

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 64**

[CG Docket No. 17–59; FCC 18–31]

**Advanced Methods To Target and Eliminate Unlawful Robocalls****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission invites comment on proposed changes to its rules. The Commission proposes rules to ensure that one or more databases are available to provide callers with the comprehensive and timely information they need to discover potential number reassignments before making a call. It seeks comment on the specific information that callers need from a reassigned numbers database; and the best way to make that information available to callers that want it, as well as related issues.

**DATES:** Comments are due on June 7, 2018, and reply comments are due on July 9, 2018.

**ADDRESSES:** You may submit comments identified by CG Docket No. 17–59 and/or FCC Number 18–31, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's website: <http://apps.fcc.gov/ecfs/>. Filers should follow the instructions provided on the website for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket No. 17–59.

- *Mail:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Josh Zeldis, Consumer Policy Division, Consumer and Governmental Affairs

Bureau (CGB), at (202) 418-0715, email: [Josh.Zeldis@fcc.gov](mailto:Josh.Zeldis@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Second Further Notice of Proposed Rulemaking (*Second FNPRM*), document FCC 18–31, adopted on March 22, 2018, and released on March 23, 2018. The full text of document FCC 18–31 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. A copy of document FCC 18–31 and any subsequently filed documents in this matter may also be found by searching ECFS at: <http://apps.fcc.gov/ecfs/> (insert CG Docket No. 17–59 into the Proceeding block).

Pursuant to 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using ECFS. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW, Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW, Washington, DC 20554.

Pursuant to § 1.1200 of the Commission's rules, 47 CFR 1.1200, this matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to: [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call CGB at: (202) 418–0530 (voice), or (202) 418–0432 (TTY). The *Second FNPRM* can also be downloaded in Word or Portable Document Format (PDF) at: <https://www.fcc.gov/document/fcc-seeks-address-robocalls-reassigned-phone-numbers-0>.

**Initial Paperwork Reduction Act of 1995 Analysis**

The *Second FNPRM* seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish another notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Public Law 104–13; 44 U.S.C. 3501–3520. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Public Law 107–198, 116 Stat. 729; 44 U.S.C. 3506(c)(4).

**Synopsis**

1. The Commission, as part of its multiple-front battle against unwanted calls, proposes and seeks comment on ways to address the problem of unwanted calls to reassigned numbers. This problem subjects the recipient of the reassigned number to annoyance and wastes the time and effort of the caller while potentially subjecting the caller to liability.

2. Consumer groups and callers alike have asked for a solution to this problem. The Commission therefore proposes in document FCC 18–31 to ensure that one or more databases are available to provide callers with the comprehensive and timely information they need to discover potential number reassignments before making a call. To that end, the Commission seeks further comment on, among other issues: (1) The specific information that callers need from a reassigned numbers database; and (2) the best way to make that information available to callers that want it. Making a reassigned numbers database available to callers that want it will benefit consumers by reducing unwanted calls intended for another consumer while helping callers avoid the costs of calling the wrong consumer, including potential violations of the Telephone Consumer Protection Act (TCPA).

## Background

3. As required by the Commission's rules, voice service providers ensure the efficient use of telephone numbers by reassigning a telephone number to a new consumer after it is disconnected by the previous subscriber.

Approximately 35 million numbers are disconnected and made available for reassignment to new consumers each year. Consumers disconnect their old numbers and change to new telephone numbers for a variety of reasons, including switching wireless providers without porting numbers and getting new wireline telephone numbers when they move. Upon disconnecting his or her phone number, a consumer may not update all parties who have called him/her in the past, including businesses to which the consumer gave prior express consent to call and other callers from which the consumer expects to receive calls. When that number is reassigned, the new subscriber of that number may receive unwanted calls intended for the previous subscriber.

4. The problem of unwanted calls to reassigned numbers can have important consequences for both consumers and callers. Beyond annoying the new subscriber of the reassigned number, a misdirected call can deprive the previous subscriber of the number of a desired call from, for example, his/her school, health care provider, or financial institution. In the case of prerecorded or automated voice calls (robocalls) to reassigned numbers, a good-faith caller may be subject to liability for violations of the TCPA. That threat can have a chilling effect, causing some callers to be overly cautious and stop making wanted, lawful calls out of concern over potential liability for calling a reassigned number.

5. While existing tools can help callers identify number reassignments, "callers lack guaranteed methods to discover all reassignments" in a timely manner. Accordingly, in the July 2017 *Reassigned Numbers NOI (NOI)*, the Commission launched an inquiry to explore ways to reduce unwanted calls to reassigned numbers. The Commission sought comment on, among other issues, the best ways for service providers to report information about number reassignments and how that information can most effectively be made available to callers. Thirty-three parties filed comments and fourteen parties submitted reply comments.

6. The majority of commenters on the *NOI* support a comprehensive and timely database that allows callers to verify whether a number has been reassigned before making a call.

Specifically, a broad range of commenters, including callers and associated trade organizations, consumer groups, cable and VoIP service providers, and data aggregators, support establishing a database where service providers can report reassigned number data and callers can access that data. Legislators have also encouraged the Commission to proceed with a rulemaking to create a comprehensive reassigned numbers database.

