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Mailed To: Office of Secretary FCC
1919 M. Street N. W.
Washington D. C. 20554

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

Ref.: Petition for Reconsideration of Report CC95-155/FCC97-123

Toll Free Referrals, Inc., a small telemarketing company, seeks reconsideration and clarification of the above order that will give big business unfair market control over the toll free number issuance policy under the guise of a number conservation rule.

FCC Rules, covering end user subscribers hoarding and/or brokering of toll free numbers, has the effect of making thousands of individuals and businesses illegal almost overnight. The FCC's own statements and actions during this ruling confirms holding and selling of these numbers has been legal for some twenty years. This rule makes hundreds of marketing companies illegal operations and will drive them out of business, if no consideration is given for grand fathering, or a broad definition of Exempt Telemarketing Service Bureaus is not included in your reconsideration of this rule. I petition for the following addendum to the rule, if it's not completely reversed in favor of full Free Access to all.

1. All numbers owned prior to May 25, 1997, the purposed effective date, should be considered grandfathered and Exempt.
2. 800 and 888 numbers are exempt only future issued prefixes could not be held/hoarded/sold as it has been a legal activity until May 25, 1997.
3. Telemarketing Service bureaus should be broadly defined as any telephone or telemarketing business other than a carrier/Resp. Org.
4. All numbers that the subscriber has Trademark or Service mark pending should be exempt.
5. All numbers that the subscriber has a matching Internet Domain name/Web address should be exempt.
6. All numbers that belong to a business that has been sold should be exempt.
7. All numbers that match a Local, International or Foreign country number owned by the subscriber should be exempt.
8. All numbers held by subscribers for shared use should be exempt.
9. All complainants of Hoarding or Brokering of specific numbers may not receive those numbers as a reward for their claim/complaint.
10. All buyers (also criminals) will be subject to the same penalties as the seller of the numbers.
11. All carriers/Resp. Org. that process ownership changes for buyers & sellers will be subject to the same penalties as buyers and sellers.

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12. All carriers/Resp. Org., that disconnect a users number for hoarding, may not be the carrier for that number for 2 years, if its reassigned.
13. Issue additional prefixes and one identified for personal use only with no replication rights.
14. Carrier/Resp. Org. as a subscribers agent should not be able to warehouse numbers for subscribers.
15. FCC Should stop hoarding new toll free prefixes creating the alleged shortage of numbers. Issuing new prefixes and maintaining the policy of Free & Equal Access to all is in the real best interest of the public.
16. FCC's rule doesn't address new and emerging telemarketing technologies and marketing techniques of small businesses seeking to establish both a Nationwide and a Worldwide multimedia 3-Way User Friendly address system like:

1 800 FLOWERS

www.1 800 FLOWERS.com

info@1 800 FLOWERS.com

As a small emerging and innovative business, I demand the same rights for me and my clients, to set-up global address systems for our businesses, without the added pressure of this FCC rule that mandates how many, how fast, how much, how often and with who I develop my confidential marketing plan.

This new type Global Address System allows small companies to compete with big business in the Worldwide Market Place. This Global address is built off the mnemonic phone name or vanity phone number. Small businesses with limited resources must generally rely on small telemarketing companies with the knowledge and skill to put together the desired 3-way address system. This requires planning, marketing, negotiations, acquisition, registration and an extended holding period prior to actual use. Holding/Hoarding by a small business and/or his agent of the Toll Free number, that is central for the best addresses, is paramount. Big business can always make a number appear to be showing use, but it is far more difficult for a small business. FCC's rule, as it stands, makes the future set-up of this Global address, by small business and his agent, illegal and subject to a competitor's misuse of the FCC rule to interfere and/or eliminate a small business owner's hard earned marketing plan by filing vague complaints. I believe the FCC rule violates USC 257 of the Telecommunications Code that Congress intended to protect small subscribers and promote innovative new telemarketing practices and specifically directs FCC to issue no rules that would diminish a subscribers rights to innovative business practices.

