Education Finance Council
Helping Families Plan & Pay for College

June 6, 2016

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

RE: Comments to Notice of Proposed Rulemaking – CG Docket No. 02-278, FCC 16-57 – Electronically Filed at http://apps.fcc.gov/ecfs/.

Dear Ms. Dortch:

On behalf of the membership of Education Finance Council (EFC), we submit the following comments in response to the Federal Communications Commission's (the Commission) Notice of Proposed Rulemaking (NPRM) revising rules under the Telephone Consumer Protection Act (TCPA) to implement a provision of the Bipartisan Budget Act of 2015 (BBA) that excepts from TCPA's prior-express-consent requirement autodialed and prerecorded calls "made solely to collect debt owed to or guaranteed by the United States."

EFC is the national trade association representing nonprofit and state-based education loan organizations who fund, originate, service, and purchase education loans. As state-based, nonprofit entities, EFC members are driven by a public purpose mission to expand borrowers' financial knowledge, prevent over-borrowing, and promote positive repayment behavior. A number of EFC members serve as the go-to college planning resource in their states for students, families, and counselors. Several EFC members provide low-cost alternative education loan and refinance programs, scholarships and grants, college planning centers, financial literacy programs, FAFSA completion events, and individualized guidance to assist families. Some EFC members also contract with the federal government to service Federal Direct Loans. EFC members provide exemplary service to borrowers and the Education Department, and continually rank as the best servicing entities based on performance metrics.[1]

EFC supports the Commission's proposal to permit as a "covered call" those made for pre-default servicing, but believes it does not go far enough in allowing servicers to reach struggling borrowers who need additional assistance in navigating the complex federal loan repayment process. While the Commission acknowledges that "debt servicing calls may provide a valuable service by offering information about options and programs designed to keep at-risk debtors from defaulting or becoming delinquent on their loans," the restriction that prevents servicers from calling borrowers until they become delinquent ensures that borrowers in distress will not be provided with sufficient notice and information on how to manage their payments, including on how to enroll in income-driven repayment plans, until the negative consequences of delinquency have already set in.

The Commission's proposal also includes an arbitrary limit on the number of call attempts to delinquent borrowers that is far too restrictive to meet the Administration's and Congress's goals. In general, it takes several call attempts simply to establish live contact with a borrower, and multiple live contacts to help the borrower enroll in an appropriate repayment plan or rehabilitation program to resolve their delinquency or default. However, the NPRM sets a maximum limit of three call attempts per month. Under this three-call

[1] https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/servicer/12312015/ResultsQuarterEnd123115.pdf

attempt limit, servicers and collectors will, in most instances, be unable to make live contact with a borrower before it's too late to help avoid delinquency or default, or to help those in default to rehabilitate their loans. For the reasons stated below, we believe a special case can and should be made to help borrowers of federal student loans.

HOW FEDERAL STUDENT LOANS ARE DIFFERENT FROM OTHER FORMS OF CONSUMER DEBT

Federal student loans, as a unique class of unsecured debt, are unlike any other form of consumer debt. They are made to individuals with little or no credit, based solely on need and not ability to repay. When a borrower defaults, it is the U.S. taxpayer that pays the price, and unlike collateralized debt, an education cannot be repossessed. In most cases, a federal student loan borrower signs a single Master Promissory Note (MPN) that allows for additional loans to be taken for up to 10 years. Federal student loans do not enter repayment until six months after the borrower ceases attending school on a half-time basis, so several years may lapse between when the borrower signs the MPN and when that same borrower enters repayment, making it critical that the federal government and its agents be permitted to use modern communications technology to contact borrowers to inform them of their rights, options, and responsibilities and assist in collecting such debts.

As of the first quarter of 2016, the U.S. Department of Education reported $1.2 trillion outstanding Federal FFELP, Direct, and Perkins student loans to 41.6 million recipients, of which $115 billion is in default.[2] Federal student loan default results in serious consequences for the borrower, including administrative wage garnishment, IRS offset of tax refunds, Social Security garnishment, loss of eligibility for further federal student aid, increased fees and loan balances, and damaged credit. Bankruptcy relief for federal student loans is extremely difficult to obtain, making it even more imperative that federal student loan borrowers are made aware of their rights and responsibilities, as well as the multitude of options for relief that are available to them through federal regulation and law.

