

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Toll Free Assignment Modification	)	WC Docket No. 17-192
	)	
Toll Free Service Access Codes	)	CC Docket No. 95-155

**COMMENTS OF THE ALLIANCE FOR  
TELECOMMUNICATIONS INDUSTRY SOLUTIONS**

The Alliance for Telecommunications Industry Solutions (ATIS) 800 Service Management System (SMS/800) Number Administration Committee (SNAC) respectfully submits these comments in response to the Federal Communications Commission’s (Commission) *Notice of Proposed Rulemaking (NPRM)*, released September 28, 2017, in the above-referenced dockets. While ATIS SNAC supports the Commission’s efforts to address the toll free industry’s concerns regarding the availability of new toll free resources, it does not support the Commission’s proposed auction of toll free numbers.

**I. INTRODUCTION AND BACKGROUND**

ATIS is a global standards development and technical planning organization that develops global technical and operations standards and solutions for information, entertainment and communications technologies. SNAC, one of ATIS’ industry committees, identifies, develops, and implements the resolution of issues impacting existing toll free products and services and evolving technologies affecting future developments in the toll free industry.<sup>1</sup> ATIS SNAC is

---

<sup>1</sup> These comments reflect the consensus of SNAC members, which includes service providers, RespOrgs, and other key stakeholders. Somos, Inc., a SNAC member, participated in the discussions surrounding the *NPRM* but did not

comprised of members representing providers and users of the SMS/800 system and provides recommendations to the owner/manager of the SMS/800 system regarding design and management issues. ATIS SNAC also maintains the Industry Guidelines for Toll Free Number Administration and is a leader in developing standards and procedures for the interaction between Responsible Organizations (RespOrgs),<sup>2</sup> Customers, and Service Providers. As a key stakeholder representing RespOrgs and other toll free stakeholders, ATIS SNAC has been actively examining ways to make the allocation of toll free numbers equitable and efficient.<sup>3</sup>

## II. TOLL FREE AUCTIONS

In the *NPRM*, the Commission proposes expanding the existing toll free number assignment rule to permit use of an auction methodology, among other assignment mechanisms, to assign toll free numbers. Specifically, the Commission proposes to revise section 52.111 of its rules to allow it to assign numbers by auction, on a first-come, first-served basis, by an alternative assignment methodology, or by a combination of the forgoing as circumstances require.<sup>4</sup>

ATIS SNAC is opposed to the use of auctions to allocate toll free numbers given the success of the current allocation methodologies (e.g., limited allocation code openings for 844 and 855 and

---

provide input regarding these comments. ATIS SNAC's advocacy on this issue does not necessarily represent the views of Somos, Inc.

<sup>2</sup> "RespOrg" is defined as "the entity chosen by a toll free subscriber to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber." 47 C.F.R. § 52.101(b).

<sup>3</sup> See e.g., ATIS Letter to Marlene H. Dortch, Secretary, Federal Communications Commission; filed February 3, 2017, in CC Docket No. 95-155 (expressing support for proposed modifications to the current Toll-Free code opening methodology); ATIS Comments in response to the Commission's April 6, 2016, *Public Notice*; filed April 21, 2016, in WC Docket No. 95-155 (supporting a *Petition for Waiver* of the Commission's first-come, first-served rules); ATIS *Petition for Rulemaking*; filed August 18, 2011, in CC Docket No. 95-155 (seeking changes to the Commission's rules to allow the direct transfer of toll free numbers in certain circumstances).

<sup>4</sup> *NPRM* at ¶5.

first-come first-served allocations for all other assignments)<sup>5</sup> and the significant and unknown impacts that this proposal could have on the toll free industry and on toll free subscribers.

The Commission in the *NPRM* makes several arguments in favor of the use of auctions for the assignment of toll free numbers. ATIS SNAC is not convinced that these arguments support toll free auctions or that the Commission has otherwise provided sufficient rationale for changing the method by which toll free numbers are allocated. The spectrum auctions have raised at least \$19B, involving a relatively small number of markets and a small number of bidders. This compares to the release of 8,000,000 numbers per toll free code, and potentially thousands of bidders, which is likely to raise much less money, to subsidize number administration costs which are currently quite low on a per number per month basis.

