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November 15, 1995

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Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Re: Docket No. 95-155

Dear Secretary:

Please add these (9) nine copies to our filing of November 1, 1995, for each of the Directors.

Although our filing was on time, we were unaware that (9) nine copies were to be included for distribution. We trust that these can still be distributed at this late date.

Very truly yours,

Loren C. Stocker, P.E.

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List ABCDE

Strategy · Positioning · Intellectual Property

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Before the

Federal Communications Commission

Washington, DC

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In the Matter of	)	
	)	
Toll Free Service Access Code	)	CC Docket No. 95-155
	)	
To: The Commission	)	

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COMMENTS OF VANITY INTERNATIONAL

Loren C. Stocker, Managing Partner of Vanity International, hereby submits comments in conjunction with the Notice of Proposed Rule Making released in this proceeding on October 5, 1995. With respect thereto, the following is stated:

Vanity™ International is the world's premier vanity design and consulting firm. We specialize in strategic marketing through the creation, acquisition, and application of vanity numbers, typically vanity 800 numbers. I am managing partner of the firm, and the author of a article on vanity numbers that appeared in Advertising Age (July 24, 1995). We believe you will find the article to be timely, informative, and perhaps the definitive work of its kind, and have included for your reference.

We work directly for the end users of 800 numbers to create and implement an enduring contact strategy. Our clients include many well-known, Fortune 500 companies and others who wish to create competitive advantage in their class of goods or services. Further, we are developing marketing programs and services for our own vanity numbers.

Overview

We are especially concerned about any language that would revert control of 800 numbers back to the carriers under the legal fiction of a protecting a "public resource." Specifically, we feel that there should be no language that would prevent our clients, and others, from the free exchange, release, or transfer ownership of 800 numbers for a fee, if necessary, to compensation the releasing party for their legitimate business interest. What right does the FCC have to prevent us from acquiring numbers we need, if all parties are willing?

Further, it would be outrage and an embarrassment for the FCC to allow the cartel of large carriers who call themselves "the industry" to regain control of 800 and future toll-free numbers. Everyone knows that "the industry" has always held the best numbers for their best customers which, in effect, leverages this "public resource" for their own gain. This is a pure and simple attempt to undo what the courts have done; confirmed the customer's legal right of ownership and control.

Our comments will be representative of the end user's perspective. Beyond our primary concern for the free exchange of numbers, we will propose a framework that ***will avert the 800 "crisis" altogether***, if adopted. We believe these to be sensible solutions that have somehow escaped the discussions thus far.

Background

Unassigned 800 numbers may be something akin to a "public resource," but once 800 are assigned to a business this premise goes to its logical demise. The whole idea behind portability was that customers own their numbers; not the carriers. So, why reverse this now?

At a minimum, a phone number represents a user's priority customer base. This reason alone is sufficient to view assigned 800 numbers as a business asset, comparable to any other trade secret. Further, when an 800 number is used as a vanity number or in a jingle (like Empire Carpet in Chicago "588-2300"), it becomes a servicemark and acquire brand equity like 1-800-Call-ATT, 1-800-Collect, 1-800-Flowers, and others. In effect, proprietary intellectual properties are overlaid onto 800 numbers, just as landscape improvements and buildings are overlaid onto real property.

This concept of a "public resource" for unassigned 800 numbers may have merit, analogous to the status of public land prior to homesteading. But, once assigned, 800 numbers inseparately contain proprietary intellectual property and -- like real property -- should be afforded full legal protection. It would be equally absurd to renounce real estate ownership rights simply because the land was at one time barren. The FCC should not allow "the industry" to make any rule that interferes with the rights of businesses to freely exchange, release, or transfer ownership of 800 numbers. Period. Anything short of this would give "the industry" an unconscionable license to interfere with the business plans of their subscribers.

It's clear to us that "the industry" created the crisis we are in today. Not by the limited supply of 800 numbers, but rather by their appetite for somewhat frivolous assignments. Most recently, "the industry" has diminished the business status of 800 numbers by assigning them to a mixed-bag of residential, pagers, cellular phone, and the like. I understand that a certain savings bank even gave away 800 numbers to anyone who opened a account. There was never a crisis when 800 numbers were used primarily for business. Now that they've been given away like toasters, we've run out; No surprise.

From our research, millions of 800 numbers -- and I don't mean thousands -- ring to single-user personal voice mail, homes, cars, cellular phones, pagers, or are "in-stock" and ready such purposes. Of course, the purveyors of these services are customers -- not carriers themselves -- so these numbers are listed as "working" in the national database. It should come as no surprise that we are about to run out, given that there was never any toll-free planning and no constraints in place until June 1995.

