

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

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

ORDER

Adopted: September 2, 2005

Released: September 2, 2005

By the Commission:

1. In this order, we grant the emergency request of the American Red Cross for reassignment of the toll free number 1-800-RED-CROSS. As explained below, we conclude that reassigning this toll free number is a critical step in facilitating the Nation's response to the disaster wrought by Hurricane Katrina.

2. As noted in prior orders and public notices, Hurricane Katrina, which struck the Gulf Coast of the United States on Monday, August 29, 2005, caused significant damage in Louisiana, Mississippi, and Alabama, including flooding in some areas of these states and significant property damage and personal injury.¹ The national chapter of the American Red Cross,² which provides assistance to victims of disasters and works closely with government agencies, such as the Federal Emergency Management Agency (FEMA), during times of major crises, mobilized the largest relief effort in the organization's history, opening 230 shelters in six states.³ Beyond immediate disaster assistance, the national chapter of the American Red Cross also will provide vouchers to the thousands of victims of Hurricane Katrina to purchase necessities, such as food and clothing.⁴ The American Red Cross does not accept individual "in-kind" donations of material items. As a result, it relies heavily on individual monetary donations through the mail, its website, and through its toll-free number. On September 2, 2005, the American Red Cross requested the immediate reassignment of 1-800-RED-CROSS to help in the disaster relief and coordination effort for the multi-state area affected by the hurricane.⁵

3. In order to better facilitate these vital relief efforts in light of the current emergency, we

¹ President Bush issued Major Disaster Declarations for these three states on that same day. *See* <http://www.fema.gov/news/disasters.fema>. He called it one of the "worst natural disasters in our country's history." *See* <http://www.whitehouse.gov/news/releases/2005/09/20050901-6.html>.

² The American Red Cross is a national organization and not-for-profit charity organization. In fact, the American Red Cross is the only non-governmental organization specified as a lead agency in the Nation's National Response Plan.

³ Mimi Hall, USA Today, "Congress Poised to Allocate Billions in Post-Katrina Aid," August 31, 2005, available at http://news.yahoo.com/news?tmpl=story&u=/usatoday/20050831/pl_usatoday/congresspoisedtoallocatebillionsinpostkatrinaaid.

⁴ *See* The American Red Cross website, http://www.redcross.org/faq/0.1096.0_315_00.html#388.

⁵ Letter from Mary S. Elcano, General Counsel & Corporate Secretary, American Red Cross, to Kevin J. Martin, Chairman, FCC (Sept. 2, 2005) (*American Red Cross Letter*).

direct the toll-free database administrator, Database Service Management, Inc. (“DSMI”), to temporarily reassign the toll-free number that spells 1-800-RED-CROSS (1-800-733-2767) to the national chapter of the American Red Cross.⁶ In light of the scale of the disaster and the critical need to ensure efficient, effective, and sufficient disaster relief operations, we find that good cause exists to waive the relevant portions of the Commission’s rules to ensure reassignment of 1-800-RED-CROSS to the national chapter of the American Red Cross.⁷ This action is particularly important given the role that charitable donations play in funding the American Red Cross. We further conclude that this reassignment is necessary to furthering the overwhelming public interest in assisting the disaster recovery efforts related to Hurricane Katrina. Reassigning 1-800-RED-CROSS will greatly assist the American Red Cross – the only non-governmental agency assigned a role as a lead agency in the Nation’s National Response plan – to perform its disaster relief, coordination, and fundraising efforts by providing an easily-recognizable, central telephonic point of contact for the American public. Because we recognize that the safety and welfare of the general public in the affected area may be at stake, we direct DSMI to effectuate the reassignment of 1-800-RED-CROSS immediately.

4. The Communications Act of 1934,⁸ as amended by the Telecommunications Act of 1996, grants the Commission exclusive jurisdiction over “those portions of the North American Numbering Plan that pertain to the United States.”⁹ Section 1 of the Act and section 251(e)(1) of the 1996 Act require the Commission to “ensure the efficient, fair, and orderly allocation of toll-free numbers.”¹⁰ In addition to exclusive jurisdiction over numbering resources, the Commission also has an obligation to protect public safety¹¹ and has broad authority to execute its functions.¹² Telephone numbers are a public resource and neither carriers nor subscribers “own” their telephone numbers.¹³ Courts have found that no one has a property interest in a telephone number.¹⁴ In addition, the Commission has created regulations and emphasized the importance of guarding against warehousing, hoarding, and brokering of toll-free numbers to ensure that numbers are made available on an equitable basis.¹⁵

⁶ Currently the American Red Cross is assigned toll-free number 1-800-HELP-NOW (1-800-435-7669). The toll-free number which spells 1-800-RED-CROSS (1-800-733-2767) is currently held by a for-profit corporation, 1-800 Ideas.com, Inc., which is based in San Diego, Calif. and incorporated in Nevada.

