



Re: Business Impact Statement

- 02-278 - Regulations Implementing the Telephone Consumer Protection Act
- 21-402 - Targeting and Eliminating Unlawful Text Messages.

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To Whom It May Concern:

Summary

I am writing this on behalf of 360Connect in response to the comment period relating to the FCC's new "One-to-One" Consent requirement.

We strongly feel that the "One-to-One" Consent rule is unnecessary, overly burdensome, and will have a severe negative impact on small businesses such as ours. The rule would increase our marketing and compliance costs and, ultimately, necessitate a permanent 50% reduction in employee headcount.

Additionally, "One-to-One" Consent would have adverse second-order effects on our small business lead buyers resulting in a revenue loss of \$50,000,000 per year and a permanent reduction of over 2,100 employees.

Overall, we agree with the FCC's desire to reduce unwanted calls and texts to consumers. However, "One-to-One" Consent is like bringing out a sledgehammer to strike a nail. While a sledgehammer can drive in the nail, it breaks everything around it. Similarly, "One-to-One" Consent will reduce the number of unwanted consumer interactions, but it will have a significant negative economic impact and "break" much of the lead generation ecosystem, harm small businesses (such as 360Connect and our small business lead buyers), and, ultimately, lead to less choice and higher costs for consumers.

Instead of the sledgehammer of "One-to-One" Consent, why not try the hammer of "Topical and Relevant?" The sledgehammer can always be brought out later. **We urge the FCC to delay the "One-to-One" Consent rule and see if "Topical and Relevant" solves the problem of unwanted calls and texts.**

About 360Connect

360Connect is an Austin, TX-based lead generation company with 45 U.S. employees. We are very proud of our team and culture, as we have been voted a "Top Workplace" in Austin for the last ten years.



Our business differs from most lead-generation companies, who may comment that we are 100% focused on business-to-business markets. We work in a wide range of business-oriented niches, such as medical billing, copiers, coffee and water service, forklifts, construction storage containers, and access control systems (plus many others). We are either the only one or one of a few shared lead generators in most of these markets.

We offer a service for businesses seeking to purchase expensive and often complicated goods or services. Businesses come to our website and answer a few questions on a web form. We match them with up to five different suppliers who sell the product or service they seek and can service their specific geographic location.

Our customers who fill out our lead forms use us because we remove friction from the buying process. We help introduce them to brands they might not be familiar with, allowing them to save time and money and find the best fit for what they are seeking.

We have over 500 clients (lead buyers), ranging from large, publicly traded companies who use our service to augment their marketing efforts to small businesses for whom we are their only marketing channel. Over 90% of our lead buyers are smaller companies with fewer than twenty employees.

As written, we believe the "One-to-One" Consent rule applies to us and our lead buyers, as most of our business customers who fill out our web forms use their cell phones rather than a business landline.

"One-to-one" Consent will negatively impact 360Connect, our lead buyers, and, ultimately, consumers and businesses.

How will a "One-to-One" Consent rule impact 360Connect?

Should the FCC adopt the new "One-to-One" Consent requirement, 360Connect believes it will negatively impact our business.

Specifically, 360Connect believes "One-to-One" Consent it will:

- ***Increase marketing costs.*** Based on some initial research from other companies testing "One-to-One" Consent user experiences, adding a "One-to-One" Consent step will decrease the conversion rate on web forms. Over time, marketers will improve the user experience and, hopefully, reduce the impact on the website conversion rate. However, any additional step adds friction to a lead form process and will reduce conversions. For example, a widely quoted study out of Stanford



demonstrated that adding CAPTCHA to a lead form reduced completed form fills by 40%.

360Connect believes that adding an entirely new step to the web form process (which is more significant than adding a CAPTCHA field) will reduce our web form conversion rate by at least 50%. This will translate directly into a 50% increase in marketing costs per lead generated.

- ***Decrease the number of leads we can generate.*** A 50% drop in web form conversion rate will also proportionally decrease the number of leads we generate and can sell to our lead buyers.
- ***Decrease the number of times we can sell a lead.*** As stated earlier, 360Connect attempts to sell leads generated a total of five times. Under a "One-to-One" Consent model, we believe consumers will choose fewer than the five options presented. We have heard anecdotes in the industry of firms testing "One-to-One" Consent of consumers only choosing 1-2 brands when five were presented. If this is true, it would significantly decrease 360Connect's revenue generated.
- ***Increase compliance costs.*** While not as significant as the increase in marketing costs and revenue decline, 360Connect would also have to take on the increased compliance costs of implementing a ping-pick-post or similar system, further decreasing 360Connect's profitability.

