

December 6, 2000

Mr. Michael Wade  
President, Database Service Management, Inc.  
6 Corporate Place  
Room PYA - 1F286  
Piscataway, NJ 08854-4157

Re: Modifying SMS/800 Disconnect and Suspend  
Status functions to preclude transfers of toll-free  
numbers directly between subscribers

Dear Mr. Wade:

The Commission's Common Carrier Bureau has increasingly received reports that toll-free numbers are being unlawfully transferred between subscribers. Similar reports have reached the Commission's Enforcement Bureau and Consumer Information Bureau. These reports typically indicate that numbers are placed in Disconnect Status and Suspend Status without the subscribers' knowledge and then transferred to other subscribers, in contravention of the Commission's toll-free number regulations. Accordingly, with this letter, the Bureau is directing DSMI to make changes to the Disconnect Status and Suspend Status functions in the SMS/800 database that will be consistent with existing regulations and that may help preclude such unlawful number transfers. These changes will make it substantially less likely that RespOrgs are able to use the SMS/800 to effectuate transfers that are contrary to our rules.

The Commission's toll-free number regulations, which are published in the Code of Federal Regulations at 47 C.F.R. section 52.101 *et seq.*, do not provide for toll-free numbers to be transferred directly from one subscriber to another.<sup>1</sup> In particular, the "lag time" regulations at section 52.103 provide only for numbers to be returned to Spare Status when subscribers no longer use them. Also, the "hoarding" regulations at section 52.107 prohibit selling a toll free number for a fee. These rules implement the Commission's policy that numbers must be made available to subscribers on a "first come, first served" basis. Direct transfers of numbers between subscribers contravene the lag time and hoarding rules and violate the "first come, first served" policy.

The SMS Tariff similarly does not permit toll-free numbers to be transferred directly between subscribers, consistent with the Commission's regulations. It provides,

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<sup>1</sup> The Commission adopted the toll-free regulations in Toll Free Service Access Codes, *Second Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 95-155, 12 F.C.C.Rcd. 11162 (1997).

among other things, that all entities (e.g., RespOrgs, subscribers, service providers) are prohibited from releasing any toll-free number “for a fee or otherwise” (section 2.3.1 (A)(7)). Notably, the tariff prohibits RespOrgs from performing any functions using the SMS/800 which are not expressly provided for under the tariff (section 2.2.1), and no section of the tariff provides for transferring numbers directly between subscribers. The tariff also provides that the services provided under the tariff may not be used for any unlawful purpose (section 2.2.2), and violations of the Commission’s regulations are unlawful.

To deter unlawful toll-free number reservation and assignment activity, when the Commission adopted the toll-free number regulations it cautioned that several possible enforcement actions could result from violations of the regulations. These actions include decertification of RespOrgs, Commission-imposed forfeiture penalties, and criminal fines or imprisonment following prosecution by the Department of Justice. The Commission stated:

We conclude that the Commission's exclusive jurisdiction over the portions of the North American Numbering Plan that pertain to the United States, found at section 251(e)(1) of the Communications Act, as amended, authorizes the Commission to penalize RespOrgs that warehouse toll free numbers. We may impose a forfeiture penalty under section 503(b). In addition, if a person violates a provision of the Communications Act or a rule or regulation issued by the Commission under authority of the Communications Act, the Commission can refer the matter to the Department of Justice to determine whether a fine, imprisonment, or both are warranted under section 501 or section 502 of the Communications Act. We also may limit any RespOrg's allocation of toll free numbers or possibly decertify it as a RespOrg under section 251(e)(1) or section 4(i). In addition, RespOrgs that falsely indicate that they have identified subscribers for particular numbers may be liable for false statements under Title 18 of the United States Code.... (footnotes omitted).

Consumer protection and the Commission’s policies can be fostered to the extent the functions of the SMS/800 itself can prevent numbers from being transferred directly between subscribers. With this letter, therefore, the Bureau directs DSMI within 60 days from the above release date to make the revisions described below. In sum, DSMI is directed to ensure that (1) a number in Disconnect Status cannot be changed by the managing RespOrg to any status but Spare Status, (2) a number in Suspend Status cannot be changed by the managing RespOrg to any status but Working Status for the same subscriber, (3) an over-ride capability is provided enabling the SMS/800 Help Desk to correct errors or assist a RespOrg in managing a number, if properly requested by the RespOrg under the circumstances specified below, and (4) all RespOrgs are sent a copy of this letter and are later notified when the measures required in this letter are in place.

