

**Advanced Methods to Target and Eliminate Unlawful Robocalls,
CG Docket No. 17-59**

SUPPORTING STATEMENT

A. Justification

1. This information collection is necessary to facilitate the creation and use of a database to help address the problem of unwanted calls to reassigned numbers. The database will enable any caller to verify whether a number has been reassigned before calling that number, and it will help consumers avoid unwanted calls intended for others. Therefore, the Commission is seeking OMB approval for a new collection and requests a new OMB Control Number for the information burdens associated with the Reassigned Numbers Database.

In the *1992 TCPA Order*, the Federal Communications Commission (Commission) implemented final rules pursuant to the requirements of the Telephone Consumer Protection Act of 1991 (TCPA), Pub. L. No. 102-243, Dec. 20, 1991.¹ The TCPA added Section 227 to the Communications Act of 1934, as amended, to restrict the use of automatic telephone dialing systems (autodialers), artificial or prerecorded messages, facsimile machines, or other devices to send unsolicited transmissions.²

The Commission's TCPA rules prohibit prerecorded message calls to residential lines absent an emergency or the prior express consent of the called party. Exceptions to this prohibition originally applied if the call: (a) is not made for a commercial purpose; (b) does not transmit an unsolicited advertisement; (c) is made by a calling party with whom the called party has an established business relationship; or (d) is made by a tax-exempt nonprofit organization.³ In 2012, the Commission eliminated the established business relationship exemption for calls to a wireless telephone number or prerecorded telemarketing calls to a residential line, and the elimination of the exemption became effective at the end of 2013.⁴ However, the other exceptions remain in place. In addition to the remaining exceptions, the rules prohibit any call other than a call solely to collect a debt owed to or guaranteed by the United States, absent an emergency or the prior express consent of the called party, using an automatic telephone dialing system or a prerecorded voice when calling any emergency telephone line (including any "911" line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency), any telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment, or any telephone numbers assigned to a paging service, cellular telephone service, specialized mobile radio service, or other common carrier service or any service for which the called party is charged for the call.⁵

¹ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CC Docket No. 92-90, 7 FCC Rcd 8752 (1992).

² See 47 U.S.C. § 227.

³ 47 C.F.R. § 64.1200(a)(2), (c).

⁴ In the *Report and Order* adopted on February 15, 2012, the Commission eliminated the established business relationship exemption beginning twelve (12) months after the publication of the OMB approval of the prior-express-written-consent rule adopted in the same item. *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, 27 FCC Rcd 1830, 1845, para. 35 (2012).

⁵ 47 CFR § 64.1200(a)(1).

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The Commission's rules require providers to ensure the efficient use of telephone numbers by reassigning a telephone number to a new consumer after the previous consumer disconnects it.⁶ Once a consumer disconnects a number, he or she might not update all parties who have called in the past. When the old number is eventually reassigned, callers may inadvertently reach the new consumer who now has the reassigned number. As a result, the previous consumer is deprived of expected calls. In addition, unwanted calls reduce callers' operational efficiency and effectiveness, while subjecting them to potential liability for alleged violations of the TCPA.

Approximately 35 million numbers are disconnected and made available for reassignment to new consumers each year.⁷ Indeed, concern about calling reassigned numbers has caused some callers to stop making calls. The problem has become significant enough that commercial databases now exist to aid callers. However, these databases are not comprehensive, and thus callers and consumers alike continue to be frustrated by unwanted calls to reassigned numbers.

The Commission took the first step toward addressing the problem by launching a broad inquiry in July 2017.⁸ In March 2018, the Commission adopted a *Second Further Notice* proposing to establish a reassigned numbers database and seeking comment on the mechanics and policies associated with the database.⁹ A broad range of commenters, including callers and associated trade organizations, consumer groups, state government, and one cable and interconnected VoIP service provider, supported the creation of a comprehensive reassigned numbers database. Legislators also urged the Commission to establish a comprehensive reassigned numbers resource,¹⁰ and the U.S. Court of Appeals for the D.C. Circuit favorably noted the Commission's efforts toward creation of such a database.¹¹

On December 13, 2018, the Commission released a *Second Report and Order* authorizing the creation of a reassigned numbers database to enable callers to verify whether a telephone number has been permanently disconnected, and is therefore eligible for reassignment, before calling that number, thereby helping to protect consumers with reassigned numbers from receiving unwanted robocalls.¹² Specifically, the *Second Report and Order*:

⁶ See 47 CFR § 52.15.

