

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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In the Matter of

Text-Enabled Toll Free Numbers

Toll Free Service Access Codes

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WC Docket No. 18-28

CC Docket No. 95-155

**COMMENTS OF SOMOS, INC.  
ON NOTICE OF PROPOSED RULEMAKING**

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## **INTRODUCTION AND EXECUTIVE SUMMARY**

The capability of texting to and from Toll-Free Numbers is an important development that increases the utility of Toll-Free Numbers to businesses, consumers, government agencies, and other organizations. Requiring the entities that provide this capability (“messaging providers”) to verify the proper subscriber of a Toll-Free Number through a central registry will operationalize the Commission’s recent declaratory ruling and prevent errors and abusive practices. In putting in place a central registry to record the status of text-enabled Toll-Free Numbers, the Commission should build on existing structures – a single registry run by an impartial administrator. This model has been proven effective and efficient, and will ensure that the principles of Toll-Free Number administration are applied to text-enablement in a way that promotes the confidence of users and industry participants alike, while ensuring neutral treatment for messaging providers.

Accordingly, the Commission should determine that Somos, Inc. (“Somos”), as the Toll Free Numbering Administrator (“TFNA”), will be responsible for administering an industry-wide Toll-Free text-messaging registry, using Somos’s existing Texting & Smart Services (“TSS”) Registry. The Commission has already found Somos to be neutral and impartial, and Somos, as TFNA, is required to remain so. As set out in voluntary industry guidelines, messaging providers are already using its registry to verify that they have the proper authorization to text-enable Toll-Free Numbers. By requiring that all messaging providers use the TSS Registry to record the text-enabled status of Toll-Free Numbers, the Commission can provide a seamless and cost-effective solution to the problems that have held back the development of innovative Toll-Free applications.

The Commission should also clarify that it is the responsibility of the messaging provider, not the subscriber, to verify subscriber authorization by notifying the appropriate Responsible Organization (“Resp Org”). Under the Commission’s rules, the Resp Org is the subscriber’s chosen entity for managing and administering records in the SMS/800 Toll-Free Number Registry (“SMS/800 TFN Registry”), and only the Resp Org can verify the authority of a subscriber. Mandating a provider-to-provider system further limits the burden on the subscriber, making it easier to take advantage of this capability.

These actions are needed so that the Commission can uphold its obligation under 47 U.S.C. § 251(e) to ensure that an “impartial entit[y]” is making Toll-Free Numbers “available on an equitable basis.” Requiring use of a central registry administered by the TFNA effectuates the important principle that the subscriber of a Toll-Free Number should have control of that number for all purposes, including texting – a principle that the Commission has repeatedly and recently affirmed. This has nothing to do with regulating text-messaging or related services; rather, it is an important measure to protect the integrity of Toll-Free Numbers, a matter that is unquestionably within the Commission’s jurisdiction.

## **I. BACKGROUND**

### **A. The Toll-Free Number Ecosystem**

Because of their convenience, geographic coverage, and marketing potential, Toll-Free Numbers are an important tool for businesses, government organizations, and non-profits.<sup>1</sup> Toll-Free Numbers continue to grow in popularity, with over 41 million Toll-Free Numbers in use,

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<sup>1</sup> See, e.g., Notice of Proposed Rulemaking, *Toll Free Assignment Modernization*, 32 FCC Rcd 7885, ¶ 1 (Sept. 28, 2017) (“2017 NPRM”).

out of approximately 55 million available numbers (after the most recent code opening).<sup>2</sup> As the Commission has recognized, Toll-Free Numbers have particular value to businesses and other organizations that use “vanity numbers” (e.g., 1-800-FLOWERS).<sup>3</sup> A thriving and competitive industry has grown up around developing the full potential of Toll-Free Numbers as a business communications and marketing tool.

