

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

In the Matter of )
)
Toll Free Service Access Codes ) CC Docket No. 95-155
)
Alliance for Telecommunications Industry )
Solutions, 800 Service Management System )
Number Administration Committee Petition )
Requesting Bureau Action to Revise Toll Free )
Code Opening Methodology )

ORDER

Adopted: April 21, 2017

Released: April 21, 2017

By the Acting Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) authorizes Somos, Inc., the toll free number administrator, to open the 833 toll free code on June 3, 2017.1 The Bureau also establishes procedures in preparation for the 833 toll free code opening.

2. The 833 code opening affords the Commission an opportunity to determine if alternative ways of assigning toll free numbers would allow for a more market-driven and efficient process that is consistent with its statutory mandate to make "numbers available on an equitable basis."2 Given that objective, the Bureau has developed pre-code opening procedures for the 833 toll free code that will enable it to timely assign 833 numbers before exhaust of the remaining codes while the Commission simultaneously considers whether to make changes to the toll free number assignment process.

II. BACKGROUND

3. The Commission opens new toll free codes when the pool of available toll free numbers is near exhaust.3 The Bureau has used this near exhaust standard to open the 888, 866, 877, 855, and 844

1 The North American Numbering Plan Administrator (NANPA) recommended the 833 code open on or about April 22, 2017. See NANPA, Implementation of the NPA 833 for Toll Free Services, Planning Letter 481, at 1 (Apr. 15, 2015), https://www.nationalnanpa.com/pdf/PL\_481.pdf. To implement the pre-code opening procedures established in this Order, we delay the code opening date to June 3, 2017. This short delay in the recommended code opening will not affect toll free number exhaust. Toll FreeNumbers.com, Request to Delay the Opening of 833, CC Docket No. 95-155 (filed Apr. 12, 2017); Toll FreeNumbers.com, Comments Regarding the Opening of 833, CC Docket No. 95-155 (filed April 18, 2017).

2 47 U.S.C. § 251(e)(1); see also, e.g., Toll Free Service Access Codes, CC Docket No. 95-155, Fourth Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 9058, 9065, para. 13 (1998) (1998 Toll Free Order); Toll Free Service Access Codes, CC Docket No. 95-155, Order, 25 FCC Rcd 13687, 13688-90, paras. 3-6 (WCB 2010) (855 Code Opening Order); Toll Free Service Access Codes, CC Docket No. 95-155, Order, 28 FCC Rcd 16139, 16140-41, para. 3, 16142, paras. 6-7 (WCB 2013) (844 Code Opening Order).

3 Toll Free Service Access Codes, CC Docket No. 95-155, Notice of Proposed Rulemaking, 10 FCC Rcd 13692, 13702, 13699, para. 36 (1995); see also N. Am. Numbering Plan Admin'r, Implementation of the NPA 844 for Toll Free Services, Planning Letter 455 (Aug. 5, 2013), https://www.nationalnanpa.com/pdf/PL\_455.pdf.

toll free codes.<sup>4</sup> When a new toll free code opens, Responsible Organizations (RespOrgs)<sup>5</sup> seek to reserve toll free numbers that have a particular interest for a subscriber, economic, commercial, or otherwise.<sup>6</sup> These include vanity numbers—“number[s] for which the letters associated with the number[s]’ digits on a telephone handset spell a name or word of value to the number holder” in the new code (e.g., 1-800-FLOWERS)—as well as numbers that are easy to remember.<sup>7</sup> These numbers are highly valuable and desirable for RespOrgs and the subscribers they serve.

4. For the 888 toll free code opening, the Commission set aside 374,199 numbers that RespOrgs which reserved numbers in the original 800 code wished to replicate in the 888 code.<sup>8</sup> In 1998, after the 888 code opening, the Commission adopted the first-come, first-served rule, codified in Section 52.111.<sup>9</sup> The Commission determined that first-come, first-served was an orderly and efficient method of assigning desirable numbers, and we used this method with the 877 and 866 toll free code openings.<sup>10</sup>

5. The Bureau made a temporary modification to the first-come, first served rule when opening the last two toll free codes. Specifically, for the 855 and 844 toll free code openings, the Bureau found that a plan was necessary to help ensure an efficient and equitable distribution of desirable toll free numbers.<sup>11</sup> With these code openings, the Bureau directed the toll free database administrator to limit the quantity of toll free numbers a RespOrg may reserve to 100 per day for the first 30 days—“larger RespOrgs with enhanced connectivity to the [toll free] database” would otherwise be able to more quickly reserve sought-after numbers than smaller RespOrgs without enhanced connectivity.<sup>12</sup>

