

**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 COMCAST CORPORATION**

Comcast Corporation (“Comcast”) submits these reply comments in connection with the Second Notice of Inquiry (“NOI” or “Notice”) adopted on July 13, 2017 in the above-captioned proceeding.<sup>1</sup> The opening round of comments confirm that reforms to the Commission’s rules and orders implementing the Telephone Consumer Protection Act (“TCPA”) are urgently needed to avoid further chilling beneficial, pro-consumer communications, and the Commission also should consider granting interim relief from certain rulings in the *2015 TCPA Order* while judicial challenges to that *Order* are underway. In conjunction with these initiatives, the Commission should move forward with establishing a comprehensive reassigned number database and an associated TCPA safe harbor as contemplated in the NOI. Those proposals enjoy widespread support in the record as well; the few commenters expressing skepticism about the database proposal do so based on erroneous claims, which these reply comments address.

**INTRODUCTION AND SUMMARY**

The record in this proceeding reflects broad support for prompt Commission action to tackle the problems that reassigned telephone numbers pose under the TCPA for businesses and consumers seeking to communicate with one another. Several commenters echo Comcast’s call

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<sup>1</sup> See *Advanced Methods To Target and Eliminate Unlawful Robocalls*, Second Notice of Inquiry, 32 FCC Rcd 6007 (2017) (“NOI” or “Notice”).

for the Commission to undertake a broad reexamination of its rulings under the TCPA<sup>2</sup>— including in particular the *2015 TCPA Order*, which charges callers with “constructive knowledge” of number reassignments, even when the one call permitted under the “safe harbor” does not yield actual knowledge of any reassignment.<sup>3</sup> That ruling, along with the *Order*’s overbroad construction of the term “automatic telephone dialing system” (sweeping in any device that could *potentially* be modified to perform the functions enumerated in the statute),<sup>4</sup> and its discussion of consent revocation (frustrating efforts to establish reliable channels for processing such revocations),<sup>5</sup> expose legitimate businesses to a significant risk of unwarranted liability under the TCPA and accordingly chills beneficial communications that consumers desire.<sup>6</sup> These pro-consumer communications “include calls or messages to confirm service installation or repair, to alert customers to planned outages required to maintain or update the network, to inform home security customers that a security or fire alarm was triggered, to alert customers that the provider has detected a virus or bot through online Internet security software,

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<sup>2</sup> See, e.g., Comments of ACA International, CG Docket No. 17-59, at 5-6 (filed Aug. 28, 2017) (“ACA Comments”); Comments of Professional Association for Customer Engagement, CG Docket No. 17-59, at 1 (filed Aug. 28, 2017) (“PACE Comments”); Comments of CTIA, CG Docket No. 17-59, at 6-9 (filed Aug. 28, 2017) (“CTIA Comments”).

<sup>3</sup> See *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Declaratory Ruling and Order, 30 FCC Rcd 7961 ¶ 72 (2015) (“*2015 TCPA Order*”).

<sup>4</sup> See *id.* ¶ 19.

<sup>5</sup> See *id.* ¶ 47.

<sup>6</sup> See Comments of Comcast Corp., CG Docket No. 17-59, at 5, 8-9 (filed Aug. 28, 2017) (“Comcast Comments”) (detailing the various types of communications from businesses that consumers desire and expect); see also, e.g., Comments of National Rural Electric Cooperative Association, CG Docket No. 17-59, at 2-3 (filed Aug. 28, 2017). Along these lines, here and in other TCPA reform proceedings, the Commission should make clear that the term “robocall” includes a wide variety of communications from legitimate businesses that consumers specifically request and expect.

and to notify customers when a bill is ready or when payment is due or past due.”<sup>7</sup> The current regulatory regime stifles these and similar efforts to provide consumers with “easy access to critical information about the services they receive.”<sup>8</sup>

Indeed, as Comcast noted in its opening comments, the Commission should strongly consider taking immediate steps to address these fundamental problems with the current regulatory regime.<sup>9</sup> For instance, the Commission should consider suspension of the *2015 TCPA Order*’s ruling on reassigned numbers to provide interim relief while the D.C. Circuit continues to consider the pending judicial challenge to the *Order*.<sup>10</sup> The Commission also should consider moving forward with an order affirmatively reversing the *2015 TCPA Order*’s erroneous and harmful interpretations of the statute (as set forth above), particularly in light of past statements from Chairman Pai and Commissioner O’Rielly acknowledging the urgent need for substantial reforms to the TCPA regime more broadly.<sup>11</sup>

A wide array of parties also support the proposal to establish a centralized database that enables callers to track number reassignments in a complete and comprehensive manner, coupled with a safe harbor from TCPA liability for callers that rely on and make use of the database.<sup>12</sup>

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<sup>7</sup> Comcast Comments at 8-9 (internal quotations and citations omitted).