Complexity of the Federal Student Loan Program and the Multitude of Relief Options

The federal student loan program is extraordinarily complex. There are multiple types of federal student loans with different terms and conditions. Under the legacy FFELP program and the current Federal Direct Loan program, there are subsidized Stafford, unsubsidized Stafford, GRAD PLUS, Parent PLUS, and consolidation loans, in addition to the Federal Perkins Loan. A borrower could potentially hold a combination of several of these loans. There are 15 different repayment options, 13 opportunities for forbearance, 21 opportunities for deferment, and eight different forgiveness programs. And, each of the loan programs listed above has different repayment options and eligibility requirements. There are benefits, risks, and costs associated with each of the repayment options, as well as varying eligibility and documentation requirements and deadlines. In addition, there are six different income-driven repayment (IDR) plans, under which monthly payments may be as low as zero dollars and qualifying borrowers may have remaining balances forgiven after 20 to 25 years. It requires a well-trained individual working directly with a borrower, particularly one that is having difficulty with repayment, to guide them through this menagerie of repayment tools. There is no website that can serve as a substitute for communication between a borrower and their servicer.

[2] Federal Student Aid, U.S. Department of Education website: https://studentaid.ed.gov/sa/about/data-center/student/portfolio
A student loan becomes "past due" or "delinquent" when a payment is missed. A loan becomes in "default" when it has been delinquent for 271 days. *See* 34 C.F.R. § 682.411 (outlining due diligence "collection efforts" lenders must engage in while a FFELP loan is delinquent).

Despite this complexity, given the multitude of options that are available to a borrower, there is no reason for a borrower acting in good faith to become delinquent or to default on their student loan debt. Communication between a borrower and their student loan servicer is key to preventing delinquency and default. According to the U.S. Department of Education, Federal Student Aid, 93 percent of delinquent borrowers were not successfully contacted by telephone during the 360 day collection effort and 98 percent of the delinquencies could have been corrected if contact had been made with a borrower.[3] If a borrower does default, there is help available to rehabilitate their defaulted loan, clear their credit records of the default, and reinstate their eligibility for federal student aid. This can be done by making nine "reasonable and affordable" monthly payments over a 10-month period and the payment could be as low as five dollars per month. However, to take advantage of this option, a borrower must communicate with their servicer, guarantor, or collection agency. [4]

There are less than 25 student loan servicers for the legacy FFELP portfolio, ten of which service all Federal Direct Loans. These servicers range in size from very small (42 employees) to large (6,500 employees); some are not-for-profit or state agencies, while others are for-profit entities. Federal contracts limit the resources available to service federal student loans by capping servicing fees at $2.85 per borrower per month; this cap on fees actually decreases once a borrower becomes delinquent. Because of this, student loan servicers do not have the resources or the motivation to inundate borrowers with unwanted calls. Those calls they do place need to be efficient and purposeful. They **do not make telemarketing calls** as part of their servicing activities. Telephone contacts are informational and intended to educate and assist borrowers.

As noted above, successful contact with a borrower is key to ensuring that the borrower has the information necessary to properly and successfully manage their student loan debt. In today's communications landscape, that means contacting borrowers on their cell phones. Cell phones are an indispensable part of modern life, particularly with the student loan borrower population. According to a recent study from the Centers for Disease Control and Prevention, nearly one-half of American homes (47.4 percent) had only wireless telephones during the first half of 2015 — an increase of 3.4 percent over the last year. This number is even higher for those age brackets more likely to have student loans — more than two-thirds of adults aged 25-29 (71.3 percent) and aged 30-34 (67.8 percent) live in households with only wireless telephones.[5]

This brief summary of the complexities of the federal student loan programs, coupled with the fact that the student loan borrower population is most likely to live in a household with only wireless telephones, clearly demonstrates that federal student loan debt is unique and should be addressed separately from other forms of federal debt with regards to the provisions of the TCPA.

SERVICING CALLS AS "COVERED CALLS"

The Commission proposes to include under the definition of covered calls to collect debt "owed to or guaranteed by the United States" those calls made to obtain a payment after the borrower is delinquent on a payment. Debt servicing calls are covered calls provided that (a) calls begin after a borrower is delinquent on a payment and (b) that the calls must be made by the creditor and those entities acting on behalf of the creditor.

