

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Toll Free Service Access Codes)	CC Docket No. 95-155
)	

**PETITION REQUESTING BUREAU ACTION TO
REVISE TOLL FREE CODE OPENING METHODOLOGY**

Russell M. Blau
Denise S. Wood
Morgan Lewis & Bockius LLP
2020 K Street, N.W., 11th Floor
Washington, D.C. 20006

Counsel for the Alliance for Telecommunications
Industry Solutions

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SUMMARY

The Alliance for Telecommunications Industry Solutions (“ATIS”) 800 Service Management System Number Administration Committee (“SNAC”) respectfully requests that the Wireline Competition Bureau (“Bureau”) adopt an Order to revise the methodology currently applicable to toll free number code openings. ATIS SNAC has been examining issues related to the availability of toll free numbers and has reached consensus agreement on the recommendations described herein, which seek to further the Commission’s objectives of “ensuring fair and efficient number distribution.” Specifically, ATIS SNAC urges the Commission to:

1. Schedule new toll free code openings based upon the expected number of months until code exhaustion, rather than upon the percentage of numbers in use for currently open codes;
2. Require that the date of the code opening, once set, not be changed, given that RespOrgs, Service Control Point Owner/Operators, Service Providers, and toll-free subscribers plan and rely on that date;
3. Implement rationing rules when exhaustion predictions indicate that number utilization in advance of a code opening is proceeding faster than expected;
4. Make only a single new toll free code available at a time, to promote order and efficiency and to reduce the potential risk of warehousing desirable vanity numbers; and
5. Limit each “RespOrg Group,” including any two or more Responsible Organizations (“RespOrgs”) that are affiliates of each other, to reserving 100 numbers per day during the first twenty (20) days of a new code opening to ensure fair and efficient number distribution.

Consistent with Commission’s precedent and to promote order, efficiency, and fairness, ATIS SNAC urges the Bureau, after public notice and comment, to revise the guidelines applicable to the 833 toll free code and future toll free code openings as proposed herein.

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The Alliance for Telecommunications Industry Solutions (“ATIS”) 800 Service Management System (“SMS/800”) Number Administration Committee (“SNAC”) respectfully requests that the Wireline Competition Bureau (“Bureau”) adopt an Order to revise the methodology currently applicable to toll free number code openings. As the numbers associated with existing toll free codes become exhausted and new codes are introduced, the Bureau has routinely issued *sua sponte* Public Notices requesting comments to refresh the record on issues concerning the availability and distribution of toll free numbers.¹ Consistent with this precedent and to promote order, efficiency, and fairness, ATIS SNAC urges the Bureau, after public notice and comment, to revise the guidelines applicable to the 833 toll free code and future toll free code openings as proposed herein.

I. INTRODUCTION AND BACKGROUND

ATIS is a global standards development and technical planning organization that develops global technical and operations standards and solutions for information, entertainment and communications technologies. ATIS SNAC, one of ATIS’ 16 industry committees, identifies, develops, and implements the resolution of issues impacting existing toll free products and

¹ See, e.g., *Toll Free Service Access Codes*, CC Docket No. 95-155, Public Notice: Comments Sought on 855 Toll Free Code Opening Allocation, DA 10-1605 (rel. Aug, 27, 2010); *Toll Free Service Access Codes*, CC Docket No. 95-155, Public Notice: Comments Sought on Allocation Method for 844 Toll Free Code Opening, DA 13-617 (rel. April 4, 2013).

services and evolving technologies affecting future developments in the toll free industry. ATIS SNAC is comprised of members representing providers and users of the SMS/800 system and provides recommendations to the owner/manager of the SMS/800 system regarding design and management issues. ATIS SNAC also maintains the Industry Guidelines for Toll Free Number Administration and is a leader in developing standards and procedures for the interaction between Responsible Organizations (“RespOrgs”),² Customers, and Service Providers. ATIS SNAC has been actively involved in the Toll Free Service Access Code proceeding, CC Docket No. 95-155, providing input on a number of issues.³

Section 251(e)(1) of the Communications Act of 1934, as amended,⁴ requires the Commission to “ensure the efficient, fair, and orderly allocation of toll free numbers.”⁵ Recognizing the popularity of toll free numbers and the accelerated pace of reservation and depletion of the supply of unassigned toll free numbers, the Commission has adopted policies to “(1) promote the efficient use of toll free numbers; (2) foster the fair and equitable reservation and distribution of toll free numbers; (3) smooth the transition period preceding the introduction of a new toll free

² “RespOrg” is defined as “the 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 C.F.R. § 52.101(b).