As the neutral and impartial TFNA, Somos administers the central SMS/800 TFN Registry that makes the Toll-Free ecosystem work.<sup>4</sup> The Commission has determined that Somos (formerly SMS/800, Inc.) meets the Commission’s neutrality criteria under 47 C.F.R. § 52.12.<sup>5</sup> Pursuant to the SMS/800 Tariff filed annually by Somos, the database “is an operations and administrative support system used for the creation and maintenance of call processing records for toll-free telephone numbers. It is also the source of toll-free number availability and reservation status information.”<sup>6</sup> Resp Orgs are the entities exclusively responsible for “manag[ing] and administer[ing] the appropriate records in the [SMS/800 TFN Registry] for the toll free subscriber.”<sup>7</sup> Resp Orgs are responsible for ensuring that the information in the database is accurate and current, and for coordinating all necessary activities

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<sup>2</sup> See *Report of the Toll Free Neutral Administrator (TFNA) to the North American Numbering Council* at 2 (June 2017), [http://www.nanc-chair.org/docs/mtg\\_docs/Jun17\\_TFNA\\_Report.pdf](http://www.nanc-chair.org/docs/mtg_docs/Jun17_TFNA_Report.pdf).

<sup>3</sup> 2017 NPRM ¶ 2.

<sup>4</sup> See generally *Order, Toll Free Service Access Codes*, 28 FCC Rcd 15328 (2013) (“SMS Governance Order”).

<sup>5</sup> *Id.* ¶¶ 41-47.

<sup>6</sup> Somos, Inc. F.C.C. Tariff No. 1, § 2.1 (issued Feb. 5, 2018) (“SMS/800 Tariff”), available at <https://s3.amazonaws.com/files-prod.somos.com/documents/SMS800FunctionsTariff.pdf>.

<sup>7</sup> 47 C.F.R. § 52.101(b).

so that Toll-Free Numbers are properly routed.<sup>8</sup> A Resp Org is chosen by the Toll-Free Number subscriber,<sup>9</sup> who has the right to change Resp Orgs without losing its current numbers.<sup>10</sup> An entity need not provide any particular telecommunications service to the subscriber to serve as its Resp Org.<sup>11</sup>

The subscriber of a Toll-Free Number has a “controlling interest” (though not a proprietary interest) in the number.<sup>12</sup> In some cases, a Toll-Free Number may be shared among several parties (referred to as “shared use”), so that calls to the same Toll-Free Number in different areas are routed to different local franchisees.<sup>13</sup> Even in these situations, however, there can be only one subscriber under the Commission’s rules and the SMS/800 Tariff.<sup>14</sup> The Resp Org acts only on behalf of a Toll-Free subscriber (or the subscriber’s agent) and is responsible to the subscriber.<sup>15</sup>

The Commission has regulatory authority over Toll-Free Numbers pursuant to 47 U.S.C. § 251(e)(1), which gives the Commission “exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.” The Commission has put in place a

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<sup>8</sup> SMS/800 Tariff § 2.3; *see also* 47 C.F.R. § 52.101(d).

<sup>9</sup> 47 C.F.R. § 52.101(e).

<sup>10</sup> SMS/800 Tariff § 2.1.7; *id.* § 2.3.1(C); *id.* § 2.3.1(A)(9).

<sup>11</sup> *See* Order, *Provision of Access for 800 Service*, 8 FCC Rcd 1423, ¶¶ 41-42 (1993) (“1993 Order”).

<sup>12</sup> SMS/800 Tariff § 2.3.1(A)(7); *see also* 47 C.F.R. § 52.101(e).

<sup>13</sup> *E.g.*, 2017 NPRM, ¶ 21; *id.* App. A ¶ 3.

<sup>14</sup> In some cases, such as shared use, the Resp Org is the subscriber, rather than any of the end users. *See* Somos Inc., Notice of Ex Parte, WT Docket No. 08-7 & CC Docket No. 95-155 (Sept. 2, 2016). According to industry guidelines, “For Shared Use Toll-Free or Bundled Services, the Provider of the Shared Use Toll-Free or Bundled Service is treated as the Customer.” Alliance for Telecommunications Industry Solutions, Industry Guidelines for Toll-Free Number Administration, ATIS-041700-002, at 2 (Oct. 2016) (“ATIS Guidelines”).

