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National Association of Federally-Insured Credit Unions

April 29, 2019

The Honorable Michael Doyle
Chairman
Subcommittee on Communications &
Technology
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Robert Latta
Ranking Member
Subcommittee on Communications &
Technology
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Re: Tomorrow's Hearing on "Legislating to Stop the Onslaught of Annoying Robocalls"

Dear Chairman Doyle and Ranking Member Latta:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing entitled "Legislating to Stop the Onslaught of Annoying Robocalls." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 116 million consumers with personal and small business financial service products. NAFCU and our members appreciate the Subcommittee tackling the scourge of unwanted, illegal robocalls, but we would caution the Subcommittee to ensure that these well-intentioned efforts do not impede legitimate calls from credit unions made using an automatic telephone dialing system (ATDS or autodialer).

NAFCU supports your goal to thwart unlawful actors who seek to defraud or commit other unlawful acts against consumers. We believe that appropriately tailored legislative efforts are critical to protect consumers from deception and other harm. NAFCU supports the Federal Communications Commission's (FCC) unprecedented work to bring enforcement actions against illegal actors. However, we continue to engage the FCC to seek clarity on the ability of credit unions to place valued and important calls to their customers using modern communications technologies.

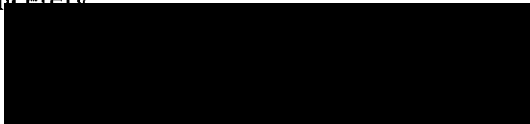
In particular, NAFCU has concerns with the FCC's continuing work on defining an "autodialer" under the *Telephone Consumer Protection Act* (TCPA). Since the FCC issued its problematic 2015 Declaratory Ruling and Order (2015 Order), the risk of facing a costly lawsuit over inadvertent TCPA violations has kept many credit unions from freely communicating with their members. The March 2018 *ACA International v. FCC* decision invalidated the 2015 Order's overly expansive definition of "autodialer" and the FCC's approach to liability for calls to reassigned numbers under the TCPA. Following that decision, courts have taken a variety of approaches in determining what qualifies as an "autodialer" – leading to a maze of judicial interpretations of Congress's intent and meaning in passing the TCPA.

NAFCU supports a broad definition of “autodialer” that only includes equipment that uses a random or sequential number generator to store or produce numbers and dial those numbers without human intervention. As such, NAFCU is concerned that some of the legislation in question during this hearing poses a threat to credit unions’ ability to make legitimate communications to their members. For example, H.R. 946, the *Stopping Bad Robocalls Act*, includes a definition of “robocall” that greatly expands the TCPA’s definition of “autodialer” and would effectively sweep in and place limitations on a broader set of communications and call dialing equipment than previously contemplated. NAFCU cannot support legislation that conflates illegal robocalls with autodialed calls made by good faith callers for legitimate purposes.

We appreciate the Subcommittee’s continued oversight of the FCC and examination of this issue and would urge the Subcommittee to modernize the TCPA to combat illegal robocalls, while also protecting credit unions’ ability to freely communicate with their members on important issues related to their existing accounts. NAFCU encourages the Subcommittee to consider other reforms to help resolve uncertainties with TCPA compliance, such as permitting callers to establish a reasonable opt-out method for revoking their consent to be contacted. As the Subcommittee reviews the bills before this hearing tomorrow, we would urge you to ensure that efforts to stop illegal robocalls do not negatively impact the ability of credit unions to contact their members for legitimate business purposes.

On behalf of our nation’s credit unions and their more than 116 million members, we thank you for your attention to this important matter. Should you have any questions or require any additional information please contact me or Alex Gleason, NAFCU’s Associate Director of Legislative Affairs, at 703-842-2237 or agleason@nafcu.org.

Sincerely,



Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Subcommittee on Communications & Technology