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July 25, 2019

**Ex Parte**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: *Auction of Toll Free Numbers in the 833 Code*, AU Docket No. 19-101; *Toll Free Assignment Modernization*, WC Docket No. 17-192; and *Toll Free Service Access Codes*, CC Docket No. 95-155

Dear Ms. Dortch:

On July 24, 2019, I spoke by telephone with Pamela Arluk, Matthew Collins, Alex Espinoza, Justin Faulb, Connor Ferraro, Heather Hendrickson and Jordan Reth of the Wireline Competition Bureau, and Tajma Rahimic of the Office of Economics and Analytics regarding the draft *Public Notice* in the above proceedings to be considered at the Commission's August 1, 2019 Open Meeting.<sup>1</sup> The participants discussed the requirement at paragraphs 133-139 that RespOrgs report secondary market transactions involving auctioned toll free 833 numbers.

Verizon does not oppose reporting available information for these transactions to Somos to enable the Commission to monitor whether and how a secondary market evolves. For most secondary market transactions, particularly those involving our own RespOrgs' subscribers, we expect modified service activation, porting and termination processes for retail and wholesale customers will capture the information needed to timely report the information, and that the Commission's existing enforcement mechanisms will ensure we have incentive to meet the requirement going forward.<sup>2</sup>

As drafted, however, the *Public Notice* would *per se* deny access to the Somos database when a transaction is not timely reported. We explained that this would be a drastic enforcement measure, as it precludes a RespOrg from completing valid ports and supporting troubleshooting

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<sup>1</sup> See <https://docs.fcc.gov/public/attachments/DOC-358436A1.pdf>.

<sup>2</sup> The Commission's rules already have a base forfeiture amount for "Failure to file required forms or information," which has applied in many cases involving untimely or incomplete reporting of number utilization information to the numbering administrator. See 47 C.F.R. § 1.80(b)(8) Note; see, e.g., *NECLEC LLC*, Memorandum Opinion and Order, 17 FCC Rcd 8402 (EB 2002) (affirming forfeiture for failure to timely file FCC Form 502 with the NANPA).

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efforts for all its toll free subscribers, and could thus affect competition and service quality in the toll free marketplace. Such a severe penalty is disproportionate in cases where a RespOrg does not have visibility to the identity of the toll free subscribers who were parties to the transaction. We explained that many toll free subscribers are not direct Verizon customers, but customers of Verizon's wholesale telecommunications customers and not RespOrgs in their own right. For legitimate competitive reasons, we generally do not have visibility into the identities of a wholesale customer's own subscribers, which resellers often treat as proprietary. But as a result, the RespOrg would be dependent on the reseller customer, who is not subject to the rule and may legitimately consider the information proprietary, to timely and accurately provide it.

For these reasons, and because other enforcement measures are available, if denying access to the Somos database remains an option it should not be the *only* enforcement mechanism and should be applied only in extreme cases. Somos should also notify a RespOrg at least 30 days in advance of suspending access to its database, and otherwise ensure that a RespOrg has had a reasonable opportunity to ascertain whether a reportable transaction has in fact occurred. Finally, we recommended that the Commission direct Somos to engage with RespOrgs to implement these new requirements by, for example, establishing an interface that enables RespOrgs to identify whether a number was originally subject to the auction and whether a change in subscribership has occurred.

This letter is being filed electronically pursuant to Section 1.1206 of the Commission's rules. Please contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert M. Morse". The signature is fluid and cursive, with the first name "Robert" and last name "Morse" clearly legible.

cc: Pamela Arluk  
Matthew Collins  
Alex Espinoza  
Justin Faulb  
Connor Ferraro  
Heather Hendrickson  
Jordan Reth  
Tajma Rahimic