### III. DISCUSSION

#### A. 833 Code Opening

6. As outlined in the Attachment, before the 833 code opens on June 3, 2017, the Bureau directs Somos to take certain actions as part of a pre-code opening process. First, as discussed below, we direct Somos to identify any affiliated RespOrg Groups. Next, we direct Somos to poll each RespOrg or affiliated RespOrg Group for a list of up to 2,000 individual 833 numbers the RespOrg or affiliated

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<sup>4</sup> See Fed. Commc’ns Comm’n, Wireline Competition Bureau, Indus. Analysis & Tech. Div., *Numbering Utilization in the United States* at 11 (Aug. 2007), [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-275830A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-275830A1.pdf) (explaining that, “[i]n March 1996, calling code 888 was placed into service. The third toll free calling code (877) went into effect April 4, 1998, and the fourth toll free calling code (866) went into effect July 29, 2000”); see also *855 Code Opening Order*, 25 FCC Rcd at 13687; *844 Code Opening Order*, 28 FCC Rcd at 16139.

<sup>5</sup>A “RespOrg” is an “entity chosen by a toll free subscriber to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber.” 47 CFR § 52.101(b).

<sup>6</sup> See *Toll Free Service Access Codes*, CC Docket No. 95-155, Report and Order, 11 FCC Rcd 2496, 2497, para. 6 (1996) (*1996 Toll Free Order*).

<sup>7</sup> *1998 Toll Free Order*, 13 FCC Rcd at 9059, para. 1; see also *1996 Toll Free Order*, 11 FCC Rcd at 2498, para. 12 (stating “[s]ome numbers are valued for their mnemonic equivalent, while other numbers are valued for, among other things, the fact that their digits are easily memorized”).

<sup>8</sup> *1998 Toll Free Order*, 13 FCC Rcd at 9063-64, para. 9.

<sup>9</sup> 47 CFR § 52.111 (“Toll free numbers shall be made available on a first-come, first-served basis unless otherwise directed by the Commission.”); see also *1998 Toll Free Order*, 13 FCC Rcd at 9078, Appx A.

<sup>10</sup> *1998 Toll Free Order*, 13 FCC Rcd at 9065, para. 13.

<sup>11</sup> *855 Code Opening Order*, 25 FCC Rcd at 13687, para. 1, 13688-90, paras. 3-6; *844 Code Opening Order*, 28 FCC Rcd at 16140-41, para. 3, 16142, paras. 6-7. The Bureau also adopted a plan for Somos’s recent release of a large number of sought-after 800 numbers into the pool of toll free numbers available for reservation. *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 31 FCC Rcd 6828, 6828-30, paras. 2-6 (WCB 2016).

<sup>12</sup> *855 Code Opening Order*, 25 FCC Rcd at 13687, para. 1, 13688, para 3; *844 Code Opening Order*, 28 FCC Rcd at 16139, para. 1, 16140-41, para. 3.

RespOrg Group requests to be reserved. This will allow Somos to apply the 2,000 number limit to affiliated RespOrg Groups, as opposed to each affiliated RespOrg, for the reasons explained below. We then direct Somos to identify numbers for which there are multiple RespOrg Group reservation requests (mutually exclusive numbers), and to place those mutually exclusive numbers in “unavailable” status in the toll free database.<sup>13</sup> This identification of mutually exclusive numbers will occur during the 20 days prior to opening the 833 code in accordance with the procedures outlined in the attachment to this Order. Any number that receives only one request is to be pre-assigned in the toll free number database to the RespOrg that requested it. Upon completion of the pre-code opening procedures, on day one of the 833 code opening, Somos will open the 833 code according to the first-come, first-served requirements of Section 52.111 of the rules, as described in the attachment.

7. After the 833 code opens, the Bureau anticipates that the Commission will initiate a proceeding to consider whether to adopt new toll free number assignment methods or continue its first-come, first-served policy for 833 and any other available toll free numbers for which there are mutually exclusive requests. Alternative assignment methods could include, for example, assignment by auction or lottery. Pending the outcome of this proceeding, all 833 numbers placed in unavailable status in the toll free database due to mutually exclusive requests during the pre-code opening period will remain in that status.

