



Noah W. Wilcox, *Chairman*
Robert M. Fisher, *Chairman-Elect*
Brad M. Bolton, *Vice Chairman*
Gregory S. Deckard, *Treasurer*
Alice P. Frazier, *Secretary*
Preston L. Kennedy, *Immediate Past Chairman*
Rebeca Romero Rainey, *President and CEO*

Via electronic submission

April 20, 2020

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

**RE: EX PARTE COMMUNICATION IN THE MATTER OF PETITION FOR
EXPEDITED DECLARATORY RULING, CLARIFICATION, OR WAIVER**
(CG Docket No. 02-278) and Public Notice DA 20-384

Dear Ms. Dortch:

The Independent Community Bankers of America ("ICBA")¹ is writing in regards to the Petition for Expedited Declaratory Rule, Clarification, or Waiver filed by ICBA, the American Bankers Association, and other trade associations on March 30, 2020 ("Petition").² ICBA strongly urges the Federal Communication Commission ("FCC" or "Commission") to act without delay and issue an interim declaratory ruling, stating that calls and text messages placed using an automatic telephone dialing system ("autodialer") or prerecorded or artificial voice on matters related to the COVID-19 pandemic are "call[s] made for emergency purposes," and thus may be placed without the consent of the called party.

In response to the petition, the Commission issued a Public Notice seeking comment,³ with a 45-day comment cycle set to terminate on May 21, 2020. However, due to the numerous 'stay-at-

¹The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. With more than 50,000 locations nationwide, community banks constitute 99 percent of all banks, employ nearly 750,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding more than \$5 trillion in assets, nearly \$4 trillion in deposits, and more than \$3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services.

² Pet. of the Am. Bankers Ass'n et al., Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278 (2020), https://ecfsapi.fcc.gov/file/10330137314199/ABA_JointTrades_Petition_Emergency_Purposes_Excpetion_2020_03_30_final.pdf (petition filed by the American Bankers Association, American Financial Services Association, Consumer Bankers Association, Credit Union National Association, Independent Community Bankers of America, Mortgage Bankers Association, and National Association of Federally-Insured Credit Unions).

³ Consumer and Governmental Affairs Bureau Seeks Comment on Petition for Expedited Declaratory Ruling, Clarification, or Waiver Filed by the American Bankers Assoc. et al., Public Notice, CG Docket No. 02-278 (rel. April 6, 2020) ("Public Notice").

The Nation's Voice for Community Banks.®

WASHINGTON, DC
1615 L Street NW
Suite 900
Washington, DC 20036

SAUK CENTRE, MN
518 Lincoln Road
P.O. Box 267
Sauk Centre, MN 56378

866-843-4222
www.icba.org

home orders issued by state governments, as well as the national state of emergency issued by President Trump on March 13, 2020, millions of Americans are now unemployed, with millions more likely to follow. Waiting until May 21, 2020 will cause undue harm. Each week of this crisis reveals the growing number of newly unemployed Americans, cementing the financial insecurity that each is certain to face for months to come. These newly unemployed are finding themselves in dire financial straits, yet may not be aware of the ameliorative programs available to them.

While ICBA appreciates that the Commission is considering the Petition, ICBA is concerned that by failing to expedite the request, the Agency is not considering the urgency of the situation, nor the ameliorative aid information that community banks can offer. For example, community banks might like to place phone calls and text messages to customers that may offer payment deferrals, fee waivers, extension of repayment terms, or other delays in payment, modification, or forbearance on mortgage payments or other loans; to advise consumers of branch closings, service limitations, reduced hours, or the availability of remote banking or other remote access options; or otherwise to make consumers aware of programs, relief, and resources offered by the institution in response to the pandemic.

Community banks can help, but it is imperative that the Commission act with expediency to allow them to do so. Community banks should be able to confidently communicate financial vital information to their customers about COVID relief efforts without concern of litigation risk.

It is well within FCC's ability to issue an interim declaratory ruling when the situation is warranted. Given the exigent circumstances presented by the COVID-19 pandemic, ICBA believes sufficient cause is present for the Commission to promptly act and issue an interim declaratory ruling on the Petition.

The ongoing pandemic is of grave concern has created a dire situation for millions of Americans, where a large swath of the population is unemployed, and may not be aware of hardship options. Establishing a channel for quick and effective communication between banks and their customers is essential. The Commission has the ability to facilitate that communication, thereby mitigating the devastating effects of COVID-19 by acting now.

Should you have any questions or would like to discuss anything further, please do not hesitate to contact me at michael.emancipator@icba.org or at (202) 659-8111.

Sincerely,

/s/

Michael Emancipator
Vice President and Regulatory Counsel