June 6, 2005

Proposed Rule for FDICIA Disclosures, Matter No. R411014
Federal Trade Commission/ Office of the Secretary
Room H-159 (Annex A)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Secretary:

I am representing The Telephone Credit Union, Inc. in Cleveland, Ohio and I am forwarding this letter to you in response to the FTC's proposed rule on consumer disclosures by privately insured credit unions. Below, please find our response to particular areas of the proposed rule.

**Proof of Compliance:**

The Telephone Credit Union, with over 16,000 members, converted from federal to private share deposit insurance in April of 1988 and followed the comprehensive requirements of the National Credit Union Administration (NCUA), Rule §708b, in doing so.

NCUA's rule specifically required us to inform each member in writing that the credit union was soliciting their vote to convert from federal to non-federal insurance, and that an approved conversion would result in their accounts no longer being federally insured or guaranteed by the federal government. After the membership vote was certified each member was provided with another written notice that their accounts were no longer federally insured.

Since converting to private insurance, our credit union has made every effort to comply with the requirements of consumer disclosure under the FDIC Improvement Act of 1991. We believe that we have adequately informed our members of their insured status, and to require us to solicit more than 16,000 members for the purpose of obtaining 100% compliance in terms of new signature or acknowledgment cards would be unreasonable, impractical and require an excessive amount of time and expense in attempt to implement this unreasonable proposed provision.

Meanwhile, refusing deposits from members lacking such signed acknowledgments would dramatically impact our members and severely jeopardize the financial stability of our credit union.

**Signage:**

The Telephone Credit Union, Inc. is fully aware of the statutory disclosure language contained in the FDIC Improvement Act of 1991, and the fact that we are required to post signage in our lobbies and places where deposits are normally received stating that our credit union is not federally insured. We believe we are in compliance with such statutory requirements. However, we must take exception to your proposed rule Section 320.4(a) requiring this disclosure signage be posted on our ATMs.

Our credit union currently owns a number of ATMs located in our main office and various other facilities where our members work. As a member of Co-Op, Credit Union 24 and Alliance One Networks our credit union participates in a multi-state ATM network that provides our members access to their funds through many ATMs nationally – most of which are not owned by this credit union. As a participant in this network, we are

required to allow customers of all participating financial institutions to use our machines, and other institutions are required to allow our members to use their ATMs.

Posting the required disclosure on our ATMs will only confuse the user, and not add anything to our members' awareness since they are fully advised of the absence of federal insurance when becoming a member. As an alternative, we would propose that the posted signage be required only on ATMs owned by a privately insured credit union, and only on those machines physically located inside the main or branch offices of a privately insured credit union.

**Conspicuous Disclosure:**

The Telephone Credit Union, Inc. believes strongly in the concept of clear, conspicuous and reasonable disclosure when it comes to all matters affecting our members and their financial relationship with us. With that in mind, we endorse the FTC's main view of what constitutes conspicuous disclosure as set forth in your proposed rule. However, we encourage the agency to avoid any specific declarations regarding the font size, location, format or color of any consumer disclosures required of privately insured credit unions under FDICIA when preparing its final rule. The determination of whether a disclosure is conspicuous should be left to the best judgment of the privately insured credit union, as long as it gives due consideration to the proximity, presentation, placement and presence of the disclosure.

**Advertising**:

The Telephone Credit Union, Inc. challenges the requirement that our credit union provide a notice that it is not federally insured on all advertising. Clearly, it is impractical to post such notices where it is not physically possible; such as pens, golf caps, golf shirts, etc. A small pen barely provides enough space for the name of the credit union, yet alone, a statement regarding the disclosure notice. Also, to have a credit union post this disclosure on an outside building sign is anti-competitive and ineffective.

Both the Federal Deposit Insurance Corporation and the National Credit Union Administration have recognized specific exemptions where federally insured institutions are not required to inform consumers of their insured status, and we would ask that the FTC consider these as appropriate and incorporate them into its final rule.

Regarding printed materials, we do see the logic in posting disclosures in member newsletters and other printed materials that promote savings account investments or display current or promotional interest rates on savings. However, we see no reason to include such disclosures on loan promotional materials, such as VISA card or mortgage loan advertisements. These materials have no consequence on a member's depository relationship with the credit union. To clarify this issue, we would propose that the final rule contain language requiring such disclosure only on printed or electronic materials (websites or broadcast media) that mention share or deposit accounts or deposit account rates.

**Conclusion:**

The FTC's broad interpretation of when and how privately insured credit unions must disclose their insurance status is far broader than that required of federally insured banks or credit unions, and even more excessive than that required of totally uninsured investments alternatives, such as mutual funds.

We believe fair and honest disclosure is critical; however, the scope of the FTC's proposed rule presents a regulatory and financial burden to otherwise safe and sound credit unions. The rule needs to be more

realistic and recognize what degree of compliance is actually attainable, while remaining relevant to the original statute.

Respectfully,

Robin D. Thomas, CCCE
President/CEO