Louisiana
Credit Union League

October 16, 2018

Federal Communications Commission
Secretary of the Commission
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Re: Interpretation of the Telephone Consumer Protection Act Following Ninth Circuit Court's *March V. Crunch San Diego, LLC* Decision

To Whom It May Concern:

On behalf of nearly 180 Louisiana credit unions and the 1.24 million members they serve, I would like to take this opportunity to officially comment on the Federal Communication Commission's (FCC) future interpretation of the Telephone Consumer Protection Act in view of the recent decision by the Ninth U. S. Circuit Court of Appeals in the *March V. Crunch San Diego, LLC* litigation. The Louisiana Credit Union League (LCUL) appreciates the opportunity to provide the following views on this matter on behalf of the members of our association.

Let us begin by stating the importance of clarity for businesses – and consumers as well - operating in this litigious environment as they attempt to comply with new legislation. The decision in *March* clearly provides conflicting guidance from the earlier decision of the DC Circuit Court of Appeals in its May 2018 opinion on the *ACA International V. FCC* case. We believe it is incumbent upon the FCC to provide necessary guidance that both provides a clear definition of what constitutes a "called party," "intended recipient" and an "automatic telephone dialing system" – as well as a safe harbor under which businesses can operate without fear of being incorporated into future litigation until the United States Supreme Court can decide whether to hear these disputed matters among the Circuits.

Credit unions are not-for-profit member-owned financial cooperatives. Therefore, the communications between a credit union and its members are more than just a method of business communication. They are an integral part of the structural differentiator between member-owned credit unions and many other types of for-profit enterprises where there is the traditional business-customer relationship. The ability of a credit union to communicate directly, effectively and efficiently with its members is essential We encourage the FCC to find the proper balance that protects consumers from obvious unwanted telemarketing calls from companies and organizations with which they have no affiliation and do not seek one - but without taking away the valuable communications with those entities with which they have an established relationship and seek to strengthen it.

The communications between credit unions and their member-owners focus on providing crucial, time-sensitive financial information such as account balances, overdraft warnings and fraud alerts. It could be quite costly for credit union members to miss those communications because of tight or unclear interpretations by the FCC over what Congress actually meant with the TCPA when it is clear by the legislative history that the TCPA was designed to prevent unwanted communications from entities with which a consumer has no relationship.

Credit unions also utilize these communications via technological delivery systems to provide information on credit union governance and voting issues to the member-owners of the institution. We cannot see how the TCPA was intended, nor could be reasonably interpreted, to prevent these types of communications simply because they are covered under an overly restrictive definition of "called party" or "intended recipient." Those two terms require a clear definition from FCC.

In addition, the definition of an "automatic telephone dialing system" must be clarified. If it is possible (as we believe it is) that a cellular phone in regular use with a stored contact list can be conceivably determined to be problematic for a business to use to make reasonable business communications as in the case of credit unions with its members, this matter cries for regulatory clarity and an application of a reasonableness standard that can cover not just this generation of technological communications – but innovations yet to come in this arena.

LCUL recognizes that there must be some method in which there are reasonable methods for any consumer, including a credit union member, to revoke their consent with an "opt out" option if they do not want to continue to receive the communications. This is obviously within the spirit of the TCPA. However, we strongly encourage the FCC to make this process of revoking consent flexible and accommodating for both the consumer and business involved with reasonable timetables and arbitrated solutions short of litigation when problems arise. The antiquated distinctions between cellular phone and landline phone communications should also be clarified while the FCC is engaged in this process.

Again, we appreciates the opportunity to comment on this important matter. Please do not hesitate to contact us if we can provide additional information or perspective on this matter.

Sincerely,

Bob Gallman

Bob Gallman
President/CEO
Louisiana Credit Union League