⁷ See North American Numbering Plan Administrator Number Resource Utilization/Forecast Reports (average of aggregate numbers for the period January 1, 2013, through December 31, 2016).

⁸ See generally *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Second Notice of Inquiry, 32 FCC Rcd 6007 (2017).

⁹ See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Second Further Notice of Proposed Rulemaking, 33 FCC Rcd 3203 (2018).

¹⁰ See Letter from Sen. John Thune and Sen. Edward J. Markey, U.S. Senate, to FCC Chairman Ajit Pai (July 19, 2018); see also Letter from Sen. John Thune and Sen. Edward J. Markey, U.S. Senate, to FCC Chairman Ajit Pai (Oct. 3, 2017).

¹¹ See *ACA Int'l v. FCC*, 885 F.3d 687, 709 (D.C. Cir. 2018).

¹² *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Second Report and Order, 33 FCC Rcd 12024 (2018) (*Second Report and Order*).

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- a) Established a single, comprehensive reassigned numbers database that will enable callers to verify whether a telephone number has been permanently disconnected, and is therefore eligible for reassignment, before calling that number.
- b) Required a minimum aging period of 45 days before permanently disconnected telephone numbers can be reassigned.
- c) Required an independent third-party administrator, using a competitive bidding process, to manage the reassigned numbers database.
- d) Authorized the database administrator to establish the database by collecting start-up costs from providers using the same type of mechanism as other numbering administration costs.
- e) Authorized the database administrator to fund operating costs through database usage charges, and to recoup start-up costs and return them to providers through offsets to future number administration charges.
- f) Took steps to ensure that the data contained in the database are used appropriately and accessible to the widest possible array of users.
- g) Allowed small voice providers additional time to begin maintaining and reporting data to the database.
- h) Directed the North American Numbering Council to make recommendations on technical and operational issues affecting the database, including usage fees.
- i) Established a limited safe harbor from liability for any caller that relies upon inaccurate information provided by the database.

The Commission also adopted rules in the *Second Report and Order* which contain new information collection requirements. Specifically, the Commission concluded that the obligation to provide permanent disconnect information will apply to all reporting carriers as defined in the Commission's numbering rules,¹³ which include wireless, wireline, and interconnected VoIP providers that obtain numbers from the North American Numbering Plan Administrator (NANPA).¹⁴ As part of the Commission reporting requirements, reporting carriers must provide, among other things, the most recent date each North American Numbering Plan (NANP) telephone number allocated or ported to the reporting carrier was permanently disconnected.¹⁵ The telephone number and date of permanent disconnection will allow voluntary users of the database to determine whether a number has been permanently disconnected prior to calling that number, thereby protecting against unwanted calls to consumers and potential TCPA liability for callers. Reporting carriers and voluntary users of the reassigned numbers database may also need to provide contact information, including names, address, and telephone number, to enable the

¹³ For the purposes of this *Second Report and Order* "a 'reporting carrier' is 'a telecommunications carrier that receives numbering resources from the NANPA, a Pooling Administrator or another telecommunications carrier,'" which includes interconnected VoIP providers that directly obtain numbering resources pursuant to Commission authorization. 47 CFR § 52.15(f)(2).

¹⁴ The obligation to report the permanent disconnect status of toll free numbers is on the Toll Free Numbering Administrator.

¹⁵ This information will be due the 15th day of the month after the Consumer and Governmental Affairs Bureau announces that the Administrator is ready to begin accepting these reports and on the 15th day of each month thereafter. A NANP telephone number has been permanently disconnected when a subscriber permanently has relinquished the number, or the provider permanently has reversed its assignment of the number to the subscriber such that the number has been disassociated with the subscriber. A NANP telephone number that is ported to another provider is not permanently disconnected.

