

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC**

In the Matter of)	
)	
Advanced Methods to Target and Eliminate)	CG Docket No. 17-59
Unlawful Robocalls)	
)	
Rules and Regulations Implementing the)	CG Docket No. 02-278
Telephone Consumer Protection Act of 1991)	

COMMENTS OF CTIA

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COMMENTS OF CTIA

I. INTRODUCTION AND SUMMARY.

CTIA¹ respectfully submits these comments in response to the Federal Communication Commission’s (FCC or Commission) Second Notice of Inquiry (*Second NOI*)² in the above-captioned proceeding. The *Second NOI* seeks to identify potential solutions to help mitigate Telephone Consumer Protection Act (TCPA) liability for callers acting in good faith and to help reduce unwanted calls to reassigned wireless telephone numbers. To further these goals, the *Second NOI* seeks comment on, *inter alia*, “the best ways for service providers to report information about reassigned numbers, and how that information can be made available to

¹ CTIA® (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association’s members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry, and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

² *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Second Notice of Inquiry, CG Docket No. 17-59 (rel. July 13, 2017) (*Second NOI*).

robocallers in the most effective way, so that robocallers will be more likely to reach consumers who wish to receive the calls.”³

CTIA has consistently supported voluntary and Commission efforts to reduce unwanted robocalls and to ensure that consumers receive desired calls. As described in the *Second NOI*, CTIA recognizes that legitimate callers using autodialer or prerecorded voice technology face increasing liability under the TCPA when unwittingly calling reassigned wireless telephone numbers without knowledge of the reassignment, but the Commission should also recognize that fundamental issues with its *2015 Omnibus TCPA Declaratory Ruling and Order* are the root causes of this liability exposure.⁴ Therefore, revising the interpretations in the *2015 TCPA Order* to provide greater certainty to callers who act in good faith, as described below, would more effectively achieve the Commission’s goals in this proceeding than any of the solutions described in the *Second NOI*.

Absent revisions to the *2015 TCPA Order*, however, the Commission should evaluate all potential solutions that may help mitigate TCPA liability for good faith callers when calling reassigned wireless telephone numbers without knowledge of a reassignment. As the Commission recognizes in the *Second NOI*, an increasing number of market-based solutions are becoming available to help good faith callers.⁵ CTIA believes that the Commission should establish a safe harbor of compliance with its TCPA rules for calling parties who use these solutions but who nonetheless unwittingly call reassigned telephone numbers without knowledge

³ *Id.* ¶ 2.

⁴ See *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 et al.*, CG Docket No. 02-278, WC Docket No. 07-135, Declaratory Ruling and Order, 30 FCC Rcd 7961 ¶¶ 73-84 (2015) (*2015 TCPA Order*).

⁵ *Second NOI* ¶ 6.

of the reassignment. Doing so will help reduce calls to reassigned numbers and appropriately incentivize and enhance the adoption and robustness of these market-based solutions.

Notwithstanding the critical revisions needed to the *2015 TCPA Order* and the availability of market-based solutions, if the Commission were to also pursue a new database of reassigned telephone numbers, as proposed in the *Second NOI*, it would be a complex endeavor with unique operational, technical, and financial challenges. To fully consider these issues, the Commission should request that its advisory committee of telephone number experts, the North American Numbering Council (NANC), evaluate and provide recommendations on the impact of any new database solution on the numbering system and carriers' numbering operations. In addition, the Commission should separately examine comprehensively the complex scope, feasibility, costs, and benefits of any new database solution. For example, the Commission should consider whether there will be sufficient funding to develop, maintain, and operate a reassigned number database, and from which source(s) such funding would be derived. Importantly, the Commission should proceed cautiously before imposing new mandates on callers and service providers, especially when the Commission's goals could be more effectively achieved through modest updates to the Commission's TCPA rules.

