

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )  
 )  
Advanced Methods to Target and ) CG Docket No. 17-59  
Eliminate Unlawful Robocalls )  
 )

**COMPETITIVE CARRIERS ASSOCIATION, CTIA, AND USTELECOM-THE  
BROADBAND ASSOCIATION  
JOINT PETITION FOR RECONSIDERATION**

**I. Introduction and Summary**

Pursuant to Section 1.429 of the rules of the Federal Communications Commission (Commission),<sup>1</sup> the Associations listed above (Associations or Petitioners) respectfully petition the Commission to reconsider limited aspects of its recent *Order* establishing a reassigned numbering database (*Database Order* or *Order*).<sup>2</sup> The Commission should reconsider its decision to merge the administration of the reassigned numbers database with the already consolidated North American Numbering Plan Administrator (NANPA) and Pooling Administrator (PA) functions under a single contract and a single administrator.<sup>3</sup> A corollary request is for flexibility to consider administrator funding scenarios beyond the existing decision to recover the upfront database costs from service providers through the mechanism that is

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<sup>1</sup> 47 C.F.R. § 1.429. This petition is proper under 47 C.F.R. § 1.429(b)(2) because, *inter alia*, the Commission added materially new provisions after the draft *Order* was circulated to the full Commission and the period for notice and comment expired. As discussed below, these provisions may have altered the economic assumptions underlying the Commission’s determination that carriers would need to fund the upfront costs to develop the reassigned numbers database. Thus, partial reconsideration of the *Order* is appropriate here because the “facts or arguments relied on” in this petition “relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission.” *Id.* Alternatively, reconsideration is proper because “consideration of the facts or arguments relied on” in this petition “is required in the public interest.” 47 C.F.R. § 1.429(b)(3).

<sup>2</sup> *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Second Report and Order, FCC 18-177, CG Docket No. 17-59 (Dec. 2018).

<sup>3</sup> *Id.* at para. 34.

currently used to recover the NANPA and PA costs;<sup>4</sup> potential administrators may propose different funding mechanisms in their bids that could eliminate the need for the billing and collections mechanism and associated costs. The Associations instead urge the Commission to refer these issues to the North American Numbering Council (NANC) and allow it the flexibility to best satisfy its overarching mandate from the Commission to “consider the most cost-effective way of administering the database, with the goal of minimizing costs and burdens for all users and service providers, while ensuring that it will fully serve the intended purpose.”<sup>5</sup>

The Associations applaud the Commission’s efforts to curb the practice of illegal robocalls. As the *Database Order* suggests, this effort is another “important action to curb the tide of unwanted telephone calls by addressing calls to reassigned phone numbers.”<sup>6</sup> While Petitioners support inclusion of the Safe Harbor, grant of this petition will improve certain aspects of the *Order* that were impacted by the inclusion of the Safe Harbor in the Commission’s deliberation.<sup>7</sup> In particular, grant of the Petition will make the forthcoming reassigned number database more efficient, less costly and more effective.<sup>8</sup>

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<sup>4</sup> *Id.* at para. 47.

<sup>5</sup> *Id.* at para. 60.

<sup>6</sup> *Id.* at para. 1.

<sup>7</sup> The section on Safe Harbor usage of the database did not exist in the initially-circulated draft of the item. *Compare Advanced Methods to Target and Eliminate Unlawful Robocalls*, Second Report and Order, FCC-CIRC1812-03, CG Docket No. 17-59 (Nov. 2018) <https://docs.fcc.gov/public/attachments/DOC-355213A1.pdf> (Circulation Draft) with *Database Order* at paras. 53-58.

<sup>8</sup> The *Order* establishes a minimum aging period of 45 days. *Database Order* at para. 16. Recognizing the need for a minimum aging period, the Petitioners do not ask for reconsideration of the suggested minimum. They do, however, ask the Commission to recognize that establishing such a minimum may lead to the issue of number exhaust and ask the Commission to consider how to address the issue in an appropriate proceeding. Number exhaust will be exacerbated by a minimum aging period because aging numbers may not be included towards the 75% utilization threshold required before a provider may order more numbers in a rate center. See 47 C.F.R. § 52.15(h). If a large percentage of available inventory is in aging, there will be many cases in which a provider does not reach the 75% utilization before it runs out of numbers. A proposed solution to this could be to lower the 75% utilization threshold to 60%.