<sup>15</sup> SMS/800 Tariff § 2.3.

basic set of regulations “to ensure the efficient, fair, and orderly allocation of toll free numbers.”<sup>16</sup> These currently include prohibitions on warehousing,<sup>17</sup> hoarding,<sup>18</sup> and brokering<sup>19</sup> of Toll-Free Numbers and limits on the quantity of Toll-Free Numbers that a Resp Org may reserve.<sup>20</sup> “Toll free numbers shall be made available on a first-come, first-served basis unless otherwise directed by the Commission.”<sup>21</sup>

## **B. Text Messaging and Toll-Free Numbers**

As Somos has described in previous filings, the capability to transmit text messages to and from Toll-Free Numbers has made Toll-Free Numbers even more useful, but has also created new challenges.<sup>22</sup> Text messaging was originally a mobile-to-mobile service; although it was technically possible to send text messages to or from a non-mobile computer, such

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<sup>16</sup> Second Report and Order and Further Notice of Proposed Rulemaking, *Toll Free Service Access Codes*, 12 FCC Rcd 11162, ¶ 2 (1997) (“Second Report and Order”).

<sup>17</sup> 47 C.F.R. § 52.105. Warehousing “is the practice whereby RespOrgs, either directly or indirectly through an affiliate, reserve toll free numbers from the SMS database without having identified subscribers for whom they are reserving those numbers.” Second Report and Order ¶ 22. It is “inconsistent with [the Commission’s] obligation under § 251(e)(1) to ensure that numbers are made available on an equitable basis.” *Id.*

<sup>18</sup> 47 C.F.R. § 52.107. “Hoarding occurs when a toll free subscriber acquires more numbers from a RespOrg than it intends to use for the provision of toll free service.” Second Report and Order ¶ 38. It is “contrary to the public interest” because “the pool of available numbers decreases” and “can also result in some customers being unable to obtain toll free numbers, even though certain numbers are not being used.” *Id.*

<sup>19</sup> Brokering “is the selling of numbers by private entities for a fee.” *Id.* It “provides motivation for hoarding” and “is not in the public interest.” *Id.*

<sup>20</sup> *Id.* ¶ 78; *see* SMS/800 Tariff § 2.3.1(A)(4)-(6).

<sup>21</sup> 47 C.F.R. § 52.111.

<sup>22</sup> *See generally* White Paper, *Texting with Toll-Free Numbers*, Exhibit to Letter from Joel Bernstein, Somos, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 08-7 & CC Docket No. 95-155, at 1 (Sept. 29, 2016) (“*TTF White Paper*”); Petition of Somos, Inc. for a Declaratory Ruling Regarding Registration of Text-Enabled Toll-Free Numbers, *Toll Free Service Access Codes*, No. 95-155, at 5-11 (filed Oct. 28, 2016) (“*Somos Petition*”).

“application-to-person” texting was generally accomplished using Common Short Codes, in part to avoid the risk of mass-generated spam text messages originating from ordinary 10-digit numbers.<sup>23</sup>

Toll-Free Numbers offer businesses the ability to receive text messages sent to their Toll-Free Numbers – and to send texts in response – by “text-enabling” the numbers.<sup>24</sup> Unlike Toll-Free voice traffic, text messages to and from Toll-Free Numbers are not routed over the public switched network. Instead, the sender’s wireless provider recognizes the 8XX number and sends the message to a hub provider, which in turn delivers the message to the Toll-Free subscriber’s messaging provider. The subscriber’s messaging provider need not be the same as its Resp Org, and, as a matter of the technical requirements of delivering the message, none of these service providers need have any contact with the Toll-Free Number subscriber’s Resp Org.<sup>25</sup> The messaging provider need not enter any information into the SMS/800 TFN Registry for text-messaging traffic, and the hub provider need not obtain routing information from the database in order to deliver messages.<sup>26</sup>

