EFC Education Finance Council

May 6, 2015

Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

RE: In the Matter of Blackboard, Inc. Petition for Declaratory Ruled (CG Docket No. 02-278) - Comments of the Education Finance Council

The Education Finance Council (EFC) strongly supports the provisions outlined in the petition filed by Blackboard, Inc. calling for a reasonable and practical relaxation on the requirements of the Telephone Consumer Protection Act (TCPA) for educational organizations. Specifically, EFC is in agreement with the petition language that would allow educational organizations to make autodialed information calls to students and families as 'emergency' calls that are exempt from the TCPA's prior express consent requirements. EFC also supports Blackboard's petition for clarification of "express consent" to apply when a borrower provides a wireless telephone number as a means of providing information, even if the wireless telephone number is changed or is later used by another consumer. A "called party" as used in the TCPA and the Commission's rules should refer to the "intended recipient" of the informational messages.

EFC further believes that the provisions proposed by Blackboard should also apply to organizations that service education loans. Student loan servicers must be able to contact borrowers to educate, inform and guide them through the complex maze of federal repayment plans and related paperwork and deadlines. Borrowers need to be informed of their options and communication is key to preventing delinquency and default. The current outdated TCPA regulations impedes a servicer's ability to help borrowers by limiting the use of text messages and phone calls to wireless telephone numbers.

Cell phones are an indispensable part of modern life – over 90 percent[1] of Americans today own a wireless phone and 58.8 percent of households are entirely or predominantly "wireless-only."[2] Due to the obsolete TCPA prohibitions related to cell phone communications, student loan servicers must rely on paper and e-mail communication to: inform borrowers of their rights and responsibilities; educate them on their options that would assist them with their loan repayments including information on repayment plans, deferment, forbearance, and loan forgiveness; and remind borrowers of required documentation and pending deadlines. These antiquated methods of communication have proven inefficient and ineffective at getting through to consumers.

[1] Pew Internet Project, *Mobile Technology Fact Sheet,* Pew Research Center (2014), *available at* http://www.pewinternet.org/fact-sheets/mobile-technolocy-fact-sheet/.

[2] Stephen J. Blumberg & Julian V. Luke, Div. of Health Interview Statistics, Nat'l Ctr. For Health Statistics, Centers for Disease Control and Prevention, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January-June 2014,* at 1 (Dec. 16, 2014) *("CDC Wireless Substitution Estimates"), available at* http://www.cdc.ogv/nchs/data/nhis/earlyrelease/wireless201412.pdf.

As a result, many borrowers miss or ignore crucial communications from their student loan servicers and are then faced with the potential negative consequences of skyrocketing monthly payments, missed opportunity for forbearance or deferment, and even the possibility of delinquency and default. These consequences were confirmed by U.S. Department of Education data that revealed between October 2013 and November 2014 nearly sixty percent of borrowers enrolled in Income Driven Repayment programs did not recertify their incomes as required before their deadlines.[3] The data showed that one-third of these borrowers faced financial havoc when they forgot to recertify, and their loans went into hardship related forbearance or deferment.

The depth of the challenges student loan servicers have with communicating with borrowers was highlighted during the recent Department of Education negotiated rulemaking sessions on Revised Pay As You Earn repayment plan. During the sessions, the Education Department acknowledged that existing paper mail and e-mail communications were not sufficient to reach borrowers with vital information. Therefore Federal Student Aid (FSA) is launching pilot programs to improve written notices to borrowers. However, due to the stringent TCPA regulations, FSA is limited on its ability to test text messaging notifications even though the FSA noted that text messages would be a more effective way to reach and engage borrowers.

It is time for the FCC to clarify and modernize its TCPA rules to reflect the realities of today's modern communication technology and usage. By addressing the important issues raised by Blackboard, Inc.'s petition and expanding it to student loan servicers, the Commission will enable servicers to effectively communicate and educate borrowers reducing the potential for delinquency and default and helping borrowers remain on a path of success.

We appreciate the opportunity to provide these important recommendations. We would be happy to provide further background as needed. Please do not hesitate to contact me if EFC can be of assistance to the Commission in any way.

Sincerely,

Debra J. Chromy

Debra J. Chromy Ed.D.
President

The Education Finance Council (EFC) is the national trade association representing nonprofit and state agency student loan and higher education assistance organizations. These organizations have been dedicated to improving postsecondary access, affordability, and success for decades through providing affordable student loans and financial aid as well as extensive college planning and completion resources and programs for students, families, educators, and other stakeholders in their states.

[3] U.S. Department of Education, *Sample Data on IDR Recertification Rates*, Handout at Negotiated Rulemaking Session April 2, 2015.