## II. The Commission Should Reconsider its Decision to Merge the Reassigned Database with the NANPA and Pooling Administrator

The Commission should reconsider its decision to merge the administration of the reassigned numbers database with the already consolidated NANPA and Pooling Administrator functions under a single contract and a single administrator. Contrary to its conclusion in the *Database Order*, combining the databases under a single contract will not promote the Commission's desired goals of operational and cost efficiencies; it will actually reduce efficiencies on both accounts.<sup>9</sup>

In the *Database Order*, the Commission found that though commenters “overwhelmingly support a single database administered by either the FCC or its designee, they do not identify a specific administrator.”<sup>10</sup> Appropriately, the Commission concludes in the *Order* that it is in the public interest for the reassigned numbers database to be administered by an independent third party administrator chosen with a competitive bidding process.<sup>11</sup> The Commission then found that it “may” be able to achieve efficiencies by merging the administration of the reassigned numbers database with the already consolidated NANPA and Pooling Administrator functions under a single contract and a single administrator, but the Commissions did not support such a finding with record evidence.<sup>12</sup> The *Order* references two reasons for this approach: (1) the

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<sup>9</sup> *Database Order* at para. 34.

<sup>10</sup> *Id.* at para. 33.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at para. 34. To the extent the Commission lacks sufficient basis to make a definitive finding of efficiencies beyond the theoretical “may,” it could seek guidance on the subject from the NANC on the efficiencies of bifurcating the reassigned number database from the NANPA/PA administration. The Commission already calls on the NANC to “consider the most cost-effective way of administering the database, with the goal of minimizing costs and burdens for all users and service providers, while ensuring that it will fully serve the intended purpose,” so it would be logical to seek its input on the decision of whether to bifurcate the administrative role as well given its criticality to the overall cost structure. *Id.* at para. 60.

ability to leverage existing NANPA/PA technical and reporting requirements;<sup>13</sup> and (2) the ability to leverage the existing NANPA/PA billing and collection processes to fund the database as quickly as possible.<sup>14</sup> Petitioners ask the Commission to reconsider its decision preemptively tying the acquisition of these distinct databases into a single contract because the findings upon which its selection is based do not take into account how other aspects of the *Order* affect the economics of providing the different administrative services.

The Commission will not achieve its desired operational efficiencies by merging dissimilar databases. By consolidating the administration of a reassigned numbers database with the administration of the NANPA and Pooling functions, the Commission is limiting the pool of potential vendors to those that can perform two vastly different administrative functions requiring completely different expertise and serving two different customer bases to onboard, bill and support; the NANPA and Pooling Administrator functions involve the reservation and allocation of blocks of telephone numbers to service providers, while the reassigned number database administration is transaction-intensive, involving large volumes of query responses and data reporting within a brief period of time associated with individual telephone numbers.<sup>15</sup> Service providers are generally not customers of the reassigned numbers database, instead the customers are callers that want to determine whether a particular number has been permanently disconnected since the last date they believe they had permission to call that number. Therefore, merging these distinct administrative functionalities effectively merges the operational complexity. These databases are so fundamentally different from a technological standpoint that tying them together is likely to add costs to the development of the reassigned numbers database

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<sup>13</sup> *Id.* at para. 34.

<sup>14</sup> *Id.* at paras. 47-48.

<sup>15</sup> *See id.* at para 39 (discussing reporting frequency).

by eliminating potential competing vendors from consideration, unnecessarily increasing both the complexity and the resulting costs of the billing and collections functions.<sup>16</sup>

Additionally, the economic assumptions underlying the Commission’s determination that carriers would need to fund the upfront costs to develop the reassigned numbers database were significantly altered with the adoption – following circulation of the item – of a Safe Harbor for entities that use the database.<sup>17</sup> The Safe Harbor addition improved the *Order* but nonetheless represented a significant change to it and the Commission did not adjust its existing conclusions in other sections, which should have been revised based upon the inclusion of this new provision.<sup>18</sup> The Commission sets out in the *Order* that the database must be funded in advance by carriers because “it is not possible to recover these costs through database usage charges before the database is created.”<sup>19</sup> The *Order* does explicitly discuss the option – common for such third-party acquisitions – of having the winning vendor fund the up-front costs and recovering those costs over time from the database users. However, it appears that the Commission was concerned that the start-up costs of the database would place a prohibitive risk and burden on a potential bidding administrator and this risk could only be overcome by

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<sup>16</sup> See Letter from Mary Lovejoy, Vice President of Regulatory Affairs, American Cable Association; Matthew B. Gerst, Assistant Vice President, Regulatory Affairs, CTIA; Brian Ford, Senior Regulatory Counsel, NTCA—The Rural Broadband Association; and Kevin Rupy, Vice President, Law & Policy, USTelecom—The Broadband Association, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 17-59 at 2-3 (filed Dec. 3, 2018) (Joint Ex Parte). See also Letter from Glenn T. Reynolds, Head of Government and Industry Affairs, iconectiv, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 17-59 at 1 (filed Dec. 6, 2018).

<sup>17</sup> See *supra* n. 7 (discussing the difference between the Circulation Draft and the *Database Order*). See also Statement of Cmr. O’Rielly (“Additionally, I am grateful to [Chairman Pai’s] office for working with me to insert, at my request, a robust safe harbor in this item.”).

