The Torch

February 13, 2015

A bi-weekly report from the Coalition of Higher Education Assistance Organizations

COHEAO

- **Thursday, February 19 COHEAO Webinar: The Telephone Consumer Protection Act (TCPA) and Its Impact on Campus**
  COHEAO is pleased to announce it will be hosting a new webinar, "The Telephone Consumer Protection Act (TCPA) and Its Impact on Campus," which is scheduled for 2:00-3:30 PM Eastern Time on Thursday, February 19, and will feature a presentation from Mark Brennan, an attorney at Hogan Lovells. Sign up today!
- **Special Attachment: TCPA Reform Letter Sent to Congress**
  A coalition of dozens of national associations and business groups sent a letter to the Federal Communications Commission (FCC) asking the regulator to address the issues raised in the numerous petitions that have been and continue to be filed with the Commission regarding the Telephone Consumer Protection Act (TCPA).

Top News

- **ED Announces More Policies for Making Some Perkins Loans after October 1, 2015**
  The Department of Education's Office of Postsecondary Education on January 30th issued a Dear Colleague letter that explains how the "grandfathering" of Perkins Loans to current borrowers may work should the program's authority wind down on October 1, 2015.

Congress

- **Congress Turns to De-Regulation as HEA Work Continues**
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- **Rep. Cummings Introduces FAFSA Fairness Act of 2015**
  On Wednesday, Representative Elijah Cummings (D-MD), Ranking Member of the House Committee on Oversight and Government Reform, introduced H.R. 860, the FAFSA Fairness Act of 2015.
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White House & Administration

- **President Releases FY 2016 Budget Request**
  The Obama Administration released a fiscal year 2016 budget last week, requesting $70.7 billion in discretionary appropriations for the Education Department, a 5.4 percent increase over the previous year's funding.
- **President Re-Proposes New Unsubsidized Loan Program in Budget; Passage Highly Unlikely**
  Last week, President Obama sent Congress his proposals for spending about $4 trillion in fiscal year 2016, which begins this October 1.
- **Administration Raises Estimated Cost for Federal Student Loans**
  Hidden in data tables in the 2016 budget request was an increase in the estimated cost for federal student loans by nearly $22 billion.
- **NASFAA Task Force Survey Recommends Six Steps to ED to Improve Student Loan Servicing**
  The National Association of Student Financial Aid Administrators (NAFSAA) partnered with the National Direct Student Loan Coalition released a report last week outlining six steps that the Department of Education should take in order to improve student loan servicing for borrowers.
- **Special Attachment: Negotiated Rulemaking for Higher Education List of Negotiators**
  The Department of Education released its final list of members chosen to participate in a negotiated rulemaking committee to make changes to the Title IV, Higher Education Act of 1965.
- **APSCU Files Motion in Gainful Employment Suit**
  The Association of Private Sector Colleges and Universities (APSCU) on Friday filed its latest move in its legal attack on the Department of Education's expansion of the six magic words: "gainful employment in a recognized occupation."
- **FTC Sends FDCPA Enforcement Letter to CFPB**
  The Federal Trade Commission (FTC) sent its annual letter to the Consumer Financial Protection Bureau (CFPB) providing details on its enforcement of the Fair Debt Collection Practices Act (FDCPA).
- **Mitchell Acknowledges Potential Delays in Tying Federal Ratings to Title IV**
  There are signs the Administration may try to scale back the plan to tie a higher education ratings system to federal aid.
- **ED Sends Letter to Congress with Pell Grant Data**
  The Department of Education recently released a letter it sent to Congress in November providing enrollment and graduate information for Federal Pell Grant recipients for the 2012-2013 Pell Grant Award Period.
- **NY Fed: Student Debt Causing More Graduates Increasingly Living With Their Parents**
  A recent report from the Federal Reserve Bank of New York showed that a large number of graduates are returning to live with their parents after graduation rather than finding a place of their own.

Industry

- **Corinthian Sale Finalized, Some Debts Forgiven**
  Zenith Education Group, a new nonprofit provider of career school training and a member of ECMC Group, finalized its acquisition of more than 50 Everest and WyoTech campuses from Corinthian Colleges, Inc last week.
- **Study Finds Student Loans Have Negative Effects on Mental and Physical Health**
  A new study from the University of South Carolina provides data suggesting that the amount of college loans a student incurs has an inverse relationship with the student's mental and physical

health. Studies have long shown that financial burdens can cause higher levels of stress and depleted health, and with surges in student indebtedness, recent graduates are increasingly feeling the pressure.

Attachments

- **COHEAO Commercial Members**
- **COHEAO Board of Directors**
- **TCPA Reform Letter**
- **Negotiated Rulemaking for Higher Education List of Negotiators**

COHEAO

February 19 COHEAO Webinar: The Telephone Consumer Protection Act (TCPA) and Its Impact on Campus

COHEAO is pleased to announce it will be hosting a new webinar, "The Telephone Consumer Protection Act (TCPA) and Its Impact on Campus." Sign up today for this webinar, which is scheduled for 2:00-3:30 PM Eastern Time on Thursday, February 19, and will feature a presentation from Mark Brennan, an attorney at the Washington office of the law firm Hogan Lovells.

This webinar will provide listeners with the basics on how TCPA impacts the operations of institutions of higher education and their vendor partners with a particular focus on institutional loans and accounts receivable issues on campus. The presentation will offer sample recommendations on language that can be inserted into agreements to provide a broad expressed consent authorization to communicate. It will also address efforts from the business community to foster changes and updates for a truly outdated law.

Mark Brennan is a partner in the global communications group at Hogan Lovells, where he focuses on consumer protection and new technologies. He has been advising clients on Telephone Consumer Protection Act issues for about 9 years and leads the firm's TCPA policy and regulatory compliance practice. He also works closely with the firm's class action litigation team on TCPA defense and other cases. In addition to his TCPA and telemarketing experience, Mark advises clients on consumer protection matters related to federal and state data privacy and security laws.

Please join Mark and COHEAO for an informative webinar on a very important topic in our community. Sign up today!

Special Attachment: TCPA Reform Letter Sent to Congress

A coalition of dozens of national associations, including COHEAO, and business groups sent a letter to the Federal Communications Commission (FCC) asking the regulator to address the issues raised in the numerous petitions that have been and continue to be filed with the Commission regarding the Telephone Consumer Protection Act (TCPA). The letter shows the negative impact the outdated TCPA has on several industries.

The signers ask for clarification from the FCC to help limit “abusive” lawsuits that they believe are harmful to consumers. They highlight a large increase in consumer-initiated TCPA lawsuits over the past several years, as the law has not been changed and the FCC’s rules and regulations have not kept pace with technological growth. The letter states:

Today, 90 percent of Americans own wireless telephones and 58.8 percent of households are entirely or predominantly “wireless-only.” Moreover, the number of “wireless-only” households grew by 3 percent between the second half of 2013 and the first half of 2014, the largest 6-month increase since 2010, and there are five demographic groups in which the majority live in households with only wireless telephones. Certain parts of the country also have a particularly high number of wireless-only households. Furthermore, many consumers today have calling plans that provide unlimited minutes, making use of wireless telephones inexpensive as well as convenient for the general public.

Compared to 1991, organizations today—including many small businesses—use efficient, automated technologies to place a variety of time-sensitive, non-telemarketing calls. Unfortunately, due to a lack of clarity under the TCPA, these important communications are increasingly being chilled, organizations making the calls are increasingly being subjected to frivolous litigation, and consumers are increasingly missing important communications. This situation has a disproportionately negative impact on lower-income households, particular age groups, and residents located in certain parts of the United States.

