

37. Bellcore, the current administrator of the North American Numbering Plan ("NANP"), assigns numbers in accordance with principles and guidelines established through industry consensus procedures. Like the Commission, Bellcore has characterized numbers as a public resource for use by individuals or entities, specifically denying that administrative assignment of a number implies ownership by either the assignor or assignee.⁷⁹ The most recent version of the industry assignment guidelines for 800 numbers⁸⁰ and the existing assignment guidelines for 555 NXX codes⁸¹ present a similar view.

38. From the consumers' perspective, vanity numbers are portable numbers in which businesses have invested substantial resources. Certain subscribers may even think of toll free numbers as their property. Telecommunications tariffs and rules on file with state public service commissions, however, routinely recite that subscribers do not own their telephone numbers.⁸² While certain carriers have drafted tariffs purporting to grant to those carriers exclusive property interests in particular blocks of telephone numbers,⁸³ no court has yet ruled on the legality of such tariff provisions.

39. Courts that have ruled on the intellectual property nature of a telephone number have held that a term spelled out by a vanity number may be protected as a trademark or

⁷⁹ See Personal Communications Services N00 NXX Code Assignment Guidelines, para. 2.10 (April 7, 1995 Revision) ("PCS N00 NXX code(s) are a public resource and administrative assignment of the codes does not imply ownership of the resource by the entity performing the administrative function, nor does it imply ownership by the entity to which it is assigned").

⁸⁰ See supra note 41 for language from the Industry Guidelines prohibiting the buying, selling, brokering, bartering, or releasing for a fee of 800 numbers,

⁸¹ See 555 NXX Assignment Guidelines, para. 2.9 (April 7, 1995 Revision).

Administrative assignment of the 555 numbers by an entity does not imply ownership of the resource by the entity performing the administrative function, nor does it imply ownership by the entity to which it is assigned. The assignee has the right to use an assigned number in accordance with these guidelines.

⁸² See Burris v. South Central Bell Telephone Company, 540 F. Supp. 905, 907 (S.D. Miss. 1982) ("[t]he subscriber has no property right to the telephone number or any other call number designation associated with services provided by the [telephone] company").

⁸³ Id. at 908 ("[t]elephone numbers are the property of the [telephone] company and are assigned to the service furnished the subscriber").

service mark, provided that it meets the statutory requirements for trademark protection.⁸⁴ We note, however, that these holdings have been limited to the question of whether the mnemonic term, rather than the underlying number, is entitled to trademark or service mark protection.⁸⁵ This fact supports the view that an ownership interest in the term associated with a vanity number does not imply the existence of any ownership interest in the underlying number.

2. Scope of Vanity Numbers

40. In order to design a fair and reasonable allocation methodology for numbers drawn from new toll free code databases, we must ascertain the potential number of equivalent vanity numbers that might be reserved for 888 and subsequent toll free codes. We ask parties to identify the total number of existing vanity numbers or a method for ascertaining how many numbers are or should be regarded as vanity numbers. This information could help us to assess fully the viability of recognizing a right of first refusal, as discussed below, for equivalent 888 and subsequent code vanity numbers and the impact such a right of first refusal will have upon competition. For example, if only a small percentage of 800 numbers are vanity numbers, we must assess whether establishing a rule regarding a right of first refusal would serve the public interest. Conversely, if the percentage of 800 vanity numbers is large, we must also assess whether the benefits of establishing such a rule outweigh the costs it would impose, the most obvious of which is the rapid immediate consumption of numbers from new codes with little assurance that these numbers will be intensively used. In the event that we deny a right of first refusal, we also seek comment on whether federal trademark law alone will sufficiently protect the current holders of 800 vanity numbers against new code assignments that may produce the same vanity acronym.

3. Proposals

a. Right of First Refusal

41. A right of first refusal would permit the holder of that right to have a superior right vis-a-vis all other interested parties to receive the equivalent 888 number. We therefore seek comment, first, on whether the current holders of 800 numbers should be permitted to exercise such a right of first refusal. Second, if a right of first refusal is allowed, we seek comment on whether subscribers should be permitted to exercise this right free of charge or should be required to pay for the right of first refusal through, for example, a one-time fee

⁸⁴ See American Airlines, Inc. v. 1-800-A-M-E-R-I-C-A-N Corporation, 662 F. Supp. 673 (D. Ill. 1985) (granting American Airlines injunction against travel agency's marketing of the term "1-800-American").

