

Telephone Consumer Protection Act

Correction Needed to Inform Consumers and Maintain Healthy Credit Cycle

In order to preserve the integrity of the U.S. credit system and to foster responsible and prompt communications between service providers, such as healthcare providers that extend consumer credit, it is imperative that Congress take immediate action to modernize the Telephone Consumer Protection Act (TCPA) for the 21st Century.

The Telephone Consumer Protection Act should be amended to improve the communication infrastructure between and among consumers and those service providers with which consumers choose to engage. *In short, the Telephone Consumer Protection Act should recognize a consumer's right to consent to receive phone calls that are made to their wireless phones using an auto dialer or prerecorded message by those with whom the consumer has an established relationship, if that number is provided by the consumer.*

Rapid Conversion to a Wireless Only Society

The U.S. Centers for Disease Control and Prevention (CDC) conducts a semi-annual survey of general health in the U.S. As part of that survey, they measure the connectivity of U.S. households and their chosen methods of communication. The latest survey from the Centers for Disease Control contains several noteworthy findings:

- the percentage of cell phone-only households is 31.6 percent or more than 3 of every 10 households, placing it higher than landline-only households.
- wireless-only homes have grown from 7.3 percent in the first half of 2005 to more than 30 percent in the first half of 2011. There was an increase of 1.9 percentage points since the second half of 2010.
- another 16.4 percent, or one of every six American homes received all or almost all of their calls on cell phones even though they have a landline at home. That means more than 1/3 of Americans rely almost entirely on cell phones; and
- at the opposite end of the spectrum, landline-only homes have slipped from 34.4 percent in the first half of 2005 to 11.2 percent in the first half of 2011. And of course, both trends are forecasted to continue.

Businesses Must Rely on Efficiency Tools

Businesses and other institutions that make a large volume of telephone calls to contact consumers often utilize technology that assists in the dialing process in an effort to reduce human error and increase efficiency. These efficiency tools are critical to keeping jobs here in the U.S.

Although these technologies are used for a wide range of purposes, by retailers, utilities, schools, financial institutions and many others to increase efficiency, the technology is often identified as a tool of telemarketing. In an effort to curb telemarketing activities, the Federal Communications Commission (FCC) prohibited anyone from using this highly beneficial technology to call wireless numbers under the authority provided by the Telephone Consumer Protection Act. While **The American Association of Healthcare Administrative Management (AAHAM)** strongly supports sound consumer protection, this interpretation of the Telephone Consumer Protection Act is overly broad and detrimental to legitimate business practices.

Communication Provides Consumer Protection

Proper communication between businesses and consumers is a vital component of a strong consumer protection environment. It ensures consumers are made aware of changes to the status quo that they may not otherwise be made aware of and provides them an opportunity to address pressing issues that stave off otherwise unavoidable, adverse financial action, such as foreclosure, negative credit reporting or litigation.

One timely example of the reason such an amendment is of critical importance to consumers may be found in the mortgage industry. Mortgage servicers frequently contact consumers to make them aware a foreclosure action is pending if prompt payment is not made. Some would argue this notice should even be made a condition of initiating a foreclosure action. Nevertheless, mortgage servicers typically do notify consumers that their home is being threatened by a foreclosure action. Auto dialers and prerecorded messages are used to make this process more efficient.

However, the Telephone Consumer Protection Act prohibits all “person(s)” *including healthcare providers or their agents* from contacting consumers on their wireless phones by way of an auto dialer or prerecorded message. Notably, many of these same consumers do not even have landlines. The proposed amendment would make clear that consumers who provide their wireless numbers to businesses and service providers with whom they have a relationship have granted the calling party consent to call them on their cell phone even if the communication is actually initiated by an auto dialer or provides a prerecorded message.

Administration’s Recommendation

In September, President Obama released a plan for Economic Growth and Deficit Reduction. In the proposal, the Administration recommends amending the Communications Act of 1934 to facilitate collection of debts owed to or guaranteed by the Federal Government by contacting debtors on their cell phones. The President’s recommendation recognizes that an increasing share of households no longer have landlines and rely instead on cell phones. This falls in line with the changes the **American Association of Healthcare Administrative Management (AAHAM)** is proposing to modernize the statute.

Parity Between Wireless and Landline Accounts

What the previously referenced consumer data illustrates is that consumers are no longer differentiating between landline and wireless telephone numbers. No longer the separate luxury item it was more than twenty years ago when the Telephone Consumer Protection Act was drafted, the cell phone has become the primary communication device for an ever-growing percentage of the American public. There is no question that consumers deserve protection from telemarketers, but in the 21st Century, it is increasingly illogical to differentiate protections afforded to landlines versus wireless numbers.

Therefore, Congress should introduce language to amend the Telephone Consumer Protection Act to provide parity in the protections and options accorded to landlines and wireless numbers and to allow healthcare providers and their agents to contact consumers at any number provided to them. The American Association of Healthcare Administrative Management (AAHAM), in conjunction with the Association of Credit and Collection Professionals (ACA) and the National Healthcare Collector’s Association (NHCA), strongly urges your support in these efforts.