7. Several commenters nonetheless raise concerns about this approach. For example, the United States Chamber of Commerce express concern about the costs associated with using a reassigned numbers database and note that the Commission cannot mandate that callers use a reassigned numbers database in order to comply with the TCPA. Several other commenters contend that establishing a reassigned numbers database is too costly as compared to the likely benefit. Alternatively, CTIA and others contend that if the Commission decides to address the reassigned numbers problem, it should adopt a safe harbor from TCPA violations for callers that use existing commercial solutions and thereby encourage broader adoption and improvement of those solutions.

## Discussion

8. The Commission proposes to ensure that one or more databases are available to provide callers with the comprehensive and timely information they need to avoid calling reassigned numbers. The Commission therefore seek comment below on, among other things: (1) The information that callers who choose to use a reassigned numbers database need from such a database; (2) how to ensure that the information is reported to a database; and (3) the best approach to making that information available to callers.

9. The Commission believes that its proposal will benefit legitimate callers and consumers alike. While some commenters argued that a reassigned numbers database would not reduce unwanted calls from bad actors, the Commission notes that a reassigned numbers database is only one important part of its broader policy and enforcement efforts to combat unwanted calls, including illegal robocalls. The Commission seeks comment on how its approach in the *Second FNPRM* fits within these broader efforts.

10. The Commission believes its legal authority for the potential requirements and alternatives stems directly from section 251(e) of the Act. More specifically, it believes that the Commission's exclusive jurisdiction over North American Numbering Plan

(NANP) numbering resources provides ample authority to adopt any requirements that recipients of NANP numbers report reassignment or other information about those numbers, including the mechanism through which such information must be reported. The Commission seeks comment on these views and on the nature and scope of its legal authority under section 251(e) of the Act to adopt the potential requirements and alternatives.

## Database Information, Access, and Use

11. Based on the *NOI* comments, an effective reassigned numbers database should contain both comprehensive and timely data for callers to discover potential reassignments before they occur. A reassigned numbers database should also be easy to use and cost-effective for callers while minimizing the burden on service providers supplying the data. With these goals in mind, the Commission seeks comment below on the operational aspects of a reassigned numbers database, namely the type and format of information that callers need from such a database, how comprehensive and timely the data needs to be in order for the database to be effective, any restrictions or limitations on callers' access to and usage of the database, and the best ways to ensure that callers' costs to use a reassigned numbers database are minimized. The Commission also emphasizes that usage of a reassigned numbers database would be wholly voluntary for callers.

12. *Type of Information Needed By Callers.* The Commission seeks comment on the information that a legitimate caller needs from a reassigned numbers database, and it seeks to understand how callers expect an efficient and effective database to work. To that end, the Commission seeks comment on the following issues. *First*, the Commission seeks comment on the information a legitimate caller would have on hand when seeking to search or query a reassigned numbers database. The Commission expects that such a caller would possess, at a minimum, the following information: (1) The name of the consumer the caller wants to reach; (2) a telephone number associated with that consumer; and (3) a date on which the caller could be confident that the consumer was still associated with that number (*e.g.*, the last date the caller made contact with the consumer at that number; the date the consumer last provided that number to the caller; or the date the caller obtained consent to call the consumer). The Commission seeks comment on this view. What other

information, if any, should the Commission expect a legitimate caller to already possess before making a call?

13. *Second*, the Commission seeks comment on the information a caller would need to submit to a reassigned numbers database and the information the caller seeks to generate from a search or query of the database. The Commission believes that, at a minimum, the database should be able to indicate (e.g., by providing a “yes” or “no” response) whether a number has been reassigned since a date entered by the caller. That information could then be used by a legitimate caller to determine whether a number has been reassigned since the caller last had a reasonable expectation that a particular person could be reached at the number. The Commission seeks comment on this view. Do callers need any additional information beyond an indication of whether a particular number has been reassigned since a particular date? For example, do callers need the actual date on which the number was reassigned? If so, why? Do callers need the name of the individual currently associated with the number? Why or why not? What are the privacy implications of allowing callers to obtain such information and how should they be addressed? Or to phrase the question differently, how can the Commission minimize the information provided by the database (to protect a consumer’s information from being unnecessarily disclosed) while it maximizes the effectiveness of the database (to protect a consumer from receiving unwanted calls)?

14. *Third*, if a reassigned numbers database should indicate whether a number has been reassigned, then how should the Commission define when a number is reassigned for this purpose? Typically, the reassignment process consists of four steps: A number currently in use is first disconnected, then aged, then made available for assignment, and finally assigned to a new subscriber. Determining the appropriate step in the reassignment process to cull information from service providers and pass it to callers requires considering the needs of callers as well as the administrative feasibility and cost of reporting to service providers.

15. The Commission proposes to provide callers with information about when NANP numbers are disconnected. Because disconnection is a first step in the reassignment process, the Commission believes that a database containing information on when a number has been disconnected will best allow callers to identify, at the earliest possible point, when a subscriber can no longer be reached at that number.

With timely access to such data, callers will be best positioned to rid their calling lists of reassigned numbers before calling them. Access to disconnection information would be preferable to new assignment information because, as one commenter notes, tracking new assignments “would provide little to no lead time for callers to update their dialing lists to avoid calling consumers with newly reassigned numbers.” Do commenters agree with these views? Why or why not? The Commission also understands that service providers routinely track disconnection information and it seeks comment on this view. Do service providers use consistent criteria to track and record disconnects or does each service provider set its own criteria?

16. Should an effective reassigned numbers database contain information in addition to or in lieu of disconnection information? Commenters should discuss the advantages and disadvantages of their preferred approach relative to other approaches.

