

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991</b>	)	<b>CG Docket No. 02-278</b>
	)	
<b>Petition for Expedited Declaratory Ruling of the Insights Association</b>	)	

**Comments of Garcia Research**

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Date: June 19, 2018

I am writing on behalf of Garcia Research Associates, Inc. in support of the petition filed with the Commission on October 30, 2017 by The Insights Association (Insights) and the American Association for Public Opinion Research (AAPOR). Garcia Research is a minority owned firm that specializes in the US Hispanic market and we conduct survey research using various methodologies including landline and cell phone numbers to reach consumers for research purposes only. We never sell anything or seek to influence consumer behavior.

The picture the petitioners paint is bleak. It is also accurate. TCPA litigation has spun out of control, and research companies have taken a seriously damaging and unfair hit as a result. Each day, our industry operates under a constant fear that we might be targeted by an abusive suit. At times, this threat of TCPA litigation chills legitimate survey research operations. Even though all of our efforts are aimed at helping businesses and other organizations (our clients) better understand individuals (*their* clients), we frequently run the risk of being held hostage by

the plaintiff's bar. Once a complaint is filed, what choice does a market research firm (especially a small one) have but to settle the case and move on?

The attack on market research is unfair. Our industry works hard to root out sales masquerading as research, or "sugging." This prohibition of sugging is rooted in the difference between sales/marketing and legitimate research (again, respondents are *not* our clients, or in any way objects of our sales pitches), and the need to hold the two activities to different standards. The Commission has in the past consistently honored this difference for decades now, but the traditional distinction has been eroded.

The petitioners' information about the "argument from the profit motive" is particularly troubling. We fill an important role in the US economy by providing manufacturers and service providers the information they need to develop, fine tune and promote their products and services in a way that is relevant to consumers. Conversely, we serve as a means for consumers to convey to the firms that would purport to market to them what it is they want, how they want it, what they are willing to pay for it. So both advertisers and consumers benefit from our work. It is completely ridiculous for trial lawyers to contend that because research firms are for-profit companies that the questions we pose represent marketing communications. The FCC must reiterate to the court system what Congress made clear when writing the TCPA: "telephone solicitation" doesn't include survey, opinion and marketing research.

In conclusion, I appreciate the opportunity to comment, and respectfully request that the Commission adopt the suggestions in the October 30, 2017 petition.

Sincerely,

Carlos E. Garcia

CEO, Garcia Research