

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

In the Matter of:)
)
Petition of Twilio Inc. for an Expedited)
Declaratory Ruling Stating That Messaging) WT Docket No. 08-7
Services Are Title II Services)
)

REPLY COMMENTS OF SOMOS, INC.

Somos, Inc. (“Somos”) hereby submits these reply comments in response to the Federal Communications Commission’s (“Commission”) October 13, 2015, Public Notice, seeking comments regarding the above-captioned matter.

Somos, formerly SMS/800, Inc., is the Commission-appointed Toll-Free Neutral Administrator. Somos operates the SMS/800 platform, which is tariffed through the 800 Service Management System (SMS/800) Functions tariff.¹ Companies, called “Responsible Organizations” or “Resp Orgs,” search for and reserve Toll-Free Numbers through the SMS/800 platform² and provide related routing data that Somos pushes out into the network through Service Control Points. As such, Somos’s SMS/800 database is the single authoritative database for provisioning Toll-Free Numbers and determining the Resp Org for such numbers in the North American Numbering Plan.

Somos takes no position as to whether texting should be treated as a Title II service. There are, however, issues related to text enabling Toll-Free Numbers, as discussed in Twilio’s

¹ Somos. Inc. Tariff F.C.C. No. 1.

² Resp Orgs may be the ultimate end user, or may manage the Toll-Free Number for a Toll-Free subscriber.

petition³ and in HeyWire comments⁴ in this proceeding that call for immediate Commission action.

1. Creation of the Texting and Smart Services Registry

Although text messaging was traditionally a mobile-to-mobile service, in recent years, text messaging has increasingly been used for communication between mobile devices and computers and other fixed devices. With this change, there has been increasing demand to “text-enable” Toll-Free Numbers – that is, to make it possible for mobile users to send text messages to Toll-Free Numbers assigned to land-line subscribers.

Somos’s involvement in text enabling Toll-Free Numbers began when approached by CTIA in 2014. Before this time, there was no formal, industry-wide system to support the growing demand for the text enablement of Toll-Free Numbers. Instead, a variety of services offered the capability to text-enable a Toll-Free Number; without controls or any centralized database, it was possible to do so without the knowledge of the Resp Org and/or the subscriber to the Toll-Free Number. That lack of control created the potential for fraud, squatting, and other misuse.

The increasing demand to text-enable Toll-Free Numbers led to the search for a better solution. CTIA formed a working group to find a permanent solution that would be administered by a neutral third-party. At CTIA’s request, Somos submitted a white paper with a design for a centralized registry separate from but connected to the existing SMS/800 platform. The proposal

³ Petition for Expedited Declaratory Ruling of Twilio Inc., WT Docket No. 08-7 (filed Aug. 28, 2015) (“Petition”), at 8-11.

⁴ HeyWire Comments (filed November 20, 2015).

was viewed favorably and endorsed by the working group members, which was then incorporated into CTIA's texting guidelines as section 4.4.⁵

Consistent with the CTIA guidelines, Somos created the Texting and Smart Services Registry (TSS Registry), which began in beta phase in late spring 2015 and was fully operational by late summer 2015.⁶ The TSS Registry serves as a centralized provisioning and routing database for all multimedia services associated with Toll-Free Numbers.⁷ Companies that offer texting on Toll-Free Numbers (called Service Registrars) can enable and set up routing in the TSS Registry on behalf of their customers with appropriate customer documentation. The TSS Registry then performs a series of critical validations to ensure that the integrity of the Toll-Free Number is maintained: in particular, the TSS Registry confirms that the Toll-Free Number is active (not unassigned or otherwise unavailable) and notifies the Resp Org responsible for the Toll-Free Number that a request has been received. Once the validations are completed and, most importantly, the request is authorized by the Resp Org of record, the TSS Registry distributes the text routing information to key message-routing database providers, who in turn serve mobile-network operators for message routing.

2. Abusive Practices Related to Text-Enabled Toll-Free Numbers

The CTIA guidelines – which are, of course, voluntary – recommend that all companies participate in the TSS Registry to ensure that there is a definitive, neutral database available to

⁵ http://www.ctia.org/docs/default-source/default-document-library/sms_interoperability_guidelines_v3-2-2_jan_2015-as-posted.pdf?sfvrsn=2. Last accessed December 21, 2015.

⁶ As of November 2015, there were more than 720,000 text-enabled Toll-Free Numbers in the TSS Registry.