While the letter is ultimately asking for clarification from the FCC on a number of issues that have been raised through previous petitions, it is also a plea to the regulators to allow the use of predictive dialing technology to reach cell phones for non-telemarketing purposes, which would include debt collection calls.

In addition to COHEAO, the coalition of signers includes other higher education-focused groups like the National Association of Student Financial Aid Administrators, and more.

The FCC, in response to the letter, said it is "actively" working on the TCPA issue.

A copy of the letter is attached to this week's Torch.

Top News

ED Announces More Policies for Making Some Perkins Loans after October 1, 2015

The Department of Education's Office of Postsecondary Education on January 30th issued a Dear Colleague letter that explains how the "grandfathering" of Perkins Loans to current borrowers may work should the program's authority wind down on October 1, 2015.

The letter states that students who borrowed Perkins Loans on or before the 2014-15 academic year can keep borrowing Perkins Loans for five years or until they complete their program of study. The Higher Education Act includes a paragraph allowing for the grandfathering of existing students, although the Department has taken a rather restrictive interpretation of that provision. Still, it does mean that some students will be able to access low-cost Perkins Loans until they graduate, even if the program starts to wind down.

It is important to note the context of this letter. This and other announcements are taking place because Congress has not completed the process of reauthorizing the Higher Education Act and has not decided if it will extend the Perkins Loan Program as has been done repeatedly since the program was created in 1958. COHEAO is aware that many members of Congress support the program, and its fate has not been decided. It is up to Congress to make that decision. At this time the reauthorization is still pending, so the Department has decided it is prudent to plan ahead just in case.

Notably, the Department has repeatedly said that it will consider the Perkins Loan Program to be extended if Congress passes a blanket extension of all the programs that are expiring on October 1, unless Congress specifically says not to.

COHEAO is continuing its energetic work in Washington in support of the program as well as its grassroots initiatives. Delegates at COHEAO's Annual Conference last week made 60 visits to

Congressional offices supporting Perkins and the Campus Flex proposal. More information about grassroots actions and Campus Flex can be found on the COHEAO website, www.coheao.org. COHEAO urges all supporters of the Perkins Loan Program to let their Representative and Senators know as soon as possible. Ideas on what to say and more information can be found on the website.

The Department's January 30 announcement narrowly deals with the grandfathering provisions and says more guidance on how a wind-down would work, if there is one, will come later. Institutions are especially interested in what might happen to the institutional share of Perkins Loan revolving funds if the program is closed. The Department has not said.

The letter repeats an announcement made at the December 2014 Federal Student Aid conference: Loans made for the 2015-16 academic year can have second disbursements made as long as the first disbursement takes place before October 1, 2015, even if Congress has not acted.

The Dear Colleague says Perkins loans can be made even longer as long as:

- The school made at least one Perkins Loan disbursement to the student on or before June 30, 2015.
- The student is enrolled at the same institution where the last Perkins Loan disbursement was received. For example, a student who received a Perkins Loan disbursement for enrollment at School A, and then received a Perkins Loan disbursement for enrollment at School B would be considered to be an eligible grandfathered borrower at School B, provided all other conditions are met, but not for a subsequent enrollment at School A.
- The student is enrolled in the same academic program for which the student received his or her last Perkins Loan disbursement. We consider an academic program to be the same program only if the first four digits of the program's Classification of Instructional Program (CIP) code are identical to the first four digits of the CIP code for the program for which the student received his or her last Perkins Loan disbursement.
- While the law provides for this limited "grandfathering" continued eligibility for Perkins Loans "as may be necessary to enable students . . . to continue or complete courses of study," many of these grandfathered students could have their need met by a combination of other student aid and thus will not need a Perkins Loan to "enable [them]…to continue or complete [their] courses of study." Therefore, a Perkins Loan can be made to an otherwise eligible grandfathered student to meet all or some of the student's unmet need only after the student has been awarded all Direct Subsidized Loan aid for which the student is eligible.

The Dear Colleague letter is posted on the Office of Federal Student Aid's IFAP website:
http://www.ifap.ed.gov/dpcletters/GEN1503.html

Congress

Congress Turns to De-Regulation as HEA Work Continues

The Senate HELP Committee on Thursday published a report commissioned last year that gives a college presidents' perspective on the inefficiency and burden of federal regulations. The report was commissioned by Sens. Lamar Alexander (R-TN), Barbara Mikulski (D-MD), Richard Burr (R-NC), and Michael Bennet (D-CO) and was put together by a task force of 14 current and former college presidents with staffing by the American Council on Education and funding from Lumina Foundation. It is called

"Recalibrating Regulation of Colleges and Universities" and can be found on the HELP website: http://www.help.senate.gov/imo/media/Regulations_Task_Force_Report_2015_FINAL.pdf

The perspective of the task force is summed up: "Over time, oversight of higher education by the Department of Education has expanded and evolved in ways that undermine the ability of colleges and universities to serve students and accomplish their missions. The compliance problem is exacerbated by the sheer volume of mandates—approximately 2,000 pages of text—and the reality that the Department of Education issues official guidance to amend or clarify its rules at a rate of more than one document per work day. As a result, colleges and universities find themselves enmeshed in a jungle of red tape, facing rules that are often confusing and difficult to comply with. They must allocate resources to compliance that would be better applied to student education, safety, and innovation in instructional delivery. Clearly, a better approach is needed."

A large focus of the 144-page report is Title IV financial aid. It asserts the rules for determining financial need and distributing grant and aid funds have become far too complex. The document is highly critical of the Obama Administration's "regulatory zeal," highlighting the Department of Education's penchant for new rules in recent years. The paper also argues the Higher Education Act (HEA) has evolved into a law serving public policy goals outside of the realm of higher education, leaving institutions with a massive regulatory burden.

"This report will guide our efforts to weed the garden and allow colleges to spend more of their time and money educating students, instead of filling out mountains of paperwork," said Senate HELP Committee Chairman Lamar Alexander.

Alexander has announced plans to convene a hearing on February 24 on the report and the general topic of de-regulation in higher education. In the House, Higher Education and Workforce Training Subcommittee Chairwoman Virginia Foxx (R-NC) is expected to introduce a bill related to the report in the coming weeks.

Though Committee staff are clearly deliberating (and developing legislative language) on other aspects of HEA reauthorization, such as student aid "simplification," it is clear de-regulation will be a major theme for both Alexander and Foxx.

Last week, Foxx indicated at the National Council of Higher Education Resources (NCHER) Conference that a comprehensive bill for HEA reauthorization may be introduced in the House as soon as March. However, subsequent conversations with staff indicate that while March is likely to bring developments related to HEA reauthorization, such as hearings, white papers, or discussion drafts, a Committee markup on a comprehensive HEA reauthorization bill is likely to happen by the early summer timeframe, at the earliest.

In the Senate, HELP Republicans are hopeful for a May markup with a bill to the Floor by the prior to the month-long August Congressional recess. However, many observers believe this may be a very ambitious timetable, particularly considering the Committee is now attempting to develop a bipartisan Elementary and Secondary Education Act (ESEA) reauthorization bill.

Rep. Cummings Introduces FAFSA Fairness Act of 2015

On Wednesday, Representative Elijah Cummings (D-MD), Ranking Member of the House Committee on Oversight and Government Reform, introduced H.R. 860, the FAFSA Fairness Act of 2015. The purpose of the bill is to ease the process for students who do not have contact with their parents to apply for and receive federal student financial aid.