³ See, e.g., *Toll Free Service Access Codes*, CC Docket No. 95-155, Report and Order, 11 FCC Rcd 2496 (Common Carrier Bur. 1996) (agreeing with ATIS SNAC that subscribers should be polled to determine which vanity numbers to set aside for use under the 888 toll free code pending Commission resolution as to whether those number should be afforded any special rights or protections); Letter from A. Richard Metzger, Jr., Acting Chief, Common Carrier Bureau, to Michael Wade, President of Database Service Management, Inc.(Sept. 29. 1997) (ordering DMSI to implement ATIS SNAC-proposed plan for conserving 800/888 numbering resources).

⁴ 47 U.S.C. § 251(e)(1) (“the Act”).

⁵ *Toll Free Service Access Codes*, CC Docket No. 95-155, *et al.*, Second Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 11162, 11176 (1997).

code; (4) guard against warehousing, hoarding, and brokering of toll free numbers; and (5) determine how toll free vanity numbers should be treated.”⁶

Most recently, on July 31, 2013, the Bureau directed Somos, Inc. (formerly SMS/800, Inc.) (“Somos”), the current toll free number administrator, to open the new 844 toll free number code on December 7, 2013.⁷ Under the methodology adopted in advance of the 844 toll free number code opening, RespOrgs were each permitted to reserve up to a maximum of 100 toll free numbers for the first 30 days of the 844 code opening.⁸ In the *844 Code Order*, the Bureau acknowledged concerns that RespOrgs may have obtained multiple RespOrg IDs through affiliated entities and can thus reserve more than the allotted 100 number daily limit. However, the Bureau determined that it could not adopt proposals to block RespOrg affiliates from reserving numbers in excess of the daily limit without delaying the opening of the 844 code, which would have “put unacceptable pressure on toll free numbering resources.”⁹

ATIS SNAC has been examining issues related to the availability of toll free numbers. As part of this work, ATIS SNAC identified and reviewed the procedures associated with the most recent code opening; identified and evaluated alternatives to those procedures that would result in more efficient and fair code openings; identified recommendations that had consensus support of ATIS SNAC member companies; and provided information to, and solicited input from, the RespOrg community. As a result of this work, ATIS SNAC reached consensus agreement on the

⁶ *Toll Free Service Access Codes*, CC Docket No. 95-155, Fourth Report and Order, 13 FCC Rcd 9058, 9059 (1998).

⁷ *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 28 FCC Rcd 16139 (2013) (“*844 Code Order*”).

⁸ *844 Code Order*, 28 FCC Rcd at 16142.

⁹ *844 Code Order*, 28 FCC Rcd at 16141.

recommendations described herein, which seek to further the Commission’s objectives of “ensuring fair and efficient number distribution.”¹⁰

II. THE BUREAU HAS AUTHORITY TO REVISE THE EXISTING TOLL FREE CODE OPENING METHODOLOGY

The Bureau, acting on delegated authority under sections 0.91 and 0.291 of the Commission’s rules,¹¹ is responsible for adopting procedures related to toll free services. Specifically, the Bureau has authority to “establish, modify, and monitor toll free number conservation plans when exigent circumstances necessitate such action.”¹² Section 52.111 of the Commission’s rules provides, “[t]oll free numbers shall be made available on a first-come, first-served basis unless otherwise directed by the Commission.”¹³ Moreover, the Commission may waive any provision of its rules “on its own motion or on petition if good cause therefor is shown.”¹⁴ With respect to the 855 and 844 code openings, the Bureau found that waiver of the requirement that toll free numbers be assigned on a first-come, first-served basis in favor of an allocation method was appropriate in an effort to distribute toll free numbers more equitably and efficiently, addressing concerns that “larger RespOrgs with enhanced connectivity to the SMS database would be able to quickly reserve sought-after vanity numbers.”¹⁵

¹⁰ *844 Code Order*, 28 FCC Rcd at 16141.