The fact that text messaging service providers do not need to reference the SMS/800 TFN Registry, which is the only authoritative means to determine whether a Toll-Free Number has been reserved and by whom, has caused significant problems.<sup>27</sup> Most obviously, a non-subscriber can text-enable a Toll-Free Number without the knowledge of the subscriber or the

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<sup>23</sup> See Short Code Registry, *FAQ*, <https://www.usshortcodes.com/faqs>.

<sup>24</sup> See *TTF White Paper* at 2-4.

<sup>25</sup> See generally *id.* at 2-7.

<sup>26</sup> As a practical matter, the hub provider often relies instead on private arrangements with messaging providers to identify and route text-messaging traffic sent to the messaging providers’ subscribers.

<sup>27</sup> See *id.* at 7-21; *Somos Petition* at 5-11.



Resp Org.<sup>28</sup> In response to increasing concern among industry members about this issue, Somos created the TSS Registry, an ancillary service of the SMS/800 TFN Registry. The TSS Registry allows messaging providers to ensure that a Toll-Free Number is in use before text-enabling it, as was required by the Commission in its Declaratory Ruling. Further, it allows messaging providers to verify, by seeking confirmation from the appropriate Resp Org, that the entity requesting text-enablement of a Toll-Free Number is, in fact, the subscriber. Notably, even the end-user of a Toll-Free Number may not always have the authority to have the number text-enabled. As noted, some numbers are shared-use numbers, which are routed to multiple end-users, depending on geography. End-users may also have Toll-Free Numbers as part of a “bundled service,” meaning that the service provider uses a pre-assigned block of Toll-Free Numbers to provide a combination of services, in which case the bundle provider rather than the end-user is the “subscriber” with a controlling interest in the number.<sup>29</sup>

The TSS Registry serves as the authoritative registry of text-enabled Toll-Free Numbers. When messaging providers enter a Toll-Free Number, the TSS Registry connects directly to the SMS/800 TFN Registry to confirm that the Toll-Free Number in question is reserved by a particular Resp Org. If so, the TSS Registry then sends a notification of the request for text-enablement to that Resp Org. The Resp Org must then authenticate the subscriber and validate the request in the TSS Registry within two days. It may reject the authorization only for legitimate reasons.<sup>30</sup> Upon the Resp Org’s approval, the number is automatically listed as “text-

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<sup>28</sup> See *TTF White Paper* at 19-20.

<sup>29</sup> According to industry guidelines, “For Shared Use Toll-Free or Bundled Services, the Provider of the Shared Use Toll-Free or Bundled Service is treated as the Customer.” Alliance for Telecommunications Industry Solutions, Industry Guidelines for Toll-Free Number Administration, ATIS-041700-002, at 2 (Oct. 2016) (“ATIS Guidelines”).

<sup>30</sup> See *Somos Petition* at 9-11.

enabled” in the TSS Registry. By the same token, when text-messaging capability is turned off for a particular Toll-Free Number, the messaging provider uses the TSS Registry to record that fact, automatically notifying the Resp Org.

The TSS Registry also performs an important validation, in that it automatically reflects relevant changes in a Toll-Free Number’s status in the SMS/800 TFN Registry. For example, if at any time after a Toll-Free Number is text-enabled, a Toll-Free Number is put in suspended status or becomes spare in the SMS/800 TFN Registry, that Toll-Free Number is no longer available for text-messaging service either, and the TSS Registry will reflect that change. This is a critical validation in that it ensures that a Toll-Free Number’s availability status is consistent across voice and text-messaging services. Somos administers the TSS Registry on the same neutral, impartial basis on which it administers the SMS/800 TFN Registry.<sup>31</sup>