17. The Commission also seeks comment on information that callers believe should be excluded from a reassigned numbers database in order to ensure accurate and reliable data and prevent false positives. For example, if the database includes information about disconnections, should the database exclude information on when a number has been temporarily disconnected, thus excluding, for example, when a number is in a temporary suspension status (e.g., for non-payment)? Is it feasible for service providers to exclude such information from their reporting? What are the costs of differentiating disconnections for service providers? How should the Commission weigh those costs against the risk that the reassigned numbers database might be overinclusive—stating that certain numbers have been reassigned more recently than they actually have been—and thus may unnecessarily discourage legitimate calls from being made.

18. *Comprehensiveness of Database Information*. The Commission seeks comment on how comprehensive a reassigned numbers database needs to be. It believes that when callers use such a database, they should reasonably expect that the database is sufficiently comprehensive such that they do not need to rely on any other databases. The Commission seeks comment on this view.

19. To ensure a comprehensive database, do callers need data from all types of voice service providers, including wireless, wireline, interconnected VoIP, and non-

interconnected VoIP providers? Or would data from only certain types of providers be sufficient? Nearly all *NOI* commenters on this issue argue that an effective reassigned numbers solution must contain data from all service providers. For example, one commenter contends that without data from all voice service providers, a reassigned numbers database “would contain insufficient . . . information about a potentially large set of numbers, and thus likely would not be any more ‘comprehensive’ than existing tools.” Do commenters agree? Why or why not? And do texters need reassignment information from text message providers to the extent that such providers do not also provide voice service? Are there significant occurrences of misdirected texts to reassigned numbers such that texters need this information?

20. The Commission also seeks comment on the universe of numbers that a reassigned numbers database should contain. For example, should such a database contain all numbers allocated by a numbering administrator to a service provider or only a subset of such numbers (e.g., only numbers that have been disconnected since the commencement of the database)? If a reassigned numbers database contains only a subset of allocated numbers, the Commission notes that a caller may be unable to determine the status of a given number. On the other hand, a database containing all allocated numbers may be unwieldy. The Commission seeks comment on these views and on the best approach for making comprehensive data available to callers while minimizing the burdens on those reporting and managing the data.

21. Finally, the Commission seeks comment on whether there is any reason to limit the reported reassignment information to a specific timeframe. For instance, if the most recent reassignment of a number occurred five or ten years ago, do callers need that information?

22. *Timeliness of Database Information*. The Commission seeks comment on how timely the information contained in a reassigned numbers database must be. How frequently should the data be reported to maximize callers’ ability to remove reassigned numbers from their calling lists before placing calls? Some *NOI* commenters argue that data should be reported on a daily basis while others contend that it should be updated in realtime or as close to realtime as practicable. CTIA cautions, however, that real-time updates would result in greater costs, while potentially not measurably reducing unwanted calls compared to

less frequent updates. Tatango argues that data should be reported based on how long a service provider ages its numbers, with those providers that age their numbers quickly (e.g., after two days) being required to report on a daily basis and those providers that age their numbers for at least 45 days being allowed to report on a monthly basis. The Commission seeks comment on these approaches, any alternatives, and their costs and benefits.

23. Additionally, the Commission seeks comment on how long service providers currently age numbers before making them available again for assignment. The Commission notes that the Commission's rules limit the aging period for disconnected residential numbers to a maximum of 90 days. Should the Commission adopt a minimum aging period for disconnected numbers so that service providers could report data to a reassigned numbers database less frequently? If so, would 30 days be a reasonable minimum aging period? Would 60 days? What are the costs and benefits to service providers of having to comply with a minimum aging requirement? Would the costs outweigh any benefit of being able to report data to a reassigned numbers database less frequently?

24. *Format of Database Information.* The Commission seeks comment on the format in which callers need the relevant data. For example, several *NOI* commenters argue that callers need this information in an easily accessible, usable, and consistent file format such as comma-separated values (CSV) or eXtensible Markup Language (XML) format. Do commenters agree or believe that alternative formats should be used, and if so, which formats? Does the Commission need to specify the format of such information by rule, or should the Commission allow the database administrator to determine it?

25. *User Access to Database Information.* The Commission anticipates that callers may use the database directly or may wish to have entities that are not callers (such as data aggregators or entities that manage callers' call lists) use the database. The Commission seeks comment on this view and any associated impacts on implementation.

26. Additionally, the Commission seeks comment on any specific criteria or requirements that an entity must satisfy to become an eligible user. Most commenters on the *NOI* argue that some restrictions are necessary to prevent misuse of data. The Commission is particularly mindful that the database information may be business- and market-sensitive, especially as it relates

to customer churn. The Commission also seeks to mitigate any risk that the data could be used by fraudulent robocallers or other bad actors for spoofing or other purposes. At the same time, the Commission seeks to minimize the administrative and cost burden on callers so as not to discourage their use of a reassigned numbers database. With these goals in mind, the Commission seeks comment on the potential requirements for eligible users discussed below and any other requirements that commenters believe are necessary. The Commission also seeks comment on how to enforce these requirements to ensure database security and integrity.

27. The Commission seeks comment on whether users should be required to certify the purpose for which they seek access to the information and, if so, how that purpose should be defined. In the *NOI*, the Commission asked whether entities seeking access should be required to certify that the information will be used only for purposes of TCPA compliance, and many commenters favor such a restriction. However, the Commission notes that all callers seeking to reduce unwanted calls to reassigned numbers—not merely callers seeking to ensure compliance with the TCPA—should be permitted to access a reassigned numbers database. The Commission seeks comment on this view. If commenters agree that user access should be permitted for this broader purpose (and not for any other purpose, such as marketing), what specific language should be used in any required certification?