8. The procedures established in this Order are similar to the procedures used in the past prior to the opening of toll free codes. For example, prior to opening the 888 code, the Bureau directed RespOrgs to poll their subscribers to determine which 800 numbers they wished to replicate in the 888 code. The Bureau then directed the toll free administrator to place those numbers in unavailable status until the Bureau determined how the numbers should be assigned.<sup>14</sup> The Bureau also used an alternative method of opening the 855 and 844 codes. That method, which limited RespOrgs to obtaining 100 numbers per day for the first 30 days of the code opening, was designed to ensure an efficient and equitable distribution of high value numbers in those two codes.<sup>15</sup>

#### **B. Consideration of Affiliated RespOrgs**

9. As explained below, the Bureau directs Somos to treat affiliated RespOrgs as a single entity for purposes of the 833 code opening. Prior to the 844 code opening in 2013, the 844 Release Coalition (Coalition), comprised at that time of over 50 RespOrgs, proposed that affiliated RespOrgs be treated as a single RespOrg for application of the 100 number daily cap.<sup>16</sup> The Coalition argued that certain RespOrgs have multiple RespOrg IDs for their various affiliates and thus can reserve 100 numbers for each ID, allowing those RespOrgs to significantly exceed the daily cap.<sup>17</sup> While the Bureau recognized the concerns “that RespOrg affiliations may affect the precise distribution of numbers,” the Bureau denied the Coalition’s request in 2013 due to competing concerns regarding delaying the 844 code opening.<sup>18</sup> On April 5, 2016, the Alliance for Telecommunications Industry Solutions (ATIS) 800

<sup>13</sup> 47 CFR § 52.103(a)(8) (“*Unavailable Status*. The toll free number is not available for assignment due to an unusual condition.”).

<sup>14</sup> See *1998 Toll Free Order*, 11 FCC Rcd at 2496, para. 2; see also *1998 Toll Free Order*, 13 FCC Rcd at 9063-64, para. 9. After opening the 888 code in 1996, the Commission gave 800 number subscribers the right of first refusal to reserve corresponding numbers in the 888 code. See *1998 Toll Free Order*, 13 FCC Rcd at 9065, para. 13, 9075, para. 39.

<sup>15</sup> See *855 Code Opening Order*, 25 FCC Rcd at 13688-90, paras. 3-6; see also *844 Code Opening Order*, 28 FCC Rcd at 16140-41, para. 3, 16142, paras. 6-7.

<sup>16</sup> See *844 Release Coalition Comments and Petition for Relief*, CC Docket No. 95-155, at 1, 5, Attach. E (filed May 6, 2013).

<sup>17</sup> *Id.* at 3-4, Attachs. A, B.

<sup>18</sup> *844 Code Opening Order*, 28 FCC Rcd at 16141, para. 5.

Service Management System Number Administration Committee (SNAC) filed a Petition asking the Bureau, *inter alia*, to “[l]imit each ‘RespOrg Group,’ including any two or more [RespOrgs] that are affiliates of each other” from exceeding the 100 number daily cap, in order “to ensure fair and efficient number distribution.”<sup>19</sup>

10. On May 4, 2016, the Bureau issued a Public Notice seeking comment on the Petition.<sup>20</sup> As indicated in the Petition, ATIS SNAC reached consensus agreement among its members for this proposal.<sup>21</sup> The record demonstrates unanimous support for the proposal as well.<sup>22</sup> For example, Somos and the Toll Free Number Coalition claimed that the RespOrg industry is in favor of the ATIS SNAC proposal.<sup>23</sup> TollFreeNumbers.com also supported treating all affiliates as a single entity.<sup>24</sup> Further, Somos stated that it had already begun “updating the SMS/800 platform to accommodate an affiliation rule” and that it would be ready if and when the Commission decide[d] to implement such an affiliation approach for the 833 Toll-Free area code opening.<sup>25</sup> Finally, Somos later filed an *ex parte* letter with the Commission proposing an alternative, less burdensome, method to determine RespOrg affiliations relying on its own internal records. Somos’s approach was supported by ATIS SNAC.<sup>26</sup>

11. The proposed affiliate approach furthers the statutory requirement that numbers be “available on an equitable basis” by allowing more RespOrgs, and in turn, more subscribers access to desirable toll free numbers.<sup>27</sup> For the same reasons, this approach also furthers equity and competition considerations mandated in the numbering rules.<sup>28</sup> Consequently, we direct Somos to apply the definition

