

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

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

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REPLY COMMENTS
OF
SPRINT CORPORATION

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Summary

The initial comments filed in this proceeding reflected considerable disagreement over the appropriate treatment of vanity numbers. Sprint believes that assigning numbers on a first come, first served basis is the most neutral and straightforward methodology, and that this assignment methodology best promotes the goals of using public resources efficiently, protecting toll free number assignees against excessive misdials, and preserving the principle that use of a public resource does not equate to ownership. However, Sprint recognizes that toll free service subscribers are legitimately concerned with protecting their investment in certain 800 numbers. If the percentage of numbers for which a right of first refusal will be exercised is small (and there are steps which the Commission could take to limit this right to those numbers for which replication is truly critical), this policy could be implemented with minimal adverse impact.

There was, however, widespread agreement on several proposals relating to the efficient use of toll free numbers, including the need to obtain affirmative requests for service; opposition to escrow deposits and SIC codes; voluntary use of PIN technology; the need for continuing public education efforts; support for the SNAC interim plan; and public reporting of usage by SMS category only on an aggregate basis. The Commission should fol-

low the recommendations of the industry in ruling on these proposals.

The Commission should also find that MGIs should be used only to carry out order-based transactions; require LECs to route 800 and 888 traffic consistently; and mandate the appointment of a neutral SMS administrator as soon as possible. Each of these decisions would facilitate the fair and efficient provision of toll free service.

need and want them, and the need for continuing public education regarding toll free codes. Each of these issues is discussed briefly below.

I. A MODIFIED FIRST COME, FIRST SERVED APPROACH SHOULD BE USED TO ASSIGN VANITY NUMBERS.

Comments were provided on four options for assigning vanity numbers: right of first refusal; partitioning based on type of application ("SAC by service"); restricted assignment based on SIC codes; and a modified first come, first served approach. As discussed below, the modified first come, first served approach is the most neutral and straightforward of any of these alternatives.

A. First Come, First Served

Assigning toll free codes on a first come, first served basis remains the most neutral and straightforward method available. The courts, the Commission, the industry (through the Industry Guidelines), and numerous commenting parties¹ have all recognized the merits of this approach. Several commenting parties noted that a first come, first served approach is compatible with the goal of using public resources efficiently as well as

¹ See, e.g., Sprint, p. 18; Allnet, p. 6; Cable & Wireless, p. 4; Comptel, p. 12; LCI, p. 8; Nextlink, p. 4; TRA, p. 17; Ameritech, p. 31; Bell Atlantic, p. 7; BellSouth, p. 15; Nynex, p. 7; Pacific, p. 10; Southwestern Bell, p. 16; US West, p. 18; GTE, p. 8; SNET, p. 12; USTA, p. 4; AirTouch, p. 14; Paging Network, p. 9; PCIA, p. 11; Unitel, p. 3.

the principle that use of such resource does not confer ownership.

As noted above and in Sprint's initial comments (p. 19), a modified first come, first served approach could be used to assign vanity numbers.² By holding back the 7-digit numbers in the 888 series for which replication requests were received until some trigger point is reached, additional time will be gained for consumer education campaigns and for release of updated directory listings and promotional literature such as catalogs. These measures should reduce the number of misdialed calls; service providers can address subscribers' problems with continuing misdials on a case-by-case basis.³

B. Right of First Refusal

As expected, there was strong support among many 800 service subscribers for the "right of first refusal" option.⁴ These

² See also, Nynex, p. 7; US West, p. 18.

³ A few parties commented on the proposal to tag high volume 800 numbers in the SMS to alert potential assignees of the 888 analog about the possibility of a substantial volume of misdialed calls (see, e.g., Ameritech, p. 34; Pacific, p. 15). This proposal should not be adopted because any tag would necessarily reveal confidential and highly sensitive information about the usage associated with specific 800 numbers. Moreover, SMS would have to be modified, at unknown expense, to accommodate a high volume flag.

