

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of :

Credit Union National Association (CUNA) :  
Petition for Declaratory Ruling

CG Docket No. 02-278

Rules and Regulations Implementing the  
Telephone Consumer Protection Act of 1991

DA No. 17-798

**COMMENTS OF ANDREW M. MILZ**

I am a consumer protection lawyer with offices in Pennsylvania and New Jersey, where my firm represents mostly low income consumers in matters where they have been harmed by financial institutions, including credit unions. I write in opposition to the petition of the Credit Union National Association (CUNA) to excuse credit unions from complying with the well-established anti-robocall provisions of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. §227 et seq.

Anyone who has ever represented a person who is behind on loan payments, facing foreclosure, or threatened with car repossession understands that there are very few more financially trying situations for a person to endure in life. The mortgage or car payment is usually the first bill to get paid at the expense of all others. When the consumer falls behind, it’s usually a symptom of a family in dire straits financially. This is often the result of an illness in the family, loss of a job, or any number of problematic life situations. The last thing these folks need is to be bombarded with robo-calls to their cell phones reminding them that they are behind on their obligations. They know.

Being in default on a loan obligation is bad enough. Incessant robo-calls add insult to injury and layers of aggravation, anger and distress. My small firm has personally seen how

consumers harassed by robo-calls to their cell phone have emotionally cracked under the pressure. The reason for this is clear. We carry our cell phones with us everywhere we go. As such, these annoying calls harass consumers at the worst possible times – while driving, in a work meeting, or blowing out the candles on their child’s birthday cake. I’ll never forget one client, a nurse anesthetist, who, in tears, recounted how her cell phone rang while she was working in the operating room. She could not turn it off, as she needed to be available for emergency calls from her own sick daughter. Robo-calls cause other folks to turn off the ringer on their phones, disconnecting from friends and family that they would otherwise want to talk to. It causes them to miss important phone calls with their loved ones. This in turn causes more stress and negatively effects relationships. Robo-calls to cell phones truly are the “scourge of modern civilization.” 137 Cong. Rec. 30, 821-22 (1991).

Most Americans behind on their bills would pay if they could. Bombarding them with robo-calls is simply not an effective way to get them to pay any more, any sooner. Indeed, it can only contribute to additional aggravation and stress which may result in further adverse financial consequences for the consumer (and, paradoxically, upset their ability to pay their bills; counteracting a financial institution’s interest in having them robo-called in the first place). There is no reason why today’s credit unions cannot continue to rely on traditional means of contacting their members. They can send a letter. They can write an email. They can even make a phone call to the consumer’s landline. Robo-calls to cellphones are unnecessary, intrusive, and harassing by their very nature.

Let us be clear – CUNA members and other financial institutions can obtain their members’ consent to receive automated calls and place such calls legally under the TCPA. If the member does not give consent, or requests that the calls stop, CUNA – like every other caller utilizing

autodialing technology – must honor the consumers’ request. This current balancing of interests under the TCPA should be maintained, not undermined by carving exceptions from this important consumer protection statute, like the exceptions CUNA seeks here.

Credit unions should not be exempt from the requirements of the TCPA – which prevents them from bombarding the consumer with robo-calls and pre-recorded messages all hours of the day at any place the consumer happens to be carrying their phone. Any such exemption would have a real world negative effect on many credit union members – those Americans already in dire financial circumstances. I respectfully ask that the Petition of the Credit Union National Association be denied.

Respectfully submitted:



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ANDREW M. MILZ

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450 N. Narberth Avenue, Suite 101  
Narberth, PA 19072  
(610) 822-0782