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National Association of Federally-Insured Credit Unions

April 15, 2020

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

RE: *Ex Parte* Communication In the Matter of Petition for Expedited Declaratory Ruling, Clarification, or Waiver of the American Bankers Association, *et al* (CG Docket No. 02-278) and Public Notice DA 20-384.

Dear Ms. Dortch:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in regard to the Petition for Expedited Declaratory Rule, Clarification, or Waiver filed by NAFCU, the ABA, and other trade associations on March 30, 2020.¹ NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 120 million consumers with personal and small business financial service products. In the Petition, the parties asked the Federal Communications Commission (FCC) to issue an expedited declaratory ruling, clarification, or waiver stating that phone calls and text messages placed by banks, credit unions, and other customer-facing financial services providers using an automatic telephone dialing system (autodialer) or prerecorded or artificial voice on matters related to the COVID-19 pandemic are “call[s] made for emergency purposes,” and thus may be placed without the consent of the called party, pursuant to 47 U.S.C. § 227(b)(1)(A) (Emergency Purposes Exception). In light of the pandemic and its severe, widespread economic effects, NAFCU urges the FCC to issue an interim declaratory ruling or otherwise act on the Petition on an expedited basis.

On April 6, 2020, the FCC issued Public Notice DA 20-384 which set the comment date on May 6, 2020 and the reply comment date on May 21, 2020. As established by the FCC, this comment period will not close until 52 days after the original filing and 45 days after issuance of the Public Notice. During this time, the COVID-19 pandemic and the economic fallout is extant, ongoing and potentially catastrophic. As of April 10, 2020, total unemployment claims over the first two weeks of April represent over 10 percent of the labor force, and the actual unemployment rate “now likely

¹ Pet. of the Am. Bankers Ass’n et al., *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278 (2020), https://ecfsapi.fcc.gov/file/10330137314199/ABA_JointTrades_Petition_Emergency_Purposes_Exemption_2020_03_30_final.pdf (petition filed by the American Bankers Association, American Financial Services Association, Consumer Bankers Association, Credit Union National Association, Independent Community Bankers of America, Mortgage Bankers Association, and National Association of Federally-Insured Credit Unions).

exceeds 15 percent.”² This exceeds the highest unemployment rate on record by the United State Bureau of Labor Statistics.³ Because of the breadth and depth of this financial threat to American consumers, there is an immediate need for urgent financial assistance. The calls described by the Petitioners create access to that urgent financial assistance.

Specifically, these calls and text messages include outreach to customers and members to advise consumers of branch closings, service limitations, reduced hours, or the availability of remote banking or other remote access options. As consumers lose their jobs or get furloughed, they have an immediate need to speak with their mortgage lender to secure their housing. These calls provide consumers with critical information about how they can safely access their assistance from their credit union during the pandemic.

These calls also include information about payment deferrals, fee waivers, extension of repayment terms, or other delays in payment, modification, or forbearance on mortgage payments or other loans. As new programs are rolled out by Congress, regulatory agencies, and within credit unions, sharing information about these programs in real time can mean the difference for consumers. Consumers are already having to make spending decisions without the expectation of more income in the short term. Having immediate knowledge that a consumer can safely skip a mortgage payment can free up money for food, cleaning supplies and other necessities.

Finally, these calls can also involve warnings to consumers of potential fraud on the consumer’s account. As this potential fraud can mean that a consumer’s debit card has been deactivated and their limited funds on hand may have been stolen, this is critical information for consumers during this time. The financial security of a significant proportion of American consumers has been upended, as has the stability of our economy as a whole. Getting information to consumers about safe access to financial assistance results in a higher-level of consumer engagement prior to default and a more stable and predictable asset portfolio within American financial institutions. Ultimately, these elements could be the difference between a steady post-pandemic recovery and an extended recession resulting in significant rates of homeless or poverty.

This is an extant emergency, and information from credit unions and other financial institutions are a first step to resolving that threat to the economic security of our nation and its consumers. The pandemic and its economic effects have moved with incredible speed. It is impossible to say what financial damage could accrue to American consumers and the economy at large in the next six weeks. The comment period established by the FCC fails to recognize the severity and significance of the pandemic and its economic fallout.

² Long, Curt. NAFCU, *6.6M Unemployment Claims Filed in First Week of April; Consumer Sentiment Plummetts* (April 10, 2020). Available at <https://www.nafcuhq.org/newsroom/66m-unemployment-claims-filed-first-week-april-consumer-sentiment-plummetts> (Last accessed April 13, 2020).

³ Labor Force Statistics from the Current Population Survey, 1948 – 2020. <https://data.bls.gov/pdq/SurveyOutputServlet> (Last accessed April 13, 2020).

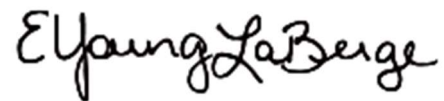
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This information must get to consumers as quickly as possible. NAFCU urges the FCC to issue an interim declaratory ruling regarding the Petition, or to otherwise act on the Petition on an expedited basis. If you have any question or concerns, please do not hesitate to contact me at (703) 842-2272 or elaberge@nafcuh.org.

Sincerely,

A handwritten signature in black ink that reads "E Young LaBerge". The signature is written in a cursive, flowing style.

Elizabeth M. Young LaBerge
Senior Regulatory Counsel