Finally, the Commission should recognize that none of the efforts or solutions discussed in the *Second NOI* or these comments will reduce unwanted robocalls from bad actors. CTIA believes that TCPA liability should attach to callers who are not acting in good faith, and it supports the Commission's broader efforts to combat unlawful and unwanted robocalls. Indeed, as CTIA has previously demonstrated, the wireless industry has actively championed efforts to

reduce illegal and unwanted robocalls through enhanced call blocking⁶ and development of call authentication tools to better empower consumers, carriers, and the Commission.⁷

II. CTIA HAS CONSISTENTLY SUPPORTED VOLUNTARY AND COMMISSION EFFORTS TO REDUCE UNWANTED CALLS TO WIRELESS CONSUMERS.

CTIA proudly supported the initial adoption of the TCPA in 1991,⁸ and the FCC's first Report and Order implementing the TCPA in 1992 noted the participation of wireless providers and other companies in the communications industry, including CTIA and some of its member companies.⁹ CTIA and some of its member companies also participated in the FCC's 2002 proceeding to revise the TCPA rules and implement the National Do-Not-Call List, as well as other proceedings seeking clarifications of the Commission's TCPA rules.¹⁰ Throughout these proceedings, CTIA has recognized that the TCPA plays "an important enforcement tool for protecting consumers from annoying and harassing telemarketing calls, and other potential harm,

⁶ Comments of CTIA, WT Docket No. 17-59 (filed Jun. 30, 2017).

⁷ Comments of CTIA, WT Docket No. 17-97 (filed Aug. 14, 2017).

⁸ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 7 FCC Rcd 8752, 8785-89 (1992) (Appendix A).

⁹ The Report and Order notes that CTIA, AT&T Wireless, Cingular Wireless, Sprint, Nextel, and Verizon Wireless participated in the proceeding. *See Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 18 FCC Rcd 14014, 14166-73 (2003) (Appendix C).

¹⁰ *See, e.g.*, Comments of CTIA – The Wireless Association, CG Docket No. 02-278 (filed Jan. 23, 2015) (2015 CTIA Comments); 2014 CTIA Comments; Reply Comments of AT&T Inc., Petition of 3G Collect Inc. and 3G Collect LLC for Expedited Declaratory Ruling that the TCPA is Inapplicable to the Use of Automated Systems by Operator Service Providers Completing Collect Calls to Telephone Numbers Assigned to Cellular Telephones, Docket No. 02-278 (filed Dec. 10, 2012); Comments of CTIA – The Wireless Association, Petition for Expedited Clarification and Declaratory Ruling from Revolution Messaging, LLC, CG Docket No. 02-278 (filed Nov. 21, 2012) (2012 CTIA Comments); Comments of CTIA – The Wireless Association, Petition for Expedited Clarification and Declaratory Ruling from SoundBite Communications, Inc., CG Docket No. 02-278 (filed Apr. 30, 2012); Comments of Verizon and Verizon Wireless, Petition for Expedited Clarification and Declaratory Ruling from SoundBite Communications, Inc., CG Docket No. 02-278 (filed Apr. 30, 2012); Comments of Sprint Nextel Corporation, CG Docket No. 02-278 (filed May 21, 2010).

including various types of fraud,”¹¹ and it has supported efforts to reduce unwanted calls and text messages that “invade consumers’ privacy and can be costly for wireless customers.”¹²

In addition to participating in the FCC’s TCPA proceedings, CTIA and its members have taken significant steps to help law enforcement and consumers combat unlawful and unwanted robocalls.¹³ The Federal Trade Commission, for example, has repeatedly acknowledged the wireless industry’s assistance in law enforcement investigations against robocallers under the Telemarketing Sales Rule.¹⁴ The wireless industry has also brought lawsuits under the TCPA when parties have identified the source of the illegal robocalls.¹⁵ In addition, some of CTIA’s members maintain call fraud bureaus that may initiate investigations after a suspected mass calling event,¹⁶ and some have developed a variety of consumer-facing tools to mitigate illegal

¹¹ 2014 CTIA Comments at 1.

¹² See, e.g., 2012 CTIA Comments at 4 (urging “the Commission to help curb the problem of unwanted political campaign text messages”).

¹³ 2015 CTIA Comments at 2-8.