**(1) Ensure that a number in Disconnect Status cannot be changed by the managing RespOrg to any status but Spare Status.** The Commission's regulations at sections 52.103(a)(2) and 52.103(d) require that numbers may remain in Disconnect status for up to 4 months and that, from Disconnect Status, numbers must move to Spare Status.<sup>2</sup>

Accordingly, DSMI is directed to ensure that a number in Disconnect Status cannot be changed by the managing RespOrg to any status but Spare Status. In complying with this requirement, the SMS/800 may continue to use an internal "Transition" Status for aging purposes whenever a RespOrg defines a Disconnect Status interval to be less than 4 months. In such an instance, the system will pad out the interval with a period in Transition Status so that the overall combination of Disconnect plus Transition will last 4 months.<sup>3</sup> Therefore, DSMI is also directed to provide that the SMS/800 will return a number that is in either Transition Status or Disconnect Status, automatically, to Spare Status at the end of 4 months.

**(2) Ensure that a number in Suspend Status cannot be changed by the managing RespOrg to any status but Working Status for the same subscriber.** The Commission's regulations at sections 52.103(a)(7) and 52.103(e) provide that numbers may be placed in Suspend Status if they are subject to a billing dispute. Numbers may remain in Suspend Status for up to 8 months, and they may change back only to Working Status.<sup>4</sup> These requirements necessarily mean that numbers changed back to Working Status must be made working for the same subscriber, not for a different subscriber, in order to be consistent with the other toll-free regulations and with the Commission's first-come, first-served policy.

Accordingly, DSMI is directed to ensure that a number in Suspend Status cannot be changed by the managing RespOrg to any status but Working Status for the same subscriber. DSMI is also directed to provide that the SMS/800 will return a number in Suspend Status to Working Status for the same subscriber, automatically, at the end of 8 months if the RespOrg has not already done so.

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<sup>2</sup> 47 C.F.R. §§ 52.103(a)(2) and 52.103(d).

<sup>3</sup> It is also understood that, when a number is in Disconnect status, there is a record in the SMS/800 and a record in the Service Control Points (SCPs). The record in the SCPs routes incoming calls to a disconnect announcement that is either in the LEC network or the RespOrg network (if the RespOrg is the IXC for the number). When a number is in Transition Status, there is a record in the SMS/800, but no record in the SCPs. Calls to that number find no record in the SCPs and get a vacant code announcement, such as "The number you have dialed is not a working number. Please check the number and dial again."

<sup>4</sup> 47 C.F.R. §§ 52.103(a)(7) and 52.103(e).

**(3) Ensure that an over-ride capability is provided enabling the SMS/800 Help Desk to correct errors or assist a RespOrg in managing a number, if properly requested by the RespOrg under the circumstances specified below.**

For a number in Disconnect Status, the Help Desk should have over-ride capability to return a number to Working Status for the same subscriber or to move the number to Spare Status in less than 4 months. This capability may be used only in instances in which the Help Desk receives a letter (or other form of written authorization acceptable to the SMS/800) stating that the number was put into Disconnect Status by mistake and should be put back into Working Status, or that the number should be returned to Spare Status in less than 4 months. Further, in the event a number is returned to Spare Status in less than 4 months, DSMI may ensure that a “flag” is put in the system showing that the number was in service only a short time ago and that the RespOrg may need to exercise caution before reserving it from Spare Status without letting it "age".

For a number in Suspend Status, the Help Desk may use this over-ride capability to move a number to Disconnect Status in less than 8 months, rather than to Working Status. This over-ride capability may be used only in instances in which the Help Desk receives a letter (or other form of written authorization from the RespOrg acceptable to the SMS/800) stating that the number was put into Suspend Status but the billing dispute was not resolved within 8 months, so that the number should not be returned to the subscriber.

These override capabilities place responsibility upon the RespOrgs for compliance with the Commission’s regulations and the SMS Tariff, and they leave the SMS/800 with no discretion or liability for evaluating the validity of a RespOrg’s over-ride request, as long as the request is from the RespOrg’s Primary Contact or the Primary Contact’s designee and the SMS/800 receives and retains a record of the RespOrg’s authorization request upon which the SMS/800 Help Desk relies.

**(4) Ensure that all RespOrgs are sent a copy of this letter and notified when the measures required in this letter are in place.** DSMI is directed to forward a copy of this letter to all RespOrgs and also to notify them when the measures required by this letter are in place.

Sincerely,

L. Charles Keller, Chief  
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Common Carrier Bureau.

cc: Louise L. M. Tucker  
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