⁸⁵ See, e.g., Murrin v. Midco Communications, Inc., 726 F. Supp. 1195, 1200 (D. Minn. 1989) ("[t]he parties dispute whether a telephone number itself is protectible as a trademark. For the purpose of this motion, it is not necessary to resolve that question of law").

assessed on the subscriber or through a competitive bidding process. Third, if subscribers are required to pay for a right of first refusal, we seek comment on what entity should receive the money and whether it should be earmarked for particular uses, e.g., administration of the DSMI database or otherwise for the operation of the North American Numbering Plan. We also seek comment on the Commission's statutory authority for promulgating such measures.

42. We note that we have received numerous letters from current holders of 800 numbers regarding the right of first refusal.⁸⁶ These letters indicate two primary areas of concern: the need to block other entities' claims to the equivalent 888 number so as to prevent the possibility of fraud or customer confusion, and the affirmative desire to acquire the equivalent 888 numbers to perpetuate consumer association of the business with those numbers. It should be noted that if a significant fraction of 800 number holders wanted the 888 analogue, there would be an array of numbers immediately reserved, bringing the new code that much closer to exhaust. The problem would then roll from 888 to 877, and so forth. We seek comment, therefore, on the effect of any such right of first refusal on our goal that toll free numbers be used in a fair, efficient, and orderly manner. Finally, we seek comment on the application of a right of first refusal to subsequent new toll free codes (e.g., 877, 866, and so on).

43. Moreover, a decision to grant a right of first refusal on equivalent toll free numbers may also have international effects. We recognize that different countries may ascribe different proprietary rights to telephone numbers. As a result, we seek comment on the impact of allowing such a right of first refusal upon members of the NANP. We also ask parties to address whether a right of first refusal is consistent with international intellectual property laws or any other related international issue. Comment is specifically requested on issues relating to "free phone" initiatives or any other numbering initiatives of the International Telecommunications Union ("ITU"). We intend to continue to coordinate with other countries to ensure that toll free numbers are used in an efficient manner.

b. Assignment Based on Industrial Classification

44. To address the question of fraud, we seek comment on an alternative to a right of first refusal that would bar any competitor of the current holder of an 800 number from obtaining the equivalent 888 number, as well as the equivalent number in any subsequent toll free code. Under this approach, a numerical code could be assigned to each service and industry in the economy. The current holder of an 800 number with commercial concerns related to assignment of the equivalent 888 number could report its code to its 800 Service Provider, which in turn would be required to report the code to DSMI. DSMI would then enter the codes in the SMS database. A subscriber seeking to obtain an 888 number would also report its code to its RespOrg. The RespOrg would report the subscriber's code to DSMI when attempting to reserve the 888 number from the SMS database. DSMI would then

⁸⁶ See supra note 75.

query the database to determine the code associated with the current holder of the equivalent 800 number. If the 888 applicant and the current holder of the equivalent 800 number shared the same code and were, therefore, competitors, the 888 applicant would not be permitted to obtain the equivalent 888 number. Under this alternative, the current holder of an 800 number would similarly be barred from obtaining the equivalent number in any new toll free code. The reporting requirement would apply to all toll free service subscribers in all toll free codes. That is, when a new subscriber in the 888 code reported its code, no entity with the same code could obtain the equivalent toll free number in the 877 code or any subsequent toll free code.

45. Standard industrial classification ("SIC") codes⁸⁷ could be used to categorize services and industries.⁸⁸ We believe that this proposal would serve the dual purposes of: 1) allaying the fears of current 800 number subscribers that a competing business would obtain the equivalent number in a new toll free code; and 2) promoting the efficient allocation of the toll free number resource. We seek comment on the feasibility of this approach, as well as its advantages and disadvantages. We ask commenters to address the reporting requirement and whether it would impose an undue burden on subscribers, RespOrgs, 800 Service Providers, and/or DSML. We also seek comment on the specificity required in SIC codes. For example, it may be that a two-digit code does not provide enough specificity, while a four-digit code provides more specificity than is necessary.⁸⁹ Finally, we seek comment on how best to accommodate conglomerates that may fit within multiple classifications and whether such a proposal would delay the introduction of new toll free codes because of technical changes that would have to be made to the SMS database.

