

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Rules and Regulations Implementing the)	CG Docket No. 02-278
Telephone Consumer Protection Act of 1991)	
)	
)	DA 17-798
Credit Union National Association)	
Petition for Declaratory Rulings)	

REPLY COMMENTS OF ZipDX

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CUNA and its supporters make a claim that recipients of their calls generally welcome them. This claim is unsupported and is no less anecdotal than the counterclaim made by numerous very articulate opponents, indicating that recipients of these calls, generally, don't want them.

CUNA claims that “virtually no one pays for text or voice calls....” Perhaps virtually no one is *billed* to receive individual text or voice calls. But the recipient of the call has to spend their time dealing with it. Virtually no one participating in this proceeding values their time at zero.

Thus every call has a cost. We can say with near certainty that at least some of the recipients of the calls in question do not want to bear that cost, and want the protection offered by the TCPA that deters prospective call originators from imposing that cost.

The fact that technology allows CUNA members and Insights members and numerous others to blast out millions of calls automatically, and thus at miniscule cost to the originator, while potentially imposing significantly higher per-call costs (accounting for call-handling time) on the call recipients, illustrates how lopsided this debate is.

Insights' reference to “random digit dial (RDD) surveys” shows just how far apart the philosophies of the call originators and the call recipients (consumers) are. Originators point to the public good served by their RDD surveys; there are certainly beneficiaries to at least some of these survey results. On the other hand, we know of no evidence that any statistically significant number of consumers consider it beneficial that a telephone subscription means they can be selected at random to participate, at the convenience of others and not their own, in such surveys. (Perhaps Insights could do a survey on that and share the results.)

There are numerous counters to the claim by CUNA and supporters that when a consumer provides their (mobile) telephone number to a retailer or a service provider or a financial

institution, they are indicating a desire to receive any and all (non-marketing) calls that the organization might choose to make. In many cases, the phone number is used for identification purposes (order tracking or “membership” number); in other cases, it is volunteered in conjunction with a specific transaction (“call me when my prescription is ready” or “call me when my mortgage is approved”).

If an organization wants to broaden the scope for which calls are allowed, they have every opportunity to seek that permission from the consumer when they initially solicit the phone number, or subsequently.

The fact that CUNA is seeking permission from the FCC, rather than from the consumer, is perhaps an indication that they fear they’ll be rebuffed by most consumers. While the petition presents concerns about litigation and the need for FCC protection therefrom, CUNA could get similar protection if they just sought (and received) from their “members” that permission.

To get the FCC to relax the established TCPA constraints, the burden of proof must rest on the petitioner. CUNA has proven nothing: they (and their supporters) have presented no data supporting their contention that any sizable fraction of consumers want their calls.

The petition should be denied in its entirety.

Respectfully submitted,

DATED: 21 November 2017

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