Because of the items above, we see the following impacts on our business:

- ***A 50% decrease in our topline revenue and a 95% reduction in profitability.*** Note that these numbers take into account a well-tested web form and price increases with our vendors.
- ***A reduction in the number of categories in which we operate.*** Due to higher marketing and compliance costs combined with lower revenue, implementing a "One-to-One" Consent system will cause several of our niche B2B lead generation categories to switch from profitable to unprofitable. This will result in us shutting down the unprofitable categories.
- ***In the long term, 360Connect might be forced to reduce the size of our staff by 50-100%.*** While reducing staff count is not an attractive option for 360Connect due to higher costs, lower revenue, and fewer markets served, the company will eventually be forced to reduce the size of our team to survive. Consequently, **360Connect would be forced to permanently lay off 20-45 U.S.-based team members, depending on whether the company can stay in business.**



How will "One-to-One" Consent impact our lead buyers?

We believe several unintended outcomes of "One-to-One" Consent will have a disparate impact on smaller companies that purchase leads.

- ***"One-to-One" Consent favors big brands at the expense of smaller companies.***
Should lead generation companies implement "One-to-One" Consent as suggested in the FCC's FACT SHEET, consumers will be presented with a list of brands from which to choose. This benefits larger companies as consumers are much more likely to choose larger brands than smaller ones.

For example, imagine a consumer being presented with the following list:

- Xerox
- Sharp Electronics
- Konica-Minolta
- Bob's Copy Shop
- Staples

The smaller brand (Bob's Copy Shop) is much less likely to be chosen, especially if the consumer chooses only 1-2 brands.

This effect can be seen in Google's sponsored search ads. After most search queries, Google presents the user with a list of 3-4 search ads from which to choose. There have been several studies, such as "Advertiser Prominence Effects in Search Advertising" by Przemysław Jeziorski and Sridhar Moorthy (<https://pubsonline.informs.org/doi/abs/10.1287/mnsc.2016.2677>), which show well-known brands are more likely to be clicked on or chosen than lesser-known brands. We expect this same effect to transition into a "One-to-One" Consent user experience inside of a lead generation web form.

- ***Smaller brands will lose lead volume from 360Connect and other lead aggregators.***
Assuming 360Connect and other aggregators stay in a category, smaller brands will receive significantly fewer leads due to lower web form conversion rates and an anticipated lower small brand selection rate on a "One-to-One" Consent form.

Many of these brands lack the marketing capability to replace these lost leads. This will result in fewer customers and lower revenue for the smaller companies.



- ***Increased marketing costs.*** Due to lower lead volume, lead buyers will need to expand their marketing spend into other, less profitable customer acquisition channels. This will increase customer acquisition costs and reduce business profit margins. **We estimate our small business lead-buyer will lose \$50,000,000 in lost revenue per year under the "One-to-One" Consent rule.**
- ***Additional compliance costs.*** None of our smaller brands who purchase leads from us currently has the capability to store Consent forms from companies such as Active Prospect or Jornaya. Small businesses will need to develop this capability and take on the additional costs of maintaining a database of lead form Consent.
- ***Reduced headcount or bankruptcy.*** Ultimately, these hurdles for smaller brands will significantly impact their revenue and profitability. Some will go out of business entirely, while others will be forced to lay off employees to survive. Using an average for 360Connect lead buyers of 12 employees per company, if each of those companies is forced to permanently lay off four employees, **that results in a net job loss of 2,108.**

How will "One-to-One" Consent impact consumers?

While we believe "One-to-One" Consent would reduce the number of phone calls and texts, it will also have a significant negative economic impact on consumers in the long run. As "One-to-One" Consent will economically harm smaller businesses, it forces them to either shrink the size of their businesses or close altogether. This will result in market consolidation among larger brands, less consumer choice, and higher prices.

We believe "Topical and Relevant" is sufficient and will eliminate most consumer complaints.

360Connect agrees with the FCC's goal of eliminating unwanted calls and texts. To accomplish this goal, we believe the "Topical and Relevant" requirement is sufficient, and "One-to-One" Consent adds little additional value and has considerable economic downsides.

