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DA 20-423

Released: April 16, 2020

CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU ESTABLISHES GUIDELINES FOR OPERATION OF THE REASSIGNED NUMBERS DATABASE

CG Docket No. 17-59

On December 13, 2018, the Commission released a Second Report and Order on *Advanced Methods to Target and Eliminate Unlawful Robocalls*.¹ In the *Reassigned Numbers Order*, the Commission addressed the problem of unwanted calls to consumers with numbers reassigned from a previous consumer by establishing a single, comprehensive Reassigned Numbers Database. The Reassigned Numbers Database will contain reassigned number information from each provider that obtains North American Numbering Plan U.S. geographic numbers and toll-free numbers.² Once the Reassigned Numbers Database is established, callers will be able to consult the database to determine whether a telephone number has been reassigned from the consumer they intend to reach, thus allowing them to avoid calling consumers with reassigned numbers who may not wish to receive the call.³

As it moves to establish the Reassigned Numbers Database, the Commission has sought the advice of the North American Numbering Council (NANC).⁴ The Wireline Competition Bureau and the Consumer and Governmental Affairs Bureau sought comment on two documents prepared by the NANC for the procurement of the Reassigned Numbers Database: the Technical Requirements Document and the Cost Fee Structure Recommendation.⁵ In light of the NANC submissions, to assist parties interested in the procurement, and to generally inform the public, we now set forth our understanding of key terms and the disposition of any excess funds from the *Reassigned Numbers Order*.

Definitions of Reassigned Numbers Database Responses: "Yes," "No," and "No Data." First, we set forth our understanding of the definition of the terms that the Reassigned Numbers Database will return to users querying it. Once the database is established, callers will enter a query for a phone number using the last date the caller is reasonably certain the consumer had the number (either by getting the consumer's consent to call on that date or having actually called and reached the consumer on that date). Pursuant to the *Reassigned Numbers Order*, the Reassigned Numbers Database will return one of three

¹ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Second Report and Order, 33 FCC Rcd 12024 (2018) (*Reassigned Numbers Order*).

² *Id.* at 12025, para. 3.

³ *Id.*

⁴ *Id.* at 12046, paras. 61-62.

⁵ *Wireline Competition Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Technical Requirements for Reassigned Numbers Database*, CG Docket No. 17-59, Public Notice, DA-20-105 (WCB CGB Jan. 24, 2020); *Wireline Competition Bureau and Consumer and Governmental Affairs Bureau Seek Comment on NANC Recommendations on Cost Funding and Fee Structure for Reassigned Numbers Database*, CG Docket No. 17-59, Public Notice, DA-20-197 (WCB CGB Feb. 26, 2020) (*NANC Cost Funding Public Notice*).

responses to “explain whether the number has been reassigned (or more accurately, permanently disconnected) since the date provided”: “yes,” “no,” or “no data.”⁶ Because the *Reassigned Numbers Order* does not explicitly define the circumstances under which the system will return each value, our understanding of the meaning of these terms is as follows:

- The Reassigned Numbers Database will return a value of “yes” if the queried number is contained in the database⁷ and the date provided in the query is the same as or before the permanent disconnect date for that number in the Reassigned Numbers Database (i.e., the number has been permanently disconnected on or after the date that the caller enters into its query). Callers will not be eligible for the safe harbor described in section 64.1200(m) of the Commission’s rules for calling any number for which the Reassigned Numbers Database returns a value of “yes.”⁸
- The Reassigned Numbers Database will return a value of “no” if the queried number is in the database and the date the caller provides in its query is after the permanent disconnect date contained in the database, or if the number is not in the database and the date the caller provides is on or after the date all providers are required to report disconnected numbers to the Reassigned Numbers Database (i.e., the number has not been permanently disconnected after the date the caller enters into its query).⁹ Callers may be eligible for the safe harbor described in section 64.1200(m) of the Commission’s rules for calling a number for which the Reassigned Numbers Database returns a value of “no.”¹⁰
- The Reassigned Numbers Database will return a value of “no data” if the queried number and a permanent disconnect date are not contained in the database and the date provided in the query is before the date all providers are required to report disconnected numbers to the Reassigned Numbers Database (i.e., the database does not contain either the date or number data queried by the caller). Callers will not be eligible for the safe harbor described in section 64.1200(m) of the Commission’s rules for calling any number for which the Reassigned Numbers Database returns a value of “no data.”¹¹

We find that these definitions give the database responses their common-sense meanings, where “yes” means the number has been disconnected subsequent to the caller having received prior express consent to call the number, “no” means the number has not been disconnected (and would have been in the database if it had been disconnected), and “no data” means the database does not contain the relevant data to determine whether the number has been disconnected during the time of the query. This approach also maximizes the usefulness of the Reassigned Numbers Database by providing callers with the greatest amount of actionable information, namely “yes” and “no” responses wherever it is possible to accurately provide those responses.

⁶ *Reassigned Numbers Order*, 33 FCC Rcd at 12031, para. 19.

⁷ The Reassigned Numbers Database will only contain numbers that have been permanently disconnected after providers are required to report such numbers to the database. Thus, it will not contain numbers permanently disconnected before that time, nor will it contain numbers that have not been permanently disconnected.

⁸ See 47 CFR § 64.1200(m).

