

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Auction of Toll Free Numbers in the 833 Code*, AU Docket No. 19-101; *Toll Free Assignment Modernization*, WC Docket No. 17-192; *Toll Free Service Access Codes*, CC Docket No. 95-155.

Following a great deal of hard work, this item should be the Commission's final step in effectuating our 833 Toll Free Code auction experiment, and if all goes according to plan, we should see a very quick auction in mid-December for up to almost 18,000 833 numbers. Holding this auction should provide us with concrete insight into how much interest actually exists for that set of toll free numbers. Consider me very interested in seeing if the auction breathes new life into this 1990's-era idea.¹

While I did not necessarily agree with some of the decisions made in the past on how to structure the auction, those concerns are water under the bridge, and I will not reiterate them here. For the most part, this Public Notice is straightforward, as expected, and sets strong precedent in certain respects. For instance, outsourcing the auctioneer role to a private entity rather than requiring in-house management is certainly a practice that could be pursued in other contexts.

However, this item does raise two new issues that generate some concern. First, the Public Notice, as I read it, relieves Somos of obligation or liability for *any* activity, be it "technical, programming, other advice or service" related to the auction. While I am doubtful that such a small-scale auction will have hiccups, I nonetheless find it problematic to declare Somos completely immune from any recourse whatsoever, should it be responsible for major botches in running the auction. I also question the item's strategy for resolving a tie between the two highest bids. While very unlikely to occur, the item's method of selecting the bid with the highest assigned pseudo-random number essentially amounts to a coin flip. The Commission ought to consider these issues, as well as the ones I previously raised, should it apply the current framework to future auctions, whether for toll free numbers or otherwise.

In the meantime, let's get on with the auction.

¹ Reily Gregson, *Clinton Wants to Auction 888 Numbers in '97 Budget*, RCR WIRELESS (March 25, 1996), <https://www.rcrwireless.com/19960325/carriers/clinton-wants-to-auction-888-numbers-in-97-budget>.