



June 6, 2016

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington DC 20554

**Re: Comments on Notice of Proposed Rulemaking released May 6, 2016 regarding robocalls made to collect debts owed to or guaranteed by the United States.**

**CG Docket No. 02-278**

Dear Ms. Dortch:

Americans for Financial Reform (“AFR”)<sup>1</sup> appreciates this opportunity to comment on the above-referenced proposed rule regarding the Federal Communications Commission’s (“FCC” or the “Commission”) notice of proposed rulemaking (“NPRM”)<sup>2</sup> allowing robocalls to be made to cell phones without consent.

Robocalls represent a particular area of concern, both for our member organizations and for consumers overall. There is no evidence that repeated robocalls and robotexts will improve repayment outcomes, but there is data showing that consumers complain about robocalls at high rates. Federal Trade Commission (“FTC”) data shows that in 2015, an average of 184,000 complaints were filed each month about robocalls.<sup>3</sup> In addition, one-fifth of all the complaints the Consumer Financial Protection Bureau (“CFPB”) received in 2015 were related to debt collector communication tactics.<sup>4</sup>

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<sup>1</sup> Americans for Financial Reform is a coalition of more than 200 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, faith based and business groups. A list of coalition members is available at <http://ourfinancialsecurity.org/about/our-coalition/>.

<sup>2</sup> Federal Communications Commission, *Notice of Proposed Rulemaking* (May 6, 2016), [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-16-57A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-57A1.pdf).

<sup>3</sup> Federal Trade Commission, *National Do Not Call Registry Data Book for Fiscal Year 2015*, at 5 (2015), <https://www.ftc.gov/system/files/documents/reports/national-do-not-call-registry-data-book-fiscal-year-2015/dncdatabookfy2015.pdf>.

<sup>4</sup> Consumer Financial Protection Bureau, *Consumer Response Annual Report*, at 16 (January 1 – December 31, 2015), [http://files.consumerfinance.gov/f/201604\\_cfpb\\_consumer-response-annual-report-2015.pdf](http://files.consumerfinance.gov/f/201604_cfpb_consumer-response-annual-report-2015.pdf).

Complicating the problem is the fact that many of these robocalls are made to the wrong person. The 2015 annual report from the CFPB shows that 40 percent of debt collection complaints involved continued attempts to collect debts not owed, which include complaints that the debt does not belong to the person called.<sup>5</sup> And a 2009 survey conducted by the Scripps Survey Research Center at Ohio University shows that 30 percent of respondents were being called about debt they did not owe.<sup>6</sup> Further, unwanted calls and texts also have the potential to use up the limited minutes available to the 13 million Americans who use the federal Lifeline Assistance Program in order to maintain phone service,<sup>7</sup> most of whom have service through a prepaid wireless Lifeline Program that often limits usage to only 250 minutes a month.<sup>8</sup>

Because of the significant harm caused by these robocalls from debt collectors, we are very supportive of the consumer protections proposed by the Commission in this rulemaking. As calls will be permitted without the consumer's consent, these protections are very important. In particular, we support the following specific characteristics of the proposed protections:

1. Calls will only be permitted to be made to the debtors themselves, not to family and friends;
2. The protections of the rule will apply to texts as well as to calls to cell phones;
3. Callers will be required to honor a request for the calls to stop;
4. Callers will be required to notify consumers of their right to request that calls stop;
5. The calls will only be permitted to be made after 8 a.m. and before 9 p.m.;
6. Calls will only be made to collect debts currently owed to or guaranteed by the United States;
7. Only one wrong number call, such as to a reassigned number, will be allowed;
8. Each initiated call counts as one call.

The Commission has also proposed two other very important provisions that we think are good, but that need to be improved.

The Commission has proposed that the number of permitted calls be limited to three calls per month per loan. This is a good start, but because some consumers have multiple loans, we recommend that the number of calls or texts permitted to be made without consent should be limited to three calls per servicer or collector. Without this limitation, some consumers could be receiving between 30 to 45 robocalls a month to their cell phone.

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<sup>5</sup> *Id.*

<sup>6</sup> Marcia Frellick, *Survey: Debt collection calls growing more frequent, aggressive*, Creditcard.com (Jan. 28, 2010), <http://www.creditcards.com/credit-card-news/debt-collectors-become-more-aggressive-break-law-1276.php>.

<sup>7</sup> See Universal Service Administrative Company, *LI08 Lifeline Subscribers by State or Jurisdiction* (Jan. 2015- Dec. 2015), <http://www.usac.org/about/tools/fcc/filings/2016/q2.aspx>.

<sup>8</sup> Lifeline and Link Up Reform and Modernization, *Second Further Notice of Proposed Rulemaking, Order Reconsideration, Second Report and Order, and Memorandum Opinion and Order* (Rel. June 22, 2015), FCC 15-71, WC Docket Nos. 11-42, 09-197, 10-90, ¶ 16.

We also strongly urge the Commission to place the consumer protections in the body of the regulation itself, as this will empower consumers to enforce these rules. If the protections are left in the general material that precedes the regulation, it will be very difficult for individuals, compliance attorneys or courts to research and find the rules. The public should be able to easily look at the rule and see the applicable protections.

In addition, we are submitting 5,346 comments from members of Americans for Financial Reform in support of the FCC's Notice of Proposed Rulemaking (CG Docket No. 02-278).<sup>9</sup> These comments express support for the consumer protections included in the NPRM, and urge the Commission to modify the proposed limit of three calls per month per loan to instead be three calls per servicer or collector.

Thank you for paying such close attention to the important and real needs of consumers.

Sincerely,

Americans for Financial Reform

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<sup>9</sup> The comments by Americans for Financial Reform's members were filed on June 6, 2016, with confirmation number 201666691882, *available at* <http://apps.fcc.gov/ecfs/comment/confirm?confirmation=201666691882>.