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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Toll Free Service Access Codes	)	CC Docket No. 95-155
	)	

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REPLY COMMENTS OF LDDS WORLDCOM

WorldCom, Inc., d/b/a LDDS WorldCom ("LDDS WorldCom"), hereby files its reply comments in response to the initial comments submitted by other parties regarding the Notice of Proposed Rulemaking ("Notice") released by the Commission on October 5, 1995 in the above-referenced proceeding.

I. BACKGROUND

As a major Responsible Organization ("RespOrg"), and as an 800 service provider, LDDS WorldCom has a substantial interest in the outcome of this proceeding. In its initial comments, LDDS WorldCom lent its support to a number of the FCC's suggested policy initiatives, including: (1) requiring an affirmative request by subscribers prior to assignment of a toll free number; (2) reducing "lag times" in some stages of the number reservation and aging processes; (3) establishing an advance reservation period for 888 numbers; (4) prohibiting the warehousing and hoarding of toll free numbers; and (5) adopting a "circuit breaker" model to restrict RespOrgs from excessive number consumption rates. LDDS WorldCom also stated that, given the limited options available, it would not oppose the adoption of a one-time "right of first refusal" policy for all 800 number users to replicate their numbers in the 888 access code, provided it was triggered by the payment of significant non-recurring and recurring replication

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fees. However, LDDS WorldCom indicated that it strongly opposes certain other proposals in the Notice, including requiring RespOrgs to make an escrow deposit for each reserved toll free number, mandating the use of PIN numbers, and establishing new dispute resolution or lottery procedures to reserve new codes.

In their initial comments, other parties also addressed many of the issues presented by the FCC for discussion. LDDS WorldCom will briefly respond to arguments raised by the commenters regarding the more important issues raised in the Notice.

II. OTHER COMMENTERS AGREE WITH LDDS WORLDCOM THAT THE FCC SHOULD ONLY ADOPT NARROWLY-TAILORED POLICIES TO ENSURE A MORE EFFICIENT AND EQUITABLE USE OF TOLL FREE NUMBERS

A. More Efficient Use of Toll Free Numbers

Most commenters agree with LDDS WorldCom that a toll free number should only be assigned to a subscriber after receiving an affirmative request from that subscriber.[1] Several parties ask the FCC to require that no number be assigned before a written request is actually received by the RespOrg,[2] but this restriction would be unduly limiting on the ability of RespOrgs and customers to conduct business. LDDS WorldCom agrees with Sprint that the FCC should allow the RespOrgs to determine the specific type of post-request documentation to use.[3] LDDS WorldCom also agrees with Ameritech and others that the customer request should be required only for actual number assignments, not for the reservation process, which

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[1] See, e.g., Competitive Telecommunications Association ("CompTel") at 5-6; AT&T at 6-7; Sprint at 2-4; Bell Atlantic at 2; GTE at 2; MFS at 2.

[2] Telecommunications Resellers Association ("TRA") at 4-5; US West at 4-5.

[3] Sprint at 2-4.

entails a broader range of activities by the RespOrgs and should not be so limited.[4]

Many commenters also support some reasonable reduction in the so-called "lag times" between various stages in the reservation and aging processes. CompTel, AT&T, TRA, AirTouch Paging, and others agree that a 45 day reservation period is a reasonable amount of time for RespOrgs and service providers to establish customer accounts, and for customers to commence business.[5] Although LDDS WorldCom is sympathetic to the concerns of parties favoring retention of the current 60 day reservation period,[6] we believe that a reduction to 45 days should not cause any major hardships. LDDS WorldCom also notes that commenters are divided on the FCC's proposals to reduce the time periods that numbers are (1) assigned but not activated, (2) disconnected, and (3) suspended but not reactivated. Given the division in opinion evident in the comments, LDDS WorldCom suggests that the Commission adopt the compromise measures advocated in LDDS WorldCom's initial comments.

In its initial comments, LDDS WorldCom strongly opposed the FCC's proposal that RespOrgs make escrow deposits for each toll free number held in reserved status. The Commission's proposal drew criticism from virtually every commenter as unworkable, inequitable, and ineffective.[7] As an alternative, NYNEX suggests increasing the customer

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[4] Ameritech at 3-5; Bell Atlantic at 2.

