

Ex Parte Filing

Ms. Marlene Dortch

Secretary

Federal Communications Commission

445 12th Street, S.W.

Washington, DC 20554

Re: CC Docket No. 95-155 Toll Free Service Access Codes

CC Docket No. 96-115 Telecommunications Carrier’s Use Of Customer Proprietary Network Information And Other Customer Information

CC Docket No. 17-192 Toll Free Assignment Modernization

CC Docket No. 08-7 Text-Enabled Toll Free Numbers

CC Docket No. 08-7, FCC 18-178 Petition for Declaratory Ruling on Regulatory Status of Wireless Messaging Service

CC Docket NO. 18-28 Text Enabled Toll Free Numbers

CC Docket NO. 19-101 Auction of Toll Free Numbers

Dear Ms. Dortch:

On July 23, 2019 the undersigned Noah Rafalko of MessageComm, which is a new trade association laser focused on growing a healthy messaging ecosystem, met in person with:

Garnet Hanley – Wireless Telecommunications Bureau (WTB)/ CIPD

Erin Boone – Wireless Telecommunications Bureau (WTB)/ CIPD

Jennifer Salhus – Wireless Telecommunications Bureau (WTB)/ CIPD

Ziad Sleem – Wireless Telecommunications Bureau (WTB)/ CIPD

Eduard Bartholme – Consumer Government Affairs (CGB)

Pramesh Jobanputra – Office of Economics and Analytics (OEA)

Purpose

The purpose of the meeting was to provide an unbiased education regarding the SMS (Short Messaging Service, AKA-Text Messaging) ecosystem. Completion of consensual communications requested by Consumers on toll free numbers. Impacts occurring to public safety, the 833 auction, and privacy. Monopolistic proxy assignment activities, Spam reporting, public outcry at these behaviors.

Monopolistic Proxy Assignment Activities

As part of this education, the participants were informed that within the existing toll free texting space, there has been a single vendor placed in a monopolistic proxy role by the top four wireless operators, and many other smaller subsequent wireless operators, to force the entire industry to use a single provider.

In addition, that has no oversight or competition to maintain a carrier grade gateway compared to a typical comparable entity in the communications space. The lack of Reasons For Outage (RFO), that in some cases extends for many hours without concerns to those impacted, the lack of consumer privacy, security standards, and is the only gateway provider that refuses to provide Service Level Agreements (SLA’s). These SLA’s are crucial in providing that the stakeholders can have surety and confidence in those who depend on toll free texting to support Consumers.

In any comparative commercial service offering, the gateway provider is held accountable. When there is no one else to compete, there is no incentive to ensure a mission critical communications service is maintained at the highest level.

Oversight

The commissions deregulation act of 1996 was put in place to protect against such state and federal communications monopolies that would clearly impede interconnection rights of others. The stance of the commission late last year was to clarify and classify text messaging as a Title I service. We provided insights on rights, privacy, and public safety of consumers could be harmed if handed over blindly to the wireless operators control which we discussed may do more harm than good.

Public Outrage

We discussed the public outcry which occurred when Remind 101 subscribers were told they could not be provided service on a specific wireless operator. Though Remind 101 may be a commercial business, the parents, teachers, students, and school may use remind to communicate during a school shooting or other tragic event.

Public Safety

We discussed the impending threat to human lives when broad stroke policy approach and governance position can be as negative as it is positive. We referenced the death of a child in Florida who died because there were no guidelines, or mandates that were applied to a Voice Over Internet service to provide 911. Reinforcing the urgency not to regulate after such a terrible tragedy.

Reiterating the point that handing over control without providing guidance, oversight, and forward thinking past innovation would inevitable have a negative consequence.

Location Based Imprecise Routing Capabilities

Providing “course” location through the telecommunications use case allows a single number to be called or messaged and routing to the right place do not impede on consumer privacy protection. The inherent process of routing toll free calls for geographic location of the caller do not, and in telecommunications use cases rights are protected through the nature of the transaction.

