I support the Insights Association / AAPOR petition to clarify the difference between marketing and research in the TCPA.

I would further like clarification that vicarious liability is a huge threat to our industry and this type of extended TCPA liability has no logical application for survey research.

My name is Gerard Holzbaur. I am co-founder of Marketing Systems Group, a company that provides a wide range of sampling, telephony and technology for use in the Survey Research Industry. Our products and services run the gamut from Address Based Samples, on-line samples, and telephone samples. We have been in business for over 30 years.

In the normal course of our business we provide both targeted and randomly generated lists of telephone numbers, landline, VoIP, and cellular to be used in telephone research for government, academic, non-profit and commercial organizations.

Random Digit Dial (RDD) samples provide the most complete and statistically sound techniques for providing representative cross sections of the population that survey and opinion research studies rely upon.

There is a fundamental distinction between research and telemarketing, robo-calling, debt collection, scams and the like. That distinction is that an a priori relationship between the caller (interviewer) and the respondent (called party) need not exist and the purpose is to investigate the opinions or experience of (a group of people) by asking them questions; the data collected is reported in aggregate. There is never an attempt to sell a respondent anything.

The burden of the current interpretation of the TCPA has severely impacted the ability of call centers to operate in an efficient manner. There is one set of rules for land line numbers and another for cell phones.

The interpretation of automated dialing systems and the catch all phrase of “potential future capacity” is both onerous and fodder for class action lawsuits. The threat of vicarious liability exponentially compounds the pressure on the telephone survey research industry.

The current interpretation of an automated dialing system is antiquated and inadequate. Is selecting a “contact” on your smartphone to call an automated dialing system? I doubt anyone would say it is. A more appropriate 21st century definition would be, “Is there a one to one attended (human) correspondence between the caller and the called party regardless of how the telephone number is pulsed on the network?”

An automated dialer, in that context, would be one in which there are more called parties than (human) callers. This would be what would be commonly referred to as a predictive dialer.

I urge the FCC to keep the distinctions in place for survey, opinion and market research; to develop a 21st century interpretation of calling technologies; to remove the concept of vicarious liability in survey research

Thank you for your time.