

August 28, 2017

Commission's Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: *Advanced Methods to Target and Eliminate Unlawful Robocalls
Second Notice of Inquiry
CG Docket No. 17-59***

To Whom It May Concern:

The American Financial Services Association (“AFSA”)¹ appreciates the Federal Communications Commission’s (“FCC”) efforts to address the issues that arise when calls are made to phone numbers that have been reassigned from one consumer to another. Reassigned phone numbers create a minefield of problems for users of automatic telephone dialing systems (“callers”). We appreciate the FCC’s recognition of this difficult situation and proposal to address it through a database.

To mitigate the problem, the FCC has proposed the development of a database for callers to verify whether a number has been reassigned or disconnected prior to initiating a call. The FCC asks several questions about the best ways for service providers to report information about reassigned and disconnected numbers and how that information can be made available to callers. AFSA supports the development of a database. We ask that the FCC continue to work to ensure that access to the data by callers is easy and secure, and that the data is accurate, up-to-date, and useable. We also ask that the use of the database not be mandatory.

AFSA provides the comments below in response to the FCC’s Notice of Inquiry. In this letter, AFSA will (A) explain how AFSA members may use the database and provide guidance and considerations, (B) rank the preferred reporting alternatives, and (C) comment on additional matters for inquiry. AFSA encourages the FCC throughout its review and implementation process to maintain an open dialogue about the database development and viability.

A. How AFSA Members May Use the Database – Guidance and Considerations

AFSA agrees with the FCC that reporting reassigned and disconnected numbers for both landlines and cell phones could greatly benefit both consumers and callers.

AFSA emphasizes that the calls that its members make to their customers convey important, time-sensitive information. AFSA members are not making calls to randomly generated numbers – just the opposite. AFSA members obtain consent from their customers so they can call their customers for a variety of reasons, including

¹ Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

informing the customer that there is a fraud alert on an account, a payment is due, a work-out plan is available to help bring an account current, a lease is almost up, etc. AFSA members believe there would be a benefit in having access to information on whether their customers' numbers have been reassigned. However, information indicating only that a number had changed would not be sufficient information to analyze whether the customer's number had actually been reassigned.

To give an example – a customer gave consent to call a cell phone in January 2015 when the customer signed a five-year automobile retail installment contract. There may be no need to contact the customer until June of 2018, when the customer's automatic payments stop, and the customer's account becomes 20 days past due. During that time, the number may have been disconnected or reassigned. The caller will need sufficient information to determine whether the customer's number has been reassigned /disconnected or the number still belongs to the customer.

The database should provide the dates the number was disconnected and then reassigned. When the number was disconnected but assigned back to the owner from which the number was disconnected, the information should indicate the disconnected number was reinstated. The current owner of the number would also be helpful. Without more details from the FCC, AFSA can offer the below preliminary guidance and considerations on how to create a database that will allow its members to use the database to identify whether a service provider reassigned the number in the above example.

Daily data updates: The data should be updated daily because calls are made daily. The caller's call list could change on a daily basis – a customer on the list one day may be off of the list the next day. Even though we ask for a daily update, we note that a caller may not be able to apply the reassigned number report to its entire system every day. A caller may have three million numbers or more on its system. Therefore, the caller may only need to know whether a number has been reassigned when it needs to call the customer.

False Positives: A false positive may happen in two instances. A false positive may occur when a number is disconnected but then reinstated with the original owner. It also may happen when the caller already has consent to call the new owner of the reassigned number. Even though a number appears on a reassigned number list, it is possible that the new owner of the reassigned number provided it to the caller. (An example of this is where Customer A was assigned a number that used to be Consumer B's. Customer A provided that number to the caller. We are concerned that Customer A's number may show up on a reassigned numbers list because it was reassigned from Consumer B to Customer A, even though it was reassigned prior to Customer A forming establishing relationship with the caller.) The caller will need to be able to access information to determine when the number was disconnected and then reassigned. The caller will need to know whether the service provider disconnected a number and then reassigned the number to a new owner or whether the service provider reassigned the number back to the original owner.