c. Miscellaneous Proposals

46. Further, we seek comment on a number of additional alternatives to permitting the right of first refusal on equivalent toll free vanity numbers. First, we could require the administrator to release those 888 numbers identified as equivalent toll free vanity numbers at the end of the toll free assignment pool. For example, "1-888-THE-CARD" would not be assigned until a substantial percentage of the 888 pool was depleted. Second, we could

⁸⁷ See Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987). The United States Bureau of the Census classifies each service and industry in the economy with a two through seven-digit SIC code. Codes with a greater number of digits provide more detailed product classifications. For example, the SIC code "20" signifies "food and kindred products," while the SIC code "2095" signifies "roasted coffee." Id. at 69, 82.

⁸⁸ It should be noted that holders of personal toll free numbers would not be assigned an SIC code, nor would holders of toll free numbers for paging services. That is, there would be no restrictions on those equivalent toll free numbers.

⁸⁹ See supra note 87.

require carriers to provide a transitional gateway intercept during the change to a new toll free code. That is, when a consumer called either "1-800-THE-CARD" or "1-888-THE-CARD," he would first reach an intercept message that would help him clarify which entity he wanted to reach before the call was completed. Third, we may wish to require a partitioning of toll free service, leaving business entities and the majority of vanity number holders to use the 800 code and assigning a specific toll free code to subscribers for personal and pager use. Of course, such partitioning must be consistent with the Communications Act and may not be unreasonably discriminatory toward any particular class of carrier.⁹⁰ We seek comment on the advantages and disadvantages, as well as the feasibility, of each of these options.

4. High Volume Numbers

47. Many toll free numbers receive a high volume of calls each day. For example, a telemarketing firm may receive through one 800 number all of its calls, which may amount to thousands of calls per day. A toll free subscriber with a 7-digit number in one toll free code that corresponds to a high volume 7-digit number in another toll free code might receive a large quantity of misdialed numbers. The chance of a substantial number of misdialed calls, particularly soon after the introduction of the new toll free code, appears to be great. This situation could harm both parties involved. One subscriber will be inconvenienced by receiving unwanted calls for which it will have to pay or, at minimum, work with its 800 service provider to identify and receive a delayed credit. The holder of the number the caller was actually trying to reach may lose business. We seek comment on whether there should be some protection for the new toll free subscriber who obtains a number that translates to a high volume number in another code. We also seek advice on how such a number might be identified in the SMS database.

E. Toll Free Directory Assistance

48. 800 Directory Assistance ("DA") is currently a monopoly service provided by AT&T.⁹¹ We tentatively conclude that 800 DA and 888 DA, and eventually DA for subsequent toll free codes, should be combined into interchangeable toll free DA service and should be open to competition. By combining 800 DA and 888 DA, callers will be able to

⁹⁰ But see Ameritech Order, 10 FCC Rcd 4596 (Commission found unreasonable Ameritech's overlay plan to provide area code relief by restricting cellular and paging carriers to particular area code).

⁹¹ We have previously encouraged competitors to enter the toll free Directory Assistance market. See 800 Order, 4 FCC Rcd 2824, paras. 104-106. On May 8, 1995, Southern New England Telephone Company ("SNET") filed a petition for a declaratory ruling asking the Commission to require AT&T to enter into reciprocal compensation arrangements with other carriers that wish to offer 800 Directory Assistance. While SNET's petition is related to this proceeding, we defer its consideration at this time.

dial either "1-800-555-1212" or "1-888-555-1212" and access DA for all toll free numbers. Customers would find this system easy to use because it would be accessible and not confusing. We seek comment on this proposal and on the economic reasonableness and technical feasibility of combining the provision of DA. Commenters are also asked to address a proposal to not assign "888-555-1212," which would constitute the 888 DA number, until toll free DA issues have been resolved.

