

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

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

**REPLY COMMENTS OF THE STUDENT LOAN SERVICING ALLIANCE (SLSA)
TO THE SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

The Student Loan Servicing Alliance (“SLSA”) respectfully submits these reply comments in response to the Second Further Notice of Proposed Rulemaking in the above-captioned proceeding.¹

I. Introduction and Summary.

SLSA is a nonprofit trade association made up of approximately 20 federal student loan servicers, who collectively service over 95% of the outstanding student loans in the two chief federal student loan programs, the William D. Ford Federal Direct Loan Program (“Direct Loan Program”) and the Federal Family Education Loan Program (“FFELP”). SLSA members also service the vast majority of private education loans.

SLSA wholeheartedly supports the FCC’s efforts to reduce illegal robocalls by bad actors. We agree that this needs to be a priority for the Commission. And we appreciate the Commission’s willingness to distinguish illegal robocalls by bad actors from the need for legitimate businesses to contact their customers. In that regard, we continue to support the Commission’s efforts to establish a robust, comprehensive reassigned numbers database and

¹ *In the Matter of Advanced Methods to Target and Eliminate Unlawful Robocalls*, Second Further Notice of Proposed Rulemaking, FCC 18-31, CG Docket 17-59 (rel. March 23, 2018) (“*Second FNPRM*”).

strongly urge the adoption of a reasonable and effective safe harbor. However, from the other comments submitted to the Second FNPRM, it is apparent that the creation of the database will be a complex endeavor and may take several years to operationalize. In the meantime, therefore, the Commission should act promptly to revise, in an appropriate proceeding, its current unworkable approach to reassigned numbers.

II. The FCC Should First Clarify that “Called Party” Means “Intended Recipient.”

As potential users of the proposed database, SLSA members do not fully understand what will be required to fulfill our wish list of features – a comprehensive and authoritative source of information that is voluntary, economically feasible, and comes with a safe harbor for using it. Therefore, in reviewing the comments filed by other organizations, SLSA paid particular attention to the comments filed by wireless providers, developers of technical standards governing the operation of service provider networks, and current commercial database providers.² These are the organizations that will have to operationalize any database and more fully understand the cost and complexity involved in the process. It is apparent from reviewing these comments that creation of a reassigned numbers database will be a complex process which will take several years, may be costly, and is opposed by some commenters.

Even if the database is the Commission’s ultimate preferred solution, given the uncertainty of the creation process, it is imperative that the FCC act now to address the issue of reassigned numbers, and to provide legitimate callers with interim solutions while the concept of a database is explored. One means of providing relief is through the definition of “called party.” Several commenters agreed with SLSA that the FCC should interpret the term “called party” to

² See, e.g., Comments of CTIA, CG Docket No. 17-59 (filed June 7, 2018); Comments of the Alliance for Telecommunications Industry Solutions, CG Docket No. 17-59 (filed June 7, 2018); Comments of Neustar, Inc., CG Docket No. 17-59 (filed June 7, 2018).

mean the caller's intended recipient.³ Under this approach, callers could demonstrate that they intended to reach their consenting customer based on a variety of reasonable steps to verify that their consenting subscriber was still using that phone number. Actual knowledge of the reassignment would mean that the caller could no longer "intend" to reach their consenting customer (the prior subscriber) at that number.

III. The FCC Should Also Adopt a Safe Harbor for Callers That Utilize Reassigned Numbers Compliance Solutions.

There was almost universal recognition of the need for a safe harbor in connection with the use of a potential reassigned numbers database in the comments that were filed in response to the Second FNPRM.⁴ Even NCLC, *et al.*, for example, acknowledged that a safe harbor may be appropriate "[t]o incentivize the use of the reassigned numbers database, and thus to reduce the number of unwanted and illegal robocalls...."⁵

Although consulting a database should not be a mandatory obligation on callers (or a prerequisite to avoiding liability exposure in the event of an inadvertent call to a reassigned

³ See, e.g., Comments of CTIA, CG Docket No. 17-59 (filed June 7, 2018) at 9; Comments of American Bankers Association, CG Docket No. 17-59 (filed June 7, 2018) at 2; Comments of U.S. Chamber Institute for Legal Reform, CG Docket No. 17-59 (filed June 7, 2018) at 6-7; Comments of Consumer Mortgage Coalition, CG Docket No. 17-59 (filed June 7, 2018) at 2; Comments of Education Finance Council, CG Docket No. 17-59 (filed June 7, 2018) at 2.