*Equity.* The Commission suggests that auctioning certain toll free numbers would be a more equitable assignment mechanism than assigning them on a first-come, first-served basis.<sup>6</sup> ATIS SNAC does not believe that the use of auctions would result in a fairer allocation of toll free numbers than the 844/855 approach because toll free auctions would likely favor larger, wealthier RespOrgs/subscribers, could put smaller RespOrgs at risk, and may unintentionally allow RespOrgs/subscribers with deep pockets to hoard and warehouse numbers. For this reason, ATIS SNAC continues to believe that the first-come, first-served and limited allocation methodology used for the 844/855 code openings are fairer.<sup>7</sup>

---

<sup>5</sup> *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 25 FCC Rcd 13687, 13688-90, ¶¶ 3-6 (*855 Code Opening Order*); see also *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 28 FCC Rcd 16139, 16140-41, ¶ 3, 16142, ¶¶ 6-7 (*844 Code Opening Order*); *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 31 FCC Rcd 6828, 6828-30, ¶¶ 2-6.

<sup>6</sup> *NPRM* at ¶7.

<sup>7</sup> While ATIS SNAC members are still examining the Commission's proposals relative to the introduction of secondary markets, it would strongly object to the introduction of secondary markets for non-mutually exclusive toll free requests or in absence of auctions.

*Efficiency.* ATIS SNAC also questions whether the proposed rules are necessary to address existing challenges associated with mutually exclusive requests for toll free numbers. In the *NPRM*, the Commission notes that there were approximately 17,000 mutually exclusive requests for 833 numbers.<sup>8</sup> While this number seems large, it actually represents only about 0.2% of the available pool. Given the relatively small number of mutually exclusive requests, ATIS SNAC does not believe that the potential disruption to the toll free industry associated with the introduction of auctions is warranted. Finally, ATIS SNAC notes that the existing assignment methodology effectively encourages broad utilization of this resource as evidenced by the continued growth in the quantity of toll free numbers in circulation.

The Commission also suggests that the use of auctions to assign toll free numbers will increase efficiency by creating a cost associated with obtaining this resource.<sup>9</sup> ATIS SNAC agrees that new costs will be created but disagrees that these costs will necessarily increase efficiency. ATIS SNAC is concerned with the negative impacts that these increased costs could have on the industry and on subscribers, particularly if auction winners can “sell” their numbers in a secondary market. ATIS also notes that, even if a cost is created, it will not necessarily result in more efficient use or increased value of the resource as it may drive customers to consider less expensive alternatives and would raise barriers to entry in the toll free market for both RespOrgs and subscribers.<sup>10</sup> ATIS SNAC further notes that the impact to the toll free number marketplace may not be limited to 833 assignments. While the Commission is appropriately looking to limit the

---

<sup>8</sup> *NPRM* at ¶7.

<sup>9</sup> *NPRM* at ¶9.

<sup>10</sup> Because ATIS SNAC does not support the use of auctions to assign toll free numbers, it does not see a reason to set aside numbers used to promote, health, safety, education and other public interest goals, as suggested in the *NPRM* (*NPRM* at ¶39). Such an action would introduce arbitrary and potentially unmanageable process including defining eligible entities, identifying appropriate numbers, and determining when there is a “strong public interest need.” The instances where such actions have been warranted in the past have been rare, and rightfully managed directly by the Commission, to promote fairness and appropriate use of the process.

use of auctions to only 833 numbers as an “experiment” before considering adoption of auction rules for other toll free numbers,<sup>11</sup> ATIS believes implementation of auctions, by increasing the costs of certain 833 numbers, could increase the incentive for illegal transfers of other toll free resources.

### **III. SECONDARY MARKET**

The Commission in the *NPRM* seeks comment on rule changes to promote development of a secondary market for toll free numbers, which would allow subscribers to reassign their toll free numbers to other subscribers for a fee.<sup>12</sup> While ATIS SNAC members are still investigating whether the public will benefit more from an open market or from the current approach, ATIS SNAC remains supportive of the position it has espoused previously – namely that there are specific situations (such as the sale of a business, correction of errors, etc.) in which transfers between Subscribers should be allowed.<sup>13</sup>

While ATIS SNAC believes that it is unclear whether a secondary market would more likely promote equity or give an unfair advantage to those with more financial resources, it believes that it is very clear that the introduction of a secondary market for toll free numbers would not be beneficial as it most certainly would increase hoarding or warehousing. Therefore, ATIS SNAC could not consider supporting this concept unless it was tied to greater enforcement

---

<sup>11</sup> *NPRM* at ¶29.

<sup>12</sup> *NPRM* at ¶30.