28. The Commission also seeks comment on whether and how to track relevant information about those who access a reassigned numbers database. Several commenters on the *NOI* argue that database users should be subject to a registration requirement. Do commenters agree? If users are required to set up an account that identifies the party obtaining the data, what information should they be required to provide? The Commission also seeks comment on whether database users should be subject to audits or other reviews, and if so, the components and frequency of such audits. Additionally, the Commission seeks comment on what recourse, if any, an entity denied access should have.

29. *Cost to Use Database.* The Commission seeks comment on any ways it can minimize the cost of using a reassigned numbers database so as to encourage usage, including by small business callers. The Commission notes that commenters on the *NOI* largely agree that service providers should be

compensated for the costs of reporting data to a reassigned numbers database, but callers argue that any cost recovery mechanism should be reasonable so that access to the data will be affordable. How should the Commission balance these interests?

30. *Database Use and TCPA Compliance.* The Commission seeks comment on how use of a reassigned numbers database should intersect with TCPA compliance. In response to comments filed on the *NOI* by the U.S. Chamber of Commerce, the Commission makes clear that it is not proposing to mandate that callers use a reassigned numbers database in order to comply with the TCPA.

31. Rather, the Commission seeks comment on whether it should adopt a safe harbor from TCPA liability for those callers that choose to use a reassigned numbers database, including under any of the three approaches to database administration discussed below. Some commenters, for example, urge the Commission to adopt a safe harbor from TCPA violations for robocallers that inadvertently make calls to reassigned numbers after checking a comprehensive reassigned numbers database. Other commenters argue that the Commission should instead adopt a safe harbor for callers using existing commercial solutions. The Commission seeks comment on these views. If the Commission were to adopt a safe harbor from TCPA violations, under what circumstances should callers be permitted to avail themselves of the safe harbor? For example, how often would a caller need to check a reassigned numbers database under a safe harbor? The Commission also seeks detailed comment on whether section 227 of the Act or other sections of the Act provide it with authority to adopt such a safe harbor—what provisions, precisely, would allow the agency to create a safe harbor? If the Commission were to adopt a safe harbor under the TCPA, how does the D.C. Circuit's recent ruling in *ACA International v. FCC* impact its ability to adopt a safe harbor, if at all? Does the Commission have more authority to craft a safe harbor from its own enforcement authority than from the private right of action contained in the TCPA? Does section 251(e) of the Act provide independent or additional authority for such a safe harbor? If the Commission were to establish such a safe harbor, what precisely would it protect a caller from? Liability from all reassigned-number calls? Liability from good-faith reassigned-number calls? Liability from reassigned-number calls but only when the database's

information was either untimely or inaccurate?

### Approaches to Database Administration

32. In the *NOI*, the Commission suggested four potential mechanisms for service providers to report reassigned number information and for callers to access that information. Most commenters addressing this issue favored a single, FCC-designated database, while others favored making the data available through commercial data aggregators. The Commission seeks further comment on these options below. Specifically, the Commission seeks comment on whether it should: (1) Require service providers to report reassigned number information to a single, FCC-designated database; (2) require service providers to report such information to one or more commercial data aggregators; or (3) allow service providers to report such information to commercial data aggregators on a voluntary basis. The Commission also seeks comment on any alternative approaches that commenters believe it should consider. Regardless of the approach, the Commission seeks to balance callers' need for comprehensive and timely reassigned number information with the need to minimize the reporting burden placed on service providers.

33. Recently, the U.S. Court of Appeals for the D.C. Circuit recognized that the Commission has "consistently adopted a 'reasonable reliance' approach" to the TCPA, including in cases "when a consenting party's number is reassigned." The court highlighted that the Commission is "considering creating a comprehensive repository of information about reassigned wireless numbers" and "whether to provide a safe harbor for callers that inadvertently reach reassigned numbers after consulting the most recently updated information"—and the court noted a reassigned numbers database "would naturally bear on the reasonableness of calling numbers that have in fact been reassigned." The Commission seeks comment on the impact that decision and possible Commission action in response to that decision could have on the costs and benefits of the database options discussed herein. Does that decision strengthen the need for a timely and comprehensive reassigned numbers database? Or does it suggest that existing, commercially available databases provide callers with sufficient resources, diminishing the need for a new database or a mandatory reporting requirement?

### Mandatory Reporting to Single Database

34. The Commission seeks detailed comment on whether it should establish and select an administrator of a single reassigned numbers database. Under this approach, the Commission would mandate that service providers report reassigned number information to the database, and allow eligible users to query the database for such information. As discussed below, the Commission seeks comment on how the single database should be established, who should administer it, and how it should be funded. The Commission also seeks comment on which service providers should be required to report information, the requirements that should apply to such providers, and whether and how they should be able to recover their reporting costs. Finally, the Commission seeks comment on the effectiveness, costs, and benefits of the single database approach.

35. *Establishment and Administration of Single Database.* The Commission seeks comment on how complicated it would be to establish a single reassigned numbers database. Would it be necessary to develop a completely new database or would it be possible to expand or modify one of the existing numbering databases overseen by the Commission to accommodate the data that callers need? Are there any economies of scale or scope that could be achieved under the latter approach?