⁷ The TSS Registry currently only supports texting services, but is scaled to handle additional services as these are developed. For more information on the TSS Registry, see <https://www.somos.com/text-enabled-toll-free>. Last accessed December 21, 2015.

competing service providers. Notwithstanding those CTIA guidelines, however at least one significant Toll-Free texting service provider refuses to use the TSS Registry. As a result, that company and its customers and affiliates can text enable a Toll-Free Number (1) even though the number is not or cannot be assigned to any subscriber or (2) in the case of assigned numbers, without the knowledge of the voice subscriber or its Resp Org. That is exactly the situation that CTIA sought to address when it sought out Somos to create the TSS Registry. As the Toll-Free Neutral Administrator, Somos believes that it is inconsistent with the spirit of the Commission's numbering regulations – including its recently enacted prohibitions on spoofing – for a subscriber's Toll-Free Number to be text-enabled without the knowledge of the Toll-Free voice subscriber or their Resp Org.

Recently, using the non-compliant company's platform, an owner of a large Resp Org was able to text-enable a well-known Toll-Free Number to send texts to his personal cell phone without the knowledge of the subscriber, and without his company, the Resp Org for such Toll-Free Number, being notified.⁸ The potential for abuse is obvious.

Whether or not a company chooses to use the TSS Registry – as CTIA recommends – no Toll-Free Number should be text-enabled unless (1) appropriate customer documentation is obtained and (2) the subscriber's Resp Org is notified. Such controls ensure that Toll-Free Numbers will only be text-enabled if the number is active and the subscriber has authorized the text enablement. Such controls are critical not only to protect subscribers but also to protect the public, which will reasonably assume that a text sent to a Toll-Free Number will be sent only to the voice subscriber to that number, be completed to its intended recipient, and not blocked by a third-party. Somos has heard anecdotal evidence of significant abuses associated with text

⁸ See attached statement of Bryan Lynott. Mr. Lynott is a member of the Somos, Inc. Board of Directors.

enablement of Toll-Free Numbers; the use of the TSS Registry, with its critical validation process, is a solution that ensures that the integrity of the Toll-Free Number is maintained.

3. Additional Abuses in the Toll-Free Texting Ecosphere

Somos also shares the concerns of other commenters regarding additional abuses in the Toll-Free texting ecosphere. Ordinarily, intercarrier text messages are routed through several competing third-party vendors. But in the context of text-enabled Toll-Free Numbers, Somos understands that one company (the same company that has committed the abuses described above) has secured agreements with the largest mobile network operators that directs to this company all or nearly all messaging traffic sent to text-enabled Toll-Free Numbers. If that understanding is correct, that company would have the ability to block traffic being routed to other providers of text enablement services. As a result, that company would have the power to impose unreasonable charges and conditions on companies, which are also the company's competitors in the provision of retail text enablement services. The Commission should make clear that such conduct is not permitted.

4. The Commission Needs to Take Action

The Commission should not permit the nascent texting to Toll-Free industry to suffer harm. As a trusted neutral third-party, Somos has had many conversations with providers who currently offer text enablement services, those who want to do so, and those who have in the past. Each of these companies has expressed concern about the situation with the non-compliant company noted above. Several have said that they will not enter the field until this problem has been resolved. Others won't allocate additional resources until there is a reasonable solution. Some who have exited the field due to these issues may re-enter it upon resolution.

The issues Somos has outlined regarding texting to Toll-Free Numbers can be resolved in short order and without waiting for the Commission to reach a decision on Title II. It is settled Commission policy that Toll-Free Numbers are a public resource.⁹ The Commission can take actions to protect that resource, such as enforcing its rules against hoarding¹⁰ and warehousing¹¹ of Toll-Free Numbers, or the sale of Toll-Free Numbers.¹²

Somos takes its role as the Toll-Free Neutral Administrator very seriously. As such, Somos is exceptionally concerned about any abuses of Toll-Free Numbers. Text enabling a Toll-Free Number without going through the TSS Registry or employing other diligent controls to ensure that subscribers and Resp Orgs are properly alerted is an abuse of Toll-Free Numbers that has and will continue to have a detrimental effect on the value of Toll-Free to Toll-Free subscribers.

Respectfully submitted,



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⁹ *Toll Free Second Report and Order*, 12 FCC Rcd at 11185–86, paras. 30–32; see *Toll Free Service Access Codes*, Fourth Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 9058, 9061, para. 6, n.14 (1998).

¹⁰ 47 USC. Sec. 52.105.

¹¹ 47 USC. Sec. 52.107.

¹² See, e.g., *Richard Jackowitz, IT Connect, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 3318 (2014); *Richard Jackowitz, IT Connect, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 6692 (2013); *Telseven, LLC, et al.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 15558 (2013).