833 Auction Impact

Another point made was that the ability to timely and accurately route toll free calls and messages would have a significant impact on the valuation of numbers auctioned from the 833 NPA. Because the ability to share individual numbers among a group of independent customers or to terminate such numbers to many businesses based upon closest location expands to resource, tailors service to callers seeking to connect with the closest desired business, allows many businesses access to quality vanity toll free numbers, and presents an viable business case, the value of each number so used can increase significantly. Messaging routing impediments multiply the devaluation.

Public Safety Concerns

The impact of the removal of what is defined as “Course” Location Based Services (LBS). The now disabled abilities that many users depend on to route text and voice calls provide valid and privacy protected use cases. Some of these use cases impacted are poison control, domestic violence hotlines, state driven commuter help lines, and many others which can negatively affect overall public safety.

Commercial Impacts

Every business that depends on identifying their Consumer who consensually communicates into a nationwide toll free number is now asked to “opt in” prior to the communication be completed.

This has shown to have abandonment rates of these communications skyrocket above 50%.

Facts

When using course look-up to provide geographic routing of a toll-free number call or message, telecommunications service providers do not store and then market the data provided. The data is only used to properly geographically route communications using non-precise GPS location.

The information that is used by telecommunication providers only to geographically route a call based on course or what is also known as a “fuzzy” location. In the past, the telecommunications service providers would use the local telephone number supporting a cell tower to determine the approximate area to route the call appropriately.

The fact is that cell towers cover many miles of an area as opposed to what was abused by third party location service companies, which is called “precise” GPS data which provides location within meters.

“Shared Use” of high value numbers allows, for example, multiple entities to use 800-LAWYERS, depending on the origination location of the call. Were that number to be used by a single entity, providing services in a single state, the value of that number is diminished. It was noted that shared use will significantly increase the value of the most sought-after numbers in the 833 auction.

Solutions to the Above

We suggested to provide some level of guidance as the commission had done exceptionally well with the Toll Free Texting ruling. Light touch guidelines with industry and wireless operators could solve issues, determine where neutral third parties can be utilized in providing the necessary framework to manage such a task, while providing the policy makers with critical, unbiased data that may better assist in future policy decisions.

We also offered another solution which would provide critical spam reporting data to the industry, policymakers, and operators by utilizing a similar neutral 3rd assigned party access option. The existing spam reporting service used by operators is only internal and are allowed to self-manage spam. The current system allows wireless operators to self-manage spam reporting by having consumers forward a suspected SMS spam to a short code via text, 7726, which spells SPAM.

With centralizing this data set if spam is reported the neutral 3rd party could notify the texting provider or telephone network provider the offender is sending from in real time. This could be a starting point to further use the data to allow those same service providers access to offending company data to prevent network hopping. Artificial Intelligence (AI) could then be used to better understand trending and possibly stop offenders faster. This would allow the industry to maintain the trust consumers have in text messaging as a spam free service.

The Commission could provide a clearer understanding to the mobile phone and other originating carriers that they both have the obligation to protect consumers “precise” location while providing “fuzzy” location data to toll free service providers and wireless operators would restore confidence and value to toll free numbers and the auction.

The Commission could achieve assist in geographic routing and communications completion by rendering a positive decision with respect to the Petition For Immediate Declaratory Relief or In the Alternative, Petition for Rulemaking, Filed by 800 Response Information Services, LLC, CC Docket No. 96-115.

Conclusion

The goal is to provide safe, private, and effective communications routing. In doing so, it would not be in conflict with privacy protections for consumers and ensuring toll free service providers would be able to offer geographic routing for public safety and “Shared Use” services to consumers with no undue call completion interference, latency, or unnecessary consumer opt in.

In the case of these service use cases “opt in” or “opt out” is not just unnecessary, but also presents a hindrance and possible safety issue to callers and texters.

Consumer behavior and education has produced a major decline in toll free usage by asking for an opt in on a service directly contacted by the consumer. When demanding an activity such as opting in during a call flow which never existed prior, resembles a fishing or marketing type activity. Consumers think they are opting into something beyond the single transaction which by nature is natively by consensual.

The CTIA has recently released messaging principles and best practices indicating that a consumer texting into a toll free number is consenting to the communication without being asked to opt in. https://api.ctia.org/wp-content/uploads/2019/07/190719-CTIA-Messaging-Principles-and-Best-Practices-FINAL.pdf

Sincerely,

MessageComm