

Brian J. Ibsen-Johnson  
6131 Morningshire Ln  
Houston, TX 77084

April 20, 2006

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



**RE: CG Docket No. 02-278**

My name is Brian Ibsen-Johnson and I am the Client Services Manager of 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. 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.

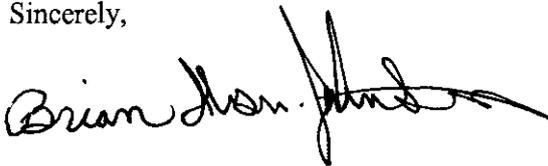
This shift in policy has caused my business substantial harm. This is because past due obligations typically remain unpaid until the consumer is contacted by phone. Over the last few years, we have seen an increasing trend where consumers are replacing their landline phones for cell phones and prefer 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.

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.

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 black ink, appearing to read "Brian Ibsen-Johnson", with a long, sweeping flourish extending to the right.

Brian Ibsen-Johnson  
Client Services Manager  
FMA Alliance, Ltd.  
Phone: 281-670-1605  
E-mail: bibsen@fmaalliance.com

cc: ACA International



RECEIVED & INSPECTED  
APR 26 2006  
FCC - MAILROOM

April 20, 2006

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

**RE: CG Docket No. 02-278**

My name is Terri M. Gourrier, and I am the Client Service Representative of 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 auto-dialer to call the phone numbers associated with a consumer's account. We do not use an auto-dialer 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 auto-dialer to communicate with a consumer by way of their cell phone. Between 1991 and 2003, the FCC consistently ruled that this auto-dialer prohibition did not apply to calls made using an auto-dialer *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 auto-dialer 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 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. 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 auto-dialer 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, auto-dialer technology is the most accurate way for us to call consumers about their past due payment obligations. Auto-dialers 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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**WE ARE REQUIRED TO NOTIFY CONSUMERS OF THE FOLLOWING RIGHTS. THIS LIST DOES NOT CONTAIN A COMPLETE LIST OF THE RIGHTS CONSUMERS HAVE UNDER STATE AND FEDERAL LAWS.**

**TO ALL CONSUMERS:**

Notice About Electronic Check Conversion: When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment and you will not receive your check back from your financial institution. Also, you authorize us to re-present a check as an electronic fund transfer from your account if your payment is returned unpaid.

**IF YOU ARE A RESIDENT OF THE STATE OF CALIFORNIA:**

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 AM or after 9 PM. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or [www.ftc.gov](http://www.ftc.gov).

**IF YOU ARE A RESIDENT OF THE STATE OF COLORADO:**

FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE [WWW.AGO.STATE.CO.US/CAB.HTM](http://WWW.AGO.STATE.CO.US/CAB.HTM)

**IF YOU ARE A RESIDENT OF THE STATE OF MASSACHUSETTS:**

MASSACHUSETTS BUSINESS ADDRESS: 15 Union St., Lawrence, MA 01840. Hours: Monday – Friday 8AM to 8PM, Eastern Time; Saturday 8AM to 12PM, Eastern Time.

**NOTICE OF IMPORTANT RIGHTS:**

YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE DEBT COLLECTOR.

**IF YOU ARE A RESIDENT OF THE STATE OF MINNESOTA:**

This Collection Agency is licensed by the Minnesota Department of Commerce.

**IF YOU ARE A RESIDENT OF THE CITY OF NEW YORK CITY:**

New York City Department of Consumer Affairs License Number 1034196.

**IF YOU ARE A RESIDENT OF THE STATE OF NORTH CAROLINA:**

North Carolina Department of Insurance Permit Number 3149 – Houston, TX  
North Carolina Department of Insurance Permit Number 3985 – College Station, TX

**IF YOU ARE A RESIDENT OF THE STATE OF TENNESSEE:**

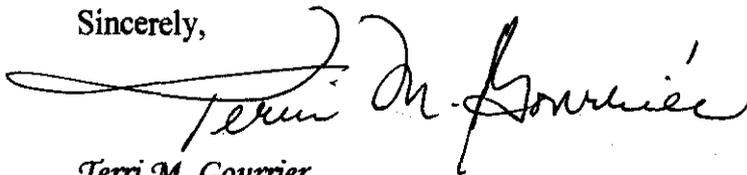
This collection agency is licensed by the Collection Service Board of the Department of Commerce and Insurance.

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.

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.

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

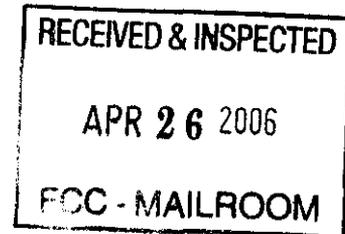
Sincerely,

A handwritten signature in cursive script, reading "Terri M. Gourrier". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

*Terri M. Gourrier*  
*Client Service Representative*  
*FMA Alliance, Ltd.*  
*281-931-5050, ext 418*  
*281-931-6501, fax*  
*tgourrier@fmaalliance.com*

April 20, 2006

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



**RE: CG Docket No. 02-278**

My name is Laurie McLaughlin and I am the Executive Administrative Assistant of 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.<sup>[1]</sup> 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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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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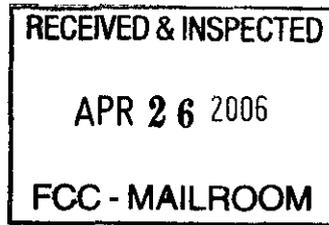
Sincerely,

A handwritten signature in black ink, appearing to read 'L. McLaughlin', with a long horizontal flourish extending to the right.

Laurie McLaughlin  
5422 Upper Lake Drive  
Humble, TX 77060

April 20, 2006

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



**RE: CG Docket No. 02-278**

My name is Robert J. Prof and I am the Receptionist of 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 auto-dialer to call the phone numbers associated with a consumer's account. We do not use an auto-dialer 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 auto-dialer to communicate with a consumer by way of their cell phone. Between 1991 and 2003, the FCC consistently ruled that this auto-dialer prohibition did not apply to calls made using an auto-dialer *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 auto-dialer 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 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. 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 auto-dialer 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, auto-dialer technology is the most accurate way for us to call consumers about their past due payment obligations. Auto-dialers increase the accuracy of dialed numbers and also restrict calls to the permitted calling times in the time zone of the consumer.

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

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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.

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.

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

Sincerely,

*Barbara L. Paul*  
*1811 Stony Brook #105*  
*Hav. Tel 79063*



April 18, 2006

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

RECEIVED & INSPECTED  
APR 26 2006  
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**RE: CG Docket No. 02-278**

My name is Barbara Erickson, and I am the Chairman and representative of family ownership of I.C. System, Inc, an accounts receivable management company located in St. Paul, Minnesota. Our foundation 68 years ago was based on ethical principles. There were not many ethical collection agencies in those days. We live those principles to this day. We employ 1000 people in four states. 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.

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.<sup>1</sup> 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.

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

<sup>1</sup> 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."

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.

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,

A handwritten signature in black ink, appearing to read "Barb Erickson". The signature is written in a cursive, somewhat stylized font.

Barb Erickson  
Chairman  
I.C. System, Inc.

cc: ACA International