

**DISSENTING STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

Re: *Toll Free Assignment Modernization*, WC Docket No. 17-192; *Toll Free Service Access Codes*, CC Docket No. 95-155

From Carly Rae Jepsen obsessing over how long her crush was taking to call her (maybe), to Drake wondering why his lady wasn't punching his digits, recording artists often seem to have a tough time getting folks to reach out by phone. Maybe Earth Wind and Fire would have spent less time "waiting so long, just watching the phone" if they had sweetened the deal by getting a toll-free number. The Sultan of Swoon would probably have had an easy time nabbing 1-800-SINATRA, but I am willing to bet that just about every florist in the country would have loved to grab 1-800-FLOWERS.

Therein lies the predicament. How do we design a toll-free numbering system that is equitable?

Historically, assignment of toll-free numbers has been first come, first served. No one had a property interest in their phone number, and there was no legal secondary market for those telephone numbers. While the most sought-after numbers may have been inefficiently allocated, for the most part, the market has worked fairly well. This item seeks to fundamentally change that market, because around 0.2% of the almost *eight million* numbers allocated in the opening of the new toll-free code "833" had more than one Responsible Organization, or Resp Org, expressing interest. For those who do not closely follow toll-free numbering policy, a Resp Org is a company which maintains the registration for individual toll-free telephone numbers in the national database.

In recent months, the Commission's majority has initiated several NOIs which seek to frame out proposals before the agency embarks on significantly altering the regulatory treatment of certain sectors of the industry. So, you would think that the leadership would have followed this model as a means of assisting us in establishing a sound and informed approach in this proceeding. But no, this item proposes to alter decades of Commission precedent, without any real input from businesses and consumers, or clear notice about what it is proposing. So, like Adele, I say, "hello from the other side" and respectfully dissent.

Why? Because it is unclear what impact this proposal would have on consumers and small businesses. The few comments received on this item so far, indicate that many consumers are wary of changing the existing system. Significant uncertainties abound. Would this fundamentally change property rights in toll-free numbers? Would it result in additional costs to all consumers who request a toll-free number? Would it decrease the ability of the little guy to get an attractive vanity number? Does it unfairly disadvantage small businesses? These are just a few questions that remain unexplored and unanswered in this item.

Second, the NPRM is not particularly clear on several of its proposals. For example, it seeks comment on creating secondary markets for phone numbers. Fine. But Resp Orgs would still be the only entities able to acquire toll free numbers, and subscribers the only ones able to use them, potentially creating perverse incentives in the market. Further, it seeks comment on giving the numbering administrator a cut of secondary market revenues, but there is no clarity on what the mechanism would be, and whether and how the Commission should be assessing a fee on every number transfer in the toll-free system. We are talking about a lot of transaction costs for a new system which is supposed to increase allocative efficiency.

In the interest of keeping my statement relatively short, I have opted to only present a couple of concerns, but I have more questions and concerns and they each counsel in favor of us taking a step back and figuring out exactly what we are trying to accomplish here. In sum, this item is neither NPRM ready or worthy. An NOI would have been the perfect vehicle for which to work through the many unanswered questions that remain. Instead, we get too little, too late: a series of edits circulated hours before the meeting, suggesting a non-binding record refresh after running the first auction. Unfortunately, despite

channeling the Orlons' cry not to "hang up" on my request, I was left with only a dial tone and no other option but to redial and voice my opposition.

I nonetheless thank the Wireline Competition Bureau for their work on this item.