

February 13, 2017

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th St., SW, Room TW-A325
Washington, DC 20554

RE: CG Docket No. 02-278

Dear Ms. Dortch:

The National Council of Higher Education Resources (“NCHER”) is a national, nonprofit trade association representing higher education service agencies that administer education programs that make grant and loan assistance available to students and parents to pay for the costs of postsecondary education. Our membership includes organizations under contract with the U.S. Department of Education to service and recover outstanding loans made under the Federal Direct Loan Program and organizations that service and recover outstanding loans made under the Federal Family Education Loan Program.

NCHER is providing reply comments to the Opposition To Petition For Reconsideration received by the Federal Communications Commission (the “Commission”) from the National Consumer Law Center (“NCLC”) and 17 other consumer advocate agencies or associations regarding the Petition for Reconsideration submitted by Great Lakes Higher Education Corp.; Navient Corp.; Nelnet, Inc.; Pennsylvania Higher Education Assistance Agency; and the Student Loan Servicing Alliance (the “Petition”).

NCHER’s response comments to the Petition submitted to the FCC on February 1, 2017, and those included below, are made within the context of what is in the best interests of federal student loan borrowers and the federal student loan programs. Our comments are as follows:

- NCHER disagrees with the basic conclusion of the NCLC letter, which is that the August 11, 2016 Order from the Commission struck the “right balance” between the interests involved. The record in the rulemaking clearly shows that servicers and collectors of federally-owned or -guaranteed student loans can help borrowers if they are able to talk with them. The record also shows that a three-call-attempts-per-30-day-period limit will likely prevent servicers and collectors from having that conversation, as it is extremely unlikely that such attempts will result in a live contact. We believe the pending Petition strikes the “right balance” between protecting consumers and allowing additional cell phone calls so that student loan servicers and collections can provide important information to struggling borrowers, consistent with Congressional intent regarding the Bipartisan Budget Act.

- NCHER disagrees that autodialed calls serve only to harass, annoy, and invade the privacy of the debtor. This false argument disregards the significant potential benefit of live conversations with delinquent or defaulted student loan borrowers who are entitled to enrollment in one of the nine repayment plans and numerous deferment and forbearance options provided under the Higher Education Act of 1965 that can help borrowers avoid delinquency and default and rehabilitate loans that have defaulted. It is undisputed that consumers benefit from live conversations. In fact, the NCLC letter states that, “we do not dispute that informing consumers about their options to repay federal loans can provide them with important information. That is why we have supported some of these calls....” However, federal student loan borrowers will not benefit from this information if they are not aware of their options, and live phone contact is essential.
- NCHER disagrees with NCLC’s characterization that a reasonable limit of inadvertent calls to reassigned numbers “would unleash a tsunami of robocalls to wrong numbers, affecting millions of non-debtors.” We also disagree with, and are dismayed at, NCLC’s claim that callers knowingly and intentionally continue to place wrong-party calls, and that callers “simply decided that it was more cost-effective to ignore the clearly expressed wishes of these consumers for these calls to stop, and to continue to make these automated calls.” How is it cost-effective for a debt servicer or collector to knowingly have conversations with parties that in no way are related to the debt? This is nonsensical. NCLC references isolated cases where system errors or poorly trained staff have initiated repeated, wrong-party calls. This is against a back-drop of tens of millions of automated calls properly dialed every month. While we agree that rare instances of repeatedly-dialed wrong-party calls should cease, these isolated instances should not drive public policy or be used as an excuse to undermine the clear intent of Congress when it reformed the Telephone Consumer Protection Act.

NCHER believes a one live contact limit to validate and verify a reassigned number is a reasonable and workable compromise.

- NCLC proposes the establishment of a nationwide database of recently reassigned numbers against which callers could scrub numbers to avoid calling wrong-parties not related to the debtor. We believe this proposal has merit and deserves consideration, as long as the database is available at a reasonable cost, and there is liability protection for callers using the database.
- NCHER disagrees with the NCLC claim that “Student loan collectors and servicers repeatedly violate debt collection and other consumer protection laws.” NCLC uses, in part, borrower complaints to the Consumer Financial Protection Bureau, the Federal Trade Commission, and the U.S. Department of Education to make this outlandish claim. These solicited yet unverified complaints, while numerous on the surface, represent a tiny fraction of the millions of contacts and transactions that occur each year between student loan borrowers and their servicers and collectors. Borrower complaints – as a percentage of overall borrower contacts – are infinitesimal, and this record of success should serve as a model for other customer service-oriented businesses.
- Finally, NCHER notes again that NCLC, in an Ex Parte letter dated June 6, 2015 [sic] and posted on the Commission’s Electronic Comment Filing System on June 12, 2014, recommended that:

“The FCC should limit collection calls to three calls per week, voicemail messages to one per week, and call-backs to once per week unless the consumer gives specific consent at the time of the call.”

This recommendation by a leading consumer advocacy group is significantly more permissive than the Commission's current rule. We also note that this recommendation was written to apply across industry sectors. While NCHER recommends more contact attempts be allowed to better serve student loan borrowers (as detailed in the Petition for Reconsideration), we believe the final rule should be no more restrictive than that laid out in the NCLC recommendation in its 2014 Ex Parte letter to the Commission.

Thank you for the opportunity to provide reply comments on this important matter. If you have questions or need additional information, please contact me at 1100 Connecticut Avenue NW, Suite 1200, Washington, DC, 20036-4110, or by calling (202) 822-2106.

Sincerely,

A handwritten signature in black ink, appearing to read "J P Bergeron". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

James P. Bergeron
President