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database administrator to contact the reporting carrier in case there are any issues with their submission.

The Commission has referred to the North American Numbering Council (NANC) the development of a technical requirements document for the reassigned numbers database for review by the Commission. The technical requirements document will contain a single, unified set of functional and interface requirements for technical interoperability and operational standards; the user interface specifications and data format for service providers to report to the Administrator; the user interfaces and other means by which callers may submit queries, including providing callers the abilities for high-volume and batch processing or to submit individual queries; appropriate safeguards to protect the privacy and security of subscribers, protect the database from unauthorized access, and ensure the security and integrity of the data; and keeping records of service providers' reporting and accounting. The final technical requirements may impact minor aspects of the data collection and the supporting statement will be amended as necessary.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

The Commission's statutory authority for this information collection is contained in sections 227 and 251(e)(1) of the Telecommunications Act of 1996 (1996 Act).

2. The information collected will be used to establish a single database. The database will have two types of users: (1) reporting carriers, who will upload permanent disconnect information associated with each of its NANP U.S. geographic numbers and toll free numbers; and (2) callers, who will be able to voluntarily use the database to verify whether a telephone number has been permanently disconnected since the date the caller previously obtained prior express consent from the consumer associated with the telephone number.

3. The Commission expects that most reporting carriers will access and submit the date of permanent disconnect information electronically through a web interface, system-to-system interface, or similar. Electronic filing substantially reduces the cost of the data collection process and reduces filing efforts.

4. The current information collection requirements are not duplicative of any currently existing federal regulatory obligation.

5. The Commission has implemented a number of procedures to reduce the burden on small carriers. For example, the Commission will permit reporting any carrier with 100,000 or fewer subscriber lines as reported on its most recent Form 477, aggregated over all the providers' affiliates, six additional months to begin maintaining and reporting data to the database administrator. In addition, the Commission limited reporting frequency to once a month to properly balance the burden placed on providers with the need for users of the database to obtain timely information. The Commission concluded that alternatives, such as requiring real-time reporting, could impose disproportionate costs on small businesses and could be technically difficult to accomplish. Moreover, the burden of compiling and reporting the date of permanent disconnection for NANP numbers each month is incremental and small compared to the overall reporting requirements. We do not believe that this incremental burden is so significant as to

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outweigh the need for accurate and comprehensive data, nor do we believe that the monthly reporting is overly onerous, as it is not likely to affect small providers.

6. The reassigned numbers database is necessary to provide callers with a way to verify whether a number has been reassigned before calling that number. Without this information collection, there would not be sufficient information available to make the database viable and consumers would likely continue to receive unwanted calls. This information collection also benefits callers by increasing their operational efficiency and effectiveness, while helping them avoid potential liability for alleged violations of the TCPA.

7. The collection requires reporting carriers to report on a monthly basis the most recent date each NANP telephone number allocated or ported to the reporting carriers was permanently disconnected. The Commission looked into less-frequent reporting but determined that monthly reporting is necessary in order for the database to be effective. Moreover, monthly reporting properly balances the burden placed on providers with the need for callers to obtain timely information.

8. Pursuant to 5 CFR 1320.8(d), the Commission published a notice in the *Federal Register* on February 20, 2020 (*see* 85 FR 9769), seeking comments from the public on the information collection requirements contained in this supporting statement. The Commission did not receive any comments in response to the notice.

9. The Commission does not anticipate providing any payment or gift to respondents.

10. If respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR § 0.459.

11. The information collection requirements do not raise any questions or issues of a sensitive nature.

12. Estimates of the burden hours for the collection of information are as follows:

Information Collection Requirements:**Reporting Carriers – Permanent Disconnect Information****Annual Number of Respondents: 2,800**

Estimates the hour burden for collection of telephone number and date of permanent disconnect.