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<sup>19</sup> See ATIS SNAC Petition Requesting Bureau Action to Revise Toll Free Code Opening Methodology, CC Docket No. 95-155 (filed Apr. 5, 2016) (ATIS SNAC Petition or Petition). ATIS is an organization of communications information and communications technology companies. It works through “committees and forums” to develop “a comprehensive approach that takes into account technical, market and regulatory impact to help [members] achieve their business objectives.” [http://www.atis.org/01\\_about/our\\_work.asp](http://www.atis.org/01_about/our_work.asp) (last visited Apr. 11, 2017). SNAC, an ATIS committee, “identifies, develops and implements the resolution of issues impacting existing toll free products and services and evolving technologies affecting future developments in the toll free industry.” [http://www.atis.org/01\\_committ\\_forums/SNAC/mission.asp](http://www.atis.org/01_committ_forums/SNAC/mission.asp) (last visited Apr. 11, 2017). The following entities are voting members of the SNAC: 800 Response Information Services, AT&T, ATL Communications, CenturyLink, Comcast, csf Corporation, Somos, Telnyx, Verizon, and West Telecom Services. [http://www.atis.org/01\\_committ\\_forums/SNAC/members.asp](http://www.atis.org/01_committ_forums/SNAC/members.asp) (last visited Apr. 11, 2017). The SNAC also has over 50 non-voting, observing members. See *id.* (listing SNAC’s observing members).

<sup>20</sup> *Petition of the Alliance for Telecommunications Industry Solutions 800 Service Management System Number Administration Committee Requesting Bureau Action to Revise Toll Free Code Opening Methodology*, Public Notice, 31 FCC Rcd 4309, 4309 (WCB 2016).

<sup>21</sup> ATIS SNAC Petition at 3-4; see also CenturyLink Reply at 1 (filed June 21, 2016).

<sup>22</sup> See, e.g., TollFreeNumbers.com Comments at 1, 4 (filed June 1, 2016); Toll Free Number Coalition Reply Comments at 2-3 (filed June 17, 2016); CenturyLink Reply at 2, 3 (filed June 20, 2016); Somos Reply Comments at 3 (filed June 20, 2016); TollFreeNumbers.com Reply Comments at 1 (filed June 17, 2016).

<sup>23</sup> Somos Comments at 4 (filed June 3, 2016); Toll Free Number Coalition Reply Comments at 2, 3; see also ATIS SNAC Petition at 3-4, 8 n.22, 28 n.11.

<sup>24</sup> TollFreeNumbers.com Comments at 1, 4.

<sup>25</sup> Somos Comments at 5.

<sup>26</sup> See Letter from Joel Bernstein, Vice President, Regulatory and Public Policy, Somos Inc., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-155 at 1-2 (filed Dec. 22, 2016); see also Letter from Thomas Goode, ATIS General Counsel, to Marlene Dortch, Secretary, FCC, CC Docket 95-155 at 1 (filed Feb. 3, 2017).

<sup>27</sup> See 47 U.S.C. § 251(e)(1).

<sup>28</sup> See 47 CFR § 52.105 (anti-warehousing rule); *id.* § 52.107 (anti-hoarding rule); see also *Toll Free Service Access Codes*, CC Docket No. 95-155, Second Report and Order, 12 FCC Rcd 11162, 11178-79, para. 22 (1997)

(continued....)

of “Affiliate” in section 3 of the Act to identify an “affiliated RespOrg Group” when implementing the 833 pre-code opening procedures described herein.<sup>29</sup>

### C. RespOrg Toll Free Reservations

12. To effectuate an orderly code opening, we increase the quantity of toll free numbers RespOrgs may reserve under our rules to 4,000 for a brief 5-day period, beginning June 3, 2017. Section 52.109(a) of the rules limits the quantity of toll free numbers a RespOrg may have in reserve status to 2,000.<sup>30</sup> Under Section 52.109(c), however, the Bureau may “modify the quantity of numbers a [RespOrg] may have in reserve status . . . when exigent circumstances exist.”<sup>31</sup> The Commission has determined the existence of “exigent circumstances” on a case-by-case basis.<sup>32</sup>

13. There are exigent circumstances for a temporary increase in reserved numbers for the 833 code opening. This temporary increase will give Somos time to assign requested numbers to RespOrgs, and will give RespOrgs time to move those numbers into working status. Without this increase, RespOrgs that are assigned 2,000 numbers when the 833 code opens will not be able to reserve any additional numbers, in any toll free code, until such time as they are able to move those numbers from reserved to working status. This process could take a number of days and we do not want to interfere with any RespOrg’s reservation practices. For this reason, we increase the quantity of toll free numbers a RespOrg may reserve to 4,000 in any toll free code until June 8, 2017. After June 8, 2017, the 2,000 number reservation cap in Section 52.109(a) will again apply.