<sup>13</sup> See ATIS Letter to Marlene H. Dortch, Secretary, Federal Communications Commission; filed in CC Docket No. 95-155; dated June 16, 2011. As noted in this letter, among the situations in which the direct transfer of toll free numbers would be warranted were ones in which: (1) toll free numbers are mistakenly returned to the spare pool and picked up by other carriers; (2) there are fraudulent or unauthorized transfers of toll free numbers or in which there are inadvertent transfers of shared use numbers; and (3) there are legitimate mergers, acquisitions, bankruptcies, and other business transfers. In addition, there may be appropriate reasons to allow direct transfers between subscribers pursuant to trademark disputes.

of hoarding and warehousing rules.<sup>14</sup> Regardless of whether the Commission moves forward with its secondary market proposal, ATIS SNAC believes that the warehousing and hoarding rules and enforcement of those rules should be revisited to ensure that these rules complement the Commission's number assignment mechanisms and ensure that consumers continue to have access to new numbering resources.<sup>15</sup> To date, the Commission has undertaken extremely limited enforcement actions with respect to toll free warehousing, hoarding, and brokering. There are likely numerous reasons for this, not the least of which is a lack of resources. It appears unlikely that the level of resources necessary for adequate enforcement is forthcoming. Adding additional complicated procedures for number allocation at this time would certainly serve to spread any available resources thinner, rendering overall enforcement even less effective.

To the extent that the Commission permits the sale of toll free numbers, ATIS SNAC would oppose rules that would increase the costs to subscribers. Therefore, ATIS would not support: (1) the imposition of a governmental fee on the sale of numbers<sup>16</sup> as this indirect tax would increase costs to subscribers; or (2) involving RespOrgs in the collection of this indirect tax<sup>17</sup> as this would be administratively burdensome and costly to RespOrgs and require them to restructure their billing platforms and systems to account for this tax. ATIS SNAC also does not support the development of an online system/database to record any assignments in the secondary market.<sup>18</sup> While ATIS SNAC recognizes that, if the Commission moves forward with its secondary market proposals, there will be a need to identify the authorized subscriber of a

---

<sup>14</sup> 47 C.F.R. §§ 52.105, 52.107.

<sup>15</sup> ATIS SNAC notes that a black market already exists for toll free numbers even without the Commission's proposed changes to toll free number assignments. Creating a secondary market would not eliminate the need for warehousing/hoarding rules but instead would only increase the need for enhanced enforcement.

<sup>16</sup> *NPRM* at ¶32.

<sup>17</sup> *Id.*

<sup>18</sup> *NPRM* at ¶33.

number (and that person has the right to sell the number), it is concerned that such a database would increase toll free costs and the burden to the industry and to subscribers. ATIS SNAC further believes that toll free subscribers may be reluctant to have their data published in this database. RespOrgs have always had sole access to Subscriber Information. This process has been very effective at eliminating the need to pass any unnecessary burden or liability on to a neutral party, such as the Somos Help Desk. Opening up a Secondary Market would surely create conflicts in identifying the true Service Subscriber. If a dispute arises, it's unclear to ATIS SNAC as to how the resolution would be determined. This issue could be even more troublesome for Shared-Use Toll Free Numbers where multiple validation steps are necessary in order to identify the true Service Subscriber, potentially resulting in unauthorized port requests that could create service outages for multiple shared-use customers.

#### **IV. WAREHOUSING AND HOARDING**

As noted above, the Commission's warehousing and hoarding rule are important and should complement the number assignment methodology. ATIS SNAC therefore supports maintaining these important rules even if auctions are used to allocate toll free numbers and a secondary market is created.<sup>19</sup> ATIS SNAC also urges the Commission to enhance its enforcement of the toll free rules, noting that some of the existing challenges associated with the existing assignment mechanism could be eliminated by enforcement of existing rules. Finally, should the Commission decide to permit a secondary market, it would be necessary to reconsider the Commission's warehousing and hoarding rules. ATIS SNAC recommends that should such a review be necessary, the Commission conduct it in a separate proceeding after the final rules

---

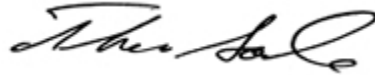
<sup>19</sup> *NPRM* at ¶37.

relating to a secondary market are released. ATIS SNAC stands ready to assist the Commission with this matter.

**V. CONCLUSION**

ATIS SNAC respectfully requests that the Commission consider its comments to the *NPRM* regarding toll free number assignments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas Goode", written in a cursive style.

Thomas Goode  
ATIS General Counsel

November 13, 2017