



3138 10th Street North  
Arlington, VA 22201-2149  
703.522.4770 | 800.336.4644  
f: 703.524.1082  
nafcu@nafcu.org | nafcu.org

**National Association of Federally-Insured Credit Unions**

June 23, 2020

The Honorable Roger Wicker  
Chairman  
Committee on Commerce, Science  
and Transportation  
U.S. Senate  
Washington, D.C. 20510

The Honorable Maria Cantwell  
Ranking Member  
Committee on Commerce, Science  
and Transportation  
U.S. Senate  
Washington, D.C. 20510

**Re: Oversight Hearing on the Federal Communications Commission (FCC)**

Dear Chairman Wicker and Ranking Member Cantwell:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing titled, "Oversight of the Federal Communications Commission." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve 120 million consumers with personal and small business financial service products. Limitations under the *Telephone Consumer Protection Act (TCPA)*, combined with the current pandemic, present challenges to the ability of credit unions to keep their members informed. We hope you will use tomorrow's hearing to urge the FCC to use its authority to address the concerns of industry.

**Pandemic-Related Regulatory Relief**

The FCC recently issued a narrow Declaratory Ruling confirming that the pandemic is an emergency under the TCPA and stating that certain healthcare-related calls are excepted from the TCPA's requirements. In light of the severity of the economic impact of the pandemic on consumers, NAFCU and several other trade associations have filed a Petition for Expedited Declaratory Ruling asking the FCC for the same flexibility regarding calls to consumers about their ability to access their funds, assistance programs regarding loan payments, and other important financial information related to the pandemic. The Consumer Financial Protection Bureau (CFPB), the National Credit Union Administration (NCUA), and multiple consumer advocacy groups have indicated support of that Petition. This would seem to be an important step for the FCC to take to help consumers during the pandemic, but they have yet to do so. We would request that you use the hearing to urge the FCC to grant this request.

**TCPA Autodialer Definition and Call Labeling and Blocking**

A key challenge stems from credit unions' ongoing concerns with the FCC's definition of "automatic telephone dialing system" ("autodialer") under the TCPA and the impact it is having in the current environment. The FCC's definition of autodialer was struck down by the Court of Appeals for the D.C. Circuit Court in 2018, and in the absence of a valid, constitutional definition

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from the FCC, a split has formed among Federal appellate courts. We hope that the Commission will revisit this definition in light of the current environment.

NAFCU has also consistently submitted comments in support of the FCC's efforts to combat illegal robocalls by implementing a fully tested and effective STIR/SHAKEN framework. As financial services are becoming increasingly conducted remotely due to the coronavirus pandemic, credit unions have been experiencing trouble with call labeling and blocking. Labeling calls as fully authenticated is an important component of the STIR/SHAKEN framework. However, call labeling should not be implemented until the STIR/SHAKEN framework is fully implemented and tested to prevent the mislabeling and erroneous blocking of legitimate communications.

Credit unions have already experienced the negative effects of allowing Voice Service Providers (Service Providers) to enact call blocking and labeling without the full implementation of the STIR/SHAKEN framework. The Commission has already received data that 24 percent of labeled calls were mislabeled according to one report.<sup>1</sup> We hope that the FCC will address these concerns and provide credit unions with clarity that important calls to their members will not be erroneously blocked.

We thank you for the opportunity to share our thoughts and look forward to continuing to work with you on telecommunications issues. Should you have any questions or require any additional information, please contact me or Lewis Plush, NAFCU's Associate Director of Legislative Affairs, at 703-842-2263 or [lplush@nafcu.org](mailto:lplush@nafcu.org).

Sincerely,



Brad Thaler  
Vice President of Legislative Affairs

cc: Members of the Senate Committee on Commerce, Science and Transportation

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<sup>1</sup> See Letter from American Association of Healthcare Administrative Management, et al., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 17-97, 20-67, CG Docket No. 17-59, at 2 (filed Mar. 4, 2020) (Calling Party Associations Mar. 4 Ex Parte).