

April 18, 2006

DOCKET FILE COPY ORIGINAL 

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

236 East Town Street
Columbus, Ohio 43215
(614) 223-0682 Tel
(614) 227-3272 Fax
www.cbcsnational.com

RE: CG Docket No. 02-278

My name is Larry Ebert, and I am the President of CBCS located in Ohio. I do not perform telemarketing services. Rather I am a collection agency. The purpose of this correspondence is twofold. First, I wish to make you aware my business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the definition of autodialer beyond its statutory definition. Second, I urge you as the chair of the FCC to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

As you know, the Telephone Consumer Protection Act (TCPA) was passed in 1991. This law was designed to protect consumers from invasive calls from telemarketers. One of the provisions of the TCPA prohibits the use of an autodialer to communicate with a consumer by way of their cell phone.¹ Between 1991 and 2003, the FCC consistently ruled that this autodialer prohibition did not apply to calls made using an autodialer *if the sole purpose of the calls was to recover payments for goods and services already purchased.*

But in July 2003, the FCC took a dramatic shift in its position about the applicability of the autodialer prohibition to the credit and collection industry when it expanded the statutory definition of autodialer to include predictive dialers. By expanding the definition of autodialer and failing to restate the commission's prior rulings that calls made by creditors and debt collectors to consumers' about their past due payment obligations by way of their cell phones were not subject to the autodialer prohibition, the FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation. This shift in policy has caused my business substantial harm.

I am aware ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket No. 02-278 with the commission. I fully support ACA's petition and the relief requested, including ACA's statement of the harm to business and the federal and state governments as a result of the FCC's rule. I believe that the FCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the evasion and non-payment of debts by prohibiting the use of autodialers to telephone consumers by way of their cell phones. To do so is contrary to the intent of Congress and all prior rulings of the FCC between 1991 and 2003 concerning this issue.

¹ The TCPA defines an autodialer as, "equipment which has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator; and to dial such numbers."

In the specific context of recovering payments, I use predictive dialers to complete transactions for which consumers have obtained a benefit, without payment. They are not used – nor do they have the capacity to be used – to randomly solicit customers to make purchases or advertise goods. In fact, autodialer technology is the most accurate way for me to call consumers about their past due payment obligations. Autodialers increase the accuracy of dialed numbers and also restrict calls to the permitted calling times in the time zone of the consumer.

If the FCC's 2003 regulatory definition of autodialer is allowed to stand, creditors and their debt collection agents face the devastating loss of an essential technological tool, namely the autodialer. It cannot be overstated that autodialer technology is directly or indirectly responsible for returning tens of billions of dollars each year to the U.S. economy. Banning their use in this limited context would not only be inconsistent with Congress' intent, but it would be an unconscionable interference with creditors' ability to request payment from its own customers. Additionally, one of the largest creditors in the United States is the federal government. If the FCC does not clarify that the autodialer prohibition does not apply to those making calls to collect past due payment obligations, the federal government will be forced to discontinue its use of autodialers to recover past due payment obligations from tax payers. Such a result would be devastating to the federal government, including the FCC, Department of the Treasury, Department of Education and the Internal Revenue Service and cause all citizens who lawfully pay their federal taxes and other payments owed to the federal government to suffer substantial harm.

The TCPA was enacted to protect consumers from unsolicited advertisements and telemarketing calls. The TCPA's prohibition against the use of autodialers to contact consumers by way of their cell phones was specifically intended to protect consumers from incurring charges as a result of unwarranted telemarketing calls being made to their wireless phones about products or services *to be purchased in the future*. There was never any intention on the part of Congress to prohibit creditors and their retained collection agencies from being able to contact consumers on their wireless phones about *a past due payment obligation for goods and services already purchased and received*.

Moreover, wireless phone usage has grown exponentially since 1991 when the TCPA was enacted. Today, more than one out of every five Americans under the age of 35 does not have a landline phone and instead uses a wireless phone as their exclusive means of telephonic communication. If allowed to stand, the long-term consequences of the FCC's decision are foreboding at best.

As it stands today, my business, along with thousands of others, face serious financial hardship due to the FCC's regulatory reversal. The FCC's rule needlessly subjects us to federal enforcement and private litigation, even though Congress never intended such an outcome.