[5] CompTel at 20; AT&T at 7, 9; TRA at 6-7; BellSouth at 6; AirTouch Paging at 17.

[6] See, e.g., MCI at 4; Sprint at 5; Cable and Wireless at 2; LCI at 5.

[7] CompTel at 7; AT&T at 6; MCI at 3; Sprint at 4; Cable & Wireless at 3; LCI at 4; 800 Users Coalition at 4; TRA at 5-6; Bell Atlantic at 2; BellSouth at 4-5; Pacific Bell at 3-4; Southwestern Bell at 4; US West at 4; AirTouch Paging at 10-11. Of the major IXCs, LECs, and user groups that commented, only Ameritech registered its support for the escrow deposit requirement. Ameritech at 7-8.

record administration fee,[8] while GTE and US West advocate establishing a new monthly charge paid by the Resp Orgs for every stored number record.[9] LDDS WorldCom opposes both measures, and urges the Commission to drop its escrow deposit proposal as unsupported.

Commenters also reacted disfavorably to the FCC's proposal to encourage, or even require, the use of personal identification numbers (PINs). Critics point out that the Commission should not be in the business of mandating the use of specific types of technology, and that PIN technology carries a host of problems that render it infeasible for many purposes and many carriers.[10] Incredibly, MCI actually seeks some type of "reward" from the Commission for its use of PIN technology,[11] but Allnet successfully refutes the idea that the FCC should be somehow involved in conferring special government benefits on private companies simply for choosing to use certain technologies.[12]

B. Adoption of Procedures To Govern Implementation of New Codes

Parties almost uniformly embrace retention of the "first come, first served" approach for reserving new access codes,[13] and strongly oppose other suggested mechanisms such as dispute resolution or lotteries. TRA favors the use of a lottery, but fails to support its

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[8] NYNEX at 2.

[9] GTE at 2; US West at 5-6.

[10] Ameritech at 13-14; BellSouth at 7-8; Pacific Bell at 5-6; US West at 10; GTE at 8; Cable & Wireless at 3; LCI at 6; MFS at 6; AirTouch Paging at 15-16.

[11] MCI at 6.

[12] Allnet at 5-6.

[13] CompTel at 4; AT&T at 13; MCI at 11; Sprint at 8; Allnet at 6; Cable & Wireless at 12; Ameritech at 15-16; NYNEX at 4; Pacific Bell at 6, 11; Bell Atlantic at 4-5; GTE at 2; US West at 5; AirTouch Paging at 18.

proposal with any factual foundation. In its initial comments, LDDS WorldCom suggested instead that the Commission impose a "circuit breaker" limitation on the reservation process, so that a RespOrg cannot reserve mass quantities of toll free numbers at one time through computer-generated programs. Commenters agree, however, that such a circuit breaker rule should not remain in effect on a day-to-day basis to limit all RespOrg reservations.[14] The early reservation process suggested by SNAC,[15] and supported by other parties,[16] is another reasonable means of allowing RespOrgs to submit initial customer orders without causing undue strain on the Service Management System/800 ("SMS") database.

The Commission also briefly raised the issue of allowing IXCs to interconnect with the LECs at both the tandem level and the end office level. AT&T and MCI argue that all 888 calls should only be routed through the LEC end office.[17] LDDS WorldCom agrees with several of the LECs, however, that the FCC should not limit the ability of IXCs to utilize, and LECs to offer, both end office and tandem interconnection,[18] provided the tariffed rates established for both types of interconnection accurately reflect their differences.

Finally, most commenters urge the FCC to replace DSMI with a truly neutral third party administrator of the toll free system. As US West candidly remarks, "DSMI is

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[14] CompTel at 17; MCI at 14; Allnet at 12; LCI at 4.

[15] Service Management System/800 Number Administration Committee ("SNAC") at 12-16.

[16] AT&T at 13-14; MCI at 12-13; Sprint at 11; Cable & Wireless at 7-8.

[17] AT&T at 16; MCI at 20.

