



Via electronic submission

October 26, 2020

Richard Smith
Federal Communications Commission
Governmental Affairs Bureau
445 12th Street SW
Washington, DC, 20554

Re: Exemptions Implemented Under the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278

Mr. Smith:

The Consumer Bankers Association (CBA)¹ appreciates this opportunity to comment on the Federal Communications Commission's (Commission) Proposed Rule implementing certain exemptions under the Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act). CBA worked with Congress in the drafting of much of the TRACED Act and appreciates this opportunity to further comment on the Telephone Consumer Protection Act (TCPA) changes the TRACED Act raises.

I. Recommendations for Non-Commercial Calls to a Residential Line

CBA members make many of the vital calls the FCC currently exempts under the TCPA as "not made for a commercial purpose".² These calls include timely fraud alerts, low balance notifications, and important information regarding branch services. Our members' customers rely on these communications every day to protect their financial well-being. We feel denoting calls "not made for a commercial purpose" as instead, "informational calls" will still meet the needs of this important exemption.

CBA additionally notes "informational calls" may apply to a broader consensus of calls which could benefit consumers and better streamline communications between customers and their financial institutions. Calls regarding outstanding account balances for instance could be deemed "informational calls" more easily than under the prior definition.

Regarding the contact frequency limits the Commission considers under the exemption, CBA urges the Commission to avoid setting a numerical limit on the number of calls that may be made to a called party under the exemption to avoid obstructing efficient and necessary communication between financial institutions and their customers. CBA members consistently

¹ The Consumer Bankers Association is the only national trade association focused exclusively on retail banking. Established in 1919, the association is now a leading voice in the banking industry and Washington, representing members who employ nearly two million Americans, extend roughly \$3 trillion in consumer loans, and provide \$270 billion in small business loans.

² See, 47 CFR 64.1200(a)(3)(ii).

conduct thorough analysis of the most efficient contact methods for customers and focus their communications on providing timely information in an efficient manner. To that end, restricting the number and frequency of communications financial institutions may make for “informational calls” has the potential to greatly harm consumers.

Not being able to quickly communicate to a customer when there is suspected fraud on their account can leave customers vulnerable to further financial attacks. Limiting the amount of low balance alerts our members can provide will make it difficult for our customers to properly manage their financial security. Capping communications about branch services, especially during a pandemic, puts our customers at unnecessary risk when they may need us most. These examples of how contact caps on “informational calls” can harm the financial safety and security on our members are a few of many which present themselves if contact limits are set for this exemption.

Further, CBA remains hesitant about setting opt-out procedures for the “informational calls” exemption. The calls covered under this designation are consented to at the outset by customers, and provide information related to the customer’s financial well-being. We are first concerned about customers inadvertently opting-out of “informational calls” and potentially missing out on vital account information later down the line. We are also apprehensive about the burdens of collecting and properly recording these opt-out notices, especially given the heightened potential for these opt-out requests to later be reversed by the customer.

II. Support for the Financial Institution Exemption

CBA has long felt the exemption provided to financial institutions calling a wireless number under the various rules and regulations implementing the TCPA are much needed to ensure clear lines of communication between financial institutions and their customers to best protect consumer financial stability. We believe the TRACED Act requirements and conditions are satisfied with the current financial institution exemption, and do not need further alteration.

III. Conclusion

CBA greatly appreciates the Commission taking this further step to try to protect the communication channels between callers and American consumers. We feel ensuring the lines of communication between financial institutions and our customers remain open will ensure efficient communication between all parties, and best protect the financial well-being of our customers. If you have any questions or wish to discuss any of the matters raised above further, please do not hesitate to contact the undersigned directly at scongdon@consumerbankers.com.

Sincerely,



Stephen Congdon
Assistant Vice President, Regulatory Counsel
Consumer Bankers Association