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Congress of the United States
House of Representatives
Washington, DC 20515-0504
June 14, 2019

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON
CRIME, TERRORISM, AND HOMELAND SECURITY
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FCC Mailroom

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The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
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 Chairman Pai:

I am writing to request your support of a request for clarification that the **Federal Communication Commission's (FCC)** Final Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 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.

While I applaud the intention of The Rule and acknowledge the important role the FCC has in protecting consumers from communications scams, further clarification is necessary. The Rule prohibits the initiation of certain telephone solicitations but provides that "telephone solicitation" does not include a call or message to any person with whom the caller has an EBR.

The Commission, dating back to its 2005 Second Order on Reconsideration, has long acknowledged the unique relationship existing between insurers and consumers, and that this relationship is often defined by its continuous and ongoing nature.

Although the Second Order correctly pointed out that a business relationship exists between a person and their insurer if there is a policy in force, the Commission erred in concluding that a servicing agent should be limited to an 18-month period of contact from the time of the transaction. This conclusion unfortunately represents a misunderstanding of the industry. Consumers have an expectation that insurers *and their servicing agents* will contact them regarding their accounts, and that they will be informed of potential changes or benefits that could affect their particular financial interests, needs, and objectives.

Such clarification is also not without precedent. In 2005, State Farm Mutual Automobile Insurance Company requested clarification to a Declaratory Ruling to permit State Farm's "exclusive agents" to rely on the EBR exemption to make telephone solicitations on behalf of the company. In granting this request, the Commission understood 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."

This is not a unique circumstance, but instead sheds light on the entire life insurance industry. Many insurers rely on their servicing agents to provide services and to communicate with customers while life insurance policies are in effect.

I strongly believe the Commission should clarify the Rule's definition of an EBR 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 is otherwise terminated.

This decision is needed in a timely manner. While the overarching aims of The Rule are commendable, this clarification will ensure consistency with the Commission's already established position in the State Farm declaratory ruling, while also eliminating uncertainty and concerns about the ability of agents to effectively serve their customers on a regular and ongoing basis.

I look forward to your response, and assistance in this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom McClintock", is positioned above the printed name.

Tom McClintock