¹⁴ Press Release, Federal Trade Commission, *FTC Files Suit to Stop Illegal Robocalls Pushing Vehicle Warranty Extensions* (May 14, 2009), <http://bit.ly/2woGrth> (acknowledging the “extraordinary cooperation that telecommunications carriers AT&T Mobility and Verizon Wireless provided in the investigation of the case”); Press Release, Federal Trade Commission, *FTC Asks Court to Shut Down Text Messaging Spammer* (Feb. 23, 2011), <http://bit.ly/2xbv6cY> (highlighting the “invaluable” assistance it received from Verizon Wireless, AT&T, and CTIA in a case against a text spammer blasting messages at a “mind-boggling rate”).

¹⁵ Stopping Fraudulent Robocall Scams: Can More Be Done?, Before the Subcomm. on Consumer Protection, Product Safety, and Insurance of the Comm. on Commerce, Science, and Transportation, 113th Cong. 71 at 39 (2013) (statement of Mike Altschul, General Counsel, CTIA – The Wireless Association), available at <http://bit.ly/2woviZm>; Letter from Steve Largent, CEO, CTIA – The Wireless Association to Julius Genachowski, Chairman, FCC (Jan. 25, 2012), <http://bit.ly/2v9eJMI>. See, e.g., Joshua Threadcraft, *Florida District Court Holds Whether Subscriber Or Person Who Answers Call Possesses TCPA Claim Depends On Circumstances*, JD Supra (Nov. 1, 2013), <http://bit.ly/2idf6ol>; Jane Musgrave, *Verizon Wireless sues South Florida companies, alleging customers getting thousands of illegal robocalls daily*, Palm Beach Post (Nov. 13, 2012), <http://pbpo.st/2uPOvTY>.

¹⁶ 2015 CTIA Comments at 6.

robocalls, such as cloud-based robocall blocking and scam detection software.¹⁷

III. THE COMMISSION SHOULD REVISIT THE *2015 TCPA ORDER* AND ESTABLISH A SAFE HARBOR OF COMPLIANCE TO REDUCE UNWANTED CALLS TO REASSIGNED WIRELESS TELEPHONE NUMBERS, PROVIDE GREATER LEGAL CERTAINTY TO GOOD FAITH CALLERS, AND ENHANCE MARKET-BASED TCPA COMPLIANCE SOLUTIONS.

CTIA recognizes that legitimate callers face increasing liability when calling reassigned wireless telephone numbers without knowledge of the reassignment. Calls to reassigned wireless telephone numbers not only increase callers' risk of liability under the TCPA, such calls also impose costs on callers and hinder their ability to communicate with intended recipients.

Although the Commission declined in the *Second NOI* to seek comment on its TCPA rules and TCPA precedent,¹⁸ the Commission should recognize that its interpretation of "called party" in the *2015 TCPA Order* is the root cause of this liability exposure.

Chairman Pai previously recognized that the 2015 interpretation was "sure to encourage yet more litigation, to the detriment of consumers and the legitimate businesses that want to communicate with them."¹⁹ The result, as Commissioner O'Rielly anticipated, was that "numerous companies, acting in good faith to contact consumers that have consented to receive calls or texts, are exposed to liability when it turns out that numbers have been reassigned without their knowledge."²⁰ For these reasons, CTIA agrees that the *Second NOI* "shines a

¹⁷ See generally CTIA *et al.*, *Industry Robocall Strike Force Report* § 3.5 (Apr. 28, 2017), attached to *Ex Parte* Letter from CTIA *et al.* to Marlene H. Dortch, Secretary, FCC, CG Docket No. 17-59 (Apr. 28, 2017), <http://bit.ly/2xb8QQy>; Comments of CTIA, CG Docket No. 17-59, at 3-6 (June 30, 2017) (providing additional examples of carrier efforts to stop illegal robocalls).

¹⁸ *Second NOI* ¶ 2, n.3.

¹⁹ *2015 TCPA Order* at Statement of then-Commissioner Ajit Pai.

²⁰ *Id.* at Statement of Commissioner Michael O'Rielly.

bright light on just how misguided and fundamentally broken the Commission's *2015 TCPA Declaratory Ruling* really was."²¹

To address this issue, the Commission should revise its interpretation in the *2015 TCPA Order* to provide greater certainty to callers that unwittingly call a reassigned wireless telephone number that was provided by a consenting consumer (*e.g.*, a call without knowledge of any reassignment), consistent with CTIA's previous comments.²² Specifically, a good faith caller should have greater certainty that they are in compliance under the TCPA when the caller takes reasonable steps to confirm prior express consent, including for example by using market-based TCPA compliance solutions or other reasonable means described below. By making this clarification, the Commission can help good faith callers mitigate liability exposure under the TCPA, while avoiding any relief that could weaken TCPA enforcement against bad actors.