36. One possibility would be to modify the Number Portability Administration Center (NPAC), which is used to facilitate local number portability. In response to the *NOI*, however, iconectiv explains that the NPAC currently lacks information about all number reassignments and therefore cautions that the "suitability of extending the NPAC to serve as a reassigned number database warrants a great deal more consideration prior to making such a decision." What factors should the Commission consider in making such a decision and what processes should it follow in establishing a single database? For example, should the Commission consult with the North American Numbering Council (NANC), as some commenters suggest?

37. The Commission also seeks comment on which entities have the expertise to serve as the administrator of a central reassigned numbers database. Could the LNPA or a different numbering administrator (such as the NANPA or the Pooling Administrator) serve such a role? Or could an entirely different vendor serve this role? What

factors should the Commission take into account in selecting a reassigned numbers database administrator?

38. *Funding.* How should an FCC-designated reassigned numbers database be funded? For example, should the Commission establish a charge to database users to help cover the costs of establishing and maintaining the database? If so, how should the charge be set (*e.g.*, per query, a flat fee or some other basis) and how should the billing and collection process work? To the extent that such fees do not cover all of the costs of establishing and maintaining the database, should the Commission recover the remaining costs from reporting service providers? The Commission notes that section 251 of the Act provides that the "cost of establishing telecommunications numbering administration arrangements . . . shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." How would this statutory provision affect the Commission's approach? To the extent that fees collected from database users exceed the costs of establishing and maintaining the reassigned numbers database, the Commission seeks comment on whether such fees could be used to offset the costs of numbering administration more generally.

39. *Covered Service Providers.* The Commission seeks comment on which service providers should be required to report data to a single, FCC-designated reassigned numbers database. Should all service providers—including wireless, wireline, interconnected VoIP, and non-interconnected VoIP providers—be required to report data? Should the reporting requirements also apply to text messaging providers to the extent that they do not also provide voice service?

40. Alternatively, should the Commission require all service providers that receive numbers directly from the NANPA to report data on those numbers? In response to the *NOI*, several commenters note that some service providers, such as resellers and interconnected VoIP providers that do not obtain numbers directly from the NANPA, might not have knowledge of certain changes in the status of a number if they do not have control over the provision of the number. Tatango therefore argues that, consistent with the Commission's existing number utilization reporting requirements, the obligation to report data about a number to a reassigned numbers database should be imposed on the entity that obtained the number directly from the NANPA. The Commission seeks

comment on this view. The Commission also seeks comment on whether to afford covered service providers the flexibility to contractually delegate those requirements to the service provider that indirectly receives numbers.

41. Additionally, the Commission seeks comment on whether it should exempt certain service providers from the obligation to report data to an FCC-designated reassigned numbers database without undermining its overall comprehensiveness. For example, NTCA asks that the Commission exempt rural service providers from this requirement, at least initially, because of their limitations in resources and staff. Are there other types of providers, such as those offering only telecommunications relay services, that should be exempted from mandatory reporting? The Commission seeks comment on whether it should adopt any such exemptions, the relevant eligibility criteria, and the effect of the exemption on the goal of providing comprehensive numbering information to callers that want it. Are there other measures short of an exemption that would lessen the reporting burden, while still achieving that goal?

42. *Requirements for Covered Service Providers.* The Commission seeks comment on the reporting requirements that should apply to covered service providers under a single database approach. In particular, it seeks comment on: (1) The specific data that covered service providers should be required to report; (2) how often they should be required to report such information; and (3) the format in which they should be required to report it. In adopting such requirements, the Commission seeks to balance callers' need for comprehensive and timely reassigned number data with the need to minimize the reporting burden on service providers. The Commission also seeks comment on the costs and benefits of these reporting requirements, including specific cost estimates. Additionally, are there any unique reporting burdens faced by small and/or rural service providers, and if so, how should they be addressed? For example, should the Commission permit small providers to report data less frequently than larger providers, as NTCA suggests? Or start reporting at a later time? Furthermore, are there other requirements for covered service providers that the Commission should adopt? For example, is there a risk that customer proprietary network information (CPNI) could be disclosed without customer consent, and if so, how could that risk be addressed?

43. *Cost Recovery for Covered Service Providers.* Should covered service providers be compensated for some or all of their costs of reporting information to an FCC-designated reassigned numbers database? Commenters recognize that service providers will incur operational costs to provide the required data. For example, CTIA emphasizes that its members may need to develop new database solutions and/or incur operational expenses associated with modifying existing systems. Would service providers' costs ultimately be borne by their subscribers, as NCLC suggests? If covered service providers should be permitted to recover some or all of their costs of reporting data, how should they be compensated and what limits, if any, should be set on such compensation?

44. *Other Implementation Issues and Implementation Timeline.* The Commission seeks comment on any other issues related to the feasibility or implementation of a single, FCC-designated reassigned numbers database. The Commission also seeks comment on an implementation timeline for establishing such a database. What steps would need to be taken and approximately how long would they take?