2. The Telecommunications and Internet Industries are closely related, and the precedent set by the new FCC rule will have a negative impact on both industries, in favor of big business and their carriers, looking to increase their market share in both numbers and/or names, while reducing small business competition in this new emerging multimedia market.

- A. Both operate over the phone lines
- B. Both use a public domain address system
- C. Both are in the public's interest
- D. Both have emerging new techniques.
- E. Both are subject to big business domination.
- F. Both are subject to FCC over-regulation.
- G. Both are alleged to have an address shortage problem.

FCC Rule 52.107 Hoarding/Selling is the Internet industry's wake up call that FCC can & will take away Free Access of end users. FCC Rules can make a legitimate small business illegal without consideration of all the facts and due consideration of past history of legitimate business. The Internet Industries has the same alleged shortage of .com first level domain names, the equivalent to prime 800 service numbers. It is reported to be

solved by issuing more 1st Level domains such as .web, .store, .dom, etc., the equivalent to more toll free prefixes so that no one entity can control free access public addresses.

In summary, I petition the FCC to reverse/amend and clarify Rule cc 95-155/FCC 97-123 (47 C.F.R. section 52.107).

- (a) 1. Holding /vs./ hoarding
- 2. Selling a telephone number /vs./ selling telephone service
- 3. Routing multiple telephone numbers creates a rebuttable presumption based on what standard or exemption?
- (b). Hoarding of more numbers than subscribers intent to use. How does this apply to telemarketing businesses that have a supply of toll free numbers intended for clients shared use services?
- (c) How is a "telemarketing service bureau" defined?
- (d) Are any grand fathering of existing business and/or transactions provided for by common law?

Consider restoring full and free access for all to toll free numbers by adopting the same rules that applies to the Internet domain names as set forth by the Internet's Primary Domain Name Registry source known as InterNIC.

3. The background: This new rule creates a crime with no victims. No one is without all the toll free service they want, there is no shortage. No one is making anyone buy a number. Every subscriber had the same rights and chances for the original toll free numbers. Now that the 800 series is a world wide success, market conditions and technology has made them valuable. Big business has used the FCC to support a rule that forces thousands of individuals and small businesses to give up 800 series numbers they have paid for, for years, so that big business can have another chance to get them.

4. The facts are FCC has set quietly on the side lines of this issue for the past 4 years. While their some 200 regulated carriers/Resp. Orgs. conducted one of the most intensely competitive marketing campaigns of any type in the history of the country, to sell the American public 800 toll free services. Consumers have been bombarded daily from phone calls, faxes, e-mail and inundated every advertising media known. The carriers' sole pitch was that every individual, young and old, and every business, large and small, should have toll free numbers for their convenience. All toll free number assignments and service hooks up were conducted person to person by a phone conversation, that provided ample opportunity for full disclosure of any subscriber rules by the carriers plus every monthly bill was another opportunity to disclose any pertinent rules of proper use. It is common knowledge the shortage occurred because FCC poorly managed early release of the 888 prefixes.

5. The evidence of any rule, limits or restrictions, of any type, was never mentioned or disclosed to any subscriber by any carrier, and certainly not from the FCC during this mass lottery of toll free numbers. To this very day, May 20, 1997, the FCC has never required the carriers to notify their subscribers of any proper or improper use rules or public education programs of any type. There is also no refund provision to return any of the subscribers' money who may lose their numbers or want to give it up. The only thing the subscribers got was the bill.

6. The motive: This massive lottery of numbers was highly profitable with subscribers paying carriers billions of dollars yearly to keep their numbers active, making some of these carriers the largest and richest companies in the world. Today the 800 numbers are much more valuable and if these same carriers could create a new issuance policy of 800 numbers they stand to make a windfall profit. A controlled market is

what this rule gives them.