¹¹ 47 C.F.R. §§ 0.91, 0.291.

¹² 47 C.F.R. § 52.109(c).

¹³ 47 C.F.R. § 52.111 (emphasis added).

¹⁴ 47 C.F.R. § 1.3.

¹⁵ *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 28 FCC Rcd 16139, 16140 (Wireline Comp. Bur. 2013); *see also Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 25 FCC Rcd 13687, 13689 (Wireline Comp. Bur. 2010).

III. ATIS SNAC URGES THE BUREAU TO ADOPT ITS CONSENSUS-BASED RECOMMENDATIONS TO REVISE THE CURRENT TOLL FREE CODE OPENING METHODOLOGY.

ATIS SNAC has reached consensus agreement among its member companies and members of the wider RespOrg community regarding revisions to the code opening methodology. Accordingly, it urges the Commission to adopt the following consensus recommendations to revise the toll free code opening methodology to promote order, efficiency and fairness, consistent with Commission policy. The 833 toll free code opening is not anticipated until approximately April 2017,¹⁶ and this allows the Bureau ample time to solicit comments and fully consider the following recommendations without delaying upcoming code openings.

- A. The schedule for opening a new toll free code should be based upon the expected number of months until code exhaustion, rather than upon the percentage of numbers in use for currently open codes.**

ATIS SNAC recommends that the decision to open a new toll free code be based upon the expected number of months until code exhaustion, which can be determined by examining the average number of toll free codes taken from the pool per week. For example, at the end of February 2016, Somos indicated that there were 6,965,951 numbers in the spare pool (90% of a full code).¹⁷ Given the historic average rate of monthly change, it can be estimated that it will be somewhere around 36 months to exhaust the current pool.

The percentage of numbers in use for the currently open codes, on the other hand, becomes less relevant as each additional code is opened. For example, when “800” was the only toll free code, if 75% of that code was in use, only 2,000,000 numbers would have remained available for assignment (based on approximately 8,000,000 numbers per code). But today, with

¹⁶ North American Numbering Plan Administration, Planning Letter (PL) 481, April 15, 2015 (available at https://www.nationalnanpa.com/pdf/PL_481.pdf).

¹⁷ Monthly report from Somos, dated February 29, 2016.

six codes (up to 48,000,000 numbers) being open, the percentage of numbers in use would have to reach almost 96% for the pool of available numbers to be reduced to 2 million.¹⁸ As the total pool of numbers increases, there is a decreasing percentage of total numbers in use, while the actual pool of spare numbers is increasing. This is a misleading and inefficient method of determining when to release a code.

On the other hand, a review of the average numbers taken from the pool per month will provide an estimate of how many months of numbers remain in the spare pool. Somos prepares a variety of such computations and reports them on a weekly basis. Although one-time events can significantly alter that calculation over a short period of time, reviewing the long-term exhaust trend is a good proxy for determining exhaust. ATIS SNAC recommends that planning for a new code opening begin approximately 36 to 48 months prior to anticipated number exhaustion, with a goal of releasing the new code approximately 24 to 30 months before exhaustion, though specific business needs may alter this timeline somewhat.

B. The date of the code opening, once set, should not be changed.

As the Bureau has recognized, delaying opening of toll free codes, once it has been determined that existing codes are nearing exhaustion, does not serve the public interest in ensuring a reasonable supply of toll free numbers.¹⁹ Once a code release date is set, RespOrgs, Service Control Point Owner/Operators, Service Providers, and Toll-Free Subscribers plan and rely on that date. Much planning goes into each code opening, with a significant amount of programming and testing. RespOrgs and their customers count on new codes opening on the dates set. It will cause significant harm to RespOrgs and customers if the Commission changes an announced and planned release date. In the unlikely event that number exhaust is happening at a much

¹⁸ $46,000,000 \div 48,000,000 = 95.8333\%$.

¹⁹ *See 844 Code Order*, 28 FCC Rcd at 16142.

greater rate than anticipated after the opening is set, the better solution is to provide for rationing rules and/or a circuit breaker mechanism during the period between the announcement of the release date and the actual release, as further discussed below.

