



May 9, 2006

Ms. Kelli Farmer
Consumer and Governmental Affairs Bureau, Policy Division
Federal Communications Commission
445 12th Street, SW
Room 5-A866
Washington, DC 20554

RE: CG Docket No. 02-278

Dear Ms. Farmer:

Nelnet is a diversified education services company that participates in both the Federal Family Education Loan (FFEL) Program (the largest federal student loan program) and the private education loan markets. Nelnet is a holder of education loans and a third-party servicer for other lenders participating in the federal and private loan programs. Additionally, Nelnet acts in the capacity of a third-party servicer for guaranty agencies which insure the federal loans against default. Nelnet is responsible for administering all aspects of loan servicing, including the performance of both default prevention and post-default collection activities. Nelnet performs these activities using internal staff and third-party agencies. In its role as a diversified education services company, Nelnet manages a portfolio of approximately \$27 billion, **servicing 2.1 million borrowers.**

I am writing in response to your office's call for comment on ACA International's Petition for an Expedited Clarification and Declaratory Ruling Concerning the Telephone Consumer Protection Act (TCPA) Rules (CG Docket No. 02-278). Nelnet has read the ACA petition and concurs with its basic premise that federal law and corresponding FCC regulations concerning the prohibited use of autodialers by telemarketers to contact borrowers on cellular telephones were never intended to and should not apply to lenders, servicers, and collectors attempting to recover payments for goods and services already purchased. Failure by the FCC to clarify this position will be detrimental to Nelnet and the federal and private student loan programs as a whole.

Autodialer technology provides an efficient and effective tool to facilitate contacting existing customers. The inability to use this technology would adversely impact the ability of lenders and their servicers to work with borrowers to address the borrowers' special needs and to help them meet their loan obligations. Default prevention activities would be impeded. The result will be increased loan defaults. Countless borrowers who otherwise would bring their accounts current or learn that they are eligible for a postponement of payments will suffer the negative ramifications of student loan default. These are real dollar and human costs, and they can be avoided by the proper FCC declaratory ruling in favor of the ACA petition.

Nelnet respectfully requests that the Commission issue a declaratory ruling clarifying that 47 C.F.R. §64.1200(a)(1)(iii) does not apply to creditors and their agents when calling telephone numbers to recover payments for goods and services received by consumers and that the 2003 TCPA rulemaking did not alter the Commission's previous findings that calls to recover debts are not subject to the TCPA's autodialer restrictions.

Sincerely,

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