It is clear that the carriers -- now acting as a virtual cartel -- are using this crisis to partially undo portability rights. Declaration of 800 numbers as a "public resource" is just a smoke screen to justify sever restrictions in the transfer of 800 number ownership. Read through the smoke. "The industry" is really seeking to reverse court-ordered customer ownership rights and reestablish 800 numbers as *their* business assets. They can then *openly* leverage 800 numbers they control to close new business with long-term contracts.

This is going on right now, although not openly! If you're in denial, it can be easily confirmed that virtually no 800 numbers have aged (i.e. dropped back in the national database) since "the industry" got wise late this summer. Further, many numbers are now being listed as "working" during the aging process to avoid detection. If 800 numbers are a "public resource" as claimed, why are the carriers allowed to control these "public resources" to benefit themselves and their larger, more-favored customers. Check it out. The data speaks volumes. Any action that would lift or curtail customer ownership and the free exchange of 800 numbers should be vigorously opposed.

Real Solutions -- Mnemonic Toll-Free Codes

The reason 800 numbers have such great value is their mindshare; virtually every American knows that 800 numbers are for business toll-free. This is a vital distinction because 888 numbers will be functionally equivalent, but will never achieve the prestige and universal acceptance of 800 numbers -- even years from now. From a marketing standpoint, if an 800 number is on main street, an 888 number will be a second avenue address. The exchanges that follow, 877, 866, etc., will be pure non-sense.

A real solution for the 800 crisis is to do what is equivalent to urban planning. Do nothing, and you have downtown Boston with it's paved over cow paths (the 800 world today). Plan now, and you at least have Chicago; a grid system where most everything makes sense. I propose that we undo as much of the damage as possible, and do it now! Here's how.

It's time to change our thinking. The concept behind this proposal is to adopt mnemonic toll-free codes. Each major-use category would select mnemonic codes with logical meaning, like SKY, CAR, RES, PAG, USA, AIR, etc. These unforgettable toll-free codes would create understanding, and be immensely more desirable that mix-use, non-sensible numerics like 888, 877, 866 and others. This concept has worked so well in the private sector (vanity numbers), why not adopt it as a public toll-free policy?

The key benefit is that mnemonic codes would be far more *desirable, memorable, and prestigious* than pure numerics. So much so, that users will clamor to *get on* to the new area code, rather than desperately *hang-on* to 800 numbers. Further, we will instantly increase our capacity to 30 -50 million toll-free numbers and open up millions of new vanity numbers. **Crisis solved!** Key FCC actions are:

- Decree that 800 numbers and, the new 888 exchange to be exclusively for ***business*** toll-free, as of some reasonable date. All other users will be getting new toll-free codes. Any 800 number used for residential, pager or cellular customers will be *required* to go shared-use. Overnight, we'll be back to 60% capacity, or so, with 100% of 888 waiting in the wings.

- Decree that all **residential** customers will be getting new toll-free codes, as of some reasonable date. Convert this user group to 500 numbers or create special mnemonic codes like HOM, PER, or RES, for example.

- Decree that all **pager** customers will be getting new toll-free codes, as of some reasonable date. Convert this user group to mnemonic codes like BEP, USA, PAG or SKY, for example.

- Decree that all **cellular** customers will be getting new toll-free codes, as of some reasonable date. Convert this user group to mnemonic codes like AIR, CEL, POR, or CAR, for example.

What timing! We have the entire spectrum of three digit area codes available for the creation of mnemonic codes. Those already assigned can even be taken back, if needed, without great hardship -- they're not yet in use. In summary, great mnemonic codes will -- overnight -- achieve the same prestige and acceptance as 800 numbers have over many years. No numeric can possibly do that. If asked, my firm would be delighted to help select appropriate mnemonics.

Comments on key questions

Warehousing-- What's done, is done. Actually, this may be a diminishing problem since the warehousing carriers are depleting their stock of numbers to satisfy demand. Forcing deposits will only serve to disadvantage small carrier and small businesses. Rather, why not allocate the release of 888 numbers, in a fashion similar to today's 800 allocation? This should give the carriers incentives to curtail frivolous assignments of 888, as they are today. The real key is free 800 numbers from the frivolous use, i.e. adopt mnemonic codes.

PINS-- Why would you not REQUIRE shared-use on all 800 numbers used for personal voice mail, homes, cars, cellular phones, or pagers? It is only the carriers that benefit from the language, "encourage, but not require." This action alone would free hundreds of thousands of 800 numbers which are currently in-use or "in-stock."