For the TSS Registry to effectively ensure that Toll-Free Numbers are text-enabled only by the Toll-Free subscriber, all messaging providers must use it. In response to the fact that all messaging providers were not using the registry, thereby risking text-enablement without the subscriber or Resp Org’s knowledge or authorization,<sup>32</sup> Somos petitioned the Commission in October 2016 for a declaratory ruling. In its petition, Somos requested that the Commission clarify the scope of its rules by declaring that (1) the authorization of the Resp Org, as agent of the subscriber, is necessary before a messaging provider may text-enable a Toll-Free Number, and (2) messaging providers must register their text-enabled numbers in the TSS Registry.<sup>33</sup>

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<sup>31</sup> See *TTF White Paper* at 11-12.

<sup>32</sup> *Id.*

<sup>33</sup> See *Somos Petition* at 11-16.

After requesting comments on the petition, the Commission issued the Declaratory Ruling and Notice of Proposed Rulemaking at issue here.

## II. DISCUSSION

The Commission’s Declaratory Ruling was an important first step in providing a framework for text-enablement of Toll-Free Numbers that will minimize the potential for abuse, consistent with the Commission’s obligation “to ensure that toll free numbers, which are a scarce and valuable national public resource, are allocated in an equitable and orderly manner that serves the public interest.”<sup>34</sup> The Declaratory Ruling affirms that the subscriber, who holds the “controlling interest” in a Toll-Free Number,<sup>35</sup> is the only entity that can ultimately provide authorization for text-enablement.<sup>36</sup> By clarifying that a messaging provider must obtain authorization *before* a Toll-Free Number is text-enabled, the Commission limited the potential for mistakes as well as for the text-enabling of numbers before they are in service (consistent with the Commission’s existing rules against warehousing and hoarding<sup>37</sup>). Declaring that only the subscriber may authorize text-enablement protects both subscribers, who have often invested substantially in marketing their numbers, and consumers, who reasonably expect and trust that a text to a Toll-Free Number is going to the same entity that a voice call would be.

Further action is needed to effectively implement these principles. As the Commission has recognized, “[t]he lack of safeguards and controls in the current text-enabling process can

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<sup>34</sup> Second Report and Order ¶ 22 (footnote omitted).

<sup>35</sup> SMS/800 Tariff § 2.3.1(A)(7).

<sup>36</sup> Declaratory Ruling and Notice of Proposed Rulemaking, *Text-Enabled Toll Free Numbers*, WC Docket No. 18-28, ¶ 11 (June 12, 2018) (“2018 Declaratory Ruling and NPRM”).

<sup>37</sup> 47 C.F.R. §§ 52.105, 52.107.

harm both the toll free subscriber and any consumer that calls or texts the toll free number.”<sup>38</sup>

The Commission asks whether it should consider maintaining the status quo,<sup>39</sup> but that route is not acceptable. As many commenters have attested, text-enablement of Toll-Free Numbers without subscribers’ knowledge is already a real problem.<sup>40</sup> As texting to Toll-Free Numbers becomes more common, the incidence of fraudulent and abusive behavior is likely to accelerate. The fact that there are insufficient controls in place to prevent abusive behavior has likely slowed the adoption of this new technology.

Experience teaches that without appropriate structures in place, not all industry members will abide by the letter – to say nothing of the spirit – of the Commission’s ruling. For example, Zipwhip has already told the Commission that it does not believe the Declaratory Ruling requires it to change its current practices,<sup>41</sup> despite that fact that its current practices do not prevent Toll-Free Numbers from being hijacked and text-enabled by entities other than the Toll-Free subscriber.<sup>42</sup> The Commission must act to effectuate its Declaratory Ruling.

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<sup>38</sup> 2018 Declaratory Ruling and NPRM ¶ 9.

<sup>39</sup> *Id.* ¶ 25.