The act would allow these students to complete the FAFSA as "provisionally independent" students. Currently, these students must undergo a "dependency override" at each institution they apply to before they can be considered for financial aid. Under the bill, the institutions would calculate provisional financial aid packages before the dependency override process.

"All qualified students should be able to attend college regardless of their financial or life circumstances," said Cummings. "Students who have escaped abusive homes, have been abandoned, have parents who are incarcerated, or who have other special circumstances that limit contact with their parents should have the same opportunities as their classmates who have not faced these obstacles. Instead, these students frequently abandon their goal of attending college because of the often long and complicated process of applying for student aid. This bill will help prevent our financial aid process from continuing to be an unintended barrier to higher education."

For more information, see: http://democrats.oversight.house.gov/news/press-releases/cummings-introduces-legislation-to-improve-student-access-to-federal-financial-1

Senator Introduces Bill to Require Fair-Value Accounting

Last Thursday, Senator Deb Fischer (R-NE) introduced S. 399, The Budget and Accounting Transparency Act, which would promote increased oversight of government spending and require federal student loan programs to use so-called fair-value accounting. The Senator cited a *POLITICO* report of $21.8 billion shortfall in the student loan program that was released earlier this week.

POLITICO reports, "The bill would also require federal agencies to make budgetary justification materials public, and require the Congressional Budget Office and the Office of Budget and Management to study whether to use fair-value accounting in federal insurance programs."

Senator Fischer released the following statement after introducing the bill:

"Our country cannot continue spending money we do not have. My bill would require the government to conduct fair and honest accounting of federal credit programs. It will also ensure that the risks to taxpayers are properly and accurately evaluated in order to prevent shortfalls. As recently as this morning, the need for this legislation became abundantly clear.

"The White House has revealed that there is a $21.8 billion shortfall stemming from their student loan program. This loss places further strains on our obligations and leaves the American taxpayer to cover the costs. My legislation will prevent wasteful mistakes like these from happening and I look forward to working with my colleagues to ensure that it moves quickly through our chamber."

For coverage from *POLITICO*, see: http://www.politico.com/story/2015/02/senate-bill-student-loan-costs-114956.html#ixzz3QzmnW6eT

For Senator Fischer's press release, see:
http://www.fischer.senate.gov/public/index.cfm/news?ID=f1c67521-1328-4500-809c-a103000ba99e

White House & Administration

President Releases FY 2016 Budget Request

The Obama Administration released a fiscal year 2016 budget last week, requesting $70.7 billion in discretionary appropriations for the Education Department, a 5.4 percent increase over the previous year's funding. The White House provided the following "key elements" in the President's budget request relating to higher education:

- *Provides $1.36 billion in 2016 for America's College Promise, a $60.3 billion investment over 10 years, which will create a new partnership with states to help them eliminate tuition and fees in high-quality programs for responsible students, while promoting key reforms to help more students complete at least two years of college. The proposal asks everyone to do their part: 1) states must invest more in public higher education and training; 2) community colleges must strengthen their programs and improve student outcomes; and 3) students must take responsibility for their education, attend at least half-time, and earn good grades, to stay on track to graduate.*

- *Fully funds Pell Grants and ties the maximum award to inflation beyond 2017. This ensures that Pell Grants maintain their value for students and families in the years to come.*

- *Simplifying the Free Application for Federal Student Aid. The Obama administration has taken key steps toward simplifying the FAFSA, but it's still too complex and discouraging for too many students. An estimated 2 million students who would have qualified for a Pell Grant failed to complete the application. The President's 2016 budget would eliminate the most burdensome and difficult-to-verify questions. By removing data elements pertaining to assets and additional types of income and by relying primarily on information readily available in federal tax returns, this simplification would make it easier for students and families to access federal student aid and afford a postsecondary education.*

- *The request makes income-driven student loan repayment simpler with a better-targeted plan that simplifies borrowers' experience and helps them better manage their debt.*

- *Provides $860 million for the Federal TRIO programs, a $20 million increase, to enable the Department to maintain funding for approximately 2,800 TRIO projects that serve middle school, high school, and college students and adults. TRIO includes programs designed to help low-income individuals, first-generation college students, and individuals with disabilities successfully attain higher education. The budget also will support a new TRIO initiative designed to give existing grantees the opportunity to compete for increased funding to implement, evaluate, and scale additional, evidence-based college access and success strategies.*

- *Provides $200 million for the First in the World program, a $140 million increase from 2015. These competitive awards aim to improve postsecondary completion rates through innovative, promising, and evidence-based strategies. The administration plans to set aside up to 30 percent of the funds available for a competition to support the implementation of projects at Minority Serving Institutions.*

- *Provides $200 million for a proposed American Technical Training Fund, to expand innovative, high-quality technical training programs that use evidence-based practices, have strong employer partnerships, include work-based learning opportunities, provide accelerated training, and are scheduled so that they accommodate part-time work. These programs would help more high-potential, low-wage workers gain the skills they need to work in growing fields with middle-class jobs that local employers are trying to fill: sectors like energy, information technology, and advanced manufacturing. This initiative would be jointly administered with the Department of Labor to ensure that the projects are well integrated into the workforce system.*

Given the major proposals had already been released (and in some cases, withdrawn), there were relatively few surprises in the President's Budget on higher education. There was one new addition: the "America's Promise" plan for free community college did include one caveat—it will not cover students whose families have adjusted gross incomes higher than $200,000.

Inside Higher Ed reports, "The administration also wants Congress to streamline and scale back some of the benefits associated with federal income-based repayment programs. The changes would result in $14.6 billion in savings over the next 10 years that the administration is proposing be redirected to the Pell Grant program."

Republicans who control both houses of Congress said they have no interest in many of the proposals, including any proposal to create a new program. House Education and Workforce Committee Chairman John Kline (R-MN), for example, issued a statement panning the budget, saying the President, "has missed another opportunity to unite us as a country and begin tackling these tough challenges."

Additional information on the Department of Education and the FY2016 Budget is available online: http://www2.ed.gov/about/overview/budget/index.html

For coverage from *Inside Higher Ed*, see: https://www.insidehighered.com/news/2015/02/03/obama-seeks-boost-higher-education-spending-and-proposes-some-loan-reforms-have

President Re-Proposes New Unsubsidized Loan Program in Budget; Passage Highly Unlikely

Among the proposals that are included in the Education Department section of the Obama Administration's budget submission is, for the sixth straight year, a proposal to allow the current Perkins Loan Program to close and to create a new program with the same terms and conditions as unsubsidized Stafford loans. The name has been changed a couple of times, but it remains the same as last year: Unsubsidized Perkins Loans. Like before, the idea is that the federal government would eventually distribute up to an additional $8.5 billion to participating colleges to make new unsubsidized loans to students. The ideas for how allocations would be made to campuses are vague but apparently would be based on graduation rates of Pell Grant recipients and the number of Pell Grant recipients in attendance. Billing and collection and all other functions other than distributing the money would be handled by the federal government's Direct Loan servicing contractors.

Congress would have to pass a law creating the new program in order for it to happen. Like for the past four years, no one with any power in Congress to move the proposal forward is interested in the idea.

Regarding the current Perkins Loan Program, it is up to Congress to continue it, or a source of low-cost funds for students will be lost. At a budget briefing held by senior Department of Education officials, the officials made clear that all collections from the current Perkins Program will go to the general fund in the US Treasury if the program is allowed to expire. The federal share of the funds would NOT be available for use for other financial aid purposes. The Department has not decided how to handle the institutional share of the current revolving funds.