Temporarily Disconnected Numbers: If disconnected numbers are going to be provided, callers should be advised if they are reinstated. A caller may stop calling its customer because it believes the number is no longer valid. However, the number may only be temporarily disconnected and later reinstated. If a caller removed this customer's number, the customer could be disadvantaged. For example, the customer may not be told the account will be reported as 30-days delinquent if the customer does not make a payment in three days. While the loss of one number may seem insignificant given the huge volume of numbers dialed every day, the loss of the information could negatively affect the consumers who missed the opportunity to receive the call.

Safe Harbor: We believe that the FCC should consider a safe harbor from TCPA violations for callers who use the comprehensive reassigned/disconnected number resource. If the data is retrievable and useable, a safe harbor will provide the incentive to go through the programming and time it takes to extract and apply data. Realistically, if the data is not reasonably accessible, reliable, and affordable a safe harbor will add little value. The FCC will need to do a lot of technical analysis to determine if this concept is feasible for all who may use it.

If a useable reassigned/disconnected number database can be created, safe harbor TCPA exemptions could cover calls made within 30 days of the date the number reassignment or disconnection was reported to the database or notification to the caller from the consumer who has the new number, whichever occurs first.

B. Preferred Reporting Alternatives

The FCC proposes four mechanisms for voice providers to report reassignments and for callers to access that information and asks for comment on what would be the most appropriate mechanism. AFSA believes that an FCC-established database would be the most appropriate mechanism for providers to report reassignments and for callers to access that information.

The FCC has the expertise to gather and extrapolate the data from each service provider and operate such a database. AFSA agrees with the FCC that this approach would allow the FCC to oversee the quality of the data and of the database operations and to ensure that the data continues to be available for as long as necessary. The database could be similar to the Do Not Call registry.

The data should be collected from all service providers, combined, and located in a single, no-cost accessible system. Data from each service provider should be combined to demonstrate a clear history of the number's ownership, as numbers may have disconnected from one service provider and then resumed with a new service provider while never switching owners.

If the FCC decides against establishing its own database, AFSA's next preference would be for voice service providers to report reassigned and disconnected numbers directly to data aggregators. If there are going to be different sources of the data, the data must be provided in a uniform format that allows easy integration into callers' systems. The cost for obtaining this data will have to be reasonable and will depend on whether the aggregator is simply providing the caller a huge report or is actually analyzing the caller's system to determine which numbers are disconnected or reassigned. This option included service providers reporting the data directly to the callers. AFSA would prefer receiving combined data.

The other two mechanisms the FCC explores are not feasible and pose some risk to consumers. One mechanism is that each voice service provider operates a database that can be queried. The data quality and format will likely be inconsistent given the number of small and large service providers. Each database will have separate login requirements. The data may even be formatted differently. Moreover, data may overlap if a consumer switched service providers. It would be near impossible to obtain data from every service provider in the country. The next mechanism is where each service provider makes reports available for public download. We have the same concerns with the public records download that we have with the separate service provider databases. In addition, both of these mechanisms pose risks to the consumers whose numbers are in the databases. With several providers of data, there will be risk that not all of the data is secure.

C. Additional Matters for Inquiry

The FCC seeks comment on several additional matters, which we respond to below.

- The reassigned numbers should appear in a CSV format.
- There will be a significant burden to adapt current system platforms to integrate the data and then review the data periodically.
- The timeline to make changes once a standard data format has been settled upon would be a minimum of eight months under ideal conditions. A more accurate timeline could be established once the final process is defined.
- It is challenging to determine what would be reasonable compensation for data aggregators providing the numbers. AFSA does not have the data to determine the volume and how the information would be integrated into a caller's system. However, we ask that compensation not be based on all of the numbers in a caller's system that have changed. Instead, pricing should be based on "hits" of reassigned number or on access to the system.
- The FCC asks how access to reassigned numbers will be tracked by callers. The access to data will be limited by job function or code once the process is fully defined.
- Data will be safeguarded through the use of SFTP sites.

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AFSA thanks the FCC for taking this important step in offering a solution to address the problem of calls made to phone numbers of consumers who had consented to receive calls but whose phone numbers have subsequently been reassigned to new consumers. Please contact me by phone, 202-466-8616, or email, bhimpler@afsamail.org, with any questions.

Sincerely,



Bill Himpler

Executive Vice President

American Financial Services Association