In the *Second NOI*, the Commission seeks comment on the extent to which a safe harbor for callers may be appropriate under its proposed reassigned numbers database solutions.²³ The Commission should support good faith callers in their efforts to avoid reaching reassigned wireless telephone numbers by establishing one or more safe harbors for callers who take reasonable steps to mitigate such calls. However, such safe harbor(s) should not be tied only to the new database proposals discussed in the *Second NOI*. At a minimum, there should be a safe harbor for callers who use one or more of the market-based TCPA compliance solutions available today.

²¹ See *Second NOI* at Statement of Commissioner Michael O'Rielly.

²² See, *e.g.*, Comments of CTIA – The Wireless Association, CG Docket No. 02-278, at 6 (filed Mar. 10, 2014) (2014 CTIA Comments).

²³ *Second NOI* ¶ 14.

Existing market-based solutions use data from telephone service providers, and may also use a variety of dynamic predictors from other third-party sources, to help callers determine the reliability of consumer consent to receive calls to a particular telephone number.²⁴ Although the *2015 TCPA Order* found that then-existing market-solutions covered at least 80 percent of wireless telephone numbers,²⁵ that figure may not reflect the scope and reliability of today’s solutions. Indeed, one vendor currently claims that its mobile number verification solution “[h]as real-time connectivity to [mobile network operators] with over 99 [percent] wireless coverage.”²⁶

To encourage the continued adoption and improvement of these solutions, the Commission should establish a flexible safe harbor against TCPA liability for callers who utilize market-based TCPA compliance solutions but unwittingly call reassigned wireless telephone numbers. Increased adoption will, in turn, help spur more competition among solutions providers, facilitate increased database coverage and reliability, and help reduce unwanted calls to reassigned wireless telephone numbers.

At the same time, callers should not be required to subscribe to a safe harbor solution to establish their compliance with the Commission’s TCPA rules. A safe harbor should be just that—sufficient to comply with the TCPA, but not necessary to avoid non-compliance. The Commission has previously recognized a variety of actions that businesses may take to help

²⁴ See, e.g., Neustar TCPA Compliance Solutions, <http://bit.ly/2uYHQ6c> (last visited Aug. 21, 2017); Mobile Number Verification, Early Warning (last visited Aug. 15, 2017), <http://bit.ly/2idGgLx>; Danal TCPA Compliance Solution, <http://bit.ly/2vKvdOK> (last visited Aug. 21, 2017); Payfone TCPA Compliance, <http://bit.ly/2xbmYcj> (last visited Aug. 21, 2017), iconectiv Right Party Verification for Messaging, <http://bit.ly/2g5ppKp> (last visited Aug. 23, 2017).

²⁵ *2015 TCPA Order* ¶ 86 n.301; *id.* at Statement of Commissioner Michael O’Rielly.

²⁶ Mobile Number Verification, Early Warning (last visited Aug. 21, 2017), <http://bit.ly/2idGgLx>.

avoid calling reassigned numbers,²⁷ and CTIA believes that businesses should be permitted to take reasonable actions without fear of abusive TCPA liability. The Commission could also consider whether to adopt one or more such procedures as safe harbors. As with the revision to the *2015 TCPA Order* discussed above, adopting one or more safe harbors will help good faith callers mitigate liability exposure under the TCPA, minimize unwanted calls to consumers with reassigned telephone numbers, and avoid any relief that could weaken TCPA enforcement against bad actors.

IV. THE COMMISSION SHOULD EVALUATE THE UTILITY AS WELL AS THE TECHNICAL, ECONOMIC, AND OPERATIONAL FEASIBILITY OF A NEW REASSIGNED NUMBERS DATABASE AND SHOULD WORK WITH THE NORTH AMERICAN NUMBERING COUNCIL TO ASSESS THE NUMBERING SYSTEM IMPACT.