Of note, the Department of Education's budget proposal talks about using "savings" from the Unsubsidized Perkins Loan scheme to help fund Pell Grants. At the briefing, the head of the Department's Budget Office explained that "interest arbitrage" is where the "savings" would come from. In plain English, the idea is that student loan borrowers' interest payments would, to the extent they are profitable, be used to help pay for Pell Grants.

Administration Raises Estimated Cost for Federal Student Loans

Hidden in data tables in the 2016 budget request was an increase in the estimated cost for federal student loans by nearly $22 billion. *POLITICO* first reported the expense, calling it a shortfall, but budget analysts say that it is a revised estimate of costs rather than an actual loss. Whether it is shortfall or a revised estimate, the difference is largely based on the increased use of Pay As You Earn, a repayment plan for federal loans that caps borrower's monthly bill to 10 percent of their income and forgives debts after 20 years.

Last year, the administration expanded the PAYE program to broaden eligibility resulting in increased enrollment. Federal direct loans covered by the government's income-based repayment plans increased 71% to $135 billion in the past fiscal year, with over 2.77 million borrowers enrolled in one of the three income-based repayments plans as of October 1.

The Wall Street Journal reports, "The administration estimates that the PAYE expansion increases costs by $9 billion, while higher enrollment rates added another $15 billion in costs. Other technical factors offset some of those increases, resulting in the $22 billion overall adjustment. The administration says that student loans on net generate a profit for taxpayers. That's because most student loans remain on standard repayment plans, with most borrowers currently paying interest rates higher than the interest rates at which the government itself borrows."

Though Administration officials are not likely happy the re-estimates are receiving such scrutiny, they had acknowledged there are problems with the repayment programs. The President's budget once again proposes reforms to the federal loan repayment programs to make modified PAYE the only income-driven repayment plan for borrowers who originate their first loan on or after July 1, 2016. The "modified PAYE" plan would include the following reforms.

- Calculating payments for married borrowers filing separately on the combined household Adjusted Gross Income;
- Establishing a 25-year forgiveness period for borrowers with balances above the aggregate loan limit ($57,500) for independent undergraduate students;
- Eliminating the standard payment cap so that high-income, high-balance borrowers pay an equitable share of their earnings as their income rises;

- Capping the amount of interest that can accrue when a borrower's monthly payment is insufficient to cover the interest to avoid ballooning loan balances.

The Budget also proposes the reforms above as legislative changes for future loans, in addition to the following changes:

- Capping Public Sector Loan Forgiveness (PSLF) at the aggregate loan limit for independent undergraduate students to protect against institutional practices that may further increase student indebtedness, while ensuring the program provides sufficient relief for students committed to public service; and

- Preventing payments made under non-income driven repayment plans from being applied toward PSLF to ensure that loan forgiveness is targeted to students with the greatest need.

It is noteworthy that the budget documents separate these proposals, indicating some will require "legislative changes," while others are considered part of the baseline. The President announced plans to extend the current PAYE program to all borrowers via Executive Action. The Department of Education has subsequently announced plans to address this topic via negotiated rulemaking starting this month.

The budget indicates the proposed changes to student loan repayment would save $5.7 billion over five years and $14.6 billion over 10 years. Though a disagreement over accounting methods remains, with some advocacy groups pushing hard against Fair Value Accounting artificially inflates the costs of the loan programs, In spite of the elimination of benefits for some borrowers, the United States Student Association and Campus PIRGs issued a joint statement applauding the President's proposed reforms "will make a real difference for the millions of graduates who are struggling to make their monthly payments."

Many private-sector economists criticize the government's estimated costs of income-based repayments plans as being too low. For example, Barclays Capital has warned that the student loan program could be down $250 billion over the next decade. The Brookings Institute said in a report last year that the most popular income-based repayment plan could eventually cost taxpayers $14 billion a year.

Administration officials have defended income-based repayment tools by stating that they would ultimately pay for themselves by lowering student-loan defaults.

For coverage from *POLITICO*, see: http://www.politico.com/magazine/story/2015/02/the-college-loan-bombshell-hidden-in-the-budget-114930.html#.VNTwy_nF-KQ

For additional information on Student Loans from the FY 16 budget request, see: http://www2.ed.gov/about/overview/budget/budget16/justifications/r-sloverview.pdf

NASFAA Task Force Survey Recommends Six Steps to ED to Improve Student Loan Servicing

The National Association of Student Financial Aid Administrators (NAFSAA) partnered with the National Direct Student Loan Coalition released a report last week outlining six steps that the Department of Education should take in order to improve student loan servicing for borrowers. The report calls for changes in servicing to standardize policies among federal contractors and improve the way information is provided to borrowers. The survey included more than 2,200 financial aid administrators from over 1,500 institutes of higher education. Here are the report's recommendations:

To streamline student loan servicing and strengthen the relationship between servicers and borrowers, NASFAA and the Coalition recommend that ED:

#1: Develop a central loan portal where students can manage all of their loans. Borrowers need a one-stop shop to see, in real time, their total indebtedness and repayment progress.

#2: Remove servicer branding from communication with borrowers. Instead of co-branded logos from servicers borrowers may not recognize, all communication should clearly come from ED.

#3: Provide standard consumer protections for student borrowers that are in line with other consumer financial products. As with car loans, mortgages, credit cards, and other financial products, student loans should carry an enumerated, standardized set of consumer protections.

#4: Permit the use of innovative technologies in order to allow servicers to more efficiently and effectively communicate with borrowers. Servicers should have the flexibility to send information in ways proven to work best for individual borrowers.

#5: Incorporate the regulatory requirements of entrance and exit counseling should be into ED's Financial Awareness Counseling Tool (FACT). ED already has an innovative, interactive, and comprehensive tool that more borrowers could benefit from using.

#6: Develop a policies and procedures manual for servicing. Transparent student loan servicing processes would help borrowers and the financial aid administrators who serve them to better understand requirements and tackle repayment successfully.

For the full survey and report, see:
http://www.nasfaa.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=22893

Special Attachment: Negotiated Rulemaking for Higher Education List of Negotiators

The Department of Education released its final list of members chosen to participate in a negotiated rulemaking committee to make changes to the Title IV, Higher Education Act of 1965. The committee will prepare proposed regulations to establish a "modified Pay as You Earn Repayment Plan" available to all federal loan borrowers. It will also establish procedures for Federal Family Education Loan (FFEL) Program loan holders to use to identify U.S. military servicemembers who may be eligible for a lower interest rate and other benefits on their FFEL Program loans under section 527 of the Servicemembers Civil Relief Act.

The list of committee members is attached to this week's Torch.

For more information about the Department's negotiated rulemaking effort, see:
http://www2.ed.gov/policy/highered/reg/hearulemaking/2015/index.html

APSCU Files Motion in Gainful Employment Suit

The Association of Private Sector Colleges and Universities (APSCU) on Friday filed its latest move in its legal attack on the Department of Education's metrics defining "gainful employment in a recognized occupation." The regulations would impose penalties on almost all programs at for-profit schools and non-degree programs at community colleges that do not meet standards the department has set for graduates' debt-to-earnings ratios. The motion for summary judgment filed in federal district court seeks a decision before the Department's new metrics measuring success in providing education leading to gainful employment take effect on July 1, 2015. The Department and APSCU have agreed to ask the court to resolve at least the request for summary judgment before the effective date, with a schedule for briefs established through mid-May.

APSCU continues to allege that the Department's regulations step beyond the law in an unfair and arbitrary measurement of institutional quality that fails to account for the demographics of the student body.

APSCU's motion says:

"The debt-to-earnings metric is set at eight percent – a level that would disqualify a law degree from George Washington University Law School, a bachelor's in hospitality administration from Stephen F. Austin State University and a bachelor's in social work from University of Texas. Further, according to the Department's own data, 43 percent of graduates from public colleges and 56 percent from private non-profit colleges would fail the metric.