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[3] Federal Student Aid Conference presentation "Session 41: Late State Delinquency Assistance (LSDA)", Cynthia Battle and Eileen May
[4] 34 C.F.C § 682.405(b)(1)(iii)
[5] Stephen J. Blumberg & Julian V. Luke, *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January-June 2015,* National Center for Health Statistics (Dec. 1, 2015). http://www.cdc.gov/data/nhis/earlyrelease/wireless201512.pdf

EFC supports the inclusion of federal student loan servicing calls, including the servicing of the legacy FFELP portfolio, under the BBA's exception to the TCPA, but disagrees with the Commission's proposal to exclude calls to borrowers who are not delinquent. EFC proposes that student loan servicing calls to the debtor should be permitted any time there is a pending change in loan status, a regulatory deadline approaching, or an action required by the borrower, all of which may and do occur prior to delinquency. Many Americans are in critical need of assistance and support **before** delinquency. Restricting servicers and collectors from using modern technology impedes their ability to give borrowers the help they so clearly need. Federal student loan servicing is an integral part of federal student loan collections, and should not be viewed separately. The plain meaning of the term "collect" is "to obtain payment on," which is the purpose of such federal student loan calls. [6] Indeed, the Supreme Court has found on multiple occasions that, in ordinary English, a person "collects" a debt by attempting to obtain payment on it.[7] The Fifth Circuit has even observed that "the term 'collect' could be extended from demanding payment [of an amount owed] to merely receiving it."[8]

The Education Department's federal student loan rules also confirm that calls "to collect" a debt occur both before and after default. For example, the Department's FFELP rules define the term "collection activity" to include "making an attempt to contact the borrower by telephone to urge the borrower to begin or resume payment" and "any telephone discussion or personal contact with the borrower so long as the borrower is apprised of the account's past-due status."[9] They also require lenders to undertake a number of "collection efforts" when a loan is delinquent, including sending "collection letters" and attempting to contact borrowers by telephone.[10] Similarly, the Department's Direct Loan Program rules specify that borrowers are responsible for "collection charges before default," which include "costs incurred . . . in collecting installments not paid when due."[11]

Federal Student Loan Servicing is Debt Collection

EFC supports the inclusion of calls informing debtors of all of their rights, responsibilities, repayment options, federal loan consolidation options, loan forgiveness programs, deferment, forbearance, pending regulatory deadlines, changes in loan status, or any other information directly or indirectly related to the repayment of federal student loan debt. EFC supports the Commission's proposal to limit covered calls to those made by the creditor and those entities acting on behalf of the creditor. To avoid telemarketing calls, the Commission should limit the calls to information directly or indirectly related to the borrower's federal debt, and prohibit the caller from providing information regarding private products or services that charge the borrower a fee.

The Commission's questions of whether specific types of debts, specifically federal student loans, are covered or not covered by the phrase "debt owed to or guaranteed by the United States," and if debts "insured by the United States" should be excluded from the BBA exception, are nonsensical. There is absolutely no valid reason to exclude debts "insured" by the United States, nor do we believe the Commission has any justification to omit federal student loans from the phrase "owed to or guaranteed by the United States." The BBA permits the Commission to adopt regulations that "limit the number and duration of calls made to a telephone number assigned to a cellular telephone service to collect a debt owed to or guaranteed by the United States." It does not grant the Commission the authority to arbitrarily exclude classes of federal debt such as federal student loan debt. Any effort by the Commission to exclude federal student loans from the

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[6] *See, e.g.*, Black's Law Dictionary 263 (6th Ed. 1990).
[7] *See, e.g.*, *Heintz v. Jenkins*, 115 S.Ct. 1489, 1491 (1995); *Direct Mktg. Ass'n v. Brohl*, 135 S.Ct. 1124, 1130 (2015).
[8] *Pilalas v. Cadle Co.*, 695 F.3d 12, 16 (5th Cir. 2012).
[9] *See* 34 C.F.R. § 682.411.
[10] *See id*.
[11] *See id*. §§ 685.202(e), 685.207(a)(1).

TCPA exceptions under the BBA is beyond the Commission's authority and circumnavigates Congressional intent.

