



November 6, 2017

Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington DC 20554

RE: CG Docket No. 02-278; Comment on Credit Union National Association Petition for Declaratory Ruling under the Telephone Consumer Protection Act of 1991

To whom it may concern:

The Credit Union Association of the Dakotas (CUAD) appreciates the opportunity to provide comment to the Federal Communications Commission (FCC) regarding the Credit Union National Association (CUNA) petition for Declaratory Ruling under the Telephone Consumer Protection Act of 1991 (TCPA). To provide a brief background, the Credit Union Association of the Dakotas represents sixty-six state and federally chartered credit unions in the states of North Dakota and South Dakota, whose assets total over \$6 billion and who have more than 450,000 members.

CUNA requests that the FCC adopt an established business relationship exemption from the Telephone Consumer Protection Act's prior-express-consent requirement for informational autodialed or artificial- or prerecorded-voice calls (including text messages) made by or on behalf of credit unions to their members' wireless phone numbers. Alternatively, CUNA requests that the FCC exercise its statutory authority to exempt from the TCPA's prior-express-consent requirement credit union informational calls made to its members' wireless phone numbers that are in fact free to the called party.

The Credit Union Association of the Dakotas fully supports CUNA's petition to the FCC and we strongly urge the Commission to adopt the requested established business relationship exemption from the TCPA onerous consent requirements.

CUAD supports the privacy rights of individuals, however, we contend that the "balance" of individual privacy rights and legitimate business practices has become exceedingly unbalanced. CUAD believes that the FCC's interpretation of the TCPA, particularly its July 10, 2015, Omnibus Declaratory Ruling and Order (Order) goes far beyond the scope and purpose of the TCPA.

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Credit unions are different than the average business communicating with consumers. Members are owners of the credit union and have a vested interest in being informed about many aspects of the operations ranging from governance communications; fraudulent activity; and other account information such as overdue payments. The FCC should do more to facilitate communication between credit unions and their distressed customers instead of hindering it. The FCC needs to recognize consumers' preferences for new technologies and modern forms of communication. The overly burdensome and restrictive interpretation of the TCPA has created barriers for credit unions to communicate information to their members that is geared at helping them manage their accounts more effectively such as low balance warnings, insufficient fund notices, upcoming loan payment due dates and also important emergency information such as fraud, data breaches, and other pertinent account updates.

CUAD acknowledges that the FCC's Order did include exemptions for financial institutions to call members in emergency situations. However, the struggle to meet the criteria for this exemption is difficult at best, if not impossible. Conditions such as requiring calls to result in no charge of any kind to consumers places a burden on financial institutions to ensure calls do not count against the recipient's minutes or text message plan. The technology and resources to make these assurances are not readily available, especially to smaller credit unions.

The relationship between credit unions and members is more like a partnership and it benefits both parties to be in timely communication with each other. Material to help manage an account and emergency information is useless if delivered by mail. However, the restrictions placed credit unions to communicate with members and the enormous liability if they interpret the rule wrong, the options are limited. CUAD is concerned that the FCC's interpretation of the TCPA is not helping consumers, instead it is hindering important information from getting to consumers, especially, distressed consumers. If a borrower becomes delinquent on a loan, they are in the best position to catch up with payments early on. Credit unions should be able to immediately send out alerts when a payment is missed, that way the borrower can take action right away to either make a payment or work with the credit union. This could potentially help the borrower save money.

Granting this petition would also align the FCC's policies with recent guidance from the Consumer Financial Protection Bureau (CFPB) urging both banks and credit unions to text their consumers regarding financial information. The CFPB is urging credit unions to provide "real-time information" to consumers through text alerts to help protect their finances, while the TCPA and FCC rules subject credit unions to liability for automated calls and texts. This creates extremely problematic, conflicting guidance about how credit unions should be communicating with their members. This puts credit unions in the untenable position of having to choose between federal regulators.



CUAD strongly supports the Credit Union National Association's petitions and respectfully requests that FCC grants said Petition.

CUAD appreciates this opportunity to share our comments and concerns.

Respectfully,

A handwritten signature in black ink, appearing to read "Jeffrey Olson".

Jeffrey Olson  
CEO/President

A handwritten signature in black ink, appearing to read "Amy Kleinschmit".

Amy Kleinschmit  
VP of Compliance