Although the Department states that its new debt-to-earnings metric evaluates whether programs "prepare students for gainful employment in a recognized occupation," the Department's metric does not in fact assess program quality. Instead, the regulation measures factors that are unrelated to program quality and beyond institution control—including students' individual employment choices, local job-market conditions, and students' financial circumstances. The regulation also imposes on institutions an array of new reporting and disclosure requirements."

For APSCU's press release, see: http://www.apscu.org/news-and-media/press-releases/apscu-files-motion-summary-judgment-gainful-employment-litigation.cfm

FTC Sends FDCPA Enforcement Letter to CFPB

The Federal Trade Commission (FTC) sent its annual letter to the Consumer Financial Protection Bureau (CFPB) providing details on its enforcement of the Fair Debt Collection Practices Act (FDCPA). After the passage of the Dodd-Frank Act, the CFPB is now responsible for submitting annual reports to Congress on the FDCPA, a task previously held by the FTC.

The FTC writes a letter summarizing its recent work and accomplishments to assist the CFPB in this report. The FTC letter said that 2014 was a busy year for the Commission regarding FDCPA enforcement, filing 10 new debt collection cases against 56 new defendants, the most cases the FTC has filed before in a given year. The letter states that nine FDCPA enforcement cases were decided, resulting in $140 million in judgments. The Commission banned 47 companies and individuals from working in the debt collection industry after they engaged in serious and repeated law violations.

Ballard and Spahr's *CFPB Monitor* reports, "The letter includes a discussion of the FTC's collaboration with the CFPB on several amicus briefs in cases involving FDCPA issues,
specifically *Delgado* and *Buchanan* dealing with the collection of time-barred debts and *Hernandez* dealing with the requirements for a collector's 'initial communication.' The letter also indicates that the FTC has been consulting with the CFPB in connection with the CFPB's expected debt collection rulemaking."

For the FTC letter, see: http://www.ftc.gov/system/files/documents/reports/federal-trade-commission-enforcement-fair-debt-collection-practices-act-report-consumer-financial/150209cfpbreport.pdf

Mitchell Acknowledges Potential Delays in Tying Federal Ratings to Title IV

There are signs the Administration may try to scale back the plan to tie a higher education ratings system to federal aid.

On Tuesday, Undersecretary of Education Ted Mitchell spoke about the plan at the Association of Community College Trustees' National Legislative Summit, stating that the Department of Education aims to come out with its first version of college ratings by late spring or early summer. Mitchell touched upon some of the concerns associated with the ratings plan, and assured the audience that the department will only tie financial resources to the system once is it completely comfortable with the finished product.

"I don't want to get ahead of ourselves," he said. "Our job for this year is to get out a credible rating system to build on."

Inside Higher Ed offers additional details:

> *Mitchell spoke about the limitations of creating a ratings system only with data collected through the Integrated Postsecondary Education Data System (IPEDS), which is run by the National Center for Education Statistics. Those limitations are especially salient to the crowd of community college representatives Mitchell spoke to Tuesday. The IPEDS data doesn't capture students who transfer between institutions, meaning it doesn't properly count many of the students community colleges serve. The Education Department is working to improve its data collection procedures, but in the meantime, officials are considering other options, Mitchell said. One possibility is substituting statewide data for IPEDS, he said." Some experts do not see how the data problem is going to be solved anytime soon, especially within the two years the Obama administration has left in office. The administration has said it plans to seek legislation to tie the ratings system to federal aid in 2018. However, if this legislation is only proposed once the administration is fully comfortable with the ratings system, there is a possibility that it may not actually happen before Obama leaves office. Another concern that Mitchell addressed was how to avoid creating the incentives to teach only programs that lead to high-paying careers or to accept only students from higher-income families who are statistically more likely to graduate. The Wall Street Journal reports, "J. Noah Brown, head of the Association of Community College Trustees, said the Education Department still appears to be struggling to pin down the technical details. ' It's clear they haven't really made a lot of progress strategically on trying to figure out what all of the components are,' Mr. Brown said in an interview. 'The clock is running down here. They've taken on a very big task relatively late in the life cycle of the administration.'*

For coverage from *Inside Higher Ed*, see: https://www.insidehighered.com/news/2015/02/11/shortened-timeline-ratings-plan-community-colleges-air-concerns

For Coverage from *The Wall Street Journal*, see: http://www.wsj.com/articles/federal-ratings-of-colleges-tied-to-u-s-aid-hit-bump-1423614400

ED Sends Letter to Congress with Pell Grant Data

The Department of Education recently released a letter it sent to Congress in November providing enrollment and graduate information for Federal Pell Grant recipients for the 2012-2013 Pell Grant Award Period. Congress directed the Department to submit the report to the House and Senate Appropriations Committee in the 2014 Consolidated Appropriations Act.

The letter provides cumulative totals of Pell Grant recipients, by cohort year and includes lists of the number of recipients and total Pell dollars disbursed at the state, sector, and institutional level. The Department warns that the data, derived from the National Student Loan Data System (NSLDS), is limited because NSLDS does not contain complete enrollment information for all recipients because the original intent of NSLDS enrollment reporting was to determine when a student loan borrower should be moved between in-school, grace, or repayment status.

The Department has not yet decided how to consider transfer students in the completion-rate calculation, and thus it does not have complete and accurate data to calculate institutional-level graduation rates for recipients. Additionally, before 2012 institutions reported enrollment information for students who received federal student loans, but did not report information for students who received only a Pell Grant. However, about 70 percent of Pell Grant recipients also receive student loans. The Department is now working on a fix to allow for accurate data on Pell Grant-only recipients.

With the data it had available, the Department found that 38.2 percent of Pell Grant recipients who started at a four-year institution in 2007-08 graduated from any four-year institution within six years. Pell Grant recipients who began attendance at a four-year institution in 2007-2008 graduated from any institution (four-year or less) within six years at a rate of 44.41 percent. The data also shows that for recipients who began attendance at a less-than-four-year institution during the same period, 37.73 percent graduated from any institution within six years.

The Department urged caution when reviewing this data since it does not represent all recipients. The report also discusses the steps that the Obama administration has taken to increase enrollment rates and improve graduation rates for Pell Grant recipients including many proposals within the President's FY 2015 budget.

For the Department of Education's letter, see: http://www.nasfaa.org/uploadedFiles/Pell0212.pdf

NY Fed: Student Debt Increasingly Causing More Graduates to Live With Their Parents

A recent report from the Federal Reserve Bank of New York showed that a large number of graduates are returning to live with their parents after graduation rather than finding a place of their own. The report studies 25 and 30-year-olds and looks at the change in living situation over the past 12 years. The data shows that in twelve states, over 50 percent of 25-year-olds are living with their parents, with highest rates in the Northeast and Midwest. From 2003 to 2013, the nationwide number of 25-year-olds living at home rose from about 36 percent to about 47 percent, while the number of 30-year-olds living at home rose about 24 percent to about 31 percent.

When addressing the reason so many graduates are moving are moving back home, the report addresses unemployment, housing prices, and student debt. Though there is a correlation with overall rising unemployment rates and housing prices, the percent of graduates living with their parents steadily rises despite short-term fluctuations in the two variables. However, there is a strong positive correlation between the amount of student debt in a state and the percent of graduates returning home.

A regression analysis in the study demonstrates that a "$10,000 increase in student debt per graduate in the state is associated with an additional 2.9 percentage point rise in the rate of living with parents." A recent study by the Federal Reserve Board states that increasing indebtedness accounts for approximately 30 percent of the increase in graduates returning to live with their parents.

