

**Proposal for Formation of an Industry Entity to
Manage the Centralized Toll-Free Database
8/19/04**

Purpose

This proposal sets forth a framework for formation of a new Industry Entity to manage the centralized toll-free database (the SMS/800) in an efficient and competitively neutral manner. Every effort will be made to ensure that the transition from the current management structure to the new Industry Entity will be seamless from a database performance standpoint.

Background

Definitions:

Large ROs - 5.0% or more of total working TFNs

Medium ROs – at least 0.5% but less than 5.0% of total working TFNs

Small ROs - less than 0.5% of total working TFNs

As of March 2004, there were

5 large ROs, accounting for approximately 69.6% of all working TFNs

15 medium ROs, accounting for approximately 18.6% of all working TFNs

254 small ROs, accounting for approximately 11.8% of all working TFNs

- 241 have at least 1 TFN

Membership in the Industry Entity

Membership in the Industry Entity shall be open to any company/entity that has a valid RO identification code and, with the exception of SCP owner/operators that are not also toll-free service providers, at least one working toll-free number as of a date certain (to be specified). No company/entity can have more than one membership in the Industry Entity, or, if elected, more than one seat on the Board of Directors.

Industry Entity members shall make a one-time, non-refundable, capital contribution based on their size (as defined above):

Large ROs - \$15,000

Medium ROs - \$7,500

Small ROs - \$2,500

SCP O/Os – \$2,500

Any company/entity that chooses to become a member of the Industry Entity in Year 2 or beyond will also be required to make a capital contribution as specified above. A RO may vote for or serve as a board member only if it is a member of the Industry Entity.¹

¹ A Resp Org may vote only for representatives in its own class; thus, large ROs may vote only for the large RO representatives, etc.

Industry Entity Legal Structure

The Industry Entity's legal structure shall be either

(1) A limited liability corporation (LLC) taxed as a corporation (also known as a "reverse check the box" LLC).

- or -

(2) A Delaware "C" corporation.

Rates for use of the toll-free database will be targeted at break-even levels; however, unless the cost and demand estimates are exactly right, there will be a (hopefully) small overage or shortfall every year. The above-referenced legal structures were proposed in order to minimize the tax impact on Industry Entity members; the LLC/C corporation (rather than participating member companies) will pay any applicable taxes associated with database operations.

Potential Industry Entity members should consult with their own corporate law and tax experts to evaluate the tax impact each structure might have on members' individual operations.

Procedures

The procedures for the meetings of the Industry Entity shall follow an abridged version of Robert's Rules of Order. Participation by Board members in Board of Director meetings may be via conference bridge or other electronic means, except for an annual Board of Directors meeting, which shall be face-to-face. Board members may also request face-to-face meetings on an as-needed basis. Non-Board members of the Industry Entity shall be allowed to monitor Board meetings on a listen-only basis, unless (1) prior request for and approval by the Board for active participation has been made and granted or (2) the chair reasonably finds that limited non-Board member participation will not unduly delay the meeting or prevent the Board from conducting necessary business. Minutes of all Board meetings will be made available to all members of the Industry Entity.

The operating agreement implementing the principles set forth in this document may be amended from time to time by the general membership or the Board of Directors, as appropriate. The Board will accept written proposals to be voted on by either the Board or the general membership, as appropriate.

Board of Directors

The Industry Entity will have an 8-member Board of Directors, composed of the following representatives:

Large ROs - 3 seats

Medium ROs - 2 seats

Small ROs - 2 seats
SCP owner/operator - 1 seat

Which category any company/entity falls into depends on its quantity of working TFNs as of a date certain (to be specified). No company/entity can have more than one board seat; a company which is both a toll-free service provider and a SCP owner/operator may seek a board seat as either a service provider or a SCP O/O, but not both.

Large Resp Orgs as a group are given 3 seats because they account for by far the largest quantity of toll-free numbers, and, under the current rate structure, pay by far the greatest share of recurring costs. Medium and small Resp Orgs are given a total of 4 seats because these two groups constitute the largest number of service providers.

SCP O/Os and toll-free service provider ROs use the SMS/800 database in different ways and for different purposes; ROs use the SMS/800 to manage the status of their toll-free numbers, and SCP O/Os are the downstream recipients of SMS/800 data needed to ensure correct routing of toll-free calls. Therefore, the SCP O/O board representative will vote only on issues that affect SCP operations and SCP network configurations. Any party which decides to participate in the Industry Entity as a SCP O/O must specify its membership classification upon payment of its capital contribution. If it subsequently chooses to switch to another membership category (*i.e.*, to participate as a toll-free service provider RO rather than as a SCP O/O, or vice versa), it must remit payment for any additional capital contribution amount due as a RO participant (no refunds on capital contributions are allowed). Changes to membership classification are limited to once every 3 years.

A list of major issues requiring majority (50%+) and supermajority (75%+) approval by the Board of Directors is included as Attachment A. The list of major issues requiring majority (50%+) approval by the general membership of the Industry Entity is included as Attachment B. The SCP O/O representative will vote and have veto power only on issues affecting SCP operations and SCP network configurations. The Board of Directors may authorize the creation of working groups (*e.g.*, technical subcommittees) to be staffed by Industry Entity members.

