

Before the  
Federal Communication Commission  
Washington, DC 20554

In the Matter of )  
Advanced Methods to Target and Eliminate ) CG Docket No 17-59  
Unlawful Robocalls )

**Comments of the Coalition of Higher Education Assistance Organizations in  
response to “Second Notice Of Inquiry” issued by the Federal Communications  
Commission (FCC) on July 13, 2017**

The Coalition of Higher Education Assistance Organizations (COHEAO) appreciates the collaborative opportunity afforded to the organization to submit comments and recommendations to the FCC in an effort to find a balanced solution that will reduce or eliminate calls to reassigned numbers while identifying reasonable processes and systems that will assist those who initiate the calls for business purposes. COHEAO was founded in 1981 and serves as a higher education partnership of colleges, universities, and servicing organizations (billing and collections) dedicated to promoting and managing Federal campus based loan programs, institutional and private student loans, student financial wellness, and other student financial services.

**Colleges and Universities and TCPA**

According to research performed by WebRecon, Telephone Consumer Protection Act (TCPA) lawsuits have exploded from a nominal number of 14 in 2007 to 4,860 known claims in calendar year 2016. The 2016 figure represents an extraordinary increase of 31.8% over 2015 figures. Of those 4,860 claims, 21.3% were class action lawsuits. These figures do not include the countless number of claims or demand letters initiated by consumer attorneys that were settled before trial in order to avoid huge legal fees. The majority of these claims were filed against companies that had a business relationship with the consumer and thus did not involve telemarketing.

Members of COHEAO who make legitimate business-related calls utilizing an automated telephone system (ATS) to cell phone numbers held by consumers who have provided express consent continue to be faced with a high probability of unwarranted litigation because of the volume reassigned numbers. Most COHEAO member institutions contract with vendors who provide a scrubbing service that is designed first to identify if the phone number of record is a mobile or land line, and secondly to report if the number has been reassigned. However, even while offering

the best service regarding the reassignment of numbers, no one—neither schools nor their vendors—can be 100% accurate with this data.

The Pew Research Center released an updated report on January 12, 2017, indicating that 95% of Americans own a mobile phone, and 77% of those are smart phones. Remarkably, Pew’s research determined that 100% of U.S. citizens between the ages of 18 and 29 own a mobile phone with 92% of those identified as smart phones. For a growing share of smart phone users, their device provides their only their only access to broadband internet.

Statista (a statistics organization) estimates there will be approximately 266 million mobile phone owners in the United States by the end of 2017 and that ownership will exceed 276 million by 2020. The FCC noted “The Reassigned Number Problem” in Section (B) of this *Second Notice of Inquiry*. The section references the estimate that 100,000 numbers are reassigned by wireless carriers every day. That means more than 36.5 million numbers may be reassigned each year, approximately 14% of the total active mobile phone numbers.

Colleges and universities are uniquely constrained by the increase in litigation abuse. In addition to the demographic factors discussed above, the growth of student debt, combined with the questioning of the value of a college degree, has increased the number of student borrowers ignoring their debts. The best way to communicate with these consumers is through their preferred device—a mobile phone and other devices.

A 2017 Statista survey of internet users in the United States found that found the communications preferences of Americans are turning to those typically associated with mobile phones. Statista’s breakdown of preferences for those ages 18-29 and 30-44, the two age groups most likely to receive communications regarding higher education and student debt, is included below:

<b><u>Age</u></b>	<b><u>Communication Preference</u></b>	<b><u>% of Age Group</u></b>
18-29	Voice	20%
30-44	Voice	27%
18-29	Text	61%
30-44	Text	62%
18-29	Other/Don’t Know	19%
30-44	Other/Don’t Know	11%

### **Colleges & Universities Need Modifications to the One-Call Rule**

This data demonstrates the absurd level of potential legal liability presented by TCPA rules when colleges and universities (and their third-party contractors) attempt to contact consumers to relay critical- and time-sensitive information via their preferred communication platform. Current rules create a cause of action by a

consumer after just one attempted contact to a re-assigned number. TCPA risk inhibits outreach and due diligence on behalf of students, taxpayers, and institutions of higher education.

Reasonable protections need to be provided to shield callers against unwanted calls. However, without a completely accurate way to guarantee against calling a re-assigned number, the one-call limit on calls to reassigned numbers goes much too far.

COHEAO urges the commission to address these issues by increasing the number of calls to reassigned numbers and providing a safe harbor for calls made to a landline which are subsequently forwarded to mobile devices. The Commission should use all legal and technological means available to distinguish between *legitimate business calls* and telemarketing calls.

The one-call limitation should be eliminated provided that the organization and/or business entity has a legitimate business reason to communicate with a consumer; and the entity either uses a third-party vendor who supplies and/or identifies reassigned numbers that also identifies the current owner of a number being called. Instead, callers should only be held liable once the owner of the new number has communicated (verbally or in writing) the new number has been reassigned. This would also apply to a FCC created central database of reassigned numbers, if it were to be created.

The FCC should also create a safe harbor to protect organization and business entities from any liability when the number being called is a landline that has been forwarded to a mobile number. The Safe harbor protections should include all consented electronic communications generated by automated dialing systems, and include pre-recorded messages, as well as texting.

## **Conclusion**

Colleges and universities will continually face significant risks without a review of the regulations to implement TCPA. In many cases, litigation risk precludes colleges and universities from remaining engaged with students/consumers via their preferred methods of communication. COHEAO supports all efforts from the FCC to limit TCPA risks for colleges and universities. COHEAO members look forward to working with the Commission to protect consumers while finding solutions to limit litigation risk