Definition of "Trigger Event" and Allowing Pre-Delinquency Student Loan Servicing Calls
The Commission proposes using delinquency as the trigger for covered servicing calls and seeks comment on the trigger event and the definition of delinquency and default.

EFC proposes an expansion of the trigger event for student loan servicing to allow for calls to the debtor any time there is a pending change in loan status, a regulatory deadline approaching, or an action required by the borrower, all of which may and do occur prior to delinquency. In addition, default is defined in the Higher Education Act of 1965, as amended,[12] and the definition is included in the borrower's MPN. There is no provision in the BBA that would give the Commission the authority to develop its own unique definition and no reason for the Commission to do so. In fact, doing so would only create confusion for borrowers and create additional complexity for servicers as they try to manage to differing definitions as they attempt to comply with competing regulations. Again, the Commission is limited to regulating frequency and duration only.

As noted above, cell phones are an indispensable part of modern life — 90 percent of Americans today own a wireless phone[13] and 58.8 percent of households are entirely or predominantly "wireless-only."[14] TCPA restrictions require servicers to contact borrowers through methods that are ineffective with today's student loan borrower population — namely, paper mail and email — and, 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 Department of Education data that revealed that between October 2013 and November 2014, nearly 60 percent of borrowers enrolled in IDR programs did not recertify their incomes as required before their deadlines.[15] 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.

Furthermore, the Department of Education reports that more than one in five Federal Direct Loan borrowers in repayment are more than 30 days past due; nearly 13 percent of these borrowers are seriously delinquent and have gone more than 90 days without making a payment. Though intended to benefit borrowers, restricting covered calls to delinquent debt would result in an unacceptable number of borrowers falling into delinquency and default because their servicer was unable to contact them to provide the information the borrower needed.

In one report, the Department of Education explained:

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[12] Higher Education Act of 1965, as amended; Section 435(m)(1) and (2)
[13] Pew Internet Project, *Mobile Technology Fact Sheet,* Pew Research Center (2014), *available at* http://www.pewinternet.org/fact-sheets/mobile-technolocy-fact-sheet/.
[14] 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.
[15] U.S. Department of Education, *Sample Data on IDR Recertification Rates*, Handout at Negotiated Rulemaking Session April 2, 2015.

> *If servicers are able to contact a borrower, they have a much better chance at helping that borrower resolve a delinquency or default. Many student loan borrowers, especially those that may just be graduating, move frequently in addition to no longer having landline phone numbers. As such, it can be difficult for servicers to find a borrower except by using a cell phone number.*[16]

In another report, the Department explained: "[w]here permissible, text message notifications of important deadlines will 'nudge' borrowers who fail to check their account statements or miss other communication from contractors."[17] Similarly, Pew Research Center (Pew) found that young adults (*i.e.,* those who are more likely to have student loans) are especially avid users of text messaging.[18] Pew also found that young adults are increasingly using their smartphones for "information seeking and transactional" activities such as online banking.[19]

Determining Who May Be Called
EFC supports the Commission's proposal to exclude skip tracing calls from covered calls.

EFC supports the concept of the Commission's proposal to limit covered calls to person or persons obligated to pay the debt, but does not support the terminology used in the NPRM. A covered call should apply to a phone number(s) that a borrower provided, and any number(s) a caller can reasonably think will reach the debtor, regardless of who "owns" the number or how the caller obtained it. The language limiting covered calls to "person or persons obligated to pay the debt" ties the call to the individual, not the phone number. Many individuals have mobile telephone numbers that are part of another individual's plan.

In addition, the Commission proposes that the exception will not apply to calls to reassigned numbers, even if a company was acting in good faith to reach a borrower and had no knowledge of the reassignment. We believe that no penalty should be attached to the call if the servicer has not been informed of the reassignment. Companies that have a choice may not risk calling consumers if they could be liable for unwittingly making as few as two stray calls to a reassigned number — even if the company is not informed they have reached an unassigned number. It does not benefit student loan servicers to continue to dial a reassigned number. Once they are made aware that they are reaching a reassigned number, they will update their records, but they need to be notified in some way that the number was reassigned.