⁴ See, e.g., American Car Rental Association, p. 4; Charter Medical, p. 2; Crestar, p. 1; Enterprise, p. 3; Invesco, p. 1; Wather Channel, p. 3; 1-800 FLOWERS, p. 5; API, p. 4; American Telegram, p. 3; Avis, p. 6; Bass, p. 3; NIMA, p. 7; Promoline, p. 6; Service Merchandis, p. 1; TLDP, p. 2; DMA, p. 9. See also, AT&T, p. 24; MCI, p. 15; ACTA, p. 17; LDDS, p. 12; GSA, p. 3.

parties asserted that they should be allowed to replicate their 800 vanity numbers in the 888 SAC (and perhaps subsequent toll free SACs as well) in order to protect their investment in their current 800 number assignments. They also correctly pointed out that severe problems could result for the assignees of both the 800 and 888 7-digit numbers (assuming that the assignees are different) if callers (mis)dial the 888 number expecting to reach the 800 number assignee.

Sprint understands the rationale behind subscribers' interest in replicating their 800 numbers and will make every possible effort to obtain the toll free numbers requested by its subscribers. However, Sprint remains concerned that replication conflicts with various public policy goals and principles.

First, replication poses the threat of premature exhaust of new toll free SACs and underutilization of 888 vanity codes which are reserved for protective purposes only (*i.e.*, to prevent another party from obtaining that 7-digit number). Sprint is concerned that rapid depletion of toll free codes will impede a potential subscriber's ability to obtain a toll free code in a timely fashion, and that rapid deployment of new SACs will substantially increase the cost (which, of course, will ultimately be borne by the subscriber) of providing toll free service.

Second, replication is contrary to the long-held principle that use of public numbering resources does not grant ownership.

not at all clear why that assignee should be given the right of first refusal for the 7-digit analog in the 888 SAC. Indeed, if replication of 800 vanity numbers is allowed, it is possible that ownership claims may be asserted in other numbering situations such as subsequent toll free, 500 or 900 SACs, or NPA splits.⁵

Third, allowing replication will inevitably add to consumer confusion surrounding use of the new 888 SAC. The calling public needs to be made aware that 800 and 888 are two separate SACs, that a toll free number is a 10-digit code, and that dialing 888 plus a 7-digit code will not necessarily connect the caller with the same party as is reached by dialing 800 plus that same 7-digit code. These messages are blurred if replication of 800 numbers is allowed, especially on a widespread basis.

Fourth, other measures are available to address the problems of fraud and misdials. Any 800 customer who is harmed by the 888 assignee's fraudulent or misleading use of the 7-letter mnemonic can seek protection under trademark/service mark, unfair competition and consumer protection laws. Misdials can be minimized through aggressive consumer education efforts and, as described above, by deferring the availability of vanity (including high volume) numbers. Sprint (and presumably other toll free service providers as well) will work with its subscribers who experience

⁵ See, e.g., Cable & Wireless, p. 4; Pacific, p. 10; Southwestern Bell, p. 16.

a high volume of or a persistent problem with misdials to resolve such problems.

Sprint believes that, as a theoretical matter, offering existing 800 service subscribers a right of first refusal for their vanity numbers is not the optimal public policy for all of the reasons discussed above. Sprint is nonetheless keenly aware of subscribers' deeply held concerns on this issue. It is difficult to know how many 800 numbers will be the subject of replication requests; estimates range from 24% (ATIS) to 6% (the 800 Users Coalition).⁶ However, if the correct figure is close to the 6% level, the impact of adoption of a right of first refusal policy may be relatively moderate as a practical matter and therefore would seem to be an acceptable solution to the serious concerns of existing 800 number assignees. Placing vanity and high volume numbers in unavailable status, as suggested in the SNAC transition plan, will give the Commission additional time to gauge the extent to which subscribers are likely to exercise a right of first refusal.

⁶ The ATIS survey included responses from resp orgs providing service to 4.745 million 800 numbers (ATIS, p. 17). The 800 Users Coalition's estimate was based upon information supplied by its 20 members, which together account for over 14,000 800 numbers (p. 16). In addition, AT&T's proposal to allow replication for up to 15% of each resp org's working 800 numbers (p. 24) suggests that AT&T expects about a 15% replication request rate from holders of 800 numbers which are "advertised, widely known and accepted by the general public and called by consumers."