⁷ 47 C.F.R. § 1.3 (authorizing the Commission to suspend, amend, or waive its rules for good cause shown); *see* *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁸ 47 U.S.C. § § 151 et seq. (“the Act”).

⁹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (“1996 Act”).

¹⁰ *Toll Free Service Access Codes*, CC Docket No. 95-155, Second Report and Order, 12 FCC Rcd. 11162, 11176, para. 18 (1997) (Toll Free Second Report and Order).

¹¹ 47 U.S.C. § 151.

¹² 47 U.S.C. § 154(i). Furthermore, Section 1.3 of our rules authorizes the Commission to suspend, revoke, amend, or waive a Commission rule for good cause shown. 47 C.F.R. § 1.3. This rule provides that “[a]ny provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefore is shown.” *Id.*

¹³ *Toll Free Service Access Codes*, CC Docket No. 95-155, Fourth Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 9058, 9061, n.14 (1998) (Toll Free Fourth Report and Order); *Toll Free Service Access Codes*, CC Docket No. 95-155, Notice of Proposed Rulemaking, 10 FCC Rcd. 13692, 13702, para. 36 (1995); *Administration of the North American Numbering Plan*, CC Docket No. 92-237, Report and Order, 11 FCC Rcd. 2588, 2591, para. 4 (1995).

¹⁴ *See, e.g., In Re StarNet, Inc.*, 355 F.3d 634, 637 (7th Cir. 2004).

¹⁵ *Toll Free Fourth Report and Order*, 13 FCC Rcd at 9061, para. 6; *Toll Free Second Report and Order*, 12 FCC Rcd. 11179, para. 22.

5. Consistent with this regulatory framework, toll-free numbers are made available to end users on a first-come, first-serve basis unless otherwise directed by the Commission.¹⁶ However, the plain language of section 52.111 of the Commission's rules authorizes the Commission to direct assignment of toll free numbers on a basis different than the usual first-come, first-served basis.¹⁷ We find that the catastrophic damage to lives and property caused by Hurricane Katrina in the Gulf Coast states warrants a deviation from the first-come, first-serve rule in this situation. We also find that using the Commission's authority to reassign the highly-recognizable 1-800-RED-CROSS (1-800-733-2767) number to the national chapter of the American Red Cross will provide critical support to the not-for-profit agency in carrying out its functions during this time of disaster and assist in protecting public safety. We therefore direct DSMI to reassign immediately the toll-free number which spells 1-800-RED-CROSS (1-800-733-2767) from 1-800 IDEAS.com to the national chapter of the American Red Cross.

6. We understand that, as a practical matter, only the American Red Cross can effectively use 1-800-RED-CROSS because the number does not spell anything that is of use to other parties.¹⁸ We recognize that reassigning 1-800-RED-CROSS to the American Red Cross may result in the imposition of some costs to 1-800-IDEAS.com. In this regard, we note that the American Red Cross has represented that it will reimburse 1-800 IDEAS.com for the reasonable costs of relinquishing this number, and we rely upon this representation in making our decision. In addition, we grant this reassignment effective for one year from the date of release of this order. During the duration of this temporary reassignment, we will examine the utility and effectiveness of our action to determine whether any extension is warranted or whether we should revisit or modify this reassignment. As stated above, we note that the Commission's rules expressly prohibit warehousing and hoarding of numbers – including number brokering, which is defined as “the selling of a toll free number by a private entity for a fee”¹⁹ – and we will be sure to investigate any allegations of abuse and to pursue appropriate enforcement action against any entity that may violate these rules.

7. 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 sections 1.3 and 52.111 of the Commission's rules, 47 C.F.R. §§ 1.3 and 52.111, that Database Service Management, Inc. (“DSMI”), reassign the toll-free number which spells 1-800-RED-CROSS (1-800-733-2767) to the national chapter of the American Red Cross for a period of one year as described herein.

8. 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, that this action is EFFECTIVE IMMEDIATELY UPON RELEASE.

¹⁶ 47 C.F.R. § 52.111.

¹⁷ Section 52.111 of the Commission's rules states: “Toll free numbers shall be made available on a first-come, first-served basis *unless otherwise directed by the Commission.*” (emphasis added).

¹⁸ *American Red Cross Letter* at 2.

¹⁹ 47 C.F.R. § 52.107.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary