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National Association of Federally-Insured Credit Unions

May 6, 2019

The Honorable John Kennedy
Chairman
Subcommittee on Financial Services &
General Government
Committee on Appropriations
U.S. Senate
Washington, DC 20510

The Honorable Christopher Coons
Ranking Member
Subcommittee on Financial Services &
General Government
Committee on Appropriations
U.S. Senate
Washington, DC 20510

Re: Tomorrow's Hearing on the Federal Communications Commission (FCC)

Dear Chairman Kennedy and Ranking Member Coons:

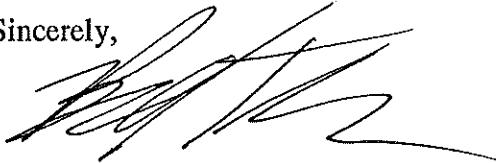
I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing on the Federal Communications Commission (FCC) budget. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 116 million consumers with personal and small business financial service products. As the FCC continues to work on defining an "automatic telephone dialing system" ("autodialer") and other issues with the *Telephone Consumer Protection Act* (TCPA), NAFCU would urge the Subcommittee 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.

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. Since then, 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. NAFCU also supports other reforms to help credit unions contact their members with important information about their existing accounts, such as permitting callers to establish a reasonable opt-out method for revoking their consent to be contacted.

NAFCU and our members appreciate that Congress and the FCC are tackling the scourge of unwanted, illegal robocalls, but we would caution you to ensure that efforts by the FCC and Congress do not hamper the ability of credit unions to make legitimate communications to their members. We ask you to urge the FCC to adopt the approaches suggested by NAFCU so that credit unions may communicate important information to their members without fear of inadvertently violating the TCPA and potentially facing expensive, and oftentimes meritless, lawsuits.

Thank you for your attention to this matter. If my colleagues or I can be of assistance to you, or if you have any questions regarding this issue, please feel free to contact me or NAFCU's Associate Director of Legislative Affairs Alex Gleason at (703) 842-2237.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad Thaler', with a stylized flourish at the end.

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Subcommittee on Financial Services and General Government of the U.S.
Senate Committee on Appropriations