For these reasons, the FCC should promptly clarify that autodialer calls to wireless numbers solely to recover payment obligations are not covered by the TCPA regulations for the reasons expressed by ACA.

Sincerely,

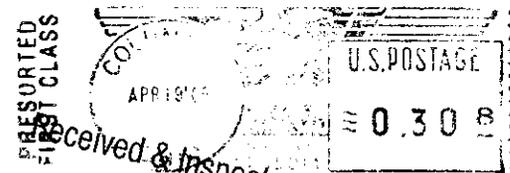
Larry S. Ebert

Larry S. Ebert
President
CBCS

cc: ACA International



236 East Town Street
Columbus Ohio 43215



2006 APR 26 P 2:27

APR 26 2006
FCC Mail Room

Federal Communications Commission
Chairman Kevin J. Martin
445 12th Street, SW
Washington, D.C. 20554

CGLLTM3 20554





3 Executive Campus • Suite 400
Cherry Hill, NJ 08002
1-888-334-5677
FAX 856-486-1529

April 20, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: CG Docket No. 02-278

My name is Daniel J. McCusker, Esquire, and I am the General Counsel of M.R.S. Associates, Inc. located in Cherry Hill, New Jersey. I do not perform telemarketing services. Rather we are a third-party debt collection firm. The purpose of this correspondence is twofold. First, I wish to make you aware my business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the definition of auto-dialer beyond its statutory definition. Second, I urge you as the chair of the FCC to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

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But in July 2003, the FCC took a dramatic shift in its position about the applicability of the auto-dialer prohibition to the credit and collection industry when it expanded the statutory definition of auto-dialer to include predictive dialers. By expanding the definition of auto-dialer and failing to restate the commission's prior rulings that calls made by creditors and debt collectors to consumers' about their past due payment

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obligations by way of their cell phones were not subject to the auto-dialer prohibition, the FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation. This shift in policy has caused my business substantial harm. Between increased cost of collections and a loss of revenue, this has cost our company between \$750,000 and \$1,000,000.

I am aware ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket No. 02-278 with the commission. I fully support ACA's petition and the relief requested, including ACA's statement of the harm to business and the federal and state governments as a result of the FCC's rule. I believe that the FCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the evasion and non-payment of debts by prohibiting the use of auto-dialers to telephone consumers by way of their cell phones. To do so is contrary to the intent of Congress and all prior rulings of the FCC between 1991 and 2003 concerning this issue.

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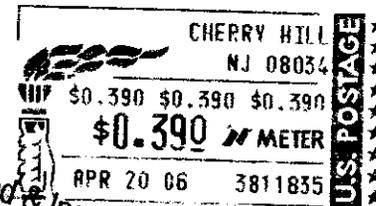


Daniel J. McCusker, Esquire
General Counsel
M.R.S. Associates, Inc.

cc: ACA International



3 Executive Campus • Suite 400
Cherry Hill, NJ 08002



2006 APR 26 P 2: 27

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Date: April 20, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: CG Docket No. 02-278

My name is Regina Weir, and I am the Sr. Vice President of Human Resources for M.R.S. Associates, Inc. located in Cherry Hill, NJ. We do not perform telemarketing services. Rather we are a third-party debt collection firm. The purpose of this correspondence is twofold. First, I wish to make you aware our business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the definition of auto-dialer beyond its statutory definition. Second, I urge you as the chair of the FCC to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

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If the FCC's 2003 regulatory definition of auto-dialer is allowed to stand, creditors and their debt collection agents face the devastating loss of an essential technological tool, namely the auto-dialer. It cannot be overstated that auto-dialer technology is directly or indirectly responsible for returning tens of billions of dollars each year to the U.S. economy. Banning their use in this limited context would not only be inconsistent with Congress' intent, but it would be an unconscionable interference with creditors' ability to request payment from its own customers. Additionally, one of the largest creditors in the United States is the federal government. If the FCC does not clarify that the auto-dialer prohibition does not apply to those making calls to collect past due payment obligations, the federal government will be forced to discontinue its use of auto-dialers to recover past due payment obligations from tax payers. Such a result would be devastating to the federal government, including the FCC, Department of the Treasury, Department of Education and the Internal Revenue Service and cause all citizens who lawfully pay their federal taxes and other payments owed to the federal government to suffer substantial harm.