Vanity Numbers-- Right of first refusal is essential! Without this mechanism in place countless companies will be forced into a court battle to protect their good will from free-riders and speculators. Why not just institute a simple 30 -60 day window for companies to stake their claim, similar to international free-fone? Claimants should only be required

to have the 800 version as of the date they file. Beyond that, simply open it up on a first-come basis. Forget any regulation (industry codes), special fees and the like. It's not an FCC problem if companies fail to take advantage of this window of opportunity. Just make certain you provide a window.

WHEREFORE, it is respectfully requested that these comments be considered in this proceeding.

Respectfully Submitted

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1-800-Mindshare: The numbers game

Vanity numbers can give marketing edge

By Loren Stocker

Since 800 numbers became portable in May 1993, there's been an explosion in the use of "vanity" numbers—numbers that translate into words for easy recall. Vanity numbers can be positioning statements, yet too little consideration is given to their impact—good or bad—on marketing strategy.

If you think of vanity numbers as mere novelties, consider the wake-up call experienced by floral delivery leader FTD. Since 1987, upstart 1-800-Flowers has grown to over $100 million in sales. According to a *Wall Street Journal* article, FTD is losing millions trying to break into the 800 delivery service with 1-800-Send-FTD.

And now 1-800-Flowers is adding retail stores, which will, of course, be named for their unforgettable contact number.

Vanity numbers can be viewed in terms of three essential criteria: the mnemonic, the message and the numeric translation.

■ **The mnemonic:** Ideally a vanity number has just 7 letters. But this is an imaginary constraint that may obscure the purpose: instant recall of the *whole* number, even years after media exposure. Numbers like 800-Blue Cross and 800-MicroSoft serve this purpose well, despite their length.

Contrast those with 800-2-So-Easy, 800-424-emc2 and other such nonsense, which is a pleasure to forget. Others, like 800-347-Water, will become "something"-Water within minutes.

Even numbers like 800-2-Diners and 800-Forbes-5 might be easy to recall for a few hours, but most people will quickly lose track of the spare, irrelevant digit.

When numbers are used, they should make sense. Excellent examples include 800-9-Months for a maternity outlet and 800-241-Travel for discount travel.

■ **The message:** The message delivered by your vanity number should be compelling or, at the very least, neutral. Numbers like 800-Get-Results and 800-Do-Lunch have impact and are a cinch to recall. Messages like 800-2-Diners (nonsensical) and 800-IBM-Call (reversed) detract from the ad copy by presenting an unclear message.

The message delivered by your vanity number should also reflect your long-term positioning strategy. 800-Pick-UPS, recently introduced by UPS, is a brilliant example of a message with enduring value.

■ **The numeric:** The numeric is simply the phone number that translates from the vanity number. Ideally, vanity numbers would be as easy to dial as, say, 800-555-5555. However, there is no such thing as a bad numeric. Some are just better than others. The trouble comes when a vanity number can be translated into more than one numeric, such as 800-For-Video, which could be misinterpreted as 800-4-Video, or misspelled, resulting in misdials and missed opportunity.

Erroneous translations can be minimized or averted altogether by proper planning and by securing the relevant numerics.

The message delivered by your vanity number should be compelling or, at the very least, neutral.

But creating phone mnemonics is only half the story. How do you know what's truly available?

Your long-distance carrier may report the number you want is unavailable when, in fact, it is available from a competitive carrier. We've found this misinformation is rarely intentional. It's just that most telecom professionals are naive to the workings of the national 800-database, and to the pre-portability assignments of the 500, 700, 900 and local numbering systems.

There is a subtle priority system that ensures that hundreds of obscure, mostly regional resellers have clout equal to the big-name carriers. Vanity number specialists have developed techniques that, in effect, circumvent the priority system that hinders individual carriers.

Naturally, those who act first will acquire the vanity numbers critical to dominating their respective markets; others will get what's left. In 800-cyberspace *mindshare* is everything. Retail locations mean little when customers can get equal or superior products and services *on impulse*. Why search the phone book for a local florist when you can just dial 1-800-Flowers?

If you missed out on the best 800 numerics, you may have heard that a new toll-free 888 exchange is planned for release in April 1996. But if you think an 888 number will be just as good, think again.

It will take years for consumers to recall something other than 1-800 for toll-free calls, despite 1-888's functional equivalence. Think of it like this: If an 800-number puts you on Main Street, then any new toll-free exchange will be a Second Avenue address, at best. □

Mr. Stocker is managing partner of Vanity International, a Chicago-based consultancy that creates, secures and applies vanity numbers.