<sup>8</sup> *Id.* at 9.

<sup>9</sup> *See id.* at 10.

<sup>10</sup> *See id.*

<sup>11</sup> *See, e.g., 2015 TCPA Order*, Statement of Commissioner Pai, at 2 (noting that the *2015 TCPA Order* “stray[s] far from [the TCPA’s] original purpose” and that “the FCC has the power to fix that”); NOI, Statement of Commissioner O’Rielly, at 1 (suggesting that the Commission “initiate a new proceeding” to undo aspects of the *2015 TCPA Order*).

<sup>12</sup> *See, e.g.,* Comments of the National Consumer Law Center *et al.*, CG Docket No. 17-59, at 1 (filed Aug. 28, 2017); Comments of District of Columbia Public Schools, CG Docket No. 17-59, at 1 (filed Aug. 28, 2017); Comments of American Financial Services Association, CG Docket No. 17-59, at 1 (filed Aug. 28, 2017); Comments of the National

Indeed, even if the legal issues noted above are resolved, establishing such a database will help ensure that the communications consumers desire and request actually reach their intended recipients (and not individuals with reassigned numbers who may not want the messages). To be sure, some commenters express concern that the establishment of such a database could distract from broader TCPA reform efforts,<sup>13</sup> and Comcast agrees that the Commission should not view this database as sufficient *on its own* to fully address the harms posed by the current TCPA regulatory regime. But creating such a database and adopting the proposed safe harbor undoubtedly would represent a significant step in the right direction, and Comcast is encouraged by the statements cited above from Commission leadership supporting broader reform.<sup>14</sup> Ultimately, the NOI represents one very constructive initiative among multiple needed reform efforts to help ensure that legitimate businesses and consumers can engage in desired communications without the looming threat of abusive litigation.

Comcast submits these reply comments to respond to two erroneous claims made in the opening round. First, Neustar's suggestion that a sufficiently comprehensive database of reassigned numbers already exists—namely, its own—is directly contradicted by its own marketing materials and by the experiences of Comcast and several other commenters filing in the opening round. Second, claims that establishing a database would be too burdensome because voice providers do not track disconnections and reassignments are simply incorrect. Comcast routinely tracks such information in providing voice services—and, indeed, it is difficult to imagine how a provider could offer a viable voice service *without* tracking such information. Additionally, voice providers generally maintain such information in connection

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Retail Federation, CG Docket No. 17-59, at 1-3 (filed Aug. 28, 2017); Comments of the Internet Association, CG Docket No. 17-59, at 3 (filed Aug. 28, 2017).

<sup>13</sup> See, e.g., ACA Comments at 1; PACE Comments at 1.

<sup>14</sup> See *supra* note 11.

with regulatory obligations to prepare semiannual number utilization reports. Feeding such readily available information into a centralized database should not be unduly burdensome for voice providers.

**I. THE RECORD CONFIRMS THAT A COMPREHENSIVE DATABASE FOR REASSIGNED NUMBERS DOES NOT EXIST TODAY**

Numerous parties reflecting a variety of viewpoints and interests agree with Comcast that a comprehensive centralized reassigned number database would bring significant benefits to businesses and consumers alike, particularly given the absence of such a compliance tool in the marketplace today.<sup>15</sup> As noted above, even if the Commission resolves the fundamental legal and policy problems with its current TCPA regulatory regime, the establishment of such a database will help ensure that the various beneficial communications at issue—including outage notifications, security alerts, installation and repair confirmations, and billing reminders—reach their intended recipients. Neustar, on the other hand, asserts that it “does not believe that the creation of a new database of reassigned phone numbers” is necessary, and that the issues described in the NOI “are best addressed by robust, technologically sophisticated, and competitive commercial offerings” such as the service that “Neustar currently makes . . . available to many of the largest brands in the United States.”<sup>16</sup>

Neustar neglects to mention, however, that its offering is nowhere near comprehensive enough to eliminate the risk of potentially significant liability from inadvertent calls to reassigned numbers. Neustar’s own marketing materials state that its tool provides access to

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<sup>15</sup> See *supra* note 12.

