

May 30, 2019

Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: CG Docket No. 17-59, WC Docket No. 17-97

Dear Commissioners:

On behalf of the New York Credit Union Association, I am writing this letter to comment on the above-referenced Declaratory Ruling which is slated to take effect as early as June 6. While we empathize with consumers frustrated by illegal marketing phone calls and texts, this proposal is too blunt an instrument: it would hamper the ability of credit unions and other financial institutions to reach members for legitimate reasons and it would make it even more challenging to comply with a range of consumer protection regulations.

The Federal Communications Commission (FCC) is proposing to reduce unwanted phone calls and electronic messages by enhancing the authority of, and legal protections for, Voice Service Providers (VSPs) to block calls appearing to be illegal. It would also increase the number of consumers who choose to block calls from numbers not on their designated "white list" of contacts by permitting VSPs to require consumers to "opt-out" of receiving these protections. Without adequate notice and a phase-in period, there will be thousands of consumers who don't realize that they have agreed to block phone calls without a full understanding of what they have agreed to and why. The FCC is implicitly arguing that the value to consumers of being free of unwanted messages will outweigh the inconvenience of not getting informative messages.

In reality, there will be many situations where what a consumer does not know will hurt them. There are several regulations that require financial institutions to reach out to members. For example, the CFPB's loss mitigation regulations outline stringent rules that must be followed when a member is 45 days delinquent on a mortgage loan. If this ruling is promulgated as proposed, however, a mortgage holding credit union that is not on a member's list of approved contacts will find calling members to talk about loss mitigation options difficult, at best.

Another example of the uncertainty that will be caused by this ruling involves the Telephone Consumer Protection Act (TCPA), pursuant to which financial institutions have the right to call members with promotional offers provided the member has affirmatively agreed to receive messages. This proposal does not have a mechanism for VSPs to cross-reference a members' list of approved contacts against a list of TCPA approved contacts. Financial institutions will suddenly be unable to contact members with whom they are authorized to communicate. In fact, there will inevitably be class action lawsuits alleging that the TCPA is violated anytime a consumer is contacted by financial institutions not on their contact list.

Beyond the compliance challenges raised by this proposal, there are operational issues that need to be examined. Most importantly, since it is the VSP and not the financial institution making the determination to block the member, a credit union will have no way of knowing their communications are being blocked.

These are just a few of the unintended consequences which will result if this Declaratory Ruling is adopted. The technology is improving; however, not every unwanted phone call is frivolous and not every blocked message is one a member does not want to receive. Unfortunately, the approach proposed by the FCC will make those distinctions nearly impossible.

Sincerely,

A handwritten signature in black ink, appearing to read "W. J. Mellin". The signature is fluid and cursive, with the first name "William" and last name "Mellin" clearly distinguishable.

William Mellin
President/CEO