Cost Recovery

The costs of operating the centralized toll-free database (including the costs of operating the Board of Directors²) will be recovered from users of the database on a cost-causative basis in order to encourage efficient use of the SMS/800 by all users and to ensure that ROs are not burdened with the costs of supporting features and functions which they do not use. This may entail changes from the currently effective rate structure. Rates will be targeted at break-even levels, and no profit margin will be included in the rate base. There will be an annual financial true-up, with rates adjusted downward to reflect prior-period overages, or upward to reflect prior-period shortfalls.

² Board members will be responsible for their own travel and entertainment expenses.

The SMT companies commit to rolling over any working capital funds on the SMT books as of the date of the transfer of responsibility for the centralized toll-free database from the SMT to the Industry Entity. In exchange, the SMT members receive four hundred (400) shares of preferred stock, to be allocated among the SMT companies on a basis to be mutually agreed upon by the SMT companies. These shares of preferred stock have no voting rights; however, in the event of liquidation or sale of the Industry Entity, preferred stock holders have preference for recovery of the working capital funds initially contributed. In the event that the Industry Entity's working capital requirements exceed the working capital funds rolled over from the SMT companies, the Industry Entity will seek to borrow the difference, with the cost of the borrowed funds included in the rate base.

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Attachment A
Decisions Requiring Majority and Super Majority Approval by the Board of Directors

- I. Issues requiring super-majority (75% or more of the participating and eligible members, assuming a quorum is present) approval include but are not limited to:
 1. Expansion of the system outside the covered region (the United States, its territories and protectorates, and Canada). Expansion to any other country in the NANP would require super-majority approval.
 2. Establishment of a model for allocating costs associated with provision of centralized toll-free database service. However, changes in rate levels, as opposed to rate elements, would require simple majority.
 3. Selection of vendors for contracts exceeding \$500,000 over the life of the contract, and vendors whose contract has a term greater than 2 years.
 4. Execution, renewal, amendment, modification, assignment, or extension of a contract with a vendor where the contract exceeds \$500,000 over the life of the contract, or which has a term greater than 2 years.
 5. Authorization of modifications to the centralized toll-free database except as specified elsewhere in agreement (may want waiver process if requested change is paid for in full by party requesting change, and change does not affect operation of database, cost of operating database, or timing of any authorized modifications to database). No custom development will be allowed (i.e., no changes to the system will be made at the request of an individual member).
 6. Establishment of the terms and conditions upon which Industry Entity technology will be licensed (need input from Intellectual Property attorneys).
 7. Waiver or modification of the requirement that the Industry Entity maintain insurance (will ascertain whether insurance is required or desirable).

8. Formation or acquisition of subsidiaries, and entering into partnerships, LLCs, corporations, or joint ventures up to \$5,000,000.
9. The SCP O/O representative will vote on and have veto power only over issues affecting SCP operations and SCP network configurations.

II. Issues requiring majority (over 50%) approval of the Board of Directors include but are not limited to:

1. Selection of vendors for contracts of below \$500,000 over the life of the contract, and vendors whose contract has a term less than 2 years.
2. Execution, renewal, amendment, modification, assignment, or extension of a contract with a vendor where the contract is less than \$500,000 over the life of the contract, or which has a term less than 2 years.
3. Engagement of non-member professionals such as accountants and legal counsel of up to \$1,000,000 per year.
4. Disbursement of company funds, except as otherwise authorized, up to \$500,000).
5. Adoption of trade names and trade styles.
6. Designation of or change to the principal place of business.
7. Designation of or change to the registered agent or registered office.
8. Consent to a transfer of membership interest.
9. Determination of an alternate location for meetings.
10. Determination of an alternate time and date of annual meetings.
11. Adoption of a schedule of regular meetings of the members.
12. Creation of advisory committees.
13. Selection and removal/replacement of officers.

Attachment B
Decisions Requiring Majority Approval by the General Membership

Issues requiring general membership approval (50% or more of the participating and eligible members, assuming a quorum is present), having first passed a majority vote by the Board of Directors, include but are not limited to:

1. Authorization of Industry Entity to engage in any business unrelated to the provision of centralized toll-free database service.
2. Modification of quorum requirements (normally included as part of the Industry Entity operating agreement or by-laws).
3. Waiver of certain conflicts involving relationships between vendors and members. 'Affiliated' members, that is, members 'affiliated' with the vendor involved in the discussion at hand, cannot vote on matters related to the individual vendor or its contract.
4. Dissolution of the Industry Entity.
5. Approval of the merger or consolidation of the Industry Entity with another entity.
6. Formation or acquisition of subsidiaries, and entering into partnerships, LLCs, corporations, or joint ventures that will exceed five million dollars (\$5,000,000).
7. Incurring indebtedness, other than trade payables incurred in the ordinary course of business, in excess of ten million dollars (\$10,000,000).
8. Engagement of non-member professionals such as accountants and legal counsel in excess of \$1,000,000 per year.
9. In the event that general membership authorization for expenditures critical to the on-going operation of the centralized toll-free database cannot be obtained in a timely manner, the Board of Directors may unanimously vote to fund stop-gap funding for a 30-day period.