



The CBE Group

Integrity. Innovation. Inspiration.

We're Driven.

DOCKET FILE COPY

Corporate Office
131 Tower Park Drive
Suite 100
Waterloo, IA
50701-9374

May 1, 2006

Phone: 319.234.6686
800.925.6686

Fax: 319.235.1996

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

RE: CG Docket No. 02-278

Dear Mr. Martin:

I am Corporate Counsel for The CBE Group, Inc. ("CBE"), which is a debt collection company located in Waterloo, Iowa. As a professional in the credit and collection industry, I am writing to support the ACA International's ("ACA") request for regulatory clarification of the Federal Communication Commission's (FCC) 2003 regulatory decision to expand the definition of autodialer beyond its statutory definition.

As you are aware, the Telephone Consumer Protection Act (TCPA) 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 that CBE 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 CBE substantial inconvenience and irreparable financial impairment.

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."

Page Two
Chairman Kevin J. Martin
May 1, 2006

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, CBE's uses 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 CBE 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*.

Page Three
Chairman Kevin J. Martin
May 1, 2006

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, CBE, along with several other collection agencies and law firms, 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 that reads "Michael L. Frost". The signature is written in a cursive style with a large, sweeping initial "M".

Michael L. Frost
Corporate Counsel
The CBE Group, Inc.

cc: ACA International

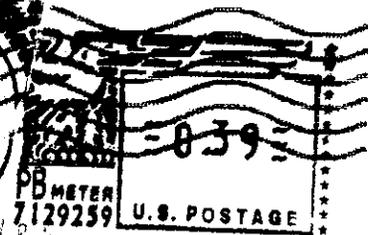


The CBE Group

131 Tower Park Drive, Suite 100
Waterloo, IA 50701-9374

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Received & Inspected

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FCC Mail Room

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

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STARWOOD
VACATION OWNERSHIP
PORTFOLIO SERVICES, INC.

DOCKET FILE COPY ORIGINAL

May 2, 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 Julie Smith, and I am the Vice President of Starwood Vacation Ownership Portfolio Services, Inc. located in Florida. I do not perform telemarketing services. Rather, I am a credit grantor. Regarding the Federal Communications Commission (FCC) 2003 regulatory decision to expand the definition of auto-dialer beyond its statutory definition, 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 may cause 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. 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.

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." e-mail: SVOPortfolioServices@starwoodvo.com

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.

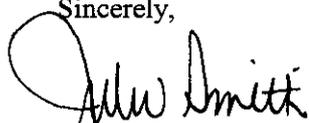
The TCPA was enacted to protect consumers from unsolicited advertisements and telemarketing calls. The TCPA's prohibition against the use of autodialers to contact consumers by way of their cell phones was specifically intended to protect consumers from incurring charges as a result of unwarranted telemarketing 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, may 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,



Julie Smith
Vice President
Starwood Vacation Ownership Portfolio Services, Inc.

cc: ACA International

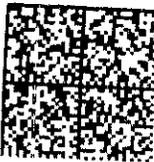
STARWOOD

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April 26, 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 Linda Erickson, and I am the Controller of Collect America, Ltd. located in Colorado. I do not perform telemarketing services. Rather I am in the business of buying distressed and charged-off receivables and managing the network of attorneys for their collection. 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

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."

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 monetary 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.

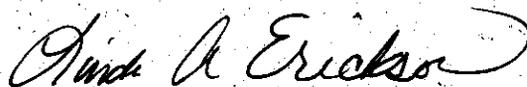
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Moreover, wireless phone usage has grown exponentially since 1991 when the TCPA was enacted. Today, more than one out of every five Americans under the age of 35 does not have a landline phone and instead uses a wireless phone as their exclusive means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

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,



Linda A. Erickson
Controller
Collect America Ltd.

cc: ACA International

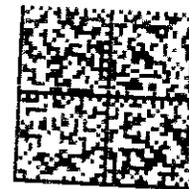




370 SEVENTEENTH STREET, SUITE 5000
DENVER, COLORADO 80202-5622

2006 MAY -8 P 2: 37

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



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April 26, 2006

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



370 17th STREET
5th FLOOR
DENVER, CO 80202
800.478.5541

RE: CG Docket No. 02-278

My name is Scott Lowery, and I am the President, CEO & Chairman of the Board of Collect America, Ltd. located in Colorado. I do not perform telemarketing services. Rather I am in the business of buying distressed and charged-off receivables and managing the network of attorneys for their collection. 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 monetary 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

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."

of the FCC's rule. I believe that the FCC should not uphold an unsupported 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.

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 "Scott Lowery", with a long horizontal flourish extending to the right.

