

NCHER's Advocacy Priorities for the 116th Congress – Telecommunications Reform

The National Council of Higher Education Resources (NCHER) and its members assist students and families develop, pay for, and attain their educational goals so they can pursue meaningful and rewarding work and become contributing members of society. The following are NCHER's advocacy priorities for the 116th Congress:

Using technology to help struggling borrowers

The Bipartisan Budget Act of 2015 included an important provision amending the Telephone Consumer Protection Act (TCPA) so calls (including both voice calls and text messages) to collect federally-owned or -guaranteed debt can be made to cellular telephones using an autodialer or prerecorded voice without prior consent. The purpose of the new law was to allow more borrowers, particularly those in distress, to receive timely information to avoid or get out of delinquency and/or default. According to the U.S. Department of Education, more than 44 million Americans collectively owe nearly \$1.5 trillion in student loan debt and over 10 percent of all student loans are either in delinquency more than 90 days or in default. The provision will strengthen the federal student loan servicing and collection system and improve borrower communication.

The new law authorized the Federal Communications Commission (FCC) to issue rules limiting the number and duration of calls to cellular phones. Instead of allowing technology to be used to reach struggling borrowers, in 2016, the FCC issued final rules that were overly-broad in their reach and unreasonably restrictive, permitting only three-call-attempts (not actual contacts) over a 30-day period and subjecting callers to strict liability if they inadvertently dial a reassigned number, essentially gutting the intent of the law. Student loan servicers and collectors do not make telemarketing calls; they have established relationships with borrowers and can assist them in repaying their federal student loans. The TCPA was enacted into law in 1991 at a time when mobile phones were rare and consumers were assessed charges for specific calls or time spent using the phone. This is no longer the case as mobile phones are ubiquitous - particularly with the student loan borrower population - and many plans are flat rate or unlimited. In order to continue to protect the federal fiscal interest, it is imperative that the FCC create rules that are consistent with modern technology and current social norms.

In March 2018, the U.S. Court of Appeals for the District of Columbia Circuit struck down a separate FCC order that redefined what constitutes an autodialer, resulting in the Commission issuing a public notice seeking input on how it should respond to the court case and revise those rules issued in response to passage of the Bipartisan Budget Act. Since that time, the FCC has also approved an order creating a new database of reassigned numbers, which aims to reduce the number of unwanted phone calls that Americans receive on a daily basis. Clearly, many Americans are in need of assistance in managing their student loan debt and live borrower contact is the key to making this happen. **ASK: Urge the FCC to reconsider its final rule implementing the Bipartisan Budget Act and the final rule broadly defining an autodialer and imposing other TCPA restrictions in order to strike a more appropriate balance between protecting consumers and allowing reasonable and responsible use of dialer technology to reach borrowers on their cell phones; and support the Commission's establishment of a reassigned number database.**

If you have any questions or need more information, please contact James Bergeron, President of NCHER, at jbergeron@ncher.us or (202) 822-2106.