If the Commission does endorse a right of first refusal policy, it should keep the quantity of numbers to be replicated as small as possible, for example, by allowing replication only for the 888 SAC, only for numbers used by the public (*i.e.*, no personal or internal use numbers would be allowed to be replicated), and only for a prescribed period of time (*e.g.*, right of first refusal must be exercised within 6 months from the time the right is granted). Such limitations will help to mitigate any adverse aspects of a right of first refusal policy. The Commission must also make clear what numbers are eligible for right of first refusal; it should not fall on resp orgs to select which numbers may be subject to this right.⁷

C. Partitioning/SAC by Service

Some commenting parties advocated a partitioning strategy -- assigning particular toll free services to a certain SAC.⁸ Under the plan proposed by the 800 Users Coalition, the 800 SAC would continue to be used for call center, sales, customer service, technical support, product recall or product information

⁷ As noted above, AT&T has proposed that each resp org allow right of first refusal for up to 15% of its working 800 numbers. This proposal should not be adopted. Depending upon its customer base, a resp org may receive requests for right of first refusal for more than 15% of its numbers. A resp org in this situation should not be forced to turn down the requests of certain of its subscribers because of an arbitrary limit suggested by one resp org.

⁸ See, *e.g.*, 800 Users Coalition, p. 9; Arinc, p. 2; CMA, p. 1.

applications. The 888 SAC would be dedicated to personal and paging services, 877 for fax and data functions, etc. Existing 800 number assignments would be grandfathered.

There appear to be several problems associated with the "SAC by service" proposal. First, it requires the simultaneous opening up of several new SACs. Implementation of a new toll free SAC is a nationwide undertaking, and a SAC by service plan simply cannot be implemented before the 800 SAC exhausts.

Second, this proposal will almost certainly result in uneven fill rates in each SAC. Today, the 800 SAC is approximately 91% filled; other toll free SACs will fill at varying rates. It seems quite inefficient and expensive to open up new SACs when numbers remain available in existing toll free SACs. Furthermore, it is unclear what will happen when a SAC is completely filled, but unmet demand for numbers in that SAC still exists. It is entirely possible that 8 million numbers will not be enough to meet demand, especially if multiple applications are assigned to the same SAC. The unlucky latecomers will presumably be directed to another SAC, thereby blurring the very type of distinction which the SAC by service approach was intended to foster.

Third, the SAC by service approach is arguably discriminatory. Service providers assigned to a toll free SAC other than 800 may consider their SAC to be inferior (e.g., because it is currently less familiar to the calling public), and may be placed

at a disadvantage *vis-à-vis* their competitors who managed to retain an 800 number through the grandfathering provision.⁹

(The potential for discrimination is even greater if the grandfathering option is rejected, and reassignment of certain classes of 800 number holders is required.) It is probably significant, and hardly surprising, that parties representing paging interests (candidates for relegation to a SAC other than 800) opposed the partitioning option (see *AirTouch*, p. 13; *Paging Network*, p. 9; *PCIA*, p. 12).

Fourth, there are bound to be some applications which do not fit neatly into the pre-established assignment categories, or subscribers who may prefer not to receive a code assignment in a particular SAC. For example, it is not clear how to categorize toll free numbers used by telecommuters working from home; toll free numbers used in "follow me" applications; or multi-application numbers. Moreover, it is possible that the nature of the application may change over time. It is not clear how such numbers would be treated under the partitioning option.

Given these practical difficulties, the Commission should not adopt the SAC by service proposal.

⁹ Alternatively, it may be that a grandfathered number will be the source of confusion if most other similar applications are in another SAC.

D. Restriction by SIC Code

As an alternative to replication of vanity numbers, the Commission sought comment on a proposal to bar competitors of the current holder of an 800 number from obtaining the equivalent code in the 888 or subsequent toll free SACs. Standard industrial classification (SIC) codes would be used to identify competitors.

Only two parties (Avis and Enterprise Rent A Car) supported this proposal. Several other parties pointed out the many practical difficulties and the enormous administrative burdens associated with use of SIC codes,¹⁰ and Bass gave a concrete example of a situation in which SIC codes fail to properly identify competitors (p. 5). The comments make clear that this option is contrary to the public interest and should not be adopted.