The "FCC FACT SHEET – Combating Illegal Text Messages" (FCC-CIRC2312-02) dated November 22, 2023, cites examples of companies who utilize the "lead generation loophole" to bombard consumers with calls, recorded messages, and robotexts. The FCC uses the abuses as a pretext for both the "Topical and Relevant" and the "One-to-One" Consent rules. If one looks at the examples cited by the FCC in the FACT SHEET, all of them would be resolved by "Topical and Relevant." "One-to-One" Consent implemented on top of "Topical and Relevant" would not have any additional consumer benefits.



The specific examples listed in the FCC's FACT SHEET were:

- **Coverage Vista** – "with a list of hundreds of "partners" in a hyperlink (<https://coverage-vista.com/disclaimer.php>) that the consumer would "Consent" to by asking for insurance information from the Coverage Vista insurance site "(Page 12, Footnote 66)
- **USTelecom** – "where the websites at issue included TCPA Consent disclosures whereby the consumer "Consented" to receive robocalls from "marketing partners." Those "marketing partners" were only visible to the consumer if the consumer clicked on a specific hyperlink to a second website that contained the names of 5,329 entities" (Page 14, Paragraph 32)
- **LendingTree** – "LendingTree partner list contains marketer EverQuote, which has more than 2247 partners on its own list of partners; similarly, the QuoteWizard list also contains companies that have nothing to do with insurance, such as auto warranty companies, lead generators, and marketers." (Page 12, Footnote 66)
- **Assurance IQ** - "Assurance IQ list of over 2000 "partner companies," some of which were other lead generation and telemarketing companies." (Page 12, Footnote 66)

In the cases above, the companies listed were operating as "Consent farms," using web forms to opt consumers into hundreds, if not thousands, of unrelated websites. Consumers subsequently were inundated with calls and texts from unrelated products or services.

If the FCC adopted the "Topical and Relevant" doctrine, wouldn't these abuses be eliminated? Companies that contact consumers would be limited to those directly related to the form a consumer filled out. Would this solve the primary problem the FCC is trying to solve? If so, why solely implement "Topical and Relevant" and delay implementing "One-to-One" Consent to see if the problem is solved? Especially given the considerable negative impact on small businesses.

Section 32 of the FACT SHEET states, "In adopting our requirement, we reject QuinStreet's proposal to permit Consent to a hyperlinked list of sellers, effective for only a limited number of sellers to whom the consumer is matched. We find that this proposal would unnecessarily require consumers to Consent to a potentially lengthy list of entities that may not be relevant to the product or service the consumer is seeking."

In turning down QuinStreet's proposal, the FCC found that should it be accepted, it could subject consumers to interactions on unrelated products and services. Again, wouldn't adopting



a "Topical and Relevant" doctrine eliminate consumers from being contacted for irrelevant products or services?

Is there a risk of consumers being inundated by "Topical and Relevant" callers?

One criticism of the "Topical and Relevant" standard might be, "What prevents lead generators from overselling a single lead to 100's of service providers, thus resulting in a consumer receiving an unacceptable number of "Topical and Relevant" phone calls and texts?"

While on the surface, this appears to be a valid criticism, there are three things to consider:

- ***In most markets, there are not enough lead buyers to "oversell" a lead – especially in products or services with a geographical component.*** As stated earlier, 360Connect specializes in business-to-business lead generation. We aim to sell each lead to "Topical and Relevant" companies five times. However, we cannot achieve this 5-times sold goal in over 80% of our markets. There are simply not enough lead buyers in most of our categories and geographies to do so.

On a broader level, there are only a handful of markets, such as insurance, mortgage, education, etc., where a lead could be oversold. Outside of these small minority markets, it is not possible for a lead generator to "oversell" a lead to too many "Topical and Relevant" buyers.

By adding a "One-to-One" Consent rule to these categories in addition to "Topical and Relevant," the FCC is not helping consumers in most lead generation categories and is harming small businesses that generate and buy these leads. Is there a way for the FCC to exclude niche categories from "One-to-One" Consent where there are no consumer benefits?

- ***None of the examples cited by the FCC FACT SHEET were consumers complaining of being bombarded by too many "Topical and Relevant" interactions.*** Granted, if one looked hard enough, one could find examples of "Topical and Relevant" companies that over-communicate with consumers. However, we urge the FCC to consider, based on their own FACT SHEET, that the primary cause of consumer frustrations is when they are overrun by calls and texts for unrelated products.