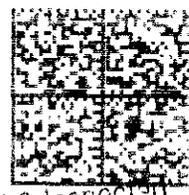
Scott Lowery
President, CEO & Chairman of the Board
Collect America Ltd.

cc: ACA International



370 17TH STREET
50th FLOOR
DENVER, CO 80202

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Chairman Kevin J. Martin FCC Mail Room
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554



RESURGENT

Capital Services

DOCKET NO. 02-278 ORIGINAL

May 2, 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 John Shinovich and I am the Vice President of Compliance for Resurgent Capital Services, LP (Resurgent) located in Greenville, SC. Resurgent is a consumer debt servicer and does not perform any telemarketing activities. The purpose of this correspondence is to urge you, as the chair of the FCC, to ask the commission to grant ACA International's (ACA) request for regulatory clarification of the definition of autodialer within its statutory definition in favor of the industry as well as all consumers who lawfully pay for goods and services they have purchased.

When passed in 1991, the Telephone Consumer Protection Act (TCPA) 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. This provision 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. Congress never intended to prohibit creditors and their collection agencies from being able to contact consumers on their wireless phones regarding a past due payment obligation for goods and services already purchased and received. In fact, 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.

In July 2003, the FCC shifted 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 to their cell phones were not subject to the autodialer prohibition], the FCC inadvertently brought calls Resurgent and its agents make for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation. This shift in policy has significantly and adversely affected the industry's ability to collect.

Resurgent is aware that the ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket No. 02-278 with the commission. Resurgent fully supports the 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. Resurgent believes that the FCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the 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 legislative intent, as further evidenced by all prior rulings of the FCC between 1991 and 2003 concerning this issue.

In the specific context of recovering payments, predictive dialers are widely used by the collection industry to complete transactions for which consumers have obtained a benefit, without payment. Autodialers increase the accuracy of dialed numbers and also restrict calls to the permitted calling times in the time zone of the consumer. Agency dialers are not used to randomly solicit customers for marketing purposes

If the FCC's 2003 regulatory definition of autodialer is allowed to stand, creditors and their debt collection agents face the loss of an essential technological tool that is effective in returning money to the economy. Banning autodialer use in this limited context would not only be inconsistent with Congress' intent, but it would be an interference with creditors' ability to request payment from their customers.

In addition, should the FCC not clarify and reconfirm that the autodialer prohibition does not apply to those making calls solely 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. The impact on recoveries would be significant.

Compounding the impact is the current environment in which 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. Disallowing contact for collection purposes would have a dramatic impact on collection.

It is Resurgent's belief that the FCC should clarify that autodialer calls made to wireless numbers for the sole purpose of recovering past payment obligations, are not covered by the TCPA regulations for the reasons expressed by ACA and herein.

Sincerely,

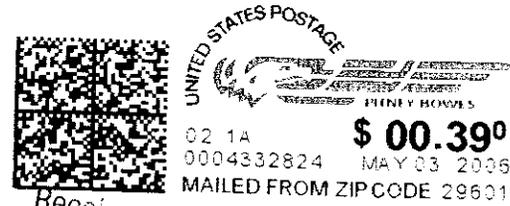


John Shinovich
Vice President-Compliance
Resurgent Capital Services, LP

cc: ACA International

15 South Main Street, Suite 700
Greenville, SC 29601

RETURN SERVICE
REQUESTED



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FCC Mail Room

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



Corporate Headquarters
CCS Financial Services, Inc.
Two Wells Avenue
Newton, MA 02459
Telephone: (617) 965-2000
Facsimile: (617) 332-7311



The CCS Companies
Credit Control Services, Inc.
Credit Collection Services
Credit International
CCS Commercial LLC
CCS Canada Ltd.

DOCKET FILE COPY ORIGINAL

April 26, 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 Mark Ramsdell, Chief Operating Officer of Credit Collection Services, located in Newton, Massachusetts. We do not perform telemarketing services, rather CCS is a third party debt collection organization. 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. Our clients are "running scared" and some are adopting an ultra-conservative view point that cellular phones must

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."

be scrubbed from their dialing/referral lists. The to-date impact of this is unquantifiable, however, there is no doubt it is well into the six figure range on an annual basis.

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.

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 'Mark Ramsdell', written over a faint, larger version of the same signature.

Mark Ramsdell
Chief Operating Officer

cc: ACA International



Two Wells Avenue
Newton, MA 02459



2005 MAY -8 P 2: 36

Received & Inspected
MAY - 8 2006

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



DO NOT DESTROY ORIGINAL
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Corporate Headquarters

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Two Wells Avenue
Newton, MA 02459
Telephone: (617) 965-2000
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The CCS Companies

Credit Control Services, Inc.
Credit Collection Services
Credit International
CCS Commercial LLC
CCS Canada Ltd.

April 26, 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 Steve Hodge, Vice President, Finance of Credit Collection Services, located in Newton, Massachusetts. We do not perform telemarketing services, rather CCS is a third party debt collection organization. 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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Sincerely,

A handwritten signature in black ink, appearing to read "S.Hodge", written over the word "Sincerely,".

Steve Hodge
Vice President, Finance

cc: ACA International



Two Wells Avenue
Newton, MA 02459



2006 MAY -8 P 2:36

Chairman Kevin J. Martin
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