II. THERE IS LITTLE DEBATE ABOUT THE MERITS OF SEVERAL PROPOSALS RELATING TO THE EFFICIENT USE OF TOLL FREE CODES.

The Commission sought comment on several proposals designed to ensure the efficient use of toll free numbers and the smooth implementation of new codes. There was near unanimity among commenting parties about the merits of the following proposals.

¹⁰ See, e.g., Sprint, p. 21; NIMA, p. 8; Service Merchandise, p. 6; MCI, p. 15; LDDS, p. 15; MFS, p. 9; TRA, p. 18; Ameritech, p. 31; Bell Atlantic, p. 8; Nynex, p. 8; Pacific, p. 12; Southwestern Bell, p. 18; US West, p. 25; GTE, p. 10, n. 17.

A. Affirmative Request for Service

There was widespread agreement that resp orgs should obtain toll free numbers only for customers who need and want them.¹¹ A few parties -- US West (p. 3), Scherers (p. 5), and the Telecommunications Resellers Association (TRA) (p. 4) -- recommended that resp orgs obtain written affirmative requests for service from customers before they reserve or assign a number. Sprint opposes this recommendation. As it noted in its initial comments (p. 3), written letters of authorization are often very difficult to obtain, whereas other evidence of a subscriber's request for or acceptance of toll free service is more readily available.

Two parties (MCI, p. 2, and Allnet, p. 2) opposed the affirmative request proposal, apparently because they fear that this proposal will limit telemarketing sales and delay installation of service. Sprint believes that these concerns can be addressed by allowing resp orgs to maintain a small inventory of toll free numbers for immediate assignment to customers who do not request a specific number. Allowing resp orgs a 2 business day window to match an end user subscriber to a reserved toll free number balances the need for flexibility and timely number assignment with the need to protect against warehousing.¹²

¹¹ See, e.g., Sprint, p. 2; AT&T, p. 6; Comptel, p. 6; LDDS, p. 3; MFS, p. 2; Scherers, p. 5; TRA, p. 4; Ameritech, p. 3; BellSouth, p. 2; Southwestern Bell, p. 3; US West, p. 3; GTE, p. 2.

¹² Numbers which are not matched to an end user subscriber within this 2 business day period would be returned to spare status.

B. Escrow Deposits

Almost all IXCs, LECs and toll free subscribers appear to agree that escrow deposits would not effectively prevent the warehousing of toll free numbers.¹³ These parties noted that escrow deposits are administratively cumbersome and could pose a barrier to entry for smaller resp orgs. Moreover, it is difficult to know what an appropriate deposit amount would be. For these reasons, the Commission should not implement the escrow deposit proposal.

Only a very few commenting parties supported the escrow deposit proposal. Avis (p. 2) stated that resp orgs and service providers should pay this deposit, but that they should be prohibited from passing on these costs to subscribers. This is unrealistic. If an escrow deposit is required, it is a cost of doing business which the service provider will legitimately attempt to recover to the extent possible in a competitive market. Ameritech (p. 6) also supported an escrow deposit plan. However, its proposal is even more cumbersome than the one described in the NPRM (Ameritech's proposal applies only to resp orgs with more than 1% of all toll free numbers, and would apply

¹³ See, e.g., Sprint, p. 4; 800 Users Coalition, p. 4; American Telegram, p. 2; Service Merchandise, p. 4; Telemation, p. 4; MCI, p. 3; Allnet, p. 3; ACTA, p. 10; Comptel, p. 7; LCI, p. 4; LDDS, p. 5; MFS, p. 3; Nextlink, p. 3; Scherers, p. 6; TRA, p. 5; Bell Atlantic, p. 2; BellSouth, p. 4; Pacific, p. 3; Southwestern Bell, p. 4; US West, p. 4; GTE, p. 2; SNET, p. 7; Paging Network p. 6; Unitel, p. 2.

when a subscriber changes to a new resp org) -- a fact it appeared to recognize, given its further suggestion that the Commission or its agent should administer the escrow plan, since DSMI is not in the position to do so. Finally, there is no agreement as to the appropriate escrow deposit amount. Ameritech suggested "\$50 or more," while Bass Tickets (p. 2) suggested \$100 for generic numbers, \$500 for vanity numbers, and a \$25 minimum monthly usage charge.¹⁴ These numbers appear to be arbitrary and it is not clear whether they are high enough to discourage warehousing or so high as to constitute a financial burden to smaller resp orgs and service subscribers.