45. *Costs and Benefits.* The Commission seek comment on the effectiveness, costs (including specific cost estimates), and benefits of the single database approach. The Commission also seeks comment on its advantages and disadvantages compared to existing solutions and the alternatives discussed below. Would, as many commenters argue, a single database approach be more comprehensive and therefore, more effective, in addressing the reassigned numbers problem, than existing commercial solutions? Additionally, requiring service providers to report to, and allowing eligible users to query from, a single, centralized database would likely be more efficient and cost-effective than an approach that involves multiple commercial data aggregators. Some commenters contend that a single database would also serve as an "authoritative source" of reassigned number information and could better facilitate establishment of a safe harbor from TCPA violations. Another commenter points out that in contrast to commercial databases that might cease operations, a single, FCC-designated database would better enable the Commission to oversee quality of and access to the data. At the same time, however, developing such a database could require substantially more time and expenditures than an approach that

relies on commercial data aggregators. The Commission seeks comment on these views and on any other factors that commenters believe the Commission should consider when evaluating a single, FCC-designated database as a solution to the reassigned numbers problem.

#### **Mandatory Reporting to Commercial Data Aggregators**

46. As an alternative to the single database approach discussed above, the Commission seeks comment on whether it should require service providers to report reassigned number information to commercial data aggregators. Under this approach, the Commission expects that service providers would enter into bilateral agreements with data aggregators for purposes of reporting data, and as a result, there would be multiple reassigned numbers databases that callers could query. The Commission seeks comment on the criteria and process for becoming a qualifying data aggregator to which service providers would report data; which service providers should be required to report data, the requirements they should be subject to, and the appropriate cost recovery for these covered service providers; contractual and other issues that might arise between data aggregators and service providers; and the feasibility and implementation issues associated with this approach. The Commission also seeks comment on the costs and benefits of this approach.

47. *Qualifying Data Aggregators.* The Commission believes that service providers should be required to report reassigned number data only to those commercial data aggregators that meet specific eligibility or qualification criteria (e.g., certain baseline or operational standards). The Commission seeks comment on this view. If commenters agree, how should the Commission define a "qualifying data aggregator" for this purpose and what criteria should such an entity satisfy? For example, should a data aggregator be required to: (1) Establish internal controls to ensure that the data it receives will be used solely to respond to callers' queries and not for any marketing or other commercial purpose; (2) maintain records of callers' queries; (3) ensure data security and privacy; and (4) establish internal controls to accurately respond to such queries? The Commission seeks comment on these potential criteria and any others that commenters believe are necessary to ensure reliable and secure databases.

48. The Commission also seeks comment on the process for becoming a

qualifying data aggregator. For instance, should a data aggregator be required to register with or seek approval from the Commission? Additionally, the Commission seeks comment on how to ensure compliance with the qualification criteria. For example, should service providers require that any criteria placed on the qualifying data aggregator, such as those referenced above, be addressed within the bilateral contract between the parties? Are there other ways that the Commission can ensure that a qualifying data aggregator meets the requisite criteria? Should a qualifying data aggregator be required to undergo regular audits and file with the Commission an auditor's certification that it complies with the required criteria? Further, how should service providers be expected to know which data aggregators are qualifying data aggregators? Should the Commission maintain a list or registry of such entities and if so, how and when should it be updated?

49. *Covered Service Providers.* The Commission seeks comment on which service providers should be required to report reassigned number data to commercial data aggregators. Should the same universe of providers be subject to reporting regardless of whether the Commission requires reporting to commercial data aggregators or to a single, FCC-designated database? Why or why not?

50. *Reporting to Single or Multiple Data Aggregators.* Under this approach, should covered service providers be required to report reassigned number data to some or all qualifying data aggregators, and how would this requirement work in practice? Alternatively, should the Commission require covered service providers to report information to only one qualifying data aggregator which would in turn share the information with other qualifying data aggregators? What would be the parameters of such required data-sharing arrangements? What are the potential benefits and drawbacks of such an approach and how would it work in practice?

51. *Other Requirements for Covered Service Providers.* The Commission seeks comment on the other requirements that should apply to covered service providers under this approach. Should the same reporting and other requirements that would apply under the single database approach discussed above apply under this approach as well? Are there different or additional requirements for covered service providers that the Commission should adopt under mandatory reporting to data aggregators?

52. *Cost Recovery for Covered Service Providers.* The Commission seeks comment on whether covered service providers should be permitted to recover some or all of their reporting costs under this approach. If so, how should they be compensated and what limits, if any, should be set on such compensation?

53. *Contractual Issues.* As discussed above, under this approach, the Commission anticipates that service providers would enter into bilateral agreements with data aggregators for purposes of reporting data. The Commission seeks comment on how negotiation of these agreements would work in practice. Are there contractual, business, or other concerns that would need to be addressed in order to rely on this approach as a solution to the reassigned numbers problem?

54. *Other Feasibility or Implementation Issues and Implementation Timeline.* The Commission seeks comment on any other issues related to the feasibility or implementation of mandatory reporting to commercial data aggregators that commenters believe it should consider. For example, how should callers be expected to learn about the multiple reassigned numbers databases that would result from this approach? The Commission also seeks comment on a timeline for implementing this approach. What steps would need to be taken and approximately how long would they take?

55. *Costs and Benefits.* The Commission seeks comment on the effectiveness, costs (including specific cost estimates), and benefits of mandatory reporting to commercial data aggregators as well as its advantages and disadvantages compared to the other approaches discussed herein and compared to existing commercial solutions. For example, an approach involving commercial data aggregators would enable those entities to leverage their existing infrastructure and services and likely make reassigned numbers databases available more quickly and with less upfront expenditures than a single, FCC-designated database approach. On the other hand, mandatory reporting to multiple data aggregators may be less efficient and cost-effective for both service providers and callers than a single database approach. The Commission seeks comment on these views and on any other factors that commenters believe it should consider in evaluating mandatory reporting to data aggregators as a solution to the reassigned numbers problem.

