (D.C. Cir. 1990) ("Given the deference due the agency in matters of this sort, we see no basis for finding that the Commission's waiver of the [rule at issue] was arbitrary or capricious."); *City of Angels Broad., Inc. v. FCC*, 745 F.2d 656, 663 (D.C. Cir. 1984) ("The scope of our review of [a waiver] determination is narrow and contained.");

“Generally, the Commission may grant a waiver of its own rules if the relief requested would not undermine the policy objectives of the rule in question, and would otherwise serve the public interest.”¹²

The Commission has previously applied these standards to conclude that, under the facts described in a request by National Grid for waiver of the TCPA’s Identification Requirement, the goals of that requirement would be better served by permitting use of National Grid’s DBA name alone.¹³ The facts set forth in the instant Petition are at least as compelling as those presented by National Grid, and it is settled that disparate treatment of similarly situated parties violates the Administrative Procedure Act.¹⁴

B. Although Consumers Know the Company as GM Financial, the Company’s Legacy Name is AmeriCredit Financial Services Inc.

GM Financial is the DBA name that is used nationwide and that all of GM Financial’s customers recognize. AmeriCredit Financial Services Inc. began operating in September 1992 in Fort Worth, Texas and operated in that name until October 1, 2010, when the parent company of AmeriCredit Financial Services Inc. was acquired by General Motors Company and acquired the trade name to become AmeriCredit Financial Services Inc. d/b/a GM Financial. Because the company started business as AmeriCredit Financial Services Inc., the majority of its financial services licenses are registered under the legacy name. These licenses are state-based and varied,

WAIT Radio v. FCC, 418 F.2d 1153, 1157, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (“The agency’s discretion to proceed in difficult areas through general rules is intimately linked to the existence of a safety valve procedure for consideration of an application for exemption based on special circumstances.”).

¹² *National Grid Order* ¶ 9 (citing *Ne. Cellular*, 897 F.2d at 1157).

¹³ *Id.* ¶ 10.

¹⁴ See, e.g., *Indep. Petroleum Ass’n v. Babbitt*, 92 F.3d 1248, 1260 (D.C. Cir. 1996); *McElroy Elec. Corp. v. FCC*, 990 F.2d 1351, 1365 (D.C. Cir. 1993); *Melody Music v. FCC*, 345 F.2d 730, 732-33 (D.C. Cir. 1965).

and include motor vehicle sales finance licenses, lender licenses, sales finance licenses, money lending licenses, and consumer loan licenses. In fact, the company holds 809 state financial services licenses, and an additional 47 state insurance licenses. It would not be practical to amend each and every one of those state licenses to update the legacy name to GM Financial. In many jurisdictions a name change is considered a change in control and requires an application for a wholly new license and, in any event, an attempt to change the names on more than 850 licenses would be a burdensome and costly administrative and legal task.

C. Allowing GM Financial To Use Only Its DBA Name To Satisfy the Identification Requirement Will Better Serve the Public Interest and Is Consistent with the Policy Objectives of the Commission’s Identification Requirement.

GM Financial places artificial or prerecorded voice calls to its customers for a variety of reasons, including to convey important information about the customer’s GM Financial account. Pursuant to the requested waiver, GM Financial wishes to satisfy the Identification Requirement, with respect to these calls, by using only the name “GM Financial” rather than “AmeriCredit Financial Services Inc. d/b/a GM Financial.”

There is good cause for the Commission to grant this request. *First*, using the GM Financial name alone when placing artificial or prerecorded voice calls will avoid consumer confusion. GM Financial is the name that customers are familiar with and is the name used on all customer-facing communications and interactions. For example, GM Financial is the name used on the website—gmfinancial.com.¹⁵ All customer facing documents—such as the Online Privacy Policy—use the DBA name GM Financial.¹⁶

¹⁵ See Exhibit A. The first website in Exhibit A is the current gmfinancial.com website, and the second is the new gmfinancial.com website which is in beta testing mode.

¹⁶ See Exhibit B.