F. Administration of the Service Management System

49. DSMI is currently the primary administrator of the toll free data base, SMS/800. In response to industry concerns, Bellcore established DSMI for the purpose of administering the SMS/800, and subcontracted functions requiring access to proprietary customer information to a neutral third party, Lockheed IMS. Bellcore also recently completed a procurement process for the SMS/800 hardware vendor. The Bureau concluded that it was unnecessary for the Commission to intervene because steps had been taken to ensure neutrality of the procurement process.⁹² In addition, the RBOCs have announced plans to sell Bellcore, which is the parent company of DSMI. We seek comment on whether DSMI should continue to administer the toll free databases or whether another entity, such as the North American Numbering Plan Administrator or another neutral party should administer the toll free databases. Further, we ask parties to comment on whether the administrative database functions currently performed by DSMI and Lockheed⁹³ should be performed by independent third parties not affiliated with Bellcore, the RBOCs, or current owners of the regional databases.⁹⁴

G. Public Awareness and Industry Participation

50. Both the Commission and the telecommunications industry have undertaken educational initiatives regarding the implementation of toll free 888 in an effort to assure that the public is fully informed about the introduction of new toll free dialing codes. On June 15, 1995, the Bureau initiated a series of biweekly industry meetings that will be held until toll free 888 has been deployed and is portable. The first meeting revealed that industry has undertaken several public relations initiatives, including hiring public relations firms to conduct multimedia campaigns, issuing monthly advisories to sales staff, conducting press interviews, and issuing press releases. We seek comment on whether additional efforts to improve public awareness should be undertaken. Commenters are asked to address who should conduct such public awareness efforts, who should pay for them, and what form such efforts should take.

⁹² See Letter from Kathleen M.H. Wallman, Chief of the Common Carrier Bureau, FCC to various parties, dated June 21, 1995.

⁹³ See *supra* para. 6 for a description of the functions performed by DSMI and Lockheed.

⁹⁴ See *supra* note 14.

H. Circuit Breaker Model

1. Background

51. In addition to the various proposals described above, there may be other methods by which the Commission can effectively oversee the allocation of toll free numbers. Circuit breakers, for example, describe predetermined, cross market trading halts in the computer program trading of securities. They are designed to restrict program trading in volatile markets by restricting access to computerized trading systems⁹⁵ and by allowing the markets to cool off by suspending trading for short periods of time. It may be possible to adopt circuit breaker rules to control consumption of toll free numbers.

2. Proposals

52. Following the accelerated consumption of 800 numbers and the need for the Commission to impose emergency conservation measures, we tentatively conclude that a circuit breaker rule for toll free numbers would serve the public interest. We do not believe, however, that the exact model used in today's stock and future exchanges will be directly applicable to the toll free number assignment process. Our intent is to adopt a model that affects the toll free assignment rate as the circuit breaker rules affect the securities market (i.e., regulating consumption).

53. One proposed model would be executed once it is announced that the exhaust date for the current toll free code is near. The exhaust date would be established based on the rate at which toll free numbers are reserved per week and would serve as the trigger to start planning implementation for the next code. The availability date for the next toll free code (e.g., the date on which the code is available for toll free subscriber traffic) should be at least four months before the established exhaust, or trigger date. When the trigger date is reached, a weekly consumption rate equal to the weekly average quantity of numbers obtained for the

⁹⁵ Circuit breakers were adopted by the stock and futures exchanges in the wake of the stock market crash of 1987 and, more specifically, in response to a report issued by a financial markets working group established by the President in March 1988 to examine the causes of the October 1987 crash. The stock and futures exchanges adopted exchange rules incorporating a trading halt of one hour if, within a single day, the Dow Jones Industrial Average ("the Dow") declines 250 points from its previous day's closing level, and a trading halt of two hours if the Dow declines an additional 150 points (or a total of 400 points below the previous day's closing level). These exchange rules were then approved by the Securities and Exchange Commission ("SEC") and the Commodities Futures Trading Commission ("CFTC"), respectively, in 1988. See Securities Exchange Act Release Nos. 26386 (Dec. 22, 1988), 53 Fed. Reg. 52904; and 26198 (Oct. 19, 1988), 53 Fed. Reg. 41637; see also SEC, CFTC Approve Coordinated Trading Halts in Volatile Markets, 20 Sec. Reg. & J. Rep.

previous twelve months would be established for each RespOrg. This rate would be each RespOrg's circuit breaker threshold and would not change during the planning period. If the RespOrg exceeded the circuit breaker threshold, it would be limited to one-half its weekly average consumption rate until one month after the new code is activated.