<sup>18</sup> The Commission itself concludes that “a safe harbor will incent greater usage,” and therefore the addition of the Safe Harbor provisions minimizes the risk to the potential winning vendor because the incentives to use the Safe Harbor provision will in-turn help to assure the administrator greater revenues from transactions with the database. *Database Order* at para. 54. See also *id.* at para. 72 (discussing per-transaction query costs).

<sup>19</sup> *Id.* at para. 47 (“We adopt this approach to establish the database. . . using the most practical means of funding considering that it is not possible to recover these costs through database usage charges before the database is created.”).

guaranteeing up-front funding from carriers to establish the database. The Commission’s concern that multiple vendors might be unwilling to take on the risk of funding development costs – as they would typically do in competitive acquisitions of this sort – was addressed and rectified when the Commission adopted a Safe Harbor that will create very strong incentives for the calling industry to utilize the database. Accordingly, a corollary to the request to refer the bifurcation of the reassigned numbers database to the NANC is a request that potential bidders have the flexibility to propose a funding mechanism other than the billing and collection (B&C) methodology in the *Order*.<sup>20</sup>

Further, while the *Order* surmises the technical, financial, and operational feasibility of the database (in particular that providers’ reporting costs will be minimal),<sup>21</sup> it is possible that the NANC, which the *Database Order* tasks with “assess[ing] and address[ing] technical and operational issues on the administration of the database,”<sup>22</sup> will develop recommendations that differ from these assumptions. If the Commission’s cost-benefit analysis as described in the *Order* “proves inconsistent with the NANC’s recommendations, the Commission should ensure that it retains the flexibility to evolve its database rules by adopting a mechanism to account for intervening factual or legal developments prior to launch, and should expressly contemplate that

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<sup>20</sup> *Id.* at para. 47. This change could improve administrative efficiency as well. A new B&C agent contract went into effect in May 2018 that does not account for any of the new complexities of administering the collection of the reassigned numbers database, including funding and administering the cost recovery of the database through a complex subsidy credit to the service providers via the contribution factor used to fund the unrelated NANPA contract. This contract would need to be amended, though there are many uncertainties in the timeframe for the scope of the work, which adds complexity and expense to the contract. Further, given the unknown upfront cost and complexities of developing a contribution factor for funding by service providers, the *Order*’s current funding methodology may create an implementation delay over a vendor funding the start-up costs. This is contrary to the *Order*’s finding that its approach would “establish the database as quickly as possible.” *Id.*

<sup>21</sup> *Id.* at para. 34 (“We expect that leveraging the existing reporting and administration mechanisms between providers and the numbering administrators will result in only a small, incremental burden resulting from reporting to the Administrator. . .”).

<sup>22</sup> *Id.* at para. 59.

modifications to the existing implementation plans may be necessary and appropriate depending upon the NANC’s findings.”<sup>23</sup>

Finally, the Associations note that by allowing the NANC to recommend an approach that does not couple the reassigned numbers database to the NANPA/PA combined contracts, the Commission can eliminate the significant risk that a combined effort poses to a timely completion of the NANPA/PA acquisition prior to the end of the current bridge contracts for those services. The bridge contracts are set to expire October 31, 2019, but the Technical Requirements Document for the reassigned numbers database, for which the Commission assigned responsibility to the NANC,<sup>24</sup> is not yet complete and may require additional time. Therefore, it may not be feasible—let alone efficient—to couple the contracts for the administration of the NANPA/PA and reassigned numbers database.

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<sup>23</sup> Joint Ex Parte at 3. The FCC recently issued a Request for Information (RFI) to “assess potential sources and methods of meeting its needs for a contractor to serve under a single contract” for the NANPA, PA and reassigned numbers database. The response to this RFI can also inform the FCC on the state of the marketplace for entities capable of combining the administrator functions. FedBizOpps.Gov, Administration of the North American Numbering Plan, Thousands-Block Number Pooling & Reassigned Numbers Database, Solicitation No. FCCRFI-2019-NANPA-PA-RNDA (Apr. 16, 2019) <https://www.fbo.gov/index.php?s=opportunity&mode=form&id=a8098b3f8f80e96f48989cab0efbf440&tab=core&abmode=list&>.

<sup>24</sup> *Database Order* at para. 60.

### III. Conclusion

The Associations support the Commission’s goal of curbing robocalls to reassigned telephone numbers, but the methodology for creating the database described in the *Database Order* is likely to yield inefficiencies and not create the optimal incentives for its success. By making the database administration more efficient the Commission can create a more useful tool towards fighting robocalls. For the foregoing reasons, the Associations respectfully request the Commission to grant this Petition for Reconsideration.

Respectfully submitted,

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