FINANCIAL SERVICES ROUNDTABLE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW,
Washington, DC 20554

Re: Consumer Bankers Association's Petition for Declaratory Ruling
CG Docket No. 02-278

Dear Ms. Dortch:

The Financial Services Roundtable (FSR)[1] appreciates the opportunity to express its support for the Petition for Declaratory Ruling[2] filed by Consumer Bankers Association (CBA). The CBA Petition asks the Commission to confirm that organizations are not liable under the Telephone Consumer Protection Act (TCPA)[3] and the Commission's TCPA rules[4] when a financial services company makes informational, non-telemarketing autodialed and prerecorded calls to a wireless number for which the company obtained prior express consent but which is subsequently reassigned to another wireless subscriber without the knowledge of the organization.

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[1] Financial Services Roundtable represents 100 integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. Roundtable member companies provide fuel for America's economic engine, accounting directly for $92.7 trillion in managed assets, $1.2 trillion in revenue, and 2.3 million jobs.
[2] Petition for Declaratory Ruling of the Consumer Bankers Association, CG Docket No. 02-278 (filed Sep. 19, 2014) (CBA Petition).
[3] 47 U.S.C. § 227.
[4] 47 C.F.R. § 64.1200.

I. How financial services companies use informational, non-telemarketing calls.

Fraud alerts, notices of address discrepancies, low balance alerts, data security breach notifications, loan modification outreach, and other time-critical, non-telemarketing communications must reach large numbers of customers quickly and at reasonable cost. Only automated calling – not manual dialing by live agents – can meet these requirements in a timely, efficient, and economical manner.

As the Commission is aware, consumers are increasingly abandoning landlines for mobile devices. Thus, in order to respond to this shift in customer preferences, financial services companies are making an increasing percentage of automated calls to mobile devices.

II. The TCPA was not intended to expose callers to the threat of TCPA class action litigation because they placed an autodialed call to a number that was reassigned without the caller's knowledge.

FSR's members take great care to obtain "prior express consent" from their customers before placing calls to wireless numbers using an automatic telephone dialing system or a prerecorded voice. To be sure, this caution is driven by the TCPA's requirements but it also reflects the companies' commitment to customer service and to protecting the security of their customers' assets. Clearly, financial services companies have no reason to place a non-telemarketing, informational call to anyone other than the intended recipient.

The reality is that financial services companies, which place billions of autodialed informational calls annually, cannot avoid all calls to reassigned wireless telephone

numbers. As CBA's petition makes clear, there is no public wireless telephone directory or other tool to identify numbers that have been reassigned.[5]

While FSR's members encourage customers to notify them when they change their wireless number, consumers often fail to do so. Thus, financial services companies inevitably will call reassigned telephone numbers despite efforts to contact only those consumers who provided prior express consent to be called on their assigned wireless number.

The potential liability for calls made in good faith to parties who have consented to receive them but whose telephone number has been reassigned without notice threatens to limit important and valued communications between a financial services company and its customers. FSR urges the Commission to act promptly to confirm that a call inadvertently placed to a person to whom a customer's mobile telephone number has been reassigned is lawful under the TCPA, as long as the former subscriber to that number was the call's intended recipient and gave prior express consent to receive the call. As CBA's Petition explains, the most logical and straightforward means of accomplishing this result is to confirm that the call's intended recipient — as opposed to any person who happens to answer the call — is the "called party" whose prior express consent must have been obtained.

We do not believe that granting this relief will encourage continued, autodialed or artificial/prerecorded voice calls to reassigned customer numbers after the callers become aware that those numbers have been reassigned.[6] Automated calls that are placed to

[5] CBA Petition at 9.
[6] *Id.* at 14.

reassigned mobile numbers with actual knowledge that those numbers have been reassigned will continue to be subject to enforcement action under the TCPA.

Granting the relief requested in the CBA's petition is in the best interests of consumers in that it will allow financial services companies to provide notices that consumers want to receive in a timely and cost-effective manner.

Thank you again for the opportunity to share with you the views of our members. If you have questions, please contact me at 202.589.1936 or Anne.Wallace@FSRoundtable.org.

Respectfully submitted,

Anne Wallace
Senior Director, Consumer Financial Services