54. We propose that there be a certification process for each RespOrg to ensure that its equipment can support a circuit breaker model such as the one discussed above. Further, we expect the SMS database to enforce any circuit breaker models adopted. We seek comment on this proposed circuit breaker model. We also seek comment on the costs associated with development and support of this circuit breaker model by both the RespOrgs and the SMS administrator.

55. A second proposal would have a circuit breaker rule apply to the day-to-day operation of the SMS/800 database. The rule would apply to individual RespOrgs and would be based on the monthly rate of toll free number consumption. Each RespOrg's rate of consumption would be computed by averaging the five days with its highest rate of consumption during the previous month. If the RespOrg removed three times that rate in a single day, the circuit breaker rule would take effect. For example, assume that the past month had 20 working days, and that RespOrg A took 100 numbers each day for ten days, 200 numbers for two days, and 50 numbers for eight days. The five days with the highest consumption would be the two days on which RespOrg A took 200 numbers and three of the days on which RespOrg A took 100 numbers. The average rate of consumption for those five days would be 140 numbers. So, if RespOrg A took more than three times that average rate of consumption in a single day, or 420 numbers, RespOrg A would only be permitted to take 140 numbers per day for a period of one or two weeks. We believe that such a circuit breaker rule would have many benefits, including: (1) promoting efficient use of toll free numbers; (2) preventing warehousing; and (3) preventing RespOrgs with high speed modems from reserving large blocks of toll free numbers in rapid sequence. We seek comment on this proposal. We also seek additional proposals for circuit breaker models, as well as modifications to the proposals presented here. We believe that circuit breaker rules provide a long range, proactive approach to the problem of rapid depletion of toll free numbers. We ask, however, that commenters address whether other conservation proposals contained in this Notice of Proposed Rulemaking, such as the proposals that would reduce the amount of time a number is held in a status other than working,⁹⁶ render circuit breaker rules unnecessary.

I. Tariffs

56. So that 888 service can be offered as quickly as possible, we take this opportunity to seek comment on the tariffing aspect of deploying a new code. We anticipate that the majority of tariffing issues will arise with regard to modifications to the LECs' 800

⁹⁶ See supra paras. 17-19 for a discussion of proposals to reduce lag time.

database access tariffs.⁹⁷ Specifically, we tentatively conclude that 888 service and subsequent toll free codes should be treated like existing 800 services. That is, we believe that 800 and 888 will be used interchangeably as toll free codes and thus are functionally the same. As a result, we think that the existing Part 69 provisions⁹⁸ for 800 service would also cover 888 service and, we tentatively conclude, the LECs would not need to obtain a waiver of Part 69. We also seek comment on whether it is reasonable for the LECs to charge interim rates or make other provisions to deal with transition issues during the conversion to toll free operation of 888 service.⁹⁹ We believe that the costs of providing 888 toll free service should be treated in accordance with the procedures we established for 800 service¹⁰⁰ and that the LECs should file their tariff revisions on not less than 45 days' notice.

V. PAPERWORK REDUCTION ACT

57. As required by the Paperwork Reduction Act of 1995,¹⁰¹ we seek comment to evaluate whether the proposed collections of information sought within this NPRM are necessary for the proper performance of the functions of the Commission. We seek comment specifically on: (1) whether the information collected will have practical utility; (2) the

⁹⁷ Although the IXC tariffs contain many references to 800 service, the IXCs are either non-dominant carriers that file tariffs on one day's notice or, in the case of AT&T, offer 800 service as a streamlined service and file most tariff changes on 14 days' notice.

⁹⁸ Section 69.118 of the Commission's Rules, 47 C.F.R. §69.118, requires many LECs to establish an 800 database sub-element.

⁹⁹ For example, Ameritech will not initially be able to deliver 888 traffic through end office switches. It will have to route all 888 traffic through access tandems for several months until 888 routing capability is installed in its end offices. Consequently, Ameritech proposes to modify its tariff to charge each IXC for 888 access on the same basis as it charges that IXC for 800 access. IXCs that generally purchase access service through the tandem will, under Ameritech's proposal, continue to pay the rates for that type of access. To the extent, however, that an IXC normally purchases access service through end offices, Ameritech would, in effect, charge it the rates for end office access. This may temporarily result in an IXC being charged end office access rates for 888 traffic that is actually routed through a tandem on a temporary basis. Ameritech stated that it would install end office routing capability in 80 percent of its end offices within seven months after 888 portability begins.