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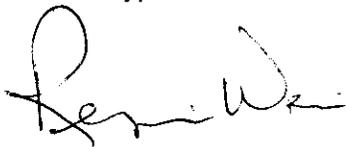
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Moreover, wireless phone usage has grown exponentially since 1991 when the TCPA was enacted. Today, more than one out of every five Americans under the age of 35 does not have a landline phone and instead uses a wireless phone as their exclusive means of telephonic communication. If allowed to stand, the long-term consequences of the FCC's decision are foreboding at best.

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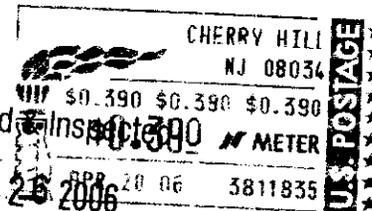
A handwritten signature in black ink, appearing to read "Regina Weir". The signature is fluid and cursive, with a large initial "R" and "W".

Regina Weir
Sr. Vice President of Human Resources
M.R.S. Associates, Inc.

cc: ACA International



3 Executive Campus • Suite 400
Cherry Hill, NJ 08002



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2006 APR 26 P 2:28

APR 26 2006

FCC Mail Room

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554



www.rashcurtis.com

190 S. Orchard Ave.

Suite C-250

Vacaville, CA 95688

866.729.2722

707.454.2010

Fax. 707.454.2001

April 17, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: CG Docket No. 02-278

My name is Leshonna Broxie, and I am a Collector at Rash Curtis and Associates located in California. Rash Curtis is a collection agency and we do not perform telemarketing services. The purpose of this correspondence is twofold. First, I wish to make you aware my business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the definition of autodialer beyond its statutory definition. Second, I urge you as the chair of the FCC to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

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But in July 2003, the FCC took a dramatic shift in its position about the applicability of the autodialer prohibition to the credit and collection industry when it expanded the statutory definition of autodialer to include predictive dialers. By expanding the definition of autodialer and failing to restate the commission's prior rulings that calls made by creditors and debt collectors to consumers' about their past due payment obligations by way of their cell phones were not subject to the autodialer prohibition, the FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation. This shift in policy has caused my business substantial harm. We must hire at least 8 more employees at an average cost of \$30.00 per hour to do the same work performed by the dialer.

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I am aware ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket No. 02-278 with the commission. I fully support ACA's petition and the relief requested, including ACA's statement of the harm to business and the federal and state governments as a result of the FCC's rule. I believe that the FCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the evasion and non-payment of debts by prohibiting the use of autodialers to telephone consumers by way of their cell phones. To do so is contrary to the intent of Congress and all prior rulings of the FCC between 1991 and 2003 concerning this issue.

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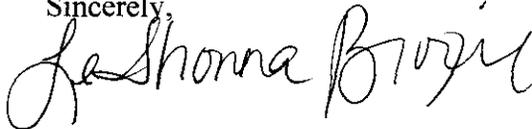
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Sincerely,

A handwritten signature in cursive script that reads "Leshonna Broxie". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Leshonna Broxie
Collector
Rash Curtis & Associates

cc: ACA International

RASH CURTIS

SACRAMENTO CA 957

17 APR 2006 PM 5 L

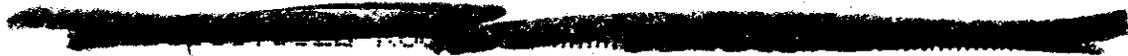
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FCC Mail Room

2006 APR 26 P 2:27

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554





Lou Harris & Company

April 12, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: CG Docket No. 02-278

My name is Allan Michell, and I am the President of Lou Harris Co. located in Illinois. I do not perform telemarketing services. Rather I am a debt collector, the purpose of this correspondence is twofold. First, I wish to make you aware my business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the definition of autodialer beyond its statutory definition. Second, I urge you as the chair of the FCC to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

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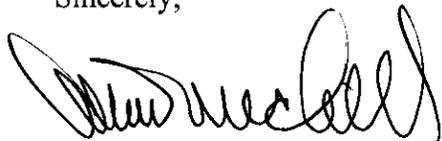
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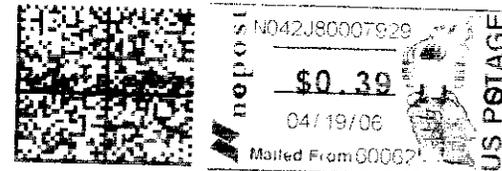
Allan Michell
President
Lou Harris Co.