⁹ Small providers will have an additional six months to begin reporting data to the Reassigned Numbers Database; thus, the date by which all providers must report disconnected numbers to the Reassigned Numbers Database is the date by which small providers are required to report disconnected numbers to the Reassigned Numbers Database. *Reassigned Numbers Order*, 33 FCC Rcd at 12039-40, paras. 41-45.

¹⁰ See 47 CFR § 64.1200(m).

¹¹ *Id.*

Definition of “Cost.” Next, we explain our understanding that “costs” for purposes of the Reassigned Numbers Database include a reasonable profit for the Reassigned Numbers Database Administrator (Administrator). The *Reassigned Numbers Order* states that the Administrator’s “costs to operate the database following its establishment will be recovered through usage charges that the Administrator will collect from callers that choose to use the database,” and that the Commission “will require the Administrator to set usage charges at a level designed to recover current operating costs and, over time, the database creation costs paid by providers.”¹² Longstanding Commission precedent makes clear that in analogous situations the term “costs” generally includes a reasonable return on investment.¹³ Accordingly, we find that having “costs” in the Reassigned Numbers Database proceeding include a reasonable profit for the Administrator best reflects the purpose of the *Reassigned Numbers Order*.

Disposition of Excess Funds. Finally, we set forth how the Administrator shall distribute excess funds collected if it collects more money from subscription fees than is needed to fund the Reassigned Numbers Database in a given year. The *Reassigned Numbers Order* states that the costs to establish the Reassigned Numbers Database and create the query functionality will be recovered from the Billing and Collection Agent, which will collect the funds from Service Providers.¹⁴ The Administrator will recover its costs to operate the database through usage charges, or fees, that it will collect from callers that use the database.¹⁵ The Administrator will attempt to collect enough money through Reassigned Numbers Database subscription fees to repay the Service Providers for the database creation costs and cover its own costs to operate the database.

If the Administrator collects more money from subscription fees than is needed in a given year,¹⁶ we find that the purposes of the *Reassigned Numbers Order* are best served by the Administrator distributing the excess funds collected by taking steps in the following order:

1. If the database had a funding deficit in prior year(s), the Administrator will apply the excess funds to reduce or eliminate that deficit.
2. If any excess funds remain after step 1 and the Service Providers have not been paid in full for their funding of the database creation costs, the Administrator shall apply the excess funds to accelerate their repayment.

¹² *Reassigned Numbers Order*, 33 FCC Rcd at 12040-41, paras. 46, 49.

¹³ See, e.g., *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 14107, 14134, para. 53 (2013); *BellSouth Tel. Cos. Tariff* FCC No. 4, Order, 6 FCC Rcd 3686 (CCB 1991). Additionally, the current North American Numbering Plan Administrator (NANPA) contract has sufficient flexibility to allow its administrator to earn a profit if it operates efficiently. While the Report and Order establishing the NANPA does not specifically address whether “costs” may include a profit, the language in that Report and Order regarding costs is similar to the language in the *Reassigned Numbers Order*, and we have interpreted that Report and Order to allow the NANPA administrator the flexibility to realize a profit. See *Administration of the North American Numbering Plan*, CC Docket No. 92-237, Report and Order, 11 FCC Rcd 2588, 2623-30, paras. 85-102 (1995); *Reassigned Numbers Order*, 33 FCC Rcd at 12041, para. 47 (stating that the cost recovery mechanism for the Reassigned Numbers Database will be the same as that used to recover the NANPA’s costs). Further, the *North American Numbering Council (NANC) Recommendations on Funding of the Creation Costs and Fee Structure for Users of the Reassigned Numbers Database* contemplate the Administrator making some profit. See *NANC Cost Funding Public Notice*, Attach. p. 5 (Feb. 13, 2020) (applying “costs” in a way that includes reasonable profit).

¹⁴ *Reassigned Numbers Order*, 33 FCC Rcd at 12041, para. 47; see also 47 CFR § 64.1200(l)-(m).

¹⁵ *Reassigned Numbers Order*, 33 FCC Rcd at 12040, para 46.

¹⁶ The amount of money needed in a given year will be defined in the procurement documents, but generally refers to the amount needed to cover the costs of administering the database and appropriately repaying the database creation costs to the Service Providers.

3. If any excess funds remain after steps 1 and 2, the Administrator shall apply them to future years of Reassigned Numbers Database operations and thereby lower the fees paid by subscribers.

We find this prioritization of the disposition of any excess funds best accords with the Commission's purposes in establishing the Reassigned Numbers Database, which are to ensure full funding of the database, ensure repayment of funds advanced by the Service Providers, and minimize the costs to subscribers, in an administratively simple and most cost-effective manner. It also is consistent with the Commission's approach to disposition of excess funds in similar contexts.¹⁷

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Additional Information. For further information, contact Karen Schroeder of the Consumer and Governmental Affairs Bureau at (202) 418-0654 or Karen.Schroeder@fcc.gov.

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¹⁷ Cf. *Toll Free Assignment Modernization*, WC Docket No. 17-192, Report and Order, 33 FCC Rcd 9274, 9297, paras. 66-67 (2018) (describing how to allocate 833 auction revenues in excess of the administrator's costs); *Promoting Telehealth in Rural America, Report and Order*, WC Docket No. 17-310, 33 FCC Rcd 6574, paras. 24-25 (2018) (allowing unused Rural Health Care program funds to be carried forward into subsequent years); *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, First Report and Order, 17 FCC Rcd 11521 (2002) (disposing of unused E-rate funds).