Why not start with the "Topical and Relevant" rule and measure the impact if this is the case? Should the consumer harassment problem not be solved by "Topical and Relevant," other restrictions could be added later.

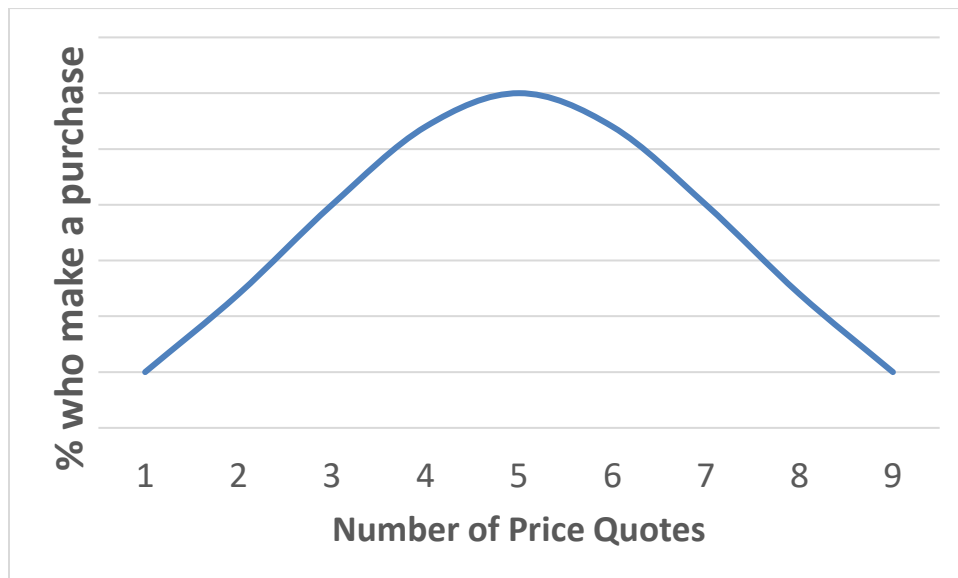
- ***The Jam Study: Lead generators maximize their revenue by not overselling leads.*** In the landmark 2000 study conducted by Sheena Iyengar and Mark Lepper, they



presented consumers with two different grocery store jam table displays. One contained 24 types of jam, while the other contained six different types of jam. Those who sampled the jam were given a \$1 off coupon to purchase the flavor of their choice. Interestingly, consumers were 10x more likely to purchase jam from the smaller display vs. the larger display. Later, this phenomenon became known as the "paradox of choice."

Over the last 17 years of being in business, 360Connect has seen the "paradox of choice" in action with people who fill out our lead forms: give them too little choice, they don't feel confident to make a purchase decision; give them too much choice, they feel overwhelmed and don't make a purchase decision. Over time, we have measured the percentage of customers who purchase an item or service after filling out a lead web form vs. the number of price quotes they receive.

When we graph these, we have found an almost perfect bell curve - with our customers most likely to buy when they receive five price quotes:



This is important to us as customers who fill out our lead forms are most satisfied with our service and most likely to buy when they receive five price quotes. Because of the "paradox of choice," 360Connect has found that we maximize our revenue per lead (i.e., price of the lead * number of times a lead is sold) when we sell it five times.

We suspect this applies to other markets as well. If so, lead aggregators who sell a lead more than five times might increase their revenue in the short run (and annoy consumers); however, over the long run, they will be economically incentivized through lead buyer cancellations or demands for price reductions. This will, in turn,



incentivize them to reduce the number of times they sell their leads to maximize their revenue.

We believe this is relevant to the FCC as if they were to adopt "Topical and Relevant" alone, there is an economic incentive for lead generators to not oversell their lead to too many lead buyers; thus, we would not expect lead aggregators to "oversell" leads to an inordinate number of "Topical and Relevant" lead buyers.

What can the FCC do?

We urge the FCC to delay implementing the "One-to-One" Consent rule due to the negative economic impact on small businesses like ours. Instead, we suggest the FCC start with "Topical and Relevant" and measure the impact on reducing the number of unwanted consumer calls and robotexts. Should "Topical and Relevant" not significantly reduce the number of unwanted interactions, the FCC could implement additional rules such as "One-to-One" Consent later.