<sup>16</sup> Comments of Neustar, Inc., CG Docket No. 17-59, at 1-2 (filed Aug. 28, 2017).

information for about “70 percent of all wireless and hard-to-find phone numbers”<sup>17</sup>—which, as the U.S. Chamber of Commerce points out, indicates that the Neustar database “does not have any information on as many as 30% of wireless numbers.”<sup>18</sup> And Neustar itself has told the Commission in the past that it is “not aware of *any* authoritative telecommunications industry database” that “track[s] all disconnected or reassigned telephone numbers” or that “links all consumer names with their telephone numbers.”<sup>19</sup>

Moreover, Comcast has pointed out that, in its experience as a customer of commercial TCPA compliance offerings, “no vendor has a complete solution”—including Neustar and others providing similar tools (*e.g.*, Experian)—and “it is generally understood that none of the currently available tools provides a comprehensive accounting of all wireless number reassignments.”<sup>20</sup> Neustar and other vendors generally must resort to cobbling together available voice provider data and publicly available information on the Internet from social media sites, search engines, and data mining resources—resulting in an uneven and incomplete dataset.<sup>21</sup> Multiple other commenters have confirmed that the compliance tools made available by Neustar

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<sup>17</sup> Neustar, Inc., White Paper, “Understanding TCPA: Maximizing Consumer Outreach & Mitigating Risk,” at 5 (2013), *available at* [https://ns-cdn.neustar.biz/creative\\_services/biz/neustar/www/resources/whitepapers/marketing/understanding-tcpa-law.pdf](https://ns-cdn.neustar.biz/creative_services/biz/neustar/www/resources/whitepapers/marketing/understanding-tcpa-law.pdf).

<sup>18</sup> Letter of William Kovacs, U.S. Chamber of Commerce, to Marlene Dortch, Secretary, FCC, CG Docket No. 02-278, at 2 (filed Mar. 24, 2014).

<sup>19</sup> Letter of Richard L. Fruchterman, III, Neustar, Inc., to Marlene Dortch, Secretary, FCC, CG Docket Nos. 02-278 & 05-338, at 1 (filed Feb. 5, 2015) (*emphasis added*).

<sup>20</sup> Comcast Comments at 6.

<sup>21</sup> Other alternatives, such as reliance on the Calling Name (“CNAM”) database, likewise do not hold much promise for addressing these issues. Voice provider participation in the CNAM database is voluntary, and subscribers must pay additional fees for calling name features (usually bundled with other premium features). Therefore, that database is incomplete and not universally available even among voice providers—let alone all entities that engage in communications potentially subject to the TCPA.

and other commercial providers are incomplete and are also “far too expensive for most callers.”<sup>22</sup> In a world where roughly “100,000 numbers are reassigned by wireless carriers *each day*,”<sup>23</sup> and callers are charged with constructive knowledge of *all* of those reassignments (after making a single “safe harbor” call),<sup>24</sup> businesses should not be forced to depend solely on a high-priced commercial compliance tool with a 30% gap in its dataset, particularly when a more comprehensive and centralized database solution is possible.<sup>25</sup>

## **II. THE COMMISSION CAN ESTABLISH THE DATABASE IN A MANNER THAT AVOIDS SUBJECTING VOICE PROVIDERS TO UNDUE BURDENS**

A few commenters appear to suggest that establishing a centralized reassigned number database would impose undue burdens on the voice providers feeding information into that database—based on the notion that voice providers today do not “track disconnected and reassigned number information” and would be required to develop new “systems and structures” to collect and produce the sort of information contemplated in the NOI.<sup>26</sup> However, the record in this proceeding directly refutes those contentions.

As Comcast explained in its opening comments, the NOI is correct to observe that voice providers “‘already track disconnected and reassigned number information for multiple reasons’”

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<sup>22</sup> Comments of Blackboard, Inc., CG Docket No. 17-59, at 9 (filed Aug. 28, 2017); *see also, e.g.*, Comments of Student Loan Servicing Alliance, CG Docket No. 17-59, at 5 (filed Aug. 28, 2017).

<sup>23</sup> NOI ¶ 5 (emphasis added).