7. The crime is some of these carriers (without notifying their subscribers, again) have been quietly lobbying support for Rule CC #95-155/FCC #97-123, as it provides them with another chance to secure and reissue the prime 800 series numbers, to even more promising big business clients. The rule will force subscribers, in large numbers, to give up their numbers or be considered criminals and face strict penalties and fines if they:

- * Have little or no billing
- * Holding of a number or numbers to use later
- * Selling the number to another subscriber
- * Having more than one number
- * Not giving the number back if the carrier requests it.

8. The victims are the subscribers, who trusted the FCC and their carriers to make full and timely disclosure of consumer information and subscriber use regulations, at the point of sale and during the subscriber's billing period. Thus the subscriber unknowingly enters into a toll free number lottery scheme that had no rules, no disclosure and no refunds for the subscribers. Even the public hearing for adopting rule CC #95-155/FCC #97-123 was never disclosed to subscribers by the carriers and therefore only a very small fraction of the millions of subscribers had an opportunity to participate and protect their interest in their numbers.

9. Truth in toll free service. Full and complete disclosure at point of sale, for most other consumer services, is required by common contract law and public policy. If there is no disclosure, there is no breach, and therefore no enforcement against the consumers for their unencumbered use of that service. This principal must apply in this case of 800 toll free service, that was issued with no disclosures of any type, then the FCC and their carriers should not have any enforcement authority in this matter. It has been a usual and customary practice for subscribers of all types to hold, buy, sell, trade and broker numbers for over 20 years. FCC should not interfere with the free market value of a subscriber's number. Classifying subscribers, that can and cannot continue this accepted practice, is completely unnecessary over regulation of a non-existing problem. The FCC and their carriers should not be exempt from this common sense requirement. If the FCC is unable or unwilling to undertake this type of consumer protection then the FTC should be asked to apply their experience to this problem.

10. The Congress should redirect the FCC on prior public policy of deregulation, to prevent CONTROLLED BUSINESS, and fair and equal access of the telecommunications laws, to prevent this type of mismanagement and abuse of public trust, that rule CC #95-155/FCC #97-123 has created. Congress should fully investigate this matter if the FCC does not reverse this new rule. A precedent with State PSC's and Local carriers of local numbers may use this rule and tactic on local numbers that are also becoming valuable because of their vanity value. Please do not dismiss this fact as it is highly probably this will become a major issue soon as local number portability is here now.

11. The FCC should reverse this new rule CC #95-155/FCC #97-123 as unfair, undisclosed and unenforceable. There is only a shortage of original prime 800 series numbers and no shortage of toll free service. Using other prefixes such as the new 888 and other prefixes, held in reserve, provides an endless supply of toll free numbers for issuance to subscribers. Whatever the cost to issue more prefixes, free excess is worth the price. Give big business more prefixes but not our 800 numbers.

12. The Courts and Congress have given specific prior instructions to the FCC on deregulation of the telecommunications industry to eliminate monopolies and other unfair trade practices of big carriers and big

business over the best interest of the public consumer. The taking of subscribers numbers to give to another subscriber under the pretense of number conservation policy is legal fiction and total misrepresentation of the true results under rule CC95-195/FCC 97-123. If FCC wants to help big carriers and big business acquire the original 800 numbers, then develop a simple compensation plan that is voluntary and provides subscribers with a public educational program, refunds and rebates for return of the numbers. But please do not make the public out to be criminals if we want to keep what we paid for.

Our petition was delayed because we did not receive proper notice from the FCC nor any Carrier/RespOrgs. In summary, I respectfully request the reversal of rule CC 95-195/FCC 97-123 as it clearly discriminates against small subscribers and hurts small businesses country eliminating the competitiveness of small telemarketing companies. There has clearly been no meaningful representation of small end users nor small telemarketing companies such as our selves. Your confiscation policy is extremely prejudiced and discriminatory against small businesses and competition. It is harmful to the entire country and telecommunications industry.

Sincerely,

Bill Quimby
President
Toll Free Referrals, Inc.
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