The Liberty Street Economics team at the Federal Reserve has done some of the most extensive research on student loans to date. However, other researchers, such as multiple fellows at the Brookings Institution's Hamilton Project, have questioned their more definitive statements on the impact of increasing student debt. Nevertheless, the New York Fed research team seems undeterred. The blog post announcing the new research concludes with the following:

> *Our findings, then, confirm the view, widely reported in the American media, that today's young people are more likely to live in parental households long into their twenties than were young people one or two decades ago. This trend is widespread across the United States. Finally, while local economic growth, reflected in rising youth employment and escalating house prices, has mixed consequences for youth independence, the increasing magnitude of student debt among college graduates appears to be driving young people home and keeping them there. We will examine this relationship—between education, finance, and socioeconomic outcomes in the short and long term—further in our future research.*

For more information, see: http://libertystreeteconomics.newyorkfed.org/2015/02/household-formation-within-the-boomerang-generation.html#.VNT9z_nF-8w

Industry

Corinthian Sale Finalized, Some Debts Forgiven

Zenith Education Group, a new nonprofit provider of career school training and a member of ECMC Group, finalized its acquisition of more than 50 Everest and WyoTech campuses from Corinthian Colleges, Inc. last week. The schools will be converted to nonprofit status and will still use the Everest and Wyotech brands under the company name Zenith Education Group. The nonprofit will pay $24 million for the campuses that have nearly 33,000 students enrolled.

Corinthian collapsed last June, after the U.S. Department of Education froze its access to federal financial aid for 21 days. The company faced many legal and financial issues and in September; the Consumer Financial Protection Bureau (CFPB) sued Corinthian over its "Genesis" institutional loan programs and allegations related to its advertising and career services offerings.

In creating Zenith Education and agreeing to the deal, ECMC Group will forgive $480 million in "Genesis Loans." ECMC will wait seven years before offering its own private student loans, and will halt lawsuits against borrowers with outstanding loans. The $480 million in loan forgiveness will result in an immediate 40 percent reduction in debt levels for students. The new owners will also drop a Corinthian requirement that students pursue arbitration before suing over complaints.

Inside Higher Ed reports, "The guarantor (ECMC) is spending $7.5 million up front on the loan forgiveness, according to a Corinthian corporate filing, and likely more as part of an additional $17.25 million payment to the Education Department during the next seven years."

The CFPB agreed to fulfill the acquirers' request for a release from Corinthian's legal liability if ECMC took steps to provide loan relief. *Inside Higher Ed* reports, "ECMC will provide various supports to keep the rest of Corinthian afloat for the next year, according to a 'transition services agreement' the for-profit chain announced on Tuesday. For an estimated fee of $3 million per month, Corinthian will receive loan-default prevention services, human-resources help, accreditation services and some marketing and student recruiting from the guaranty agency. In addition, ECMC is managing the gradual closure of 12 campuses it did not buy, as the two sides have previously reported."

The new Zenith, will be the largest nonprofit chain of career colleges. It will cut tuition by 20 percent for all Everest students who enroll this week and beyond and provide a 20 percent "graduation scholarship" to repay loans to all currently enrolled Everest students who continue and complete their programs.

The deal was announced by both the Department of Education and the CFPB, but press statements emphasized different aspects of the deal. The CFPB's carried the headline, "CFPB Secures $480 Million in Debt Relief for Current and Former Corinthian Students" The Department of Education announcement was titled, "More than 50 Corinthian Campuses Transition to Nonprofit Status under Zenith Education Group."

For the Department of Education announcement, see: http://www.ed.gov/news/press-releases/more-50-corinthian-campuses-transition-nonprofit-status-under-zenith-education-group

For the CFPB announcement, see:http://www.consumerfinance.gov/newsroom/cfpb-secures-480-million-in-debt-relief-for-current-and-former-corinthian-students/

Study Finds Student Loans Have Negative Effects on Mental and Physical Health

A new study from the University of South Carolina provides data suggesting that the amount of college loans a student incurs has an inverse relationship with the student's mental and physical health. Studies have long shown that financial burdens can cause higher levels of stress and depleted health, and with surges in student indebtedness, recent graduates are increasingly feeling the pressure. One study reports that in 2013, seven out of 10 students were graduating college with an average of $28,400 in loans. The strain from managing this expensive debt can cause a range of symptoms, including anxiety, depression, and elevated blood pressure.

The University of South Carolina study reports that the cost of higher education has increased by 250 percent, adjusting for inflation, in the last three decades, and students have needed to take out more loans in order to cover this cost. It is no wonder that worrying about paying off student loans while trying to find a first job, often entry-level with low wages, can cause such harm to a recent graduate.

One factor to take into account when measuring the effect of debt on a student is the amount of debt relative to a student's household assets. Though the study reports a negative correlation between relative debt and self-reported health, there are some cases in which the correlation is actually positive. This may be attributed to the fact that some students from disadvantaged backgrounds may view student debt as more of a stepping-stone for reaching higher socioeconomic status. Since reaching college was not a given for these students, their disposition may be brighter as they view these loans as a process to reach their ultimate goals, mitigating the effects of indebtedness on their health.

Despite the negative effects student loans can have on graduates, researchers still agree that for many, it is worth the investment for later in life. The question still remains, however, how to help students by lessening the negative health effects from a heavy burden being placed on their shoulders.

For more information, see: http://www.theatlantic.com/business/archive/2015/02/the-mental-and-physical-toll-of-student-loans/385032/.

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bperrin@wfcorp.com

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David Stocker
General Counsel
ACSI, Inc.
2802 Opryland Drive
Nashville, TN 37214
800-445.1736 x1845
Fax: 615.361.4816
DStocker@acsi.net

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Director of New Business and Product Development
2000 York Road, Ste. 114
Oak Brook, IL 60523
877-969-9989
jbarney@ersinc.com

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Progressive Financial Services
516 N Production Street (Suite 100)
Aberdeen, SD 57401
800-585-4986
cperry@progressivefinancial.com

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560 Herlong Avenue
Post Office Box 36788
Rock Hill, South Carolina 29732-0512
800-849-6669
Fax: 803-323-5211
lori.hartung@tbandl.com

Member at Large
Larry Rock
Director of Student Loan Repayment
Concordia College
901 S. 8th St. S
Moorhead, MN 56562
218-299-3323
Fax 218-299-4357
larock@cord.edu

Member at Large
Cindy Schick
Vice President, Business Development
NCC Business Services of America, Inc.
9428 Baymeadows Road, Suite 200
Jacksonville, FL 32256
904-352-2745
Fax: 904-352-2746
Cschick@ncc-business.com

Legislative Chair
Jan Hnilica
Financial Services Manager
Wheaton College
501 College Ave.
Wheaton, IL 60187
Phone: 630-752-5180
Fax: 630-752-5555
Jan.hnilica@wheaton.edu

Legislative Co-Chair, Regulations
Lee Anne Wigdahl
Manager, Loan Administration
DeVry Inc.
814 Commerce Drive
Oak Brook, IL 60523
630-645-1178
Fax: 630 891-6292
lwigdahl@devrygroup.com

Legislative Co-Chair, Perkins
Pamela Devitt
Legislative Analyst, University Student Financial Services and Cashier Operations
University of Illinois
809 S. Marshfield Ave.
Chicago, IL 60612
312-996-5885
Fax: 312-413-3453
devitt@uillinois.edu