The *Second NOI* also seeks comment on “on the costs and benefits of voice service providers reporting reassigned number information.”²⁸ Designing, launching, and operating a new database of reassigned telephone numbers, as proposed in the *Second NOI*, would be a complex endeavor with unique operational, technical, and financial challenges. Although the *Second NOI* states that voice providers would not be “greatly burdened” if they were required to

²⁷ *2015 TCPA Order* ¶ 86 (noting that callers may, *e.g.*: (1) use database solutions; (2) ask consumers to notify them when they switch telephone numbers; (3) include an interactive opt-out mechanism in all artificial or prerecorded voice calls so that recipients may easily report a reassigned or wrong number; (4) implement procedures for recording wrong number reports received by customer service representatives placing outbound calls; (5) implement processes for allowing customer service agents to record new phone numbers when receiving calls from customers; (6) periodically send an email or mail request to the consumer to update his or her contact information; (7) utilize an autodialer’s and/or a live caller’s ability to recognize “triple-tones” that identify and record disconnected numbers; (8) establish policies for determining whether a number has been reassigned if there has been no response to a “two-way” call after a period of attempting to contact a consumer; and (9) enable customers to update contact information by responding to any text message they receive).

²⁸ *Second NOI* ¶ 14.

report disconnected and reassigned numbers,²⁹ CTIA's member companies have expressed just the opposite based on their extensive experiences with the various databases that enable the North American Numbering Plan (NANP).

For this reason, the Commission should begin its cost-benefit analysis by requesting that its telephone number experts in the NANC evaluate and provide recommendations on the impact of a new database solution to carriers' existing numbering operations and to the numbering system overall. In addition, the Commission should examine comprehensively the complex scope, feasibility, costs, and benefits of any new database solution. For example, the Commission should consider whether there will be sufficient funding to develop, maintain, and operate a reassigned number database, and from which source(s) such funding would be derived.

A. The Commission Has Frequently Referred Complex Numbering Issues to the NANC.

The Commission established the NANC as an advisory committee in 1995. The NANC's Charter provides that "[t]he purpose of the [NANC] is to advise the Commission and to make recommendations, reached through consensus, that foster efficient and impartial [NANP] administration. The [NANC] will advise the Commission on numbering policy and technical issues, will initially resolve disputes as directed by the Commission, and will provide guidance to" a variety of numbering administrators, such as the North American Numbering Plan Administrator (NANPA).³⁰ The NANC's membership reflects a broad cross-section of U.S. telecommunications stakeholders, including representatives from local exchange carriers,

²⁹ *Id.*

³⁰ Charter of the North American Numbering Council, reapproved Sept. 18, 2015. *See also FCC Requests Nominations for Membership on the North American Numbering Council Advisory Committee*, 10 FCC Rcd 9991 (1995).

interexchange carriers, wireless providers, manufacturers, state regulators, consumer interests, and telecommunications industry associations.

The Commission has repeatedly directed the NANC to apply its impartial stakeholder-based expertise to a range of complex numbering issues. For example, the NANC has provided expert guidance on local number portability integration, abbreviated dialing arrangements, toll-free database administration, and the feasibility of local number portability for 500/900 numbers.³¹ The NANC has also issued recommendations concerning methods for optimizing the use of numbering resources; the assignment of Feature Group D Carrier Identification Codes to switchless resellers; and technical specifications for a National Pooling Administrator, the North American Numbering Plan Administrator, and nationwide number portability.³²

B. The Commission Should Ask the NANC to Evaluate the Potential Impact of a Reassigned Numbers Database on the Numbering System and Carriers' Numbering Operations.

In the *Second NOI*, the Commission seeks comment on “how voice service providers could report information about the reassignment of NANP numbers they have been allocated.”³³ The Commission also seeks comment on leveraging certain utilization data that carriers maintain as part of their obligations to provision and assign numbering resources.³⁴ As discussed below, as part of a comprehensive cost-benefit analysis, the Commission should ask the NANC to

³¹ See, e.g., *Local Number Portability Porting Interval and Validation Requirements; Telephone Number Portability*, Report and Order, 25 FCC Rcd 6953, 6962, ¶ 22 (2010) (recognizing that “the NANC is best situated to monitor the continued effectiveness of the provisioning process flows, and make recommendations when changes are needed”).