NUMBER AND DURATION OF COVERED CALLS

EFC is disappointed that the Commission's proposal limits the covered calls exception to three (3) contacts per month, per delinquency, regardless of whether the borrower is reached. The Commission is treating debt collection calls as if they are inconvenient telemarketing calls. However, these are legitimate debts owed to the federal government and student loan servicers have a fiduciary responsibility to collect these debts; taxpayers also have a right to expect borrowers to make a good faith effort to repay these debts. It takes multiple attempts to reach a borrower before live contact is made and multiple live contacts to help the borrower enroll in an appropriate repayment plan, resolve a delinquency or, in the case of defaulted

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[16] *Strengthening the Student Loan System to Better Protect All Borrowers*, U.S. Department of Education (Oct. 1, 2015), https://www2.ed.gov/documents/press-releases/strengthening-student-loan-system.pdf
[17] *Recommendations on Best Practices in Performance-Based Contracting,* U.S. Department of Education (Aug. 28, 2015), https://www2.ed.gov/finaid/loans/repay/best-practices-recommendations.pdf
[18] *U.S. Smartphone Use in 2015,* Aaron Smith, Pew Research Center (Apr. 1, 2015), http://www.pewinternet.org/2015/04/01/us-smartphone-use-in-2015/
[19] *U.S. Smartphone Use in 2015,* Aaron Smith, Pew Research Center (Apr. 1, 2015), http://www.pewinternet.org/2015/04/01/us-smartphone-use-in-2015/

borrowers, to establish a rehabilitation program to cure their default and repair their credit. Student loan servicers report that more than 90 percent of the time when they are able to have a telephone conversation with a borrower, they are able to help the distressed student loan borrower resolve his/her problems and avoid delinquency, or resolve their delinquency and prevent default.[20]

Including the clause "per delinquency" to the covered call limitation adds unnecessary complexity for the borrower and the servicer. For example, if a borrower has multiple federal student loans and only one is delinquent, is the servicer limited to addressing only the delinquent loan? In most cases, it is always in the best interest of the borrower to work with a servicer on a solution for all of their federal student loans collectively. In this scenario, the servicer would be limited to three calls per month. However, if that same borrower became delinquent on three of their loans, the servicer would then be free to contact the borrower nine times per month. The call limit should be based on per borrower, not on per delinquency.

The Commission's proposals limiting the number of covered calls under the BBA exception not only guts the relief that the Administration and Congress clearly intended to provide, but could ultimately lead to fewer live conversations with distressed borrowers. EFC agrees with Commissioner Michael O'Rielly's dissenting opinion: "[I]t does not make sense to require live agents to manually attempt calls when more efficient dialing technology exists. And, as we know from the *TCPA Omnibus Order*, even manually dialed calls will be considered autodialed calls if placed from equipment that could function as an autodialer in the future. The NPRM seeks comment on how to encourage debtors hearing from a live agent, but the solution is already in the record: do not artificially limit the number or type of calls."[21]

EFC Proposal on Frequency of Calls

EFC notes that the National Consumer Law Center (NCLC), in an Ex Parte letter dated June 6, 2015 [sic] and posted on the Commission's Electronic Comment Filing System on June 12, 2014, recommended that "The FCC should limit collection calls to three calls per week, voicemail messages to one per week, and call-backs to once per week unless the consumer gives specific consent at the time of the call."[22] This recommendation by a leading consumer advocacy group is significantly more permissive than the Commission's proposal. We also note that this recommendation was written to apply across industry sectors. While EFC recommends more contact attempts be allowed to better serve student loan borrowers (as detailed below), we believe the Commission's final rule certainly should be no more restrictive than that laid out in the NCLC recommendation in its 2014 Ex Parte letter to the FCC.