¹⁰⁰ See Provision of Access for 800 Service, Second Report and Order, 8 FCC Rcd 907, 911 (1993). The Commission allowed exogenous treatment for the incremental costs incurred specifically for the implementation of 800 database service but disallowed recovery of, among other things, core SS7 costs.

¹⁰¹ 44 U.S.C. §§3501 et seq.

accuracy of the Commission's estimate of the burden imposed by the proposed collections of information; (3) ways to enhance the quality, utility, and clarity of the information sought to be collected from the respondents; and (4) ways to minimize the burden on respondents, including the use of available automated collection techniques or other forms of information technology.

VI. CONCLUSION

58. The challenges posed by the threat of unanticipated exhaust of 800 numbers before 888 numbers could be offered to the public have compelled the Commission to establish policies and procedures to smooth the transition preceding the introduction of the toll free 888 code. The purpose of this rulemaking proceeding is to identify the proper steps that should be taken to effectively manage toll free service numbers and to prevent a reoccurrence of similar challenges. In this Notice of Proposed Rulemaking, we request comment on the questions and proposals set forth above and encourage participation by interested parties.

VII. PROCEDURAL MATTERS

A. Ex Parte

59. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. See generally 47 C.F.R. Sections 1.1202, 1.1203, and 1.1206(a).

B. Initial Regulatory Flexibility Analysis

60. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth in Appendix A. Written public comments are requested in the IRFA. These comments must be filed in accordance with the same filing procedures as other comments in this proceeding, but they also must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 et seq (1981).

C. Notice and Comment Provisions

61. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. Sections 1.415 and 1.419, interested parties may file

comments on or before November 1, 1995, and reply comments are due on or before November 15, 1995. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

VII. ORDERING CLAUSES

62. Accordingly, pursuant to Sections 1, 201-205, 218 of the Communications Act of 1934, as amended, 47 U.S.C 151, 154, 201-205, 218, IT IS ORDERED that this NOTICE OF PROPOSED RULEMAKING is hereby provided.

62. IT IS FURTHER ORDERED that the PETITION FOR IMMEDIATE RULEMAKING filed by Tansin A. Darcos and Company is hereby GRANTED IN PART and DENIED IN PART.

APPENDIX A

INITIAL REGULATORY FLEXIBILITY ANALYSIS

Reason for Action: This Notice of Proposed Rulemaking responds to the requests of industry to smooth the transition to an expanded set of toll free service access codes, starting with 888 and eventually deploying 877, 866, and so forth. In light of the rapid unanticipated depletion recently experienced with 800 numbers, the Commission is compelled to initiate this rulemaking proceeding.

Objectives: The objective of this proposal is to assure that, in the future, toll free numbers are allocated on a fair, equitable, and orderly basis. The proposal also seeks to assure that the transition period during which the numbers within one toll free code are approaching full consumption, and another code is introduced, is smooth and without disruption to existing customers or interruption in the availability of toll free numbers for new customers.

Legal Basis: The proposed action is authorized under Sections 1, 201-205, and 218 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154, 201-205, and 218.

Reporting, Record Keeping and Other Compliance Requirements: The proposed rules may require Responsible Organizations ("RespOrgs") and 800 Service Providers to have a written request from a toll free subscriber before assigning a toll free number and may be required to retain such records for two years. The administrator of the SMS/800 database, currently Database Services Management, Inc. ("DSMI") will be required to submit periodic reports to the Commission on toll free number utilization. RespOrgs will be required to certify, under penalty of false statement, the accuracy of certain customer information.

Federal Rules Which Overlap, Duplicate, or Conflict with These Rules: None.

Description, Potential Impact and Number of Small Entities Involved: The proposals set forth in this Notice may have a significant economic impact on a substantial number of small entities. Toll free numbers are essential to many businesses both in terms of marketing and advertising products. Toll free numbers may also have an intrinsic value to many businesses.

Any Significant Alternatives Minimizing the Impact on Small Entities, Consistent with Stated Objectives: None.