<sup>40</sup> *Id.* ¶ 7 n.21 (citing Comments from the Association of Toll Free Professionals, ANI Networks, ATL Communications, Bandwidth.com and West Telecom Services, and a letter from Aerialink *et al.*)

<sup>41</sup> *See, e.g.*, Letter from Steven A. Augustino, Counsel for Zipwhip, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 18-28, at 2 (June 1, 2018) (“[T]he declaratory ruling does nothing more than confirm the status quo in the market today . . .”).

<sup>42</sup> *See TTF White Paper*, at 20 (“In each circumstance wherein one of our analysts was able to successfully hijack texts to a Toll-Free number, we reviewed information in the TSS registry (and corresponding information from a major data aggregator – Netnumber) to confirm that each Toll-Free number had been recently text-enabled and registered to Zipwhip.”).

### **A. A Single Registry Run by the TFNA Is Appropriate**

The Commission seeks comment on whether to require registration of text-enabled Toll-Free Numbers in multiple registries or a single registry, and if the latter, whether it should be the SMS/800 TFN Registry or another.<sup>43</sup> The very purpose of a registry is to create a single, authoritative source of information – here, information about the current status of Toll-Free Numbers.<sup>44</sup> The Commission’s consistent and successful approach to numbering resources has been to centralize oversight of the assignment and control of numbers,<sup>45</sup> consistent with its obligation to “designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis.”<sup>46</sup> Use of a single registry has been effective for other numbering purposes, including number portability.<sup>47</sup> Requiring or authorizing multiple registries – particularly when any effective registry must ultimately rely on the SMS/800 TFN Registry – would undermine many advantages of a system of registration by depriving industry participants of a single, authoritative source for registration information. Having multiple registries also adds an additional layer of complication, as they must be reconciled to prevent and resolve conflicts between registries.

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<sup>43</sup> 2018 Declaratory Ruling and NPRM ¶¶ 18-22.

<sup>44</sup> See, e.g., 1993 Order ¶ 19 (“The SMS is the centralized data base system that provides a national coordinated system . . .”).

<sup>45</sup> E.g., Second Report and Order and Memorandum Opinion and Order, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392, ¶¶ 320-322 (1996) (“A nationwide, uniform system of numbering, necessarily including allocation of NPA and CO code resources, is essential to efficient delivery of telecommunications services in the United States.”) (subsequent history omitted).

<sup>46</sup> 47 U.S.C. § 251(e).

<sup>47</sup> See Order, *Telcordia Technologies, Inc. Petition to Reform Amendment 57 and to Order a Competitive Bidding Process for Number Portability Administration*, 31 FCC Rcd 8406, ¶ 3 (2016);

The Commission seeks comment on whether, if it determines that a single registry is appropriate, the TFNA should be the registrar or whether the Commission should designate a separate administrator.<sup>48</sup> The Commission should require that the registry be administered by the TFNA. To begin with, the TFNA has already been found to be a neutral, impartial administrator of Toll-Free Numbering.<sup>49</sup> Somos, the current TFNA, provides no messaging-related services and has no interest in any messaging services provider, so it will continue to be neutral and impartial under the Commission's rules. And the Commission has already imposed the obligation on the TFNA to provide access to Toll-Free Numbers on an equitable basis, which it currently does under the SMS/800 Tariff.<sup>50</sup> Having a different administrator for different services provided using Toll-Free Numbers risks some of the same problems that make multiple registries unattractive, such as the potential for conflicting information about the Resp Org or subscriber associated with a particular Toll-Free Number. Further, designating the TFNA minimizes the adjudicative cost of determining who should administer the database and the cost of running the registry itself.

Moreover, Somos has already created the TSS Registry, which accomplishes the objective of ensuring that messaging providers are text-enabling Toll-Free Numbers only with the proper authorization of the Toll-Free Subscriber and that changes in service status for Toll-Free Numbers are accurately and promptly communicated across the Toll-Free Number ecosystem. The TSS Registry communicates directly with the SMS/800 TFN Registry to obtain the needed information, ensuring that it is correct and up to date. Use of the TSS Registry is

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<sup>48</sup> 2018 Declaratory Ruling and NPRM ¶ 21.

