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STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY

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

In an age where organizations increasingly communicate with their customers via Internet-based platforms and applications, and unlimited domestic calling plans are ubiquitous, toll free numbers possess an anachronistic quality. But, despite representing relics of the legacy telephone system, toll free numbers still require Commission attention.

Consistent with the Commission's statutory obligation to make toll free numbers available on an "equitable" basis, I support exploring auctions as a way to depart from the Commission's unfair and outdated first-come, first-served allocation method. Giving away desirable numbers for free undermines justice and economic efficiency and creates perverse rent-seeking incentives for RespOrgs. As in other cases of allocating scarce public goods, more competitive bidding and less command-and-control is generally the best answer. A robust secondary market will further promote the interests of equity and efficiency and ensure that valuable resources are not tied up in enforcing ineffective rules against reassignment.

Despite my support for implementing an 833 Auction, I would have pushed this experiment further by extending market-based principles to the assignment of the auctioneer role itself. While Somos may be competent to administer the toll free numbering database, managing an auction is an entirely different skillset. And, without any concrete analysis of Somos' costs of running the auction submitted to the record, we run the risk of undermining the auction's financial success and creating uncertainty in Somos' future tariff filings. This forces me to ponder, exactly how is it that no one asked what Somos' estimated costs would be? For future toll free auctions, I urge the Commission to subject the auctioneer role to a competitive bidding process, rather than designate it to the toll free administrator automatically.

I also view the decision to forego multiple round bidding as a missed opportunity. The Commission has repeatedly stated that simultaneous multi-round auctions are preferable to other bidding mechanisms, by providing the best opportunity for price discovery, value maximization, and bidder flexibility. In the case of toll free numbers, which may be substitutable in certain cases, we should enable bidders to gain insight into other parties' valuations and pursue back-up strategies. Particularly if the auction turns out to be financially successful, I hope that in future toll free auctions, the Commission will experiment with a multi-round design.

Finally, while the Commission's traditional practice of distributing toll free numbers for free artificially skews demand, one of the strengths of an auction is that it allows the market to determine the value of toll free numbers. We must not undermine this gain by creating further distortions in the toll free number market. Unfortunately, the item does just that by directing the net positive proceeds of the auction towards defraying toll free numbering administration costs. This is a mistake for two reasons. First, it is unfair to taxpayers. A toll free number is a scarce public good, and any net proceeds of an auction belong in the Treasury, not in the pockets of toll free subscribers. Second, lowering the fees associated with toll free reservations artificially subsidizes and stimulates toll free subscription. We should not be in the business of picking winning and losing technologies, and I fear that the item's method for disbursing proceeds frustrates the Commission's goal of improving efficiency and equity in the nation's toll free numbering administration.

Despite these deficiencies, and the item's unnecessary and nebulous reliance on section 201(b) for regulatory authority, I nonetheless extend my support for the Report and Order. I look forward to learning any accompanying lessons from this auction. I also thank my colleagues for working with me to improve the item.