The Commission estimates that approximately 2,800 reporting carriers will maintain permanent disconnect records¹⁶ and report monthly.¹⁷ The Commission assumes that there are approximately

¹⁶ These permanent disconnect records will be reported in the reporting carriers monthly report. The responses are already encompassed in the "**Reporting Carriers – Monthly Filing**" burdens assessment noted below and therefore do not generate additional responses for this requirement.

¹⁷ The Commission's burden assessment for reporting carriers to prepare its monthly reports can be found below in the "**Reporting Carriers – Monthly Filing**" section.

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35 million permanent disconnects per year requiring 15 seconds (.004 hours) per permanent disconnect to process. This process will be done “on-occasion”; thus, the Commission assumes that most recordkeeping will be kept in computer form.

Annual Burden Hours: 35,000,000 responses/year x .004 hours (15 seconds) = **140,000 hours**

Annual “In-House” Cost: The Commission assumes that respondents use “in-house” personnel whose pay is comparable to a federal employee average of a GS-5, step 5 to record the permanent disconnect information. Thus, the Commission estimates respondents’ cost to be about \$21.34 per hour to comply with the requirement:

140,000 hours x \$21.34 per hour = **\$2,987,600**

Annual Burden Hours: 22,400 hours

In addition, the Commission assumes it will take 8 hours per reporting carrier to make the necessary changes to their internal database system to enable the reporting carrier’s system to have the functionality to record the permanent disconnect date associated with a phone number. This is a one-time requirement for respondents that will be met within the first year.

2,800 respondents x 8 hours/changes to internal database = **22,400 hours**

Annual “In-House” Cost: The Commission assumes that respondents use “in-house” personnel whose pay is comparable to a federal employee average of a GS-14, step 5. Thus, the Commission estimates respondents’ cost to be about \$65.88 per hour to comply with the requirement:

22,400 hours x \$65.88 = **\$1,475,712**

Reporting Carriers – Monthly Filing

Each reporting carrier will need to file electronically, on a monthly basis, the recorded permanent disconnect information associated with each phone number assigned to it. In its initial filing, the reporting carrier will need to provide its contact information. This information will then be saved to the reporting carrier’s account and will not need to be entered the next time it files its monthly report unless it needs to be updated. To meet this condition, several professionals at the carrier, including attorneys and a compliance officer, may participate in the production and/or review of the filing.

We estimate it will take no more than one hour per month to produce the filing per respondent.

Annual Number of Responses: 33,600

Annual Burden Hours: 2,800 respondents x 12 months x 1 hour = **33,600 hours**

Annual “In-House” Cost: The Commission estimates a weighted average for the compensation of these professionals will be at a level comparable in pay to a GS-14, step 5. Thus, the

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Commission estimates respondents' cost to be about \$65.88 per hour to comply with the requirement.

33,600 hours x \$65.88 per hour = **\$2,213,568**

Callers – Querying the Reassigned Numbers Database

Callers, which we anticipate will almost exclusively be business callers, that voluntarily choose to use the reassigned numbers database to verify whether a number has been reassigned before calling that number will need to provide two pieces of information: (1) the telephone number they intend to call; and (2) the date prior express consent to call the intended recipient was obtained. In addition, in its initial filing, the caller will need to provide its contact information to create an account. This information will then be saved to the account and will not need to be entered the next time the caller queries the database.

The Commission does not have any existing internal data on how many database queries callers will make per year. Based on publicly available call data, we estimate that there are approximately 30,662,668,400 lawful robocalls made per year.¹⁸ We further estimate that approximately 10% of these calls will be verified using the reassigned numbers database, equating to approximately 3,066,266,840 queries per year.

The specific technical requirements for the database have not been finalized, but we anticipate 99.5% of queries will be batch processed and will not require manual entry through the web interface. As we indicated in the *Second Report and Order*,¹⁹ we estimate that companies larger than 100 employees will invest in the information technology resources to integrate with the reassigned numbers database. Presuming every telemarketing bureau (North American Industry Classification System (NAICS) Code 561422, 611 companies) and collection agency (NAICS Code 56144, 255 companies) implements these checks, we estimate 866 companies will conduct batch queries on a monthly basis. We further estimate that it will take each of these 866 companies, on average, 30 minutes per monthly query to facilitate the batch query process.