C. Rationing rules should be developed by ATIS SNAC and Somos that can be implemented when exhaust predictions indicate that number utilization is proceeding faster than expected.

To ensure that the numbers remaining in the spare pool cannot exhaust prior to the release of the new code, ATIS SNAC recommends that, once a code opening date is set, rationing rules should be implemented when exhaust predictions based on the total number of spare toll free numbers remaining and the months until the code opening date indicate that number utilization is proceeding faster than expected. One method of rationing would involve setting a maximum number of toll free numbers that may be taken from the spare pool each week; monitoring the weekly draw down of numbers; and adjusting the weekly going-forward allotment if the number of reservations for the week is less than the prior allotment. For example, if it is determined that number exhaust would be avoided by setting a limit of 100,000 numbers per week for the next fifty weeks, 100,000 numbers would be the initial weekly limit. If however, only 51,000 numbers are reserved in week one, then the weekly allotment would be 101,000 for week two (the underage would be spread out equally over the remaining period until the code opening). This setting and subsequent weekly adjustment of the weekly allotment would in all cases avoid premature exhaustion. ATIS SNAC would also recommend limiting each RespOrg to no more than its relative percent of the overall toll free numbers in use for each week's allotment, in order to ensure fairness and to discourage warehousing or hoarding.

D. Each code opening should make only a single new toll free code available.

As the pool of toll free codes grows, the numbers are unfamiliar to the public and it is less obvious that a particular telephone number is, in fact, toll free, as distinguished from the

commonly recognized 800 and 888 toll free codes. Following the release of 833 and 822, the next series of toll free codes slated for release will be 880 – 889.²⁰ These codes will be less familiar to the public than the current series of 8YY codes, and their introduction may cause more confusion. In the interest of order and efficiency and to reduce the potential risk of warehousing desirable vanity numbers with multiple toll free codes at the same time, ATIS SNAC urges the Bureau to limit each code opening to a single toll free code.

E. During the first twenty (20) days of a new code opening, each group of affiliated RespOrgs should be limited to reserving 100 numbers per day.

The Bureau has previously recognized that there is a risk of a “land rush” for desirable numbers when a new code is opened. As a result, it adopted allocation limitations for both the 855 and 844 toll free code opening, citing concerns that “larger RespOrgs with enhanced connectivity to that SMS/800 database would otherwise be able to quickly reserve sought-after vanity numbers” despite long-standing prohibitions against warehousing.²¹ This remains a significant concern among interested parties and as such, ATIS SNAC urges the Bureau to adopt a reasonable 20-day deviation from the usual first-come, first-served methodology upon opening of future toll free codes, as permitted by the Commission’s rules.²² Reports prepared by Somos after previous code openings indicated that reservations of numbers in the new code began to drop off significantly after the first ten to fifteen days, indicating that the vast majority of RespOrgs had

²⁰ See Future of Numbering Working Group, *Toll Free Resources: Allocation, Assignment and Management*, White Paper, at 6 (May 12, 2010), available at <https://www.800response.com/800/wp-content/uploads/2012/02/Toll-Free-Resources-FoN-White-Paper-May-12-2010-Final.pdf> (last visited Feb. 15, 2016).

²¹ *Toll Free Service Access Codes*, CC Docket No. 95-155, Order, 25 FCC Rcd 13687, 13688 (Wireline Comp. Bur. 2010).

²² ATIS SNAC sent a survey (“RespOrg Survey”) to all registered RespOrgs to confirm whether there was broad support for the recommended reservation cap and the affiliated entity restrictions. Approximately 20% of the 380 unaffiliated RespOrgs responded. Of these 76 respondents, 78% (59 respondents) supported reducing the period of time during which RespOrgs are limited to 100 numbers per day from the first thirty (30) days to the first twenty (20) days.

reserved those numbers that were most important to them by day 20. Indeed, ATIS SNAC understands that, during the 844 release, only ten RespOrgs were at or near the 100 limit for days 21 to 30. Opening a new code without limitation on day 21 was therefore determined to be sufficient time to provide the equity and fair access needed at the start of the code opening, while allowing the industry a return to the normal first-come, first-served reservation practices as soon as practicable.