cc: ACA International

Lou Harris Co.
613 Academy Drive
Northbrook, Illinois 60062

RETURN SERVICE REQUESTED

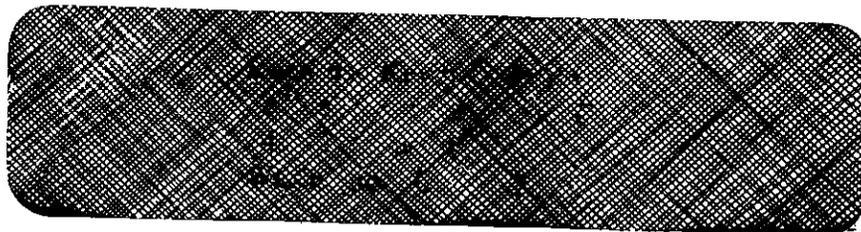
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FCC Mail Room





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Fax: 484-242-1736
Email: oldf@dnb.com
www.rmsna.com

Forrest R. Old
Executive Vice President

April 17, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: CG Docket No. 02-278

My name is Forrest R. Old and I am the Executive Vice President of Receivable Management Services located in Pennsylvania. I do not perform telemarketing services. Rather I am a debt collector. The purpose of this correspondence is twofold. First, I wish to make you aware my business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the definition of autodialer beyond its statutory definition. Second, I urge you as the chair of the FCC to ask the commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

As you know, the Telephone Consumer Protection Act (TCPA) was passed in 1991. This law was designed to protect consumers from invasive calls from telemarketers. One of the provisions of the TCPA prohibits the use of an autodialer to communicate with a consumer by way of their cell phone.¹ Between 1991 and 2003, the FCC consistently ruled that this autodialer prohibition did not apply to calls made using an autodialer *if the sole purpose of the calls was to recover payments for goods and services already purchased.*

But in July 2003, the FCC took a dramatic shift in its position about the applicability of the autodialer prohibition to the credit and collection industry when it expanded the statutory definition of autodialer to include predictive dialers. By expanding the definition of autodialer and failing to restate the commission's prior rulings that calls made by creditors and debt collectors to consumers' about their past due payment obligations by way of their cell phones were not subject to the

¹ The TCPA defines an autodialer as, "equipment which has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator; and to dial such numbers."

autodialer prohibition, the FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation. This shift in policy has caused my business substantial harm.

I am aware ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket No. 02-278 with the commission. I fully support ACA's petition and the relief requested, including ACA's statement of the harm to business and the federal and state governments as a result of the FCC's rule. I believe that the FCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the evasion and non-payment of debts by prohibiting the use of autodialers to telephone consumers by way of their cell phones. To do so is contrary to the intent of Congress and all prior rulings of the FCC between 1991 and 2003 concerning this issue.

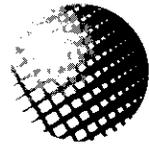
In the specific context of recovering payments, I use predictive dialers to complete transactions for which consumers have obtained a benefit, without payment. They are not used – nor do they have the capacity to be used – to randomly solicit customers to make purchases or advertise goods. In fact, autodialer technology is the most accurate way for me to call consumers about their past due payment obligations. Autodialers increase the accuracy of dialed numbers and also restrict calls to the permitted calling times in the time zone of the consumer.

If the FCC's 2003 regulatory definition of autodialer is allowed to stand, creditors and their debt collection agents face the devastating loss of an essential technological tool, namely the autodialer. It cannot be overstated that autodialer technology is directly or indirectly responsible for returning tens of billions of dollars each year to the U.S. economy. Banning their use in this limited context would not only be inconsistent with Congress' intent, but it would be an unconscionable interference with creditors' ability to request payment from its own customers. Additionally, one of the largest creditors in the United States is the federal government. If the FCC does not clarify that the autodialer prohibition does not apply to those making calls to collect past due payment obligations, the federal government will be forced to discontinue its use of autodialers to recover past due payment obligations from tax payers. Such a result would be devastating to the federal government, including the FCC, Department of the Treasury, Department of Education and the Internal Revenue Service and cause all citizens who lawfully pay their federal taxes and other payments owed to the federal government to suffer substantial harm.