EFC offers the following proposal regarding the frequency of calls that strikes a balance and provides for responsible debt collection that does **not** cross into harassment:

> *Pursuant to Section 227(b)(1)(A) of the Communications Act of 1934, the use of an automatic telephone dialing system or an artificial or prerecorded voice to cellular telephones is permitted for the purpose of servicing and collecting debt owed to or guaranteed by the United States provided:*
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> a) *No more than three contact attempts per day are permitted without consent of the person that owns the phone number called;*

[20] Letter from Mark Brennan, Counsel to Navient, to Marlene H. Dortch, FCC, CC Docket No. 02-278, at 2-3 (filed Mar. 11, 2016)

[21] Federal Communications Commission, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278; Notice of Proposed Rulemaking; *Statement of Commissioner Michael O'Reilly Dissenting in Part and Approving in Part*

[22] June 6, 2015 [sic] Notice of Ex Parte Presentation signed by Margot Saunders, Keith Keogh and Ellen Taverna, posted June 12, 2014, p.12.

b) *No further contact attempts are allowed in the same week once a successful contact is made;*
c) *Successful contact is defined as a live conversation with, or a voice or text message to, the person called;*
d) *Contact attempts may not exceed nine (9) in any consecutive seven-day period;*
e) *All contact attempts must be made between the hours of 8:00 a.m. and 9:00 p.m. in the time zone of the individual being called; and*
f) *Nothing in the rule limits or prohibits calls requested or agreed upon by the consumer.*

EFC proposes that voice or prerecorded messages cannot exceed 60 seconds. EFC does not necessarily oppose a limit on the length of text messages, as long as any rule regarding such messages permits the sender to comply with any required disclosures for debt collection attempts.[23] Calls resulting in a live conversation regarding the servicing or collection of federal student loan debt must **not** be limited in duration as this would curtail the servicers' ability to properly explain the various unique and often complex options available to resolve federal student loan delinquency and default, and to gather the factual information needed to help the consumer reach the option best suited for his or her individual circumstance.

Nothing in this proposal would preclude the called party from unilaterally ending the telephone contact.

Borrower Opt-Out
EFC appreciates the importance of consumer protections and privacy. However, the BBA does not provide the Commission the authority to permit debtors to opt out of receiving calls related to the debts they owe. The NPRM provides borrower protections by limiting the number and duration of calls. EFC agrees with Commissioner Michael O'Rielly's dissenting opinion on the borrower's right to opt-out: "The NPRM claims that a supposed 'right' to stop calls may be even more important here because callers are permitted to make calls without consent. But that misses the entire point of the law: Congress has decided that making calls in order to collect debts owed to the Unites States trumps consumer consent. After all, this is a serious problem. At least $115 billion in federal student loans are in default, and that's just one type of loan covered by the law."[24]

CIRCUMVENTING CONGRESSIONAL INTENT BY FURTHER RESTRICTING CALLS TO LANDLINES

EFC opposes the Commission's proposals that further restrict calls to landlines, residential lines, or other telephone services. The Commission proposes revising the rule concerning artificial-or prerecorded-voice calls to residential lines to reflect the exception contained in the BBA. The Commission proposes applying limits on the number and duration of covered calls to also apply to covered calls to residential lines, even though such calls would not have required prior express consent even before the BBA amendments to the TCPA. The Commission also proposes applying the restrictions on the number and duration of calls under the exceptions to TCPA under the BBA to "any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call." The BBA does not provide the Commission the authority to do so. The Administration and Congress clearly intended to expand methods available to contact borrowers of

[23] *Foti v. NCO Financial Systems, Inc.*, 424 F.Supp.2d 643, 653 (S.D.N.Y. 2006) (citing 15 U.S.C. §1692g)
[24] Federal Communications Commission, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278; Notice of Proposed Rulemaking; *Statement of Commissioner Michael O'Reilly Dissenting in Part and Approving in Part*

federal debt, not to provide the Commission the ability to further restrict student loan servicers from effectively and efficiently contacting borrowers of federal student loans.

Congress took the necessary first step to modernize the antiquated TCPA regulations in the BBA. The law, which was enacted over 25 years ago, has not kept up with technology and was implemented at a time when cellphones were not ubiquitous. EFC believes our recommendations provided in this response to the Commission offer a balanced approach to providing borrowers with the necessary consumer protections while also allowing student loan servicers to more effectively contact and help struggling borrowers. The TCPA exception contained in the BBA clearly indicates that the Administration and Congress do not view calls made for the collection of federal debt in the same light as telemarketing calls, and the Commission should honor this distinction. EFC urges the Commission to make common sense final regulations that take into account the unique status of the federal student loan programs and the unique role that federal student loan servicers play in engaging borrowers to successfully repay their federal student loan debt.

Sincerely,

Debra J. Chromy

Debra J. Chromy, Ed.D.
President, Education Finance Council