<sup>24</sup> 2015 TCPA Order ¶ 72.

<sup>25</sup> *See also* Comments of the Computer & Communications Industry Association, CG Docket No. 02-278, at 4 n.12 (filed Nov. 17, 2014) (“CCIA member companies cannot be expected to subscribe to a commercially driven private company’s service in order to comply with the TCPA, especially when their service imposes a 30 percent chance of facing liability in spite of the precaution.”).

<sup>26</sup> *See, e.g.*, Comments of Telcordia Technologies, Inc. d/b/a iconectiv, CG Docket No. 17-59, at 3-5 (filed Aug. 28, 2017).

and “‘would [not] be greatly burdened’ if the Commission were to impose reporting requirements” in connection with a reassigned number database.<sup>27</sup> Indeed, in Comcast’s experience, tracking such information on a number-by-number basis is essential for providing viable voice services to consumers. Without robust data on which of its allocated numbers are assigned and when assignments and disconnections occur, a provider would run the risk of assigning a particular number to multiple different customers at the same time. Thus, voice providers plainly have strong business reasons to keep track of number disconnection and reassignment information at a granular level.

Moreover, several commenters correctly note that voice providers have regulatory reasons to track such information as well—as providers are required to collect and maintain voluminous information about their utilization of numbering resources, and to prepare reports based on that information twice a year as part of the Numbering Resource Utilization Forecast (“NRUF”) data collection.<sup>28</sup> As CTIA points out, the relevant Commission rules and orders require voice providers to “classify their numbering resources into the following mutually

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<sup>27</sup> Comcast Comments at 16 (citing NOI ¶ 14).

<sup>28</sup> *See, e.g.*, CTIA Comments at 12 (“[C]arriers must provide extensive reporting of assigned, intermediate, reserved, aging, and administrative numbers to the NANPA for the purposes of Numbering Resource Utilization Forecast (NRUF) data collection.”); Comments of the Credit Union National Association, CG Docket No. 17-59, at 6 (filed Aug. 28, 2017) (explaining that “[v]oice providers are already required to report on number utilization, including placing numbers into defined categories that reflect their status,” and thus “already track when numbers are disconnected and designated as ‘aging’ or ‘assigned’ or ‘available’”); Comments of the Retail Industry Leaders Association, CG Docket No. 17-59, at 11-13 (filed Aug. 28, 2017) (noting that voice providers “already do report numbering utilization and other information that supports U.S. national numbering administration and number portability”).



exclusive categories: administrative, aging, assigned, available, intermediate, and reserved.”<sup>29</sup>

That is precisely the sort of information that the NOI contemplates including in the database.

CTIA suggests involving the North American Numbering Council (“NANC”) in the Commission’s deliberations on how best to establish such a database in a manner that minimizes any burdens.<sup>30</sup> While Comcast does not oppose this suggestion, any referral of issues to the NANC should not be open-ended. Rather, the Commission should decide as an initial matter to move forward with the creation of the database based on the well-developed record in this proceeding—and only then should it refer particular operational issues to the NANC for guidance, and impose a strict timeline for the NANC to provide feedback, in order to avoid unnecessary delays in the establishment of this critical compliance tool.<sup>31</sup>

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<sup>29</sup> CTIA Comments at 12 (citing 47 C.F.R. § 52.15 and *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7592 ¶ 36 (2000)).

<sup>30</sup> See CTIA Comments at 9-13.

<sup>31</sup> Additionally, Comcast would not necessarily oppose targeted efforts by the Commission to reduce any burdens on small voice providers without materially undercutting the usefulness of the database. See Comments of NTCA – The Rural Broadband Association, CG Docket No. 17-59, at 1 (filed Aug. 28, 2017). Such measures could include less frequent reporting requirements for small voice providers. See *id.* at 4.

## CONCLUSION

Comcast strongly supports the Commission's efforts to advance the creation of a comprehensive resource for tracking telephone number reassignments—in conjunction with efforts to explore appropriate interim relief and broader reforms to the TCPA regulatory regime, both of which are urgently needed. An authoritative compliance tool does not exist in today's marketplace, contrary to Neustar's suggestion, and because voice providers already track disconnection and reassignments, establishing such a database would not be unduly burdensome for providers. If properly established, the database would bring significant benefits to consumers and businesses alike, particularly in light of the restrictive measures adopted in the *2015 TCPA Order*.

Respectfully submitted,

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