³² See NANC Chair, *What is the NANC?*, <http://bit.ly/2uPKAqc> (last visited Aug. 16, 2017).

³³ *Second NOI* ¶ 10.

³⁴ *Id.* ¶ 11.

evaluate the impact of the Commission’s proposals in the *Second NOI* on the existing numbering system and resources, as well as carriers’ numbering operations.

Under the Commission’s rules, carriers must classify their numbering resources into the following mutually exclusive categories: administrative, aging, assigned, available, intermediate, and reserved.³⁵ In addition, carriers must maintain internal records of their numbering resources for the following subcategories of numbers: (1) soft dial tone numbers, (2) ported-out numbers, (3) dealer pool number, (4) test numbers, (5) employee/official numbers, (6) Location Routing Numbers, (7) Temporary Local Directory Numbers, and (8) wireless E911 emergency services routing digits/key numbers.³⁶ The Commission adopted and defined these categories and subcategories based on the input of the NANC.³⁷

Carriers’ number provisioning and assignment obligations, along with their associated systems architecture and IT operations, typically track the Commission’s classification system. In particular, carriers must provide extensive reporting of assigned, intermediate, reserved, aging, and administrative numbers to the NANPA for the purposes of Numbering Resource Utilization and Forecast (NRUF) data collection.³⁸

The Commission’s classification system, however, does not state how to categorize “reassigned numbers” within the existing numbering framework. Nor did the *2015 TCPA Order* comprehensively enumerate and address the different scenarios that could lead to a reassignment. Solving for these ambiguities could have a significant impact on the carriers’ existing numbering

³⁵ 47 C.F.R. § 52.15.

³⁶ *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking 15 FCC Rcd. 7574, 7592 ¶¶ 36 (2000).

³⁷ *Id.* ¶¶ 14, 36.

³⁸ 47 C.F.R. § 52.15(3).

operations and systems. While the *Second NOI* seeks comment on some of these numbering issues,³⁹ the NANC is well-suited to provide further guidance on harmonizing the identification of reassigned numbers within the existing numbering classification framework without causing disruption to the numbering system or carriers' existing numbering practices. The Commission should not proceed with any new reassigned numbers database solution until the NANC provides guidance on these critical issues.

C. The Commission Should Also Conduct a Comprehensive Cost-Benefit Analysis to Evaluate the Complex Financial, Operational, and Technical Issues With Establishing a New Reassigned Telephone Numbers Database.

As noted above, a new database of reassigned telephone numbers will create a host of complex, unique operational, technical, and financial challenges. The Commission should conduct a cost-benefit analysis and evaluate, as a threshold issue, the effectiveness of a reassigned numbers database to address the problem of unwanted calls to reassigned telephone numbers. For example, if many unwanted calls originate from bad actors, such as spoofers and scammers, other reforms (*e.g.*, implementing technical measures to stop fraudulent calls) may be more cost-effective measures to mitigate unwanted calls to reassigned telephone numbers than the database-centric solutions described in the *Second NOI*. Below is a non-exhaustive list of other potential issues the Commission should assess comprehensively as part of a cost-benefit analysis before moving forward with any database proposal.

Financial Issues. Developing a new database solution would likely require significant investment and a steady source of operating funds, and the Commission should consider whether

³⁹ *Second NOI* ¶ 11 (seeking comment on, *inter alia*, whether it would “be more effective for voice service providers to report when numbers become classified as available or when the classification of a number changes from available to assigned” and whether “reporting temporary disconnections inaccurately indicate reassignments”).

there will be sufficient funding to develop, maintain, and operate a reassigned number database, and which source(s) should be looked to for funding. For comparison, the previous Local Number Portability Administrator (LNPA) contract cost \$466.4 million per year, and the new LNPA contract will cost \$142.9 million a year.⁴⁰ The current costs of the LNPA are funded by carriers that recover the expense from consumers. Given that the benefits of a reassigned number database would accrue to good faith callers attempting to use autodialer or prerecorded voice technology in compliance with the TCPA, the Commission should evaluate whether such good faith callers will be a sufficient, consistent source of funding to support a new database.

