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National Association of Federally-Insured Credit Unions

May 15, 2019

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

RE: In the Matter of Advanced Methods to Target and Eliminate Unlawful Robocalls
(CG Docket No. 17-59) – Reassigned Numbers Database Petitions for Reconsideration

Dear Ms. Dortch:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in regard to the Federal Communications Commission's (FCC or Commission) Public Notice seeking comment on a Joint Petition for Reconsideration (the Petition) of the administration of the reassigned numbers database. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 116 million consumers with personal and small business financial service products. NAFCU would like to reiterate our support of the FCC's efforts to combat illegal robocalls and create a reassigned numbers database. NAFCU urges the FCC to reject this Petition and pursue the decision it announced in its Second Report and Order (the "Database Order") to achieve the greatest cost efficiencies and promptly establish a reassigned numbers database. Relatedly, NAFCU continues to support a more comprehensive safe harbor that shields from liability good-faith callers that regularly consult the database.

Benefits of using existing numbering databases to create a reassigned numbers database

In July 2017, the FCC released a Reassigned Numbers Notice of Inquiry (NOI) to solicit information regarding potential ways to reduce unwanted calls to reassigned numbers. As a result of commenters' feedback, in March 2018, the FCC released a Second Further Notice of Proposed Rulemaking on the creation of a reassigned numbers database. NAFCU submitted a comment in support of the modification of existing numbering databases to create a centralized database provided that the FCC conducted a rigorous study and analysis of the costs and benefits and concluded that it would result in greater economies of scale. After considering comments submitted to the 2018 proposed rulemaking, the FCC determined that procuring a contract that consolidates the administration of the reassigned numbers database with the existing North American Numbering Plan Administrator (NANPA) and Pooling Administrator (PA) systems would achieve the greatest operational and cost efficiencies. In December 2018, the Commission adopted the Database Order, which established a reassigned numbers database overseen by an independent third-party administrator that will also administer the already consolidated NANPA and PA functions under a single contract. In response, the Competitive Carriers Association, CTIA,

and USTelecom (collectively, the Petitioners) filed this Petition asking the Commission to reconsider its decision to merge the administration of the reassigned numbers database with that of the NANPA and PA functions.

The Petitioners' request would cause further delay in the creation of a reassigned numbers database, which could result in more costly litigation and liability for credit unions. Under a single database, callers would avoid the risk and liability they currently face from having to check reassigned numbers with multiple commercial databases, which are often incomplete. The use of commercial databases is also cost prohibitive for many credit unions. Credit unions have limited resources, yet need to comply with the whole spectrum of applicable federal and state regulations, which requires an immense amount of dedication and hard work from credit union compliance officers. Although NAFCU continues to support the creation of a single database administered by the FCC, we recognize that greater economies of scale may be realized by utilizing an already existing third-party administrator. Ultimately, NAFCU supports the option that most expeditiously establishes the reassigned numbers database and creates the greatest cost efficiencies, thereby limiting the cost to credit unions to use the database.

The Petitioners urge the Commission to refer the issue of the database costs to the North American Numbering Council (NANC) and argue potential administrators may propose different funding mechanisms in their bids that could eliminate the need for the billing and collections mechanisms proposed by the Database Order. However, the Petitioners fail to show how combining the NANPA and PA systems will actually increase costs for users of the database. In fact, the NANC working group has already noted consolidating these contracts will remove separate contract change orders when changes occur that affect both NANPA and PA systems. As a result, combining these systems will improve the bidding process and simplify the operational efficiency of numbering resources administration making it more cost-efficient and likely resulting in cost savings for credit unions using the database. Instead of worrying about the initial database start-up costs providers may incur, as the Petitioners emphasize in their Petition, the Commission should focus on the end goal for the creation of a reassigned numbers database: consumer protection. Combining the NANPA and PA systems to create a centralized database of reassigned numbers would be a great tool to lower the number of calls placed to consumers by mistake. Accordingly, NAFCU encourages the FCC to reject this Petition and adopt the process it outlined in its Database Order.

Comprehensive safe harbor for good-faith callers that regularly consult the database

The Petition also referenced the safe harbor for callers who use the database but still make a call to a reassigned number as a result of an error in the database. Although NAFCU recognizes that reconsideration of the safe harbor is outside the scope of the Petition's request, NAFCU urges the Commission to provide a comprehensive safe harbor from *Telephone Consumer Protection Act* (TCPA) liability for all callers that choose to use a reassigned numbers database but inadvertently make a call to a reassigned number. Such accidental calls may be the result of an error in the database or an error on the part of the caller. Both scenarios should be protected from liability under the TCPA.

NAFCU opposes the all-too-common conflation of illegal robocalls with legitimate calls made by American businesses and encourages the FCC to recognize this distinction through a broader safe harbor from TCPA liability in its reassigned numbers database. Those individuals or entities making illegal robocalls would likely not use the database because they are in the business of defrauding consumers and would not expend resources to check a database for reassigned numbers. Thus, the vast majority of database users would consist of legitimate businesses seeking to comply with the TCPA and reduce their risk of costly litigation.

Conclusion

NAFCU appreciates the opportunity to comment on this Petition and supports the Commission's effort to create a single reassigned numbers database. In addition, NAFCU advocates for a comprehensive safe harbor for callers relying on the database and looks forward to continuing to work with you to modernize the TCPA and lessen its burden on credit union operations. If you have any question or concerns, please do not hesitate to contact me at (703) 842-2222 or mmakonnen@nafcu.org.

Sincerely,

A handwritten signature in black ink, appearing to be 'MM', with a long horizontal line extending to the right.

Mahlet Makonnen
Regulatory Affairs Counsel