ATIS SNAC proposes that the Bureau adopt the following allocation guidelines:

- (1) “RespOrg Group” means any two or more RespOrgs that are affiliates of each other, under the definition of “affiliate” in Section 3 of the Communications Act.
- (2) No later than 30 days before a new toll free code opening date, each RespOrg shall file an affidavit with the toll free number administrator, and a copy with the Commission, identifying all other RespOrgs with which it is affiliated. Any RespOrg that fails to file this affidavit shall be prohibited from reserving numbers from the new code during the first 20 days after it is opened.
- (3) Subject to paragraph (2) above, each RespOrg Group shall be limited to reserving 100 toll free numbers per day in a newly-opened code for each of the first 20 days beginning with the code opening date.

ATIS SNAC proposes that the allocation limits apply to RespOrg Groups, rather than individual RespOrgs, because of concerns that multiple affiliated RespOrgs have acted in concert to gain a large share of toll free numbers during past code opening periods. In response to the Bureau’s Public Notice regarding the proposed opening of the 844 toll free code, the 844 Release Coalition, comprised of 57 participating companies, submitted comments and a Petition for Relief, requesting that the Bureau implement similar restrictions to those discussed herein, prohibiting multiple affiliated RespOrgs from “reserving or otherwise participating in the allocation of toll free numbers during the 844 code release.”²³ The 844 Release Coalition noted that 100 of the two digit RespOrg IDs were associated with 35 companies that shared identical

²³ *Toll Free Service Access Codes*, CC Docket No . 95-155, 844 Release Coalition Comments and Petition for Relief, at 1 (filed May 6, 2013) (“844 Release Coalition Comments”).

company contact information and that collectively, these 35 groups could “reserve a total of 7,200 additional numbers per day for the first 30 days a code is opened than they would be permitted if they were limited to 100 per grouping.”²⁴ SMS/800, Inc. responded that to implement such changes would result in “overly burdensome financial investment and operational delay, as well as the need to make changes to the tariff -- all of which would not be in place for the newly recommended 844 code opening date.”²⁵

The Bureau acknowledged concerns that RespOrgs may have obtained multiple RespOrg IDs through affiliated entities and thus could reserve more than the allotted 100 number daily limit. However, balancing the “goals of ensuring fair and efficient number distribution with the need to implement an allocation method in a timely manner,” the Bureau at the time determined that it would not be feasible to adopt the 844 Release coalition’s proposed methodology without delaying the 844 code opening and thus declined to adopt the proposal at that time.²⁶

ATIS SNAC believes that the concerns expressed in 2013 by the 844 Release Coalition remain valid today. The unintended windfall to a small number of companies under the current process, “based on the fact that they control more than one RespOrg entity is patently discriminatory and contrary to the Commission’s adopted policies that require the allocation of toll free numbers on an equitable and efficient basis.”²⁷ Given that the 833 toll free code opening is not anticipated until approximately April 2017, the timing concerns that weighed into the Bureau’s decision at that time are not present today. Additionally, Somos has informed ATIS SNAC that they are preparing, and have the resources necessary to adopt and enact, the necessary program-

²⁴ 844 Release Coalition Comments at 4.

²⁵ *Toll Free Service Access Codes*, CC Docket No . 95-155, *Ex Parte* Letter of SMS/800, Inc., at 2 (filed June 28, 2013).

²⁶ *844 Code Order*, 28 FCC Rcd at 16141.

²⁷ 844 Release Coalition Comments at 4.

ming and operational procedures to monitor and restrict affiliated entity reservations. ATIS SNAC urges the Bureau to adopt its recommendations to prevent the continued disparate treatment of RespOrgs under the existing methodology.²⁸

IV. CONCLUSION

Given the broad support for these consensus-based recommendations among interested parties, ATIS SNAC requests that the Commission incorporate these recommendations into the methodology to be used for the opening of 833 and for future toll free code openings.

Respectfully submitted,

/s/ Russell M. Blau

Russell M. Blau
Denise S. Wood
Morgan Lewis & Bockius LLP
2020 K Street, N.W., 11th Floor
Washington, D.C. 20006

Counsel for the Alliance for Telecommunications
Industry Solutions

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²⁸ Approximately 89% (66 respondents) to the ATIS SNAC RespOrg Survey supported the ATIS SNAC-proposed limit of 100 reservations per day per affiliated group.