[18] USTA at 11-12; BellSouth at 12-13; NYNEX at 11-12; Southwestern Bell at 12; GTE at 7.

simply an agent for the RBOCs. The salient question is whether the RBOCs should retain administration and ownership of the SMS/800 database."[19] The answer, according to the commenters, is a resounding NO.[20] Even several RBOCs, in the words of Bell Atlantic, have "no objection" to the selection of a neutral third party administrator.[21] Regardless of the FCC's decision, LDDS WorldCom opposes any attempts by DSMI to collect, let alone disseminate, commercially sensitive toll free number information on a RespOrg-specific basis.[22]

C. Adoption of Rules Prohibiting Warehousing And Hoarding

LDDS WorldCom agrees with most commenters that the Commission can and should declare that warehousing and hoarding practices are not in the public interest and must be prohibited.[23] However, several important caveats must be part of any anti-warehousing policy. First, LDDS WorldCom agrees with CompTel that the proper standard is whether a RespOrg had "knowledge or reason to know" that no identifiable subscriber has affirmatively requested a toll free number.[24] Second, the definition of warehousing should be modified to include switching a toll free number from reserved or assigned status to working status without

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[19] US West at 3.

[20] CompTel at 15; AT&T at 17; MCI at 20; Sprint at 22-24; Allnet at 11; TRA at 21; MFS at 10.

[21] Bell Atlantic at 10; BellSouth at 18; Southwestern Bell at 20.

[22] MCI at 22; Sprint at 13.

[23] See, e.g., CompTel at 9; AT&T at 19-20; MCI at 9; Sprint at 14-15; TRA at 15; NYNEX at 3.

[24] CompTel at 10.

an actual subscriber.[25] Third, customer usage of a number should not be an FCC focus; as long as an actual customer is in place, the RespOrg and service provider should not be put in the position of policing that customer's usage.[26] Fourth, Pacific Bell is correct that specific enforcement measures should not be adopted until the Commission's ongoing audit of RespOrg practices is completed.[27] Fifth, LDDS WorldCom joins several commenters in questioning the need for an elaborate self-certification procedure by RespOrgs.[28] Finally, LDDS WorldCom agrees that, in addition to warehousing and hoarding, the Commission should expressly prohibit the brokering of toll free numbers as a violation of the Communications Act.[29]

As another means of deterring potential warehousing violations, LDDS WorldCom suggested in its initial comments a 10 percent cap on reserved numbers. Other commenters offer varying numbers, from 8 percent,[30] to 15 percent,[31] to something between 3 and 15 percent.[32] Given these wide variations, LDDS WorldCom suggests that the Commission split the difference and adopt a cap of 10 percent.[33]

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[25] AT&T at 20-21; CompTel at 10.

[26] AT&T at 21 n.39; Sprint at 14-15.

[27] Pacific Bell at 9; see also AirTouch Paging at 8-9 (Commission should not impose its regulatory authority on all RespOrgs, but only where there is documented instance of abuse).

[28] AT&T at 20-21; MCI at 9-10; NYNEX at 3.

[29] Sprint at 16; 800 Users Coalition at 5-6.

[30] SNAC at 16; AT&T at 8, 22.

[31] MCI at 8; GTE at 4 n.7; LCI at 7-8.

[32] BellSouth at 14; NYNEX at 2; MFS at 9.

[33] Sprint at 10.

RespOrg's working base of 800 numbers, applicable only to "widely known" 800 numbers that will be selected by each administering RespOrg.[37] While LDDS WorldCom applauds AT&T's initiative in attempting to devise a workable alternative to the FCC's proposals, we anticipate several major problems with this approach. First, AT&T's plan would limit the replication choice to only a narrow class of supposedly "widely known" 800 users. As commenters such as Cable & Wireless point out, limiting a right of first refusal to only a small minority of customers would unfairly discriminate against the larger group of users.[38] Second, the AT&T plan would put each Resp Org in the highly untenable position of choosing which of its customers will be able to replicate its vanity numbers, and which will not -- inevitably inviting questionable discrimination. LDDS WorldCom does not want that responsibility, and the FCC should not impose such a dubious burden on all Resp Orgs.[39] Third, and not surprisingly, AT&T's plan would tend to favor AT&T over all other Resp Orgs. AT&T is by far the largest Resp Org; indeed, 15 percent of its working numbers is a larger amount than many Resp Orgs' current total allotments under the 800 allocation scheme. Given its historic dominance in the pre-portability 800 services market, it is not surprising that AT&T holds the accounts of many of the largest and best-known users of 800 services. The FCC should be wary of choosing an 888 replication plan that so clearly benefits one entity (AT&T) over all other Resp Orgs, service providers, and customers unaffiliated with that entity.