## **Voluntary Reporting to Commercial Data Aggregators**

56. The Commission seeks comment on whether, as a second alternative, it should allow service providers to report reassigned number data to commercial data aggregators on a voluntary basis. Under this approach, callers could then use commercial data aggregators to determine whether a phone number has been reassigned. As discussed below, the Commission seeks comment on whether, and if so, how a voluntary reporting approach could be structured to be more effective than existing solutions at addressing the reassigned numbers problem.

57. *Incentives to Encourage Effective Databases.* As discussed above, the Commission believes that an effective reassigned numbers database must contain information that is both comprehensive and timely. The Commission seeks comment on whether reassigned number solutions that are available in the marketplace today are comprehensive and timely, and, if not, what efforts the FCC could undertake to incentivize improvement of these solutions. For example, CTIA and others argue that the Commission should adopt a safe harbor from TCPA violations for those callers that use existing commercial solutions. They further suggest that the safe harbor would lead to widespread use of existing solutions by callers, which would in turn create more competition among commercial data aggregators, spur those data aggregators to pay service providers to induce them to report data, and result in more comprehensive and reliable databases. Do commenters agree with this view? Commenters that advocate adoption of a safe harbor should explain in detail the Commission's legal authority to take such action. If the Commission were to adopt a safe harbor, under what circumstances should callers be allowed to avail themselves of the safe harbor? For example, how often would a caller need to check a reassigned numbers database under a safe harbor? And what parameters, in terms of comprehensiveness and timeliness of the data, would a reassigned numbers database used by such a caller need to satisfy? For instance, would a database need to have a certain percentage of service providers' data before a caller could use it under the safe harbor? Would coverage of 90 percent of allocated numbers be sufficient? 95 percent? 99 percent? Would, as with the mandatory reporting approach, a data aggregator need to meet specific qualifying criteria, including certification? The

Commission also seeks comment on whether there are there other incentives, along with or in addition to a safe harbor, that the Commission could create to encourage the development of comprehensive and timely reassigned numbers databases under a voluntary reporting approach.

58. *Reporting.* Under a voluntary reporting approach, the Commission anticipates that service providers would enter into bilateral commercial agreements with data aggregators for purposes of reporting data. Are there ways to improve the reporting infrastructure, including reducing administrative costs and increasing confidence in query results, such as by using distributed ledger technology? What other actions could the Commission take to better facilitate more widespread reporting by service providers without mandating reporting?

59. *Cost Recovery.* Under this voluntary approach, the Commission expects that service providers would recover their reporting costs from data aggregators and those data aggregators would in turn pass those costs on to callers seeking to query their databases. The Commission seeks comment on this view and on any related issues. In particular, the Commission seeks comment on how best to ensure that small service providers recover their costs and are able to have their reassigned number data included in these databases.

60. *Costs and Benefits.* The Commission seeks comment on the effectiveness, costs (including specific cost estimates), and benefits of voluntary reporting to commercial data aggregators relative to the other approaches discussed above. For example, the Commission anticipates that while a voluntary approach would give service providers more flexibility than a mandatory approach, it would nevertheless result in less comprehensive databases and would therefore be less effective in addressing the reassigned numbers problem than the alternatives discussed above. The Commission seeks comment on this view. Additionally, would callers have to pay more or less for database access under a voluntary approach than under the approaches discussed above or under existing commercial solutions? The Commission seeks comment on these issues and on any other factors that commenters believe it should consider in evaluating a voluntary reporting approach as a solution to the reassigned numbers problem.

### Initial Regulatory Flexibility Act Analysis

61. As required by section 603 of the Regulatory Flexibility Act of 1980, as amended, (RFA) the Commission has prepared the Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals contained in the *Second FNPRM*. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Second FNPRM*. The Commission will send a copy of the *Second FNPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

### Need for, and Objectives of, the Proposed Rules

62. The *Second FNPRM* seeks to reduce unwanted calls to reassigned numbers by proposing to ensure that one or more databases are available to provide callers with the comprehensive and timely information they need to avoid calling reassigned numbers. Despite existing tools that can help callers identify number reassignments, callers lack guaranteed methods to discover all reassignments in a timely manner. Beyond annoying the new subscriber of the reassigned number, a misdirected call can deprive the previous subscriber of the number of a desired call from, for example, his/her school, health care provider, or financial institution. In the case of robocalls to reassigned numbers, a good-faith caller may be subject to liability for violations of the TCPA. That threat can have a chilling effect, causing some callers to be overly cautious and stop making wanted, lawful calls out of concern over potential liability for calling a reassigned number.

63. The *Second FNPRM* seeks to reduce the number comment on various aspects of a reassigned numbers database. The *Second FNPRM* also seeks comment on three alternatives for service providers to report reassigned number information and for callers to access that information. Finally, the *Second FNPRM* seeks comment on whether, and if so, how the Commission should adopt a safe harbor from liability under the Telephone Consumer Protection Act for those callers that choose to use a reassigned numbers database. Making a reassigned numbers database available to callers that want it will benefit consumers by reducing unwanted calls intended for another consumer while helping callers avoid the costs of calling the wrong consumer,

including potential violations of the TCPA.

### Legal Basis

64. The proposed and anticipated rules are authorized under sections 201, 227, and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. 201, 227, 251(e).

### Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

65. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act. A “small-business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

66. The proposed safe harbor from liability for violating the prohibitions relating to telephone solicitations using autodialers, artificial and/or prerecorded messages applies to a wide range of entities, including potentially all entities that use the telephone to advertise. Thus, the Commission expects that the safe harbor proposal could have a significant economic impact on a substantial number of small entities. For instance, funeral homes, mortgage brokers, automobile dealers, newspapers and telecommunications companies could all be affected.

67. In 2013, there were approximately 28.8 million small business firms in the United States, according to SBA data. Determining a precise number of small entities that would be subject to the requirements proposed in this NPRM is not readily feasible. Therefore, the Commission invites comment about the number of small business entities that would be subject to the proposed safe harbor in this proceeding. After evaluating the comments, the Commission will examine further the effect the proposed safe harbor might have on small entities, and will set forth its findings in the final Regulatory Flexibility Analysis.

68. The descriptions and estimates of small entities affected by the remaining proposed rules is detailed below.



## Wireline Carriers

69. *Wired Telecommunications Carriers*. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

70. *Local Exchange Carriers (LECs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for local exchange services. The closest applicable size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer

employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of local exchange service are small businesses.

71. *Incumbent Local Exchange Carriers (Incumbent LECs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses.

72. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers*. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of

technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, shared-tenant service providers, and other local service providers are small entities.

73. The Commission has included small incumbent LECs in this present RFA analysis. As noted above, a “small business” under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and “is not dominant in its field of operation.” The SBA’s Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not “national” in scope. The Commission has therefore included small incumbent LECs in this RFA analysis, although it emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

74. *Interexchange Carriers*. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired

(cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that the majority of interexchange carriers are small entities.

75. *Cable System Operators (Telecom Act Standard)*. The Communications Act also contains a size standard for small cable system operators, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.” There are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Based on available data, the Commission finds that all but nine incumbent cable operators are small entities under this size standard. Note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

76. *Other Toll Carriers*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to other toll carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission

facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of other toll carriers can be considered small.

#### Wireless Carriers

77. *Wireless Telecommunications Carriers (except Satellite)*. Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services. Of this total, an estimated 261 have 1,500 or fewer employees. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

78. *Satellite Telecommunications Providers*. The category of Satellite Telecommunications “comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting

industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.” This category has a small business size standard of \$32.5 million or less in average annual receipts, under SBA rules. For this category, Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of under \$25 million. Consequently, the Commission estimates that the majority of satellite telecommunications firms are small entities.

79. *All Other Telecommunications*. All other telecommunications comprises, *inter alia*, “establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.” The SBA has developed a small business size standard for the category of All Other Telecommunications. Under that size standard, such a business is small if it has \$32.5 million in annual receipts. For this category, Census Bureau data for 2012 show that there were a total of 1,442 firms that operated for the entire year. Of this total, 1,400 had annual receipts below \$25 million per year. Consequently, the Commission estimates that the majority of all other telecommunications firms are small entities.

#### Resellers

80. *Toll Resellers*. The Commission has not developed a definition for toll resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network

operators (MVNOs) are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

81. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these local resellers can be considered small entities.

82. *Prepaid Calling Card Providers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under that size standard, such a business is small if it has 1,500 or

fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities.

#### **Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

83. As indicated above, the *Second FNPRM* seeks comment on its proposal to make one or more databases available to provide callers with the comprehensive and timely information they need to avoid calling reassigned numbers. The Commission seeks to minimize the burden associated with reporting, recordkeeping, and other compliance requirements for the proposal. The proposal under consideration could result in additional costs to regulated entities. This proposal would necessitate that some voice service providers create new processes or make changes to their existing processes that would impose some additional costs to those service providers. The Commission believes that service providers already track phone number status information, and it therefore does not anticipate that these costs will be excessive. In addition, as indicated in more detail below, the *Second FNPRM* also contemplates a cost recovery mechanism for expenses incurred by service providers.

#### **Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

84. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

85. As indicated above, the *Second FNPRM* seeks comment on a proposal to make one or more databases available so that callers can discover reassignments prior to making a call. The Commission has examined both the economic burden this proposal may have on callers and service providers and the considerable

benefits to consumers and callers provide by a solution of a reassigned numbers database. Consumers are currently receiving a significant number of unwanted calls that are an annoyance and expend wasted time while other consumers are not getting the information that they solicited. In addition, callers are wasting considerable resources calling the wrong number and incurring potential TCPA liability. The *Second FNPRM* seeks to significantly reduce the number of unwanted calls to those that receive reassigned numbers by informing callers that use a database solution of the change in assignment. The *Second FNPRM* also seeks comment on potential ways to allow service providers to recoup their costs associated with reporting number reassignment information. If adopted, this cost-recovery mechanism could negate any service provider costs associated with the provisioning of phone number reassignment data. The Commission seeks comment on the specific costs of the measures we discuss in the *Second FNPRM*, and ways the Commission might further mitigate any implementation costs, including by making allowances for small and rural voice service providers and small business callers that might choose to use a reassigned number solution.

86. The Commission will consider ways to reduce the impact on small businesses, such as establishment of different compliance or reporting requirements or timetables that take into account the resources available to small entities based on the record in response to the *Second FNPRM*. The Commission has requested feedback from small businesses in the *Second FNPRM* and seeks comment on ways to make a challenge mechanism and reporting less costly. The Commission seeks comment on how to minimize the economic impact of these potential requirements.

87. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the *Second FNPRM*, in reaching its final conclusions and taking action in this proceeding.

#### **Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules**

88. None.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

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