<sup>49</sup> See SMS Governance Order ¶¶ 41-47; *see also* 47 C.F.R. § 52.12.

<sup>50</sup> See SMS Governance Order ¶ 34.

already required by industry guidelines.<sup>51</sup> And Somos stands ready to revise the SMS/800 Tariff as needed to integrate this new service.<sup>52</sup> Requiring authorization and registration of text-enabled Toll-Free Numbers in a TFNA-run database is a natural extension of the TFNA's current responsibilities.

The Commission also seeks comment on whether a single registry should be separate from the SMS/800 TFN Registry or part of it.<sup>53</sup> As a technical matter, it makes little difference whether the Commission requires that the single registry be a part of the SMS/800 TFN Registry. TSS Registry is already an ancillary service of the SMS/800 TFN Registry and its capabilities can be combined with the SMS/800 TFN Registry to form a single registry. Currently, only Resp Orgs have access to the SMS/800 TFN Registry, while the TSS Registry is open to messaging providers as well. Somos could retain these distinct access levels in the event the Commission ordered that the registries ultimately be combined into a single database.

#### **B. Responsibilities of the Subscriber, Resp Org, and Messaging Provider**

The Commission seeks comment on what responsibilities the subscriber, Resp Org, and messaging provider should have.<sup>54</sup> In the NPRM, the Commission appears to be proposing a rule that requires the subscriber to inform its Resp Org when it has authorized text-enablement, and requires the Resp Org to record that information in the SMS/800 TFN Registry and subsequently update the database as necessary.<sup>55</sup> This proposal, however, does not fully

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<sup>51</sup> ATIS Guidelines at 6.

<sup>52</sup> *See Somos Petition* at 14-16.

<sup>53</sup> *See* 2018 Declaratory Ruling and NPRM ¶ 18.

<sup>54</sup> *Id.* ¶¶ 13-16.

<sup>55</sup> *Id.*

implement the principles endorsed by the Commission because it does not require proper authorization and authentication *before* a Toll-Free Number is text-enabled.<sup>56</sup>

In order to minimize the burden on the subscriber, the subscriber should only need to inform its messaging provider that it seeks to text-enable its Toll-Free Number. The responsibility should be on the messaging provider to inform the Resp Org that the subscriber seeks to text-enable the number. The Resp Org, as the designated agent for the subscriber,<sup>57</sup> should then have the responsibility to verify the subscriber's identity and ensure that the messaging provider obtained authorization from a person or entity with authority to text-enable the number.<sup>58</sup> This process, like that for porting local numbers, would be a provider-to-provider process.<sup>59</sup> Messaging providers who fail to seek verification from the Resp Org could be subject to Commission enforcement action. Similarly, if the subscriber seeks to disable text-messaging, it should only need to inform the messaging provider. It should be the responsibility of the messaging provider to inform the Resp Org by properly entering the information into the TSS Registry.

Some messaging providers have already been voluntarily taking these steps using the TSS Registry. It is clear from the strong support of its current users for the TSS Registry that the process has been easy for these providers.<sup>60</sup> This proposed system ensures that the correct

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<sup>56</sup> *Id.* ¶ 11.

<sup>57</sup> *See* 47 C.F.R. § 52.101(b).

<sup>58</sup> As noted, certain numbers (such as shared-use numbers) may not be allowed to be text-enabled at all.

<sup>59</sup> *See* 47 C.F.R. § 52.34.

