



Kate Kiernan
Vice President & Chief Counsel, Insurance Regulation

February 21, 2019

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-B204
Washington, DC 20554

Re: Comments in Support of (File No. Da-18-707) the Life Insurance Direct Marketing Association, National Association of Insurance and Financial Advisors, National Association of Independent Life Brokerage Agencies, and Association for Advanced Life Underwriting request for Clarification & Declaratory Ruling

Dear Secretary Dortch:

The American Council of Life Insurers (“ACLI”) hereby submits comments in support of the Life Insurance Direct Marketing Association, National Association of Insurance and Financial Advisors, National Association of Independent Life Brokerage Agencies, and Association for Advanced Life Underwriting (the “Petitioners”) request for Clarification & Declaratory Ruling (File No. DA-18-707) regarding the Commission’s Final Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (the Rule)¹. The ACLI aligns itself with the Petitioners request for clarification that the Rule permit life insurance agents and brokers (“servicing agents”) to call policyholders during the life of an insurance policy and for a period of 18 months thereafter, or until the existing business relationship (“EBR”) between the servicing agent and the consumer is terminated.

The American Council of Life Insurers (ACLI) advocates on behalf of 280-member companies dedicated to providing products and services that promote consumers’ financial and retirement security. 90 million American families depend on our members for life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, dental and vision and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers’ products for peace of mind. ACLI members represent 95 percent of industry assets in the United States.

The Rule prohibits a person from initiating a telephone solicitation under various circumstances but provides that the term “telephone solicitation”² does not include a call or message to any person with

¹ 47 C.F.R. Sec. 64.1200(c)

² See 47 C.F.R. Sec. 64.1200(c)(2)

whom the caller has an “established business relationship.”³ In 2005, the Commission issued a Second Order on Reconsideration⁴ acknowledging the uniqueness of the relationship between insurers and consumers which is continuous and ongoing. While the Commission in the Second Order confirmed⁵ that a business relationship exists between a person and his or her insurer as long as there is a policy in force, the Commission incorrectly concluded⁶ that a servicing agent should be limited to an 18-month period of contact from the time of the transaction.

Consumers have an expectation that insurers and their servicing agents will contact them regarding existing accounts and potential changes that may be of interest or particular benefit based upon their financial needs and objectives. In a Declaratory Ruling adopted August 16, 2005, State Farm Mutual Automobile Insurance Company requested clarification to permit State Farm’s “exclusive agents” to rely on the EBR exemption to make telephone solicitations on behalf of the company. In granting State Farm’s request, the Commission recognized that certain agents “are responsible for answering policyholders’ questions, providing updates to consumers when adjustments in coverage may be appropriate, soliciting applications for coverage, submitting claims, and in some cases, paying claims.”⁷ This is not a unique circumstance to State Farm. Many insurers rely on their servicing agents to provide services and to communicate with customers while life insurance policies are in effect.

Accordingly, ACLI urges the Commission to clarify the Rule’s definition of established business relationship to permit servicing agents to call policyholders during the life of an insurance policy and for a period of 18 months thereafter, or until the EBR between the servicing agent and the consumer is otherwise terminated.

Respectfully submitted,



Kathleen F. Kiernan
Vice President & Chief Counsel, Insurance Regulation

³ 47 C.F.R. Sec. 64.1200(f)(9)(ii)

⁴ *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Second Order on Reconsideration, FCC 05-28, CG Docket no. 02-278, 20 FCC Rcd. 3788 (Adopted: Feb. 10, 2005) (“Second Order”).

⁵ *Id.*, paragraph 26.

⁶ *Id.*, paragraph 27.

⁷ *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Declaratory Ruling, DA 05-2293, CG Docket No. 02-278 (Adopted: Aug 16, 2005) (“State Farm Ruling”), paragraph 6.