## IV. ORDERING CLAUSES

14. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i) and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 251(e), and pursuant to authority delegated under Sections 0.91 and 0.291 of the Commission’s rules, 47 C.F.R. §§ 0.91 and 0.291,<sup>33</sup> that Somos, Inc. shall open the 833 toll free code on June 3, 2017. The Wireline Competition Bureau also directs Somos, Inc. to notify each Responsible Organization of such action.

15. IT IS FURTHER ORDERED that, pursuant to Sections 1, 4(i) and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 251(e), and pursuant to authority delegated under Sections 0.91 and 0.291 of the Commission’s rules, 47 C.F.R. §§ 0.91 and 0.291, the 833 pre-code opening procedures ARE ADOPTED as set forth in the Attachment.

16. IT IS FURTHER ORDERED, pursuant to Sections 1, 4(i), and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 251(e), and pursuant to authority delegated under Sections 0.91 and 0.291 of the Commission’s rules, 47 C.F.R. §§ 0.91 and 0.291, that the Alliance for Telecommunications Industry Solutions, 800 Service Management System Number Administration Committee Petition Requesting Bureau Action to Revise Toll Free Code Opening

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(explaining that toll free numbers “are a scarce and valuable national public resource that must be “allocated in an equitable and orderly manner that serves the public interest”).

<sup>29</sup> 47 U.S.C. § 153(2) (“The term ‘affiliate’ means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term “own” means to own an equity interest (or the equivalent thereof) of more than 10 percent.”).

<sup>30</sup> 47 CFR § 52.109(a) (“A Responsible Organization may have in reserve status, at any one time, either 2000 toll free numbers or 7.5 percent of that Responsible Organization’s numbers in working status, whichever is greater.”).

<sup>31</sup> 47 CFR § 52.109(c).

<sup>32</sup> See, e.g., *Review of the Commission’s Broadcast and Cable Equal Employment Opportunity Rules and Policies*, MM Docket No. 98-204, Second Report and Order and Third Notice of Proposed Rulemaking, 17 FCC Rcd 24018, 24046, para. 81 (2002).

<sup>33</sup> See 47 U.S.C. § 155(c).

Methodology IS GRANTED IN PART and DENIED IN PART to the extent set forth herein and that action on the Petition otherwise IS DEFERRED.

17. IT IS FURTHER ORDERED, pursuant to Sections 1, 4(i), 251(e) and 408 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251(e), and 408, Section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, and pursuant to authority delegated under Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that this Order IS EFFECTIVE UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Acting Chief  
Wireline Competition Bureau

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**ATTACHMENT****Summary of 833 Pre-Code Opening Procedures and 833 Number Allocation Process**

- From Sunday, May 14—Friday, May 19:
  - Each RespOrg/affiliated RespOrg Group will submit a single request for up to 2,000 individual preferred 833 toll free numbers.
- From Saturday, May 20—Friday, June 2, Somos will:
  - Review all requested 833 toll free numbers to identify numbers for which there are multiple RespOrg Group reservation requests (mutually exclusive numbers).<sup>1</sup>
  - Place all mutually exclusive numbers in unavailable status in the toll free number database.
  - Pre-assign in the toll free number database any 833 toll free number that receives only one request to the RespOrg requesting that number.
- On Saturday June 3, Somos will:
  - Fully assign in the toll free number database 833 numbers that were pre-assigned during the pre-code opening period (May 14-May 19).
  - Open the 833 code. All 833 numbers not placed in unavailable status due to multiple requests received during the pre-code opening period (May 14-May 19) or pre-assigned will be available and assigned on a first-come, first-served basis.
- Between Saturday, June 3 and Thursday, June 8, a RespOrg may reserve up to 4,000 numbers in any toll free code. After June 8, the 2,000 number reservation cap in Section 52.109(a) will again apply.

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<sup>1</sup> We also recognize that Somos may need to work with RespOrgs during the pre-code opening period to address any obvious errors in their lists, such as internal, duplicate number requests.