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December 6, 2018

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Communication of the American Cable Association and NTCA–The Rural Broadband Association; CG Docket No. 17-59, Advanced Methods to Target and Eliminate Unlawful Robocalls

Dear Ms. Dortch:

On December 3, 2018, Ross Lieberman, Sr. Vice President of Government Affairs, American Cable Association (“ACA”), Brian Ford, Senior Regulatory Counsel, NTCA–The Rural Broadband Association (“NTCA”), and the undersigned met separately with Arielle Roth, Legal Advisor to Commissioner O’Rielly, and with Zenji Nakazawa, Advisor to Chairman Pai, to discuss the draft Second Report and Order on Advanced Methods to Target and Eliminate Unlawful Robocalls¹ currently on circulation. On December 6, 2018, the undersigned met with Jamie Susskind, Chief of Staff to Commissioner Carr. Brian Ford joined by telephone.

During the meetings, the participants expressed support for the Commission’s goal of reducing the number of unwanted robocalls to reassigned numbers, but urged the Commission to make a number of minor changes to the draft Order that would help ensure that the final process by which service providers report information on discontinued telephone numbers is in fact as minimally burdensome as the Commission intends for it to be,² particularly for smaller providers.

The parties started off the discussion by urging the Commission to include in the final Order proposals that were discussed in the recent ex parte letter submitted jointly by ACA, CTIA, NTCA, and USTelecom (“Joint Associations Letter”).³

First, the final Order should make clear that the database must be designed to minimize service providers’ reporting costs to the greatest extent possible. Although the order directs the North American Numbering Council (“NANC”) to “consider the most cost-effective way of administering the database,” it

¹ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Circulation Draft Second Report and Order, FCC-CIRC1812-03 (rel. Nov. 21, 2018) (“Draft Second Report and Order”).

² *Id.*, ¶ 50.

³ Letter from Matthew A. Gerst, *et al.*, to Marlene Dortch, CG Docket No. 17-59 (filed Dec. 3, 2018).

does not specify that the reporting requirements should be cost-effective for service providers. The final Order should state expressly that one of NANC's primary goals in drafting the Technical Requirements Document is to minimize the costs of reporting for service providers (including by allowing service providers flexibility in the format in which they submit reports), and not just to database users.

Second, the final Order should include language to ensure that all service providers have the opportunity to weigh in on the technical and operational details during NANC's deliberation process. While several service providers and representative associations currently serve on the NANC, all providers who will be subject to the requirements should have the opportunity to participate (either directly or through their representative associations, such as ACA, which is not currently a member of NANC) in the development and approval process. The Order should direct NANC to seek input from carriers who are not NANC members as it works on the Technical Requirements Document.

Third, the Commission should wait to commence the Paperwork Reduction Act ("PRA") analysis process until after receiving the NANC recommendations. Neither the public nor the Office of Management and Budget, who must approve new reporting requirements before they go into effect, can accurately assess the extent of the recordkeeping burdens contained in the draft Order until the details regarding user interface and reporting format have been released by the NANC.

The parties then discussed two proposals unique to the interests of ACA and NTCA members, and not included in the Joint Associations Letter.

Rather than relying on payments from service providers to fund the creation of the reassigned numbers database, the final Order should state that the independent third-party Administrator selected to administer the database should cover the startup costs, then reimburse itself from the fees paid by database users. In the alternative, the final Order should state that carriers whose total upfront payment, based on reported revenues, would be less than a *de minimis* amount are exempt from paying any startup costs. As the Commission has found in other contexts, the costs to bill and collect payments from smaller carriers that owe amounts below a certain level outweigh their financial contribution.⁴

The final Order should also allow service providers to be compensated for ongoing reporting and recordkeeping costs. It would be inequitable to require providers and their subscribers to shoulder these costs while the corporations using the database reap all the benefits. The final Order should direct the NANC to consider the best mechanism for calculating and reimbursing expenses, which will then be reimbursed from fees paid by database users.

Lastly, the parties discussed two additional proposals contained in the Joint Associations Letter.

While the 45-day minimum aging period is unproblematic in most cases, there are some situations where a service provider may need to reassign number sooner. The Commission should therefore build in a measure of flexibility for voice providers to comply with the proposed 45-day minimum aging period by revising the proposed 47 C.F.R. § 52.15(f)(1)(ii) in the Draft Second Report & Order to clarify that a voice provider may reassign a number in fewer than 45 days if consistent with reasonable number management principles.

The final Order should also include language that gives the Commission flexibility to revisit the database rules in the event the cost-benefit analysis described in the draft Second Report & Order proves inconsistent with NANC's final technical and operational recommendations. The Commission should

⁴ See, e.g., *Assessment and Collection of Regulatory Fees For Fiscal Year 2017*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7057, ¶¶ 38-42 (2017) (adopting a *de minimis* exemption from the payment of regulatory fees for regulatees whose total payment for annual regulatory fees is \$1,000 or less).

similarly establish a process to evaluate the on-going utility of the database to callers and burdens on providers, including, for example, evaluating after two years whether the database has helped to reduce unwanted calls by calling parties to consumers.

This letter is being filed electronically pursuant to section 1.1206 of the Commission's rules.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary C. Lovejoy".

Mary C. Lovejoy

cc: Arielle Roth
Zenji Nakazawa
Jamie Susskind