⁴ See, e.g., Comments of National Retail Federation, CG Docket No. 17-59 (filed June 7, 2018) at 9-12; Comments of Edison Electric Institute, CG Docket No. 17-59 (filed June 7, 2018) at 7-9; Comments of Credit Union National Association, CG Docket No. 17-59 (filed June 7, 2018) at 5-7; Comments of American Bankers Association, CG Docket No. 17-59 (filed June 7, 2018) at 5-7; Comments of Consumer Mortgage Coalition, CG Docket No. 17-59 (filed June 7, 2018) at 2, 8; Comments of CTIA, CG Docket No. 17-59 (filed June 7, 2018) at 10-11; Comments of U.S. Chamber Institute for Legal Reform, CG Docket No. 17-59 (filed June 7, 2018) at 8-9; Comments of Education Finance Council, CG Docket No. 17-59 (filed June 7, 2018) at 2-3.

⁵ Comments of National Consumer Law Center, on behalf of its low-income clients and American Association for Justice, Consumer Federation of America, Consumers Union, National Association of Consumer Advocates, Public Citizen, and U.S. PIRG, CG Docket No. 17-59 (filed May 29, 2018) at 8-9.

number),⁶ the existence of a safe harbor will encourage parties to obtain consent, use a database, and help reduce the number of unwanted calls to reassigned numbers. As noted in SLSA's comments, the Commission should adopt a safe harbor not just for use of any FCC-created database, but for use of other private compliance solutions as well.⁷ Several commenters noted that the safe harbor should allow for a reasonable amount of time prior to the call during which a caller can check the database, to avoid having to check the database immediately before every single call.⁸

Conclusion

SLSA's members remain interested in and supportive of the Commission's efforts to explore the possibility of a reassigned number database. SLSA members would use such a database so long as it is accurate, economical, and would provide a safe harbor against TCPA liability. However, comments by providers reinforced our concern that such a resource may take some years to implement and become operational. In the meantime, given the pressing need to reach struggling student loan borrowers in order to help them avoid delinquency and default, SLSA urges the Commission to adopt a more immediate solution to address the issue of reassigned numbers by revising the misguided interpretation of "called party" to mean the

⁶ The Commission made it clear in the Second FNPRM that it is "not proposing to mandate that callers use a reassigned numbers database in order to comply with the TCPA." *See*, Second FNPRM, p. 9, para. 30.

⁷ Comments of Student Loan Servicing Alliance, CG Docket No. 17-59 (filed June 7, 2018) at 3-5. *See also*, Comments of CTIA, CG Docket No. 17-59 (filed June 7, 2018) at 10-11; Comments of Edison Electric Institute, CG Docket No. 17-59 (filed June 7, 2018) at 8-9; Comments of U.S. Chamber Institute for Legal Reform, CG Docket No. 17-59 (filed June 7, 2018) at 8-9.

⁸ *See*, Comments of Student Loan Servicing Alliance, CG Docket No. 17-59 (filed June 7, 2018) at 5 (reasonable time period); Comments of American Bankers Association, CG Docket No. 17-59 (filed June 7, 2018) at 6-7 (31 days); Comments of National Retail Federation, CG Docket No. 17-59 (filed June 7, 2018) at 11 (30 days); Comments of Edison Electric Institute, CG Docket No. 17-59 (filed June 7, 2018) at 8-9 (quarterly).

intended recipient where the caller has a good faith belief that the recipient is still at the number provided to the caller, and to permit callers to demonstrate that they intended to reach the prior subscriber based on a variety of facts and reasonable steps to verify the subscriber. In addition, as the Commission moves forward with the database, we are hopeful that it will do so in consultation with both the service providers and the industries who will be using the database. We think that additional notice and comment periods will be necessary during the development of any database so that we can ensure that systems integration will be achievable.

Respectfully submitted on behalf of SLSA,



Winfield P. Crigler
Executive Director
Student Loan Servicing Alliance (SLSA)
1100 Connecticut Avenue, NW
Suite 1200
Washington, DC 20036
(202) 955-6055
wpcrigler@slsa.net

July 9, 2018