Annual Number of Responses: 866 companies x 1 batch query x 12 months = **10,392 responses**

Annual Burden Hours for Callers Transacting Via System-to-System Interface: 866 companies x 12 months x .50 hours = **5,196 hours**

Annual “In-House” Cost: The Commission estimates the compensation of those querying the database will be at a level comparable in pay to a GS-5, step 5. Thus, the Commission estimates respondents' cost to be about \$21.34 per hour to comply with the requirements

System-to-System Interface: 5,196 hours x \$21.34 per hour = **\$110,882.64**

¹⁸ Based on a publicly available data quantifying the number of lawfully made (non-scam) robocalls for the time period from January 1, 2018 until December 31, 2018. YouMail, Inc., *Robocall Index*, <https://robocallindex.com/> (last visited August 28, 2019).

¹⁹ See *Second Report and Order* at 12048, para. 69.

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Annual Burden Hours: In addition, the Commission assumes that 866 companies will require 8 hours for one day of development and 24 hours for three days of testing (32 hours). This is a one-time requirement for respondents that will be met within the first year.

866 x 32 hours = **27,712 hours**

Annual “In-House” Cost: The Commission assumes that 866 companies will use “in-house” personnel whose pay is comparable to a federal employee average of a GS-14, step 5. Thus, the Commission estimates respondents’ cost to be about \$65.88 per hour to comply with the requirement:

27,712 hours x \$65.88 = **\$1,825,666.56**

For the remaining .5% of annual queries (15,331,334), we estimate it will take no more than 15 seconds per query for a caller to provide the telephone number and date that the calling party received consent from the intended recipient.

Annual Number of Responses: 15,331,334

Annual Burden Hours for Callers Transacting Via Web Interface: (3,066,266,840 x .5%) x .004 hours = **61,325 hours**

Annual “In-House” Cost for Callers: The Commission estimates the compensation of those querying the database will be at a level comparable in pay to a GS-5, step 5. Thus, the Commission estimates respondents’ cost to be about \$21.34 per hour to comply with the requirements.

Web Interface: 61,325 hours x \$21.34 per hour = **\$1,308,675.50** for callers transacting via the web interface

Cumulative Totals for Information Collection Requirements:

Total Annual Number of Respondents: 3,666²⁰

Total Annual Number of Responses: 15,375,326

Total Annual Burden Hours: 290,233

Total Annual “In-House” Costs: \$9,922,104.70

13. There are no outside costs associated with this information collection as all of the work can be done “in-house” and those costs are accounted for in question 12.

14. The cost to the Federal Government will be minimal because startup costs will initially be covered by reporting carriers, and continued funding for the administration of the database will come from fees paid by users of the database.

²⁰ The total number of respondents was calculated as follows: 2,800 reporting carriers + 866 companies = 3,666 respondents.

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15. This is a new information collection. The program changes/increases added to OMB's inventory as a result of the information collection requirements contained in the *Reassigned Numbers Database Order*, FCC 18-177, are as follows: **3,666** annual respondents; **15,375,326** annual responses; and **290,233** annual burden hours.

16. The NANC is in the process of compiling recommendations on technical and operational issues affecting the database, including usage fees. Once the Commission adopts technical requirements, it will select a database administrator through a procurement process. The Commission will announce when the database is operational.

The reported information will be collected and contained within a reassigned numbers database that is accessible through the Internet. The information can be accessed to identify whether a phone number has been permanently disconnected. Specifically, the Commission takes three steps to ensure that the data contained in the Reassigned Numbers Database is used appropriately and accessible to the widest array of users. First, the database will not contain information about telephone subscribers other than the most recent date of permanent disconnection. Second, the data available to any individual user of the database is limited to "yes," "no," or "no data" in response to a particular query. And third, callers must certify the purpose for which they are using the database.

17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of this information.

18. There are no other exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods.

The Commission does not anticipate that the collection of information will employ statistical methods.