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August 15, 2018

The Honorable John Thune  
Chairman  
Committee on Commerce, Science, and  
Transportation  
United States Senate  
Washington, DC 20510

The Honorable Bill Nelson  
Ranking Member  
Committee on Commerce, Science, and  
Transportation  
United States Senate  
Washington, DC 20510

Dear Chairman Thune and Ranking Member Nelson:

On behalf of America's credit unions, I am writing today to thank you for holding an oversight hearing for the Federal Communications Commission (FCC). The Credit Union National Association (CUNA) represents America's credit unions and their 110 million members.

As the Committee examines the FCC's priorities and functions, we respectfully request you to press upon the Commission the need to revise its implementation of the Telephone Consumer Protection Act (TCPA) and create a robust, comprehensive reassigned numbers database to combat illegal robocalls from bad actors. Credit unions are member-owned, not-for-profit community-based financial institutions. This unique structure provides members a voice in the policy setting and decision-making of their credit union. As a result, communications between a credit union and its members are responsible and focused on providing members with crucial, time-sensitive financial information, such as account balances and fraud alerts. In addition, many credit unions provide important information related to credit union governance and voting issues through these direct communications. Clearly, these communications do not fall into the same class of annoying and invasive telemarketing calls that the TCPA was intended to prevent. However, due to outdated and unclear legal requirements, some credit unions have found themselves the target of frivolous TCPA litigation.

CUNA has consistently pressed upon the Commission the urgent need to modernize its approach to the TCPA. Our efforts included filing a petition in September 2017 outlining how the FCC could provide credit unions with TCPA relief. Specifically, we proposed several approaches the Commission could adopt to provide credit unions with greater ability to communicate with member-owners about information they want and need.

Recently, after a long delay, the D.C. Circuit Court rendered a decision in a case challenging the legality of the 2015 Omnibus TCPA Declaratory Ruling and Order (Omnibus Order) issued by the FCC. The court ruled that a portion of the Omnibus Order was arbitrary and capricious. This decision freed the Commission to reexamine its TCPA interpretation and find a balanced approach that protects consumers while still permitting them to receive timely informational communications from credit unions and other institutions critical to their daily lives.

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In response to a recent request for information (RFI) soliciting feedback on the TCPA, we requested the Commission take the following actions:

- Revise its reassigned number framework by defining the “called party” as the “intended recipient,”
- Identify reasonable methods to revoke consent,
- Grant the petition filed by the U.S. Chamber Institute for Legal Reform and clarify the definition of an “automatic telephone dialing system,” and
- Grant our petition and eliminate antiquated distinctions between cell phone and landline informational calls.

The Commission adopting these suggestions, among others we have previously provided, would go a long way towards aligning the FCC’s interpretation with the intent of Congress. In addition, we strongly support the creation of a single, centralized and comprehensive reassigned numbers database. Such a database, so long as its affordable, easy-to-use, and includes a safe harbor, would provide material relief to credit unions by limiting TCPA liability.

We look forward to continuing our work with both the FCC and Congress to provide additional recommendations on modernizing the TCPA. On behalf of America’s credit unions and their 110 million members, thank you for your consideration.

Sincerely,



Jim Nussle  
President & CEO