The TCPA was enacted to protect consumers from unsolicited advertisements and telemarketing calls. The TCPA's prohibition against the use of autodialers to contact consumers by way of their cell phones was specifically intended to protect consumers from incurring charges as a result of unwarranted telemarketing calls being made to their wireless phones about products or services *to be purchased in the future*. There was never any intention on the part of Congress to prohibit creditors and their retained collection agencies from being able to contact consumers on their wireless phones about a *past due payment obligation for goods and services already purchased and received*.

Moreover, wireless phone usage has grown exponentially since 1991 when the TCPA was enacted. Today, more than one out of every five Americans under the age of 35 does not have a landline phone and instead uses a wireless phone as their exclusive means of telephonic communication. If allowed to stand, the long-term consequences of the FCC's decision are foreboding at best.

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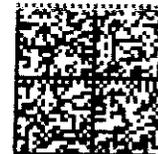


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Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554



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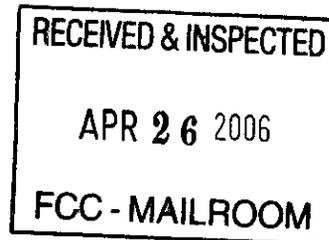
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FCC Mail Room



April 20, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554



RE: CG Docket No. 02-278

My name is Susan Nealy and I am the Director Of Operations at FMA Alliance, Ltd. located in Houston, Texas, a collection agency. We do not perform telemarketing services. Rather, our company attempts to collect debts owed to credit grantors and we utilize an autodialer to call the phone numbers associated with a consumer's account. We do not use an autodialer to make random or sequential calls.

As you know, the Telephone Consumer Protection Act (TCPA) was passed in 1991. This law was designed to protect consumers from invasive calls from telemarketers. One of the provisions of the TCPA prohibits the use of an autodialer to communicate with a consumer by way of their cell phone.^[1] Between 1991 and 2003, the FCC consistently ruled that this autodialer prohibition did not apply to calls made using an autodialer *if the sole purpose of the calls was to recover payments for goods and services already purchased.*

But in July 2003, the FCC expanded the definition of autodialer and failed to restate the commission's prior rulings that calls made by creditors and debt collectors to consumers' about their past due payment obligations by way of their cell phones were not subject to the autodialer prohibition. The FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation.

This shift in policy has caused my business substantial harm. This is because past due obligations typically remain unpaid until the consumer is contacted by phone. Over the last few years, we have seen an increasing trend where consumers are replacing their landline phones for cell phones and prefer to receive calls on their cell phones. This inadvertent autodialer prohibition diminishes our telephone calling efficiency, makes it more difficult to collect obligations legally owed to credit grantors, effects the work place ergonomics of collection employees since more manually dialed calls will need to be made, and negatively impacts our accuracy in dialing the correct number at an appropriate time. In fact, autodialer technology is the most accurate way for us to call consumers about their past due payment obligations. Autodialers increase the accuracy

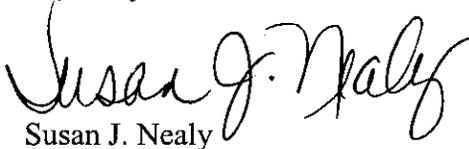
of dialed numbers and also restrict calls to the permitted calling times in the time zone of the consumer.

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If the FCC's 2003 regulatory definition of autodialer is allowed to stand, creditors and their debt collection agents face the devastating loss of an essential technological tool, namely the autodialer. It cannot be overstated that autodialer technology is directly or indirectly responsible for returning tens of billions of dollars each year to the U.S. economy. Banning their use in this limited context would not only be inconsistent with Congress' intent, but it would be an unconscionable interference with creditors' ability to request payment from its own customers.

For these reasons, the FCC should promptly clarify that autodialer calls to wireless numbers solely to recover payment obligations are not covered by the TCPA regulations for the reasons expressed by ACA.

Sincerely,

A handwritten signature in cursive script that reads "Susan J. Nealy". The signature is written in black ink and is positioned above the printed name.

Susan J. Nealy