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[37] AT&T at 24-26.

[38] Cable & Wireless at 5-6.

[39] Moreover, the artificially-derived 15 percent ceiling could not take into account the significant differences in customer base among the 140 RespOrgs; while some RespOrgs may have few customers desiring replication, other RespOrgs may have customer replication requests far in excess of their allowance under a 15 percent ceiling.

III. WHILE COMMENTERS ARE DEEPLY DIVIDED ON THE 888 REPLICATION ISSUE, THE MOST FEASIBLE ALTERNATIVE REMAINS A ONE-TIME RIGHT OF FIRST REFUSAL POLICY FOR ALL 800 NUMBERS, CONDITIONED ON THE REGULAR PAYMENTS OF A SIGNIFICANT REPLICATION FEE

LDDS WorldCom recognizes that the dozens of parties that filed comments in this proceeding represent all segments of the toll free market, from RespOrgs, toll free service providers, LECs, large institutional users, and individual user companies. Given the resulting diversity of outlook, it is not surprising that there is no easy consensus on the issue of whether, and how, to allow users to replicate their 800 numbers in the 888 access code. Still, while almost all parties oppose the FCC's service classification scheme and other alternatives, many parties either urge the Commission to adopt the right of first refusal policy,[34] or else suggest certain limitations on the policy should the FCC ultimately decide to adopt it.[35] Parties in both camps generally support the use of either a one-time fee or monthly recurring fees as an appropriate means of limiting the number of customers that may elect replication. Most parties in favor of a right of first refusal also would extend the right to all 800 subscribers.

LDDS WorldCom has no serious qualms about the position of some parties that a strict "first come, first served" approach should be retained for all 888 numbers for all customers.[36] On balance, however, LDDS WorldCom believes that the FCC should, in this one unique instance, bow to overwhelming market realities and grant all 800 users a one-time, 888-only, fee-based "right" to replication.

AT&T offers a truly different solution: adoption of a 15 percent ceiling on a

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[34] MCI at 15; 800 Users Coalition at 18-21; GSA at 3; The Weather Channel at 3-4.

[35] CompTel at 12; TRA at 17; Cable & Wireless at 4-5; GTE at 8-10.

[36] Sprint at 19-20; LCI at 8.

LDDS WorldCom does not necessarily believe that the fee-based right of first refusal is the ultimate best solution to the vanity numbers controversy. However, the policy does possess the compelling virtue of discriminating against no interested party, while at the same time acting in a way that will effectively limit the amount of 800 numbers that are chosen to be replicated. If deemed necessary, the FCC could mesh the WorldCom plan with AT&T's cap proposal, so that each Resp Org is able to offer the fee-based right of first refusal only for a certain percentage of its 800 numbers (say, 20-25 percent) on a first come, first served basis. Such an approach would help alleviate concerns about the possible near-term exhaustion of 888 numbers. However it is fashioned, however, the fee-based right of first refusal is a workable means of achieving much of the FCC's inevitably clashing policy goals in this proceeding.

IV. CONCLUSION

For the reasons given above, and in its initial comments, LDDS WorldCom urges the FCC to adopt the proposals that LDDS WorldCom has recommended in this proceeding.

Respectfully submitted,

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November 15, 1995

CERTIFICATE OF SERVICE

I, Cecelia Johnson, hereby certify that I have this 20th day of November, 1995, sent a copy of the foregoing "Reply Comments of LDDS WorldCom" by hand delivery, or by first class mail, postage prepaid, to the following:

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