C. Voluntary Use of PIN Technology

Most parties agreed that use of PIN (personal identification number) technology should be voluntary.¹⁵ These parties noted that PIN technology may limit portability; cannot be used with some services; and currently cannot be uniquely recorded in the SMS. Service providers who wish to use this technology will do so in response to market forces.

¹⁴ As noted above, difficulties will inevitably arise if an attempt is made to categorize applications. Here again, what one subscriber may consider a generic number another may consider a vanity number.

¹⁵ See, e.g., Sprint, p. 6; AT&T, p. 12; MCI, p. 6; Allnet, p. 5; ACTA, p. 11; LCI, p. 6; LDDS, p. 6; MFS, p. 6; Nextlink, p. 3; Ameritech, p. 13; BellSouth, p. 7; Pacific, p. 5; Southwestern Bell, p. 7; US West, p. 10; GTE, p. 8; SNET, p. 9; AirTouch, p. 15; Paging Network, p. 7; Unitel, p. 3.

Despite these drawbacks, three parties nonetheless recommended that the Commission mandate PIN technology for certain services ("all large number/low volume services" (the 800 Users Coalition, p. 6); "applications conducive to the use of PIN technology" (TRA, p. 8); "residential and paging services" (QWest, p. 5)). However, inherent in such a mandate is the assumption that low volume services are less valuable than high volume uses for toll free codes. While this may or may not be the case, Sprint believes that the market is the best place to make this determination, and no further reward for using PIN technology is necessary.

D. Continuing Public Education Efforts

There was little disagreement that efforts to educate the public about the new toll free SAC should continue. Both service providers and service subscribers have an obvious incentive to promote the public's use of new toll free numbers, and most of the major service providers (including Sprint) have begun to implement various customer and consumer education measures. The specific measures implemented are business decisions which should be left to the discretion of individual carriers, and there is no need for the Commission to mandate specific action in this regard (see 800 Users Coalition, p. 26).

**III. THE COMMISSION SHOULD ADOPT CERTAIN RECOMMENDATIONS
AFFECTING OPERATION OF THE SMS AND PROVISION OF TOLL FREE
SERVICE.**

Commenting parties discussed several proposals relating to the mechanics of opening up a new toll free SAC, operation of the SMS, and provision of toll free service. These include use of mechanized generic interfaces (MGIs); implementation of a lower reservation cap; the interim plan developed by SNAC; tracking and reporting usage; consistent routing of toll free traffic; selection of a neutral SMS administrator; and payments to SCP owner/operators. As discussed briefly below, the Commission should adopt certain of these measures to ensure the smooth deployment of new toll free SACs.

A. MGIs

Several resp orgs, including Sprint Long Distance, use MGIs to process their large volumes of SMS transactions efficiently. Other resp orgs which have not invested in this capability object to its use, claiming that MGIs give large resp orgs an unwarranted advantage.¹⁶

Sprint agrees that MGIs (and other computer-generated search and reserve systems) should not be used to reserve numbers for which there is no customer order.¹⁷ However, no limits should be

¹⁶ See, e.g., ACTA, p. 13; MFS, p. 7; TRA, p. 11; SNET, p. 10; Ameritech, p. 16.

¹⁷ See also Bell Atlantic, p. 4; Southwestern Bell, p. 8; US West, p. 12.

placed on use of MGIs to carry out order-based transactions. MGIs provide significant and legitimate operating efficiencies for handling such transactions and it makes no sense to penalize those parties who have invested in this capability in order to enhance their ability to process orders.

B. Lower Reservation Caps

Various parties have suggested that the percentage cap on the quantity of numbers any resp org may reserve should be decreased from the current 15%.¹⁸ Few if any parties opposed a decrease. Sprint suggests that the Commission adopt whatever percentage cap is agreed to by SNAC.

