

FCC Directs Creation of Reassigned Phone Number Database

Article By:

Joel E. Tasca

The FCC has taken a step toward getting control over the potential TCPA exposure a business faces when it calls one of its customers at a phone number that, unbeknownst to the business, has been reassigned from the customer to someone else.

On December 13, 2018, the FCC [released an order](#) directing the creation of a single comprehensive database of disconnected numbers. Phone service providers will be required to periodically report (the 15th of each month) the last date of permanent disconnection of phone numbers to a database administrator. A caller can then use the database to determine whether a telephone number has been permanently disconnected and thus is no longer assigned to the person the caller wants to reach. More specifically, callers will have the ability to query the database using the phone number, and a date on which the caller is reasonably certain that the consumer the caller intends to reach could in fact be reached at that number. In response to the query, the database will tell the caller if the number has been reassigned since the date the caller input – if the database tells the caller the number was reassigned, the caller will know not to call that number to reach its customer.

The FCC's order establishes a safe harbor from TCPA liability for callers that properly use the database. To avail itself of the safe harbor, the caller must demonstrate that it checked the most recent update of the database, and the database reported that the number had not been permanently disconnected since the date the caller last contacted that consumer or the date on which the caller could be confident that the consumer could still be reached at that number. The caller bears the burden of proof and persuasion that it checked the database before making a call. The safe harbor would then shield the caller from liability should the database return an inaccurate result.

Although the concept of the database is a positive development for businesses trying to minimize TCPA liability, businesses may be waiting awhile before they can take advantage of it. The FCC will not put the database in place until it hires an administrator, and the FCC stated that it intends to start the bidding process for an administrator "within the next twelve months." The FCC otherwise set no deadline for the database's implementation.

Copyright © by Ballard Spahr LLP

Source URL: <https://natlawreview.com/article/fcc-directs-creation-reassigned-phone-number-database>