Additionally, customers see the GM Financial name and branding over the life of their GM Financial account, beginning when the account is assigned to GM Financial by an auto dealer (which occurs shortly after a customer purchases or leases a vehicle). Indeed, for customers who choose to fill out an application from the GM Financial website, the Online Credit Application (“OCA”) uses the GM Financial name and branding.¹⁷ The Welcome Letter for new customers is from GM Financial and contains the GM Financial branding—the envelope and the letter clearly show that the sender is GM Financial.¹⁸ Customers can create online accounts to manage their GM Financial account and other services provided by the company. The entirety of the online account interface, including the login page and the MyAccount Dashboard, uses the GM Financial name and branding.¹⁹ Likewise, GM Financial offers customers a mobile app, which uses the GM Financial name and branding.²⁰ GM Financial’s entire social media presence uses the GM Financial name and branding.²¹ The billing statement and accompanying envelope that customers see are from GM Financial and use the GM Financial name and branding.²² Finally, all email communications with customers—which can include newsletters, emails promoting new GM Financial tools and products (e.g., the mobile app), or emails providing customers with information about their specific account or lease—are from GM Financial and contain the GM Financial name and branding.²³

¹⁷ See Exhibit C.

¹⁸ See Exhibit D.

¹⁹ See Exhibit E.

²⁰ See Exhibit F.

²¹ See Exhibit G.

²² See Exhibit H.

²³ See Exhibit I. If the GM Financial customer also has a GM manufactured vehicle, he or she may see the corresponding GM Brand logo for their respective vehicle (Chevrolet, Cadillac,

At the same time, customers are unfamiliar with the AmeriCredit Financial Services Inc. name. Indeed, customers may see AmeriCredit Financial Services Inc.'s name, at most, once in a customer communication during their relationship with GM Financial. The Welcome Letter that is sent at the inception of a loan indicates in fine print that GM Financial is the tradename of AmeriCredit Financial Services Inc.²⁴ This reference to the legacy name is likely the first and last time that a customer ever will encounter that name, even assuming that an ordinary customer would focus on a fine print reference at that time.

Accordingly, GM Financial's continued use of the legacy AmeriCredit Financial Services Inc. name to satisfy the Identification Requirement may risk confusion on the part of the called party. Confusion in this scenario may be particularly detrimental, as it could lead to a consumer failing to receive important information and notices regarding their account, including communications related to payments that may have been missed or returned. Continuing confusion also risks prolonged delinquency because the consumer does not contact GM Financial to discuss potential financial assistance options that may be available. That lack of contact could result in a negative impact on the consumer's credit bureau reports or even repossession of the vehicle. Moreover, allowing GM Financial to use only the name that consumers are familiar with and not confused by will help to satisfy one of the policy rationales behind the Identification Requirement: to allow the consumer to "determine the purpose of the call."²⁵

Buick or GMC) on correspondence in addition to the GM Financial logo for billing statements, MyAccount Dashboard, or Mobile App, but will not see an AmeriCredit brand, name, or logo.

²⁴ See Exhibit D. In addition, the gmfinancial.com website contains, in the bottom righthand corner, a link entitled "AmeriCredit Dealer." See Exhibit A. This link directs to a webpage for dealers, rather than customers.

²⁵ See 2003 TCPA Order ¶ 144.

Second, using only the GM Financial DBA name to satisfy the Identification Requirement will still afford called parties a reasonable opportunity to search for and find the company’s contact information. GM Financial is the authorized DBA name in all fifty states, plus Guam, Puerto Rico, and the U.S. Virgin Islands. Accordingly, using GM Financial, consumers can search for and access relevant contact and other corporate information.²⁶ Grant of the requested relief would also be consistent with another policy rationale of the Identification Requirement: to provide “adequate identification information . . . [so that the consumer can] possibly make a do-not-call request, and monitor compliance with TCPA rules.”²⁷

IV. CONCLUSION

For the foregoing reasons, GM Financial respectfully requests that the Commission grant the requested limited waiver, and permit it to satisfy the Identification Requirement using the GM Financial name standing alone.

Respectfully submitted,

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²⁶ See *National Grid Order* ¶ 12.

²⁷ See *2003 TCPA Order* ¶ 144.