C. SNAC Interim Plan

ATIS has described the interim plan devised by SNAC to smooth the transition to the new 888 toll free code (p. 14). This plan was developed on a consensus basis by members of the industry, and there was little opposition among commenting parties to the SNAC transitional plan. The Commission should therefore endorse this plan and increase the weekly allocation of number assignments as requested in the SNAC plan.

D. Tracking and Reporting Usage

If the Commission were to require the public reporting of usage by SMS category, such reports should be on an aggregate

¹⁸ Sprint (p. 10) and Comptel (p. 20) have recommended a 10% cap; AT&T has suggested an 8% cap (p. 7); BellSouth has recommended a 3-10% cap (p. 14).

rather than resp org-specific basis in order to protect confidential information.¹⁹ There does not seem to be any support for the proposal to track usage by application.

E. Consistent Routing of Toll Free Traffic

Several LECs agreed that 888 traffic should be delivered over the same network architecture as 800 traffic.²⁰ However, four LECs (Ameritech, Nynex, Southwestern Bell and SNET) opposed any requirement that all toll free traffic be routed consistently. This opposition is unwarranted. LECs should be required to route 800 and 888 traffic consistently, because to do otherwise is inefficient and unnecessarily costly to interconnecting carriers.

F. Neutral SMS Administrator

Several parties agreed that the SMS should be administered by a neutral entity rather than by DSMI, an RBOC affiliate.²¹ Comments by two of the RBOCs make it clear that a neutral administrator must be appointed: Southwestern Bell stated (p. 2) that "[a]s an agent for the RBOCs, DSMI knows what the RBOCs know, and

¹⁹ See, e.g., Sprint, p. 13; AT&T, p. 17; MCI, p. 22; Ameritech, p. 24.

²⁰ See, e.g., OPASTCO, p. 3; USTA, p. 11; Bell Atlantic, p. 6; BellSouth, p. 12.

²¹ See, e.g., Sprint, p. 22; AT&T, p. 17; Allnet, p. 11; Comptel, p. 15; LDDS, p. 9; MFS, p. 10; TRA, p. 21; BellSouth, p. 18; Southwestern Bell, p. 20. Ameritech (p. 38), Nynex (p. 10) and US West (p. 28) all suggested that there is no need to revisit the issue of RBOC administration of the SMS in this proceeding.

vice versa." Ameritech similarly stated (p. 38) that "it is inconceivable that the Commission could require the BOCs to disassociate themselves from the functions that DSMI performed...." Such statements hardly inspire confidence about the neutral administration of a facility as key to the provision of toll free service as the SMS. Therefore, an independent administrator for the SMS should be appointed as soon as possible.

G. Payments to SCP Owner/Operators

US West has suggested (p. 5) that resp orgs should pay either a per-record charge or a storage charge for each record that resides in a SCP. This charge should be "sufficiently high to discourage assignment of toll free numbers to low-use or no-use subscribers."

Sprint opposes US West's proposal. US West appears to be suggesting that LECs should be allowed to ransom SCP access and to set rates for use of this bottleneck facility arbitrarily. The costs of SCP storage are currently recovered in the per query charge, and there is no basis for allowing monopoly service providers to manipulate access costs at the expense of their customers.

IV. CONCLUSION.

The initial comments filed in this proceeding reflected considerable disagreement over the appropriate treatment of vanity numbers. Sprint believes that assigning numbers on a first come, first served basis is the most neutral and straightforward

methodology. However, Sprint recognizes that toll free service subscribers are legitimately concerned with protecting their investment in certain 800 numbers. If the percentage of numbers for which a right of first refusal will be exercised is small (and there are steps which the Commission could take to limit this right to those numbers for which replication is truly critical), this policy could be implemented with minimal adverse impact.

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The Commission should also find that MGIs should be used only to carry out order-based transactions; require LECs to route 800 and 888 traffic consistently; and mandate the appointment of a neutral SMS administrator as soon as possible. Each of these decisions would facilitate the fair and efficient provision of toll free service.

Respectfully submitted,

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I, Joan A. Hesler, hereby certify that on this 20th day of November, 1995, a true copy of the foregoing document was sent via First Class Mail, Postage Prepaid, or Hand Delivered, to each of the parties listed below.


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