



OHIO CREDIT
UNION LEAGUE

May 20, 2020

Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, D.C. 20554

Re: Comments on March 30, 2020 Petition for Expedited Declaratory Ruling,
Clarification or Waiver filed by the American Bankers Association, et al. – CG
Docket No. 02-278

Dear Chairman Pai:

The Ohio Credit Union League (OCUL) is responding to the request for public comment by the Federal Communications Commission (Commission) on April 6, 2020¹, regarding the Petition by the American Bankers Association (ABA) and other financial associations, like the Credit Union National Association (CUNA), requesting that the Commission declare calls made using automatic telephone dialing system or prerecorded or artificial voice on certain matters relating to the COVID-19 pandemic as calls made for “emergency purposes” under the Telephone Consumer Protection Act (TCPA), exempting them from prior express consent.² Specifically, the petition requests the Commission provide certain exemptions for time sensitive messages designed to uphold consumer protection and financial health standards. As such, we strongly support the Petition and respectfully urge the Commission to expeditiously act to exempt messages sent in direct response to the COVID-19 pandemic from TCPA violations, and the associated penalties, and clarify additional exemptions specific to fraudulent activity.

OCUL is the state trade association representing the collective interests of Ohio’s 257 credit unions and their more than three million members. With a well-established history of service in difficult times, Ohio’s credit unions are providing direct assistance in the form of low and no interest loans, payment forbearance, fee waivers, payroll advances, loan modifications, and other people-centric services calibrated to individual needs, including proactive communication on time sensitive financial information. During the COVID-19 pandemic, Ohio credit unions seek to proactively communicate with their member-owners on issues

¹ <https://ecfsapi.fcc.gov/file/040641910075/DA-20-384A1.pdf>

² Petition at 4 (indicating that such calls may include, for example, outreach calls and texts to consumers to: offer payment deferrals, fee waivers, extension of payment terms or other delays in payment, modification, or forbearance on mortgage payments and other loans; advise of branch closures or reduced hours; warn of potential fraud; or otherwise make consumers aware of programs, relief, and resources offered in response to the pandemic). The TCPA is codified at section 227 of the Communications Act of 1934, as amended. See 47 U.S.C. § 227.



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prioritizing their general health and financial wellbeing, such as special operational hours and circumstances, critical financial relief options available, and fraudulent account activity.

The COVID-19 pandemic creates an uncertain environment that demands expeditious action to properly support consumer needs. Due to current TCPA restrictions, such as obtaining prior consent, Ohio credit unions have avoided using text messaging or voicemail drop communication tactics to connect with members experiencing payment issues during the pandemic. While these restrictions do not completely prohibit various communication functions, they do increase the due diligence time commitment for credit unions. Ensuring all legal, compliance, and risks associated with a member communication solution are fully reviewed and considered prior to implementation or execution further delays the delivery of critical support and services to consumers in time of utmost need.

Additionally, Ohio credit unions experience uncertainty in proactively communicating suspected fraudulent activity, which has increased since the onset of the pandemic³. While TCPA provides prior consent exemptions for fraud, data breach, and identity theft related activity, it is unclear if the exemption applies only for fraudulent transactions that have already occurred. For example, an Ohio credit union may wish to implement a One Time Password (OTP) program for members to receive a text password to permit an online transaction be cleared with any VISA verified merchant. Before the transaction is cleared, the member would input the OTP received through a SMS text message confirming its legitimacy. Since these pending transactions could include fraudulent activity, it is unclear if the credit union can provide this proactive service without prior consent of the consumer.

TCPA's restrictive nature during the COVID-19 crisis results in less flexibility, transparency, and protection from critical service providers, like credit unions, to proactively contact consumers through their preferred medium in a time of great need. Immediate relief from restrictive or uncertain TCPA provisions would go a long way in helping to ensure the continued success of Ohio credit unions in times of crisis.

Thank you for your careful consideration and the opportunity to express OCUL's support of the Petition. Should you have any questions regarding our comments, please feel free to contact OCUL SVP of Advocacy, Emily Leite, at eleite@ohiocul.org or (614) 581-8460 for additional assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul L. Mercer'.

Paul L. Mercer
President

³ <https://www.usatoday.com/story/money/2020/05/17/coronavirus-pandemic-online-scams-bank-accounts-stimulus/5196999002/>



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