In addition, carriers currently maintain a variety of systems for billing, call detail, law enforcement, customer service, device security, and other purposes. Developing and integrating one or more new database solution(s) and operational process(es) could require carriers to revamp many of these existing systems. The Commission should consider how carriers would be reimbursed for these and other expenses of supporting a new database to benefit good-faith callers and consumers.

Operational Issues. As the *Second NOI* recognizes, carriers may not have knowledge of certain reassignments, such as where a third party has control over the provision of the number.⁴¹ Any obligation to systematically capture this information could require extensive, costly new reporting mechanisms with many third parties. The Commission should explore this issue.

⁴⁰ See, e.g., *Telcordia Technologies, Inc. Petition to Reform Amendment 57 and to Order a Competitive Bidding Process for Number Portability Administration*, Order, 31 FCC Rcd 8406 (July 25, 2016); *id.* at Statement of then-Commissioner Pai.

⁴¹ *Second NOI* ¶ 13 (noting that “[s]ome service providers, including many interconnected VoIP providers, do not obtain numbers directly from the numbering administrators, but rather obtain numbers for their residential or business customers from carrier partners” and seeking comment on whether “voice service providers that offer NANP numbers to downstream entities [should] obligate these entities to report reassignments, either contractually or otherwise”).

In addition, the Commission should evaluate the costs and benefits of keeping a new database updated in real time. While a continuously updated database would result in greater costs by requiring carriers to establish new IT infrastructure and data feeds, it may not measurably reduce unwanted calls compared to a less frequently updated database (and, as noted above, it would not reduce unwanted calls from bad actors).

Technical Issues. Today, each carrier has its own data maintenance practices and system architectures, which would need to be harmonized to accommodate reassigned numbers database proposals. Ensuring that these systems are interoperable is costly and involves significant internal and external labor and infrastructure resources. The Commission should assess, for example, whether any standards or protocols would successfully allow carriers to provide reassigned number information without major modifications to their IT infrastructure. The Commission should also assess how a reassigned numbers database would be harmonized with information in the national and company-specific do-not-call registries. Inconsistencies among the databases could create significant confusion to callers and consumers.

Database privacy and security will also be important. A new database solution must, for example, ensure that carriers do not have visibility into their competitors' reassigned numbers or disconnections, as that data is competitively sensitive. Moreover, a new database should take steps to balance the need for information to enable a caller to determine reassigned telephone numbers against the FCC's rules and other applicable privacy or data security requirements. Contingency measures may also need to be developed in the event that the database goes offline for any reason or an unforeseeable IT issue prevents a carrier from providing reassignment data on a sufficiently timely basis.

Given these issues, the Commission should carefully conduct a cost-benefit analysis and evaluate, as a threshold issue, the effectiveness of a new reassigned numbers database to address the problem of unwanted calls to reassigned telephone numbers.

V. CONCLUSION.

CTIA appreciates the Commission's efforts to help good-faith callers mitigate TCPA liability when they unwittingly call reassigned wireless telephone numbers. Revisiting the interpretation of "called party" in the *2015 TCPA Order* and establishing safe harbors, such as a safe harbor for callers that reasonably rely on market-based TCPA compliance solutions, would provide greater certainty to callers who act in good faith than would a mandate for one or more new databases. In addition, the proposals in the *Second NOI* warrant additional study from the Commission and the NANC: the NANC will need to evaluate the impact of a reassigned numbers database on the numbering system and carriers' numbering operations, and the Commission should conduct a thorough cost-benefit analysis that considers comprehensively the potential financial, operational, and technical challenges of a new database—and recognizes that bad actors will not use the database. Of course, the Commission should recognize that none of the efforts or solutions discussed in the *Second NOI* or these comments will reduce unwanted robocalls from bad actors. For this reason, CTIA has expressed support for the Commission's additional efforts to combat unwanted calls in other proceedings.

CTIA and its members look forward to continuing to work with the Commission and other stakeholders to help abate unwanted calls to reassigned numbers.

Respectfully submitted,

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