Internal Operations Chair
Jeane Olson
Director
Northern Arizona University
Gammage Building
Flagstaff, AZ 86011
928-523-3122
Jeane.olson@nau.edu

Internal Operations Co-Chair, Financial Literacy
Kris Alban
Associate Vice President
iGrad
1775 Warfield Dr.
Clarksville, TN 37043
706.231.0150
twoodlee@igrad.com

Internal Operations Co-Chair, Communications
Michael Mietelski
Regional Director of Business Development
ConServe
200 CrossKeys Office Park
P.O. Box 7
Fairport, NY 14450-0007
800-724-7500 x4450
mmietelski@conserve-arm.com

Internal Operations Co-Chair, Support
Nancy Paris
Vice President Client Services
RMS-Recovery Management Services, Inc.
4200 Cantera Drive, Suite 211
Warrenville, IL 60555
800-900-3944, ext. 104
Fax: 630-836-2413
nparis@rmscollects.com

Membership Chair
Karen Reddick
Vice President Business Development
National Credit Management
10845 Olive Blvd
St. Louis, MO 63141
800-627-2300, 229
kreddick@ncmstl.com

Membership Co-Chair, Institutions
Jeff “JP” Pfund
University of Wisconsin, Madison
Office of Student Financial Aid
Student Loan Servicing Dept.
333 East Campus Mall #9508
Madison WI 53713-1382
608-263-7100
jeff.pfund@finaid.wisc.edu

Membership Co-Chair, Support
Claude Payne
Loan Services Specialist
Weber State University
3850 Dixon Parkway, Dept. 1023
Ogden, UT
(801) 626-7346
Fax: (801) 626-7276
cpayne@weber.edu

Executive Director
Harrison Wadsworth
1101 Vermont Ave. N.W. Suite 400
Washington, DC 20005-3521
202-289-3910
Fax 202-371-0197
hwadsworth@wpllc.net

February 2, 2015

VIA ELECTRONIC FILING

Chairman Thomas Wheeler
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Commissioner Michael O'Rielly
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: ***In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278**

Dear Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O'Rielly:

The undersigned trade associations and business groups, representing hundreds of thousands of U.S. companies and organizations from across the U.S. economy, strongly urge the Federal Communication Commission ("FCC" or "Commission") to expeditiously address the issues raised in the numerous petitions that have been and continue to be filed with the Commission regarding the Telephone Consumer Protection Act ("TCPA"). Given that compliance-minded organizations in a variety of sectors are being dragged into court and strong-armed into large settlements on an almost daily basis under the TCPA, for actions that do not remotely threaten the privacy interests that the statute was intended to protect, regulatory relief by the Commission is desperately required. We ask for clarification from the FCC to help curb abusive lawsuits that likely harm consumers overall.

I. Consumer Use of Wireless Phones is Vastly Different Than When the TCPA Was Enacted Almost 25 Years Ago

In response to complaints about unwanted telemarketing telephone calls, especially during dinner time, Congress passed the TCPA in 1991. It includes a provision that prohibits the use of "automatic telephone dialing systems" (a term defined by Congress with specific elements) – instead of manual dialing – or an artificial or prerecorded voice under certain circumstances when calling a wireless telephone.

When the TCPA was enacted over two decades ago, wireless telephones were a luxury item, charges for receiving calls on a wireless telephone were prohibitively expensive, and the landline telephone was the dominant consumer telecommunications device. However, as the Commission itself has acknowledged, "wireless use has expanded tremendously since the passage of the TCPA in 1991."[1] Today, 90 percent of Americans own wireless telephones[2] and

[1] *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 27 FCC Rcd 1830, ¶ 29 (2012) ("*2012 TCPA Order*").

58.8 percent of households are entirely or predominantly "wireless-only."[3] Moreover, the number of "wireless-only" households grew by 3 percent between the second half of 2013 and the first half of 2014, the largest 6-month increase since 2010, and there are five demographic groups in which the majority live in households with only wireless telephones.[4] Certain parts of the country also have a particularly high number of wireless-only households.[5] Furthermore, many consumers today have calling plans that provide unlimited minutes, making use of wireless telephones inexpensive as well as convenient for the general public.

Compared to 1991, organizations today—including many small businesses—use efficient, automated technologies to place a variety of time-sensitive, non-telemarketing calls. Unfortunately, due to a lack of clarity under the TCPA, these important communications are increasingly being chilled, organizations making the calls are increasingly being subjected to frivolous litigation, and consumers are increasingly missing important communications. This situation has a disproportionately negative impact on lower-income households, particular age groups, and residents located in certain parts of the United States.[6]

II. Regulatory Clarity Regarding the TCPA is Desperately Needed

While the wireless marketplace and consumer use of this technology have rapidly evolved, the TCPA has not changed and the FCC's regulations have not kept pace. There is, unfortunately, a tsunami of class action TCPA lawsuits driven not by aggrieved consumers, but by opportunistic plaintiffs' firms taking advantage of uncertainty in the law to rake in attorney fees. As the immense record before the Commission details, TCPA lawsuits against businesses and other entities are skyrocketing. TCPA litigation grew by 560% between 2010 and 2014.[7]

The law is being abused through litigation theories never intended by Congress. For example, some plaintiffs contend that any system (whether or not it is actually an "automatic telephone dialing system" as defined by the statute) triggers TCPA liability under the perplexing theory that *even a system that is not automatic could be modified to later become automatic,*

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[2] Pew Internet Project, *Mobile Technology Fact Sheet*, Pew Research Center (2014), *available at* http://www.pewinternet.org/fact-sheets/mobile-technology-fact-sheet/.

[3] Stephen J. Blumberg & Julian V. Luke, Div. of Health Interview Statistics, Nat'l Ctr. for Health Statistics, Centers for Disease Control and Prevention, *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January–June 2014*, at 1 (Dec. 16, 2014) ("*CDC Wireless Substitution Estimates*"), *available at* http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201412.pdf.

[4] *Id.* at 2; those demographic groups are adults aged 18–44, adults living only with unrelated adult roommates, adults renting their home, adults living in poverty or near poverty, and Hispanic adults.

[5] *Id.* at 7. *See also, Wireless-only Voice Households by State, 2012*, Wireless Competition Bureau, FCC (rel. Jan. 7, 2015), *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0107/DOC-331388A1.pdf.

[6] According to estimates from the CDC, 59.1 percent of individuals living in "Poor" households and 50.8 percent of individuals living in "Near-poor" households live in wireless-only households. Comparatively, only 40.8 percent of individuals living in "Not-poor" households live in wireless-only households. *CDC Wireless Substitution Estimates* at 6.

[7] *Debt Collection Litigation & CFPB Complaint Statistics, December 2014 & Year in Review*, WebRecon LLC (Jan. 22, 2015), *available at* http://dev.webrecon.com/debt-collection-litigation-cfpb-complaint-statistics-december-2014-and-year-in-review/.

hypothetically sometime in the future. Others contend that a system need not even have the statutory elements of an "automatic telephone dialing system" to be an "automatic telephone dialing system" under the statute. This cannot be what Congress intended.

The defendants in these cases are no longer just the telemarketers that Congress targeted; they are businesses, big and small alike, forced to choose between settling the case or spending significant money defending an action where the alleged statutory damages may be in the millions, or even billions, of dollars. Further, many of these companies are being sued for reasons outside of their control, such as dialing a number provided by a customer that was later reassigned to another party.