<sup>60</sup> *E.g.*, Comments in Support, ATL Communications, *Petition of Somos, Inc. for Declaratory Ruling Regarding Registration of Text-Enabled Toll Free Numbers*, WC Docket No. 95-155 & WT Docket No. 08-7 (filed Dec. 5, 2016); Comments [of Joint Commenters Bandwidth.com, Inc. and West Telecom Services, LLC] in Support of Somos, Inc. *Petition, Petition of Somos, Inc. for Declaratory Ruling Regarding Registration of Text-Enabled Toll Free*



information is recorded in the authoritative registry, requires verification of a subscriber's identity and authority *before* a number is text-enabled, and minimizes the burden on the subscriber.

The Commission also seeks comment on what information needs to be captured in the registry.<sup>61</sup> At a minimum, the recorded data must include whether a number has been text-enabled; if so, the messaging provider of record and current contact information for the messaging provider must be included. That information is necessary for law enforcement purposes. For voice call purposes, law enforcement relies on the ability to identify the Resp Org for a particular number and the Resp Org, if necessary, can be required to identify the subscriber or other end-user. A similar ability to identify the messaging provider and end-user should be in place for text messaging.<sup>62</sup>

### **C. Additional Comments**

***No general regulation of text messaging.*** Several commenters have noted that the regulatory classification of text messaging generally has been pending before the Commission for some time and has not yet been resolved.<sup>63</sup> The classification and regulation of text messaging generally has no bearing on the registration of text-enabled Toll-Free Numbers, and

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*Numbers*, WC Docket No. 95-155 & WT Docket No. 08-7 (filed Dec. 5, 2016); Joint Comments of Aerialink, Inc., CallFire, Inc., and Twilio, Inc., *Petition of Somos, Inc. for Declaratory Ruling Regarding Registration of Text-Enabled Toll Free Numbers*, WC Docket No. 95-155 & WT Docket No. 08-7 (filed Dec. 5, 2016).

<sup>61</sup> 2018 Declaratory Ruling and NPRM ¶¶ 17-18.

<sup>62</sup> If the Commission determines that additional information is required, such as subscriber information, the SMS/800 TFN Registry and/or the TSS Registry can easily accommodate it.

<sup>63</sup> See, e.g., Comments of Ten Digit Communications LLC at 6-9, *Notice of Proposed Rulemaking: Toll Free Assignment Modernization; Toll Free Access Codes*, WC Docket No. 17-192 & CC Docket No. 95-155 (filed Nov. 13, 2017).

vice versa. Administering the numbering system and ensuring the equitable availability of numbers are obligations of the Commission under 47 U.S.C. § 251(e). The Commission has already promulgated rules for the equitable allocation of Toll-Free Numbers to subscribers<sup>64</sup> and established that subscribers have the right to control the uses of their numbers.<sup>65</sup> Ensuring that subscribers maintain control of their numbers for all purposes falls squarely within the Commission's narrow § 251(e) authority. A central registry does not regulate the delivery of text messaging in any way, and the current proceeding examining the regulatory status of text messaging<sup>66</sup> should not affect the Commission's actions in this proceeding.

***Retroactive registration.*** The Commission seeks comment on whether it should require registration of numbers that have already been text-enabled in the relevant database.<sup>67</sup> A complete registry is important for law enforcement purposes and to resolve possible subscriber authorization or routing issues that may arise. If the Commission orders use of the TSS Registry, which is already fully functional, six months would be more than adequate for all existing text-enabled numbers to be registered. Like the registration requirements discussed above, this responsibility should rest with the messaging provider in the first instance, not the subscriber.

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<sup>64</sup> See 47 C.F.R. § 52.111.

<sup>65</sup> See *id.* § 52.101(b), (e); see SMS/800 Tariff § 2.3.1(A)(7), (9).

<sup>66</sup> *Petition of Public Knowledge et al. for Declaratory Ruling That Text Messages and Short Codes Are Title II Services or Title I Services Subject to Section 202 Non-Discrimination Rules*, WT Docket No. 08-7 (filed Dec. 11, 2007).

<sup>67</sup> Declaratory Ruling and NPRM ¶ 23.

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