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The Honorable Mike Doyle
Chairman
Subcommittee on Communications and
Technology
Committee on Energy and Commerce
House of Representatives
Washington, DC 20515

The Honorable Bob Latta
Ranking Member
Subcommittee on Communications and
Technology
Committee on Energy and Commerce
House of Representatives
Washington, DC 20515

Dear Chairman Doyle and Ranking Member Latta:

On behalf of America's credit unions, thank you for holding the hearing titled "Accountability and Oversight of the Federal Communications Commission." The Credit Union National Association (CUNA) represents America's state and federal credit unions and the 115 million members that they serve.

It is imperative that Congress encourage the FCC to modernize its implementing regulations for the Telephone Consumer Protection Act ("TCPA"). Credit unions are tax-exempt nonprofit democratically operated financial cooperatives that have a unique relationship with their members, who are also owners of the enterprise. This special relationship spawns a variety of communications between the credit union and its member-owners, ranging from timely and critical financial information to messages regarding governance issues and financial education. Members welcome and expect this information.

When a credit union conveys information to a member at home over a landline connection, the call does not require the member's prior consent. If the member, however, takes that same call at home on a cell phone, the rules are completely different. The Federal Communications Commission's implementing rules require prior express consent to make informational calls to cell phones using an automatic telephone dialing system or an artificial or prerecorded voice, and credit union risks potentially ruinous class-action litigation if for some reason consent has not been obtained or documented. The different treatment of informational calls to cell phones and landlines is antiquated and unfair and fails to reflect how the vast majority of consumers communicate today.

In today's communications environment, it is far more likely that a credit union member will be reached on a cell phone than a landline phone. The majority of consumers no longer even own a landline phone. A recent Centers for Disease Control ("CDC") study found that the majority (50.8%) of Americans only use a cell phone. This trend will only continue.

At the same time that consumers are abandoning landline phones, cell phone use is becoming less and less expensive. In fact, voice calls and texts are almost always free under today's wireless plans, which have evolved from per minute or per text charges, to limited buckets of minutes and texts, to unlimited minutes and texts. A 2015 study estimated, for example, that nearly 90% of Americans have unlimited texting, meaning that if a company sends a text, it is highly likely that the recipient will not incur a charge. The percentage of unlimited voice and texts is likely higher today than when this study was conducted several years ago. It is increasingly difficult to even find a wireless plan today that places any limits or charges for calls or texts. This is true for many Lifeline plans as well. Offering unlimited minutes and texts is a rational pricing policy for today's high-capacity broadband wireless networks, where revenue is pegged primarily to high bandwidth data consumption rather than voice and text messages that barely register on the network.

These trends suggest that the rationale for the FCC's existing interpretation of the TCPA and implementing regulations are not only outdated, but also harmful to both consumers and the credit unions that serve them. Accordingly, we urge Congress to hold the FCC accountable for its failure to modernize the TCPA and reiterate the need for the Commission to undertake rulemaking efforts that are line with modern technological practices.

On behalf of America's credit unions and their 115 million members, thank you for your consideration of our views on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nussle". The signature is fluid and cursive, with a large loop at the beginning and end.

Jim Nussle
President & CEO