The wide-spread litigation and the specter of devastating class action liability has or may spur some businesses and organizations to cease communicating important and time-sensitive non-telemarketing information via voice and text to the detriment of customers, clients, and members. Without FCC action, consumers may not, for example, be timely informed of options to avoid a foreclosure, going into collection, a bad credit rating, or confiscation of property; receive notice of payments due and other billing issues; receive basic requested information ranging from time-sensitive prescription refill reminders and other healthcare notifications to the details of a money transfer and other financial transactions; or receive information specifically requested by the consumer through an on demand text. The benefits of these services cannot be overstated–in the student loan market, it is estimated that 1 million or more borrowers each year will "time out" and default on their student loans, in large part because their servicers cannot efficiently reach them on their wireless devices.[8] By helping to keep individuals current on their payments, or, at least, preventing their debt from spiraling out of control, these types of communications have the ability to lower costs for consumers.

The undersigned groups ask for clarification from the FCC so that the statute is applied in the manner that Congress intended, as expressed through the specific language Congress enacted. As reflected in the record before the FCC, the requested clarifications will neither "gut" the TCPA nor "open the floodgates" to abusive calls. The clarifications will, however, curb abusive lawsuits that ultimately are likely to harm consumers overall. We urge the Commission to modernize its TCPA implementation by providing commonsense clarifications and necessary reforms to facilitate the delivery of time-sensitive consumer information to mobile devices while continuing to protect consumers from unwanted telemarketing calls.[9]

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[8] Judy Xanthopolous, *Modifying the TCPA to Improve Services to Student Loan Borrowers and Enhance Performance of Federal Loan Portfolios*, Quantria Strategies, LLC, 10 (Jul. 2013), *available at* http://c.ymcdn.com/sites/www.ncher.us/resource/collection/A593D8BC-DA09-45BB-8A2D-EDD4E0889108/QuantriaStudyreTCPA-July2013.pdf.

[9] We recognize that the Commission has exempted certain categories of calls to wireless numbers that are "not charged to the called party." *See Cargo Airline Association Petition for Expedited Declaratory Ruling, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Order, 29 FCC Rcd 3432 ¶ 20 (2014). But "free to end user" is not the solution, particularly outside of the context of text notifications; no such program for uncharged voice calls to wireless phones exists now in the marketplace, and many communications (such as healthcare calls to elderly patients) can only be delivered by voice communications, not texts.

III. Conclusion

By addressing the important issues raised in the pending TCPA-related petitions, the Commission can help curtail abusive lawsuits that will likely lead to increased costs for consumers, provide American businesses with desperately needed certainty, and ensure that businesses maintain the ability to communicate in an efficient manner that best meets the demands of their customers, while at the same time preserving the important goals of the TCPA. The FCC, as an expert agency, must recognize that the world has changed significantly since 1991 and it is time for the FCC to clarify and modernize its TCPA rules to reflect the realities of today.

Sincerely,

American Association of Healthcare Administrative Management (AAHAM)

ACA International

American Council of Life Insurers (ACLI)

American Financial Services Association (AFSA)

American Insurance Association (AIA)

Child Support Enforcement Council (CSEC)

Coalition of Higher Education Assistance Organizations (COHEAO)

Computer & Communications Industry Association (CCIA)

Consumer Bankers Association (CBA)

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National Association of Chain Drug Stores (NACDS)

National Association of College and University Business Officers (NACUBO)

National Association of Manufacturers

National Association of Mutual Insurance Companies (NAMIC)

National Association of Retail Collection Attorneys (NARCA)

National Association of Student Financial Aid Administrators (NASFAA)

National Cable & Telecommunications Association

National Council of Higher Education Resources (NCHER)

National Restaurant Association

National Retail Federation (NRF)

National Rural Electric Cooperative Association (NRECA)

Professional Association for Customer Engagement (PACE)

Retail Industry Leaders Association (RILA)

Satellite Broadcasting & Communications Association (SBCA)

Silver Users Association

State Creditor Bar Associations[10]

Student Loan Servicing Alliance (SLSA) & SLSA Private Loan Committee

Telecommunications Risk Management Association (TRMA)

U.S. Chamber of Commerce

U.S. Chamber Institute for Legal Reform

Virginia Small Business Partnership

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[10] Creditor's Attorney Association of Alabama; Alaska Creditor Bar; Arizona Creditor Bar Association, Inc.; Arkansas Creditors Bar Association, Inc.; California Creditors Bar Association; Colorado Creditor Bar Association, Inc.; Connecticut Creditor Bar Association; Florida Creditors Bar Association, Inc.; Collection Law Section of the Hawaii State Bar Association; Illinois Creditors Bar Association; Maryland-DC Creditors Bar Association; Minnesota Creditors Rights Association; Missouri Creditor Bar Inc.; New Jersey Creditors Bar Association; Consumer Credit Association of Metropolitan New York; Commercial Lawyers Conference of New York; The Creditor's Rights Attorneys Association of Nevada; North Carolina Creditors Bar Association; Pennsylvania Creditors' Bar Association; Tennessee Creditors Bar Association; Texas Creditor's Bar Association; Wisconsin Creditors' Rights Association, Inc.

Title IV Loans Negotiated Rulemaking Committee 2015

Federal Negotiator

U.S. Department of Education	Gail McLarnon Senior Director Policy Development, Analysis and Accreditation Service

Non-Federal Negotiators

Community of Interest	Primary	Alternate
Students	Devon Graves Chair California State Student Association	Jessi Morales Policy Advocate Generation Progress
Legal assistance organizations that represent students	Toby Merrill Predatory Lending Practice The Legal Services Center of Harvard Law School	Johnson Tyler Foreclosure and Consumer Attorney South Brooklyn Legal Services
Consumer advocacy organizations	Jennifer Wang Policy Director Young Invincibles	Suzanne Martindale Staff Attorney Consumers Union
State attorneys general and other appropriate State officials	Samuel Levine Assistant Attorney General Consumer Fraud Bureau Office of the Attorney General of Illinois	Tyler Stewart Executive Director Consumer Protection Division Kentucky Office of the Attorney General
Groups representing U.S. military servicemembers or veterans	Matthew Randle Chief Operating Officer Student Veterans of America	D. Wayne Robinson President and CEO Student Veterans of America
Financial aid administrators	Scott Cline Director of Financial Aid California College of the Arts	Clair Jacobi Director of Financial Aid New York Institute of Technology College of Osteopathic Medicine

Community of Interest	Primary	Alternate
Minority serving institutions	Theresa Montaňo Chicana Studies in Education California State University-Northridge	Patricia Hurley Associate Dean/Financial Aid Director Glendale Community College
Two-year public institutions	Shannon Sheaff Director of Financial Aid Mohave Community College	Helen Faith Director of Financial Aid Lane Community College
Four-year public institutions	Craig Fennell Director, Student Financial Services Temple University	Rachelle Feldman Assistant Vice Chancellor and Director of Financial Aid University of California-Berkeley
Private, non-profit institutions	Marian Dill Director of Financial Aid Lee University	David DeBoer Executive Director of Financial Aid Davenport University
Private, for-profit institutions	Melvina Johnson Associate Director Financial Aid Global Products and Services Laureate Education, Inc.	Robert Mills President Ohio Centers for Broadcasting, Miami and Colorado Media Schools
FFEL Program lenders and loan servicers	William Shaffner Director Business Development & Government Relations MOHELA-Higher Education Loan Authority of Missouri	Darin Katzberg Senior Policy Analyst in Regulatory Affairs Nelnet
FFEL Program guaranty agencies and guaranty agency servicers (including collection agencies)	Nancy Masten Manager of Policy and Regulatory Administration Great Lakes Higher Educational Guaranty Corporation	Diane Freundel Compliance Manager American Education Services/Pennsylvania Higher Education Assistance Agency