

TollFreeNumbers.com

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Federal Communications Commission
Ajit Pai, Chairman
445 12th Street, SW
Washington, DC 20554

June 12, 2019

Re: Bid Protest B-417615.1 Reply to Request for Dismissal, Requesting the FCC to have a competitive bid process to select the 833 Auctioneer

Dear Sir or Madam:

Thank you for giving me a chance to respond to the Request for Dismissal (FCC) File No. B-417615.1. First of all, you're right I'm not an attorney, and I certainly apologize for my lack of familiarity with the process, but I am eager to give you anything and everything you need. I greatly appreciate your patience and willingness to at least hear my protest. It's true I didn't know the requirements, but I am happy to remedy that.

Summary of Grievance and Request

On April 21st, 2017 the FCC announced that it would set aside toll free numbers that were requested by more than one organization and determine how to best allocate those after the 833 code opening. On September 26th 2017 they issued an NPR proposing that they use an auction for the set aside 833 numbers. September 27th, 2018 they announced they were in fact going to have an auction to allocate the 833 numbers that were requested by more than one organization. This has clearly been a long ongoing process and is still being evaluated. The latest more detailed final document "FCC SEEKS COMMENT ON PROCEDURES FOR TOLL FREE NUMBER AUCTION" was dated May 9th and just filed May 10th 2019.

The FCC simply designated Somos the Auctioneer, without any competitive bid process. They made only one absurd argument which actually only shows how little thought went into selecting them. The FCC states that it has the right and ability to have a competitive bid process to select the Auctioneer in their own papers. I'm simply requesting that the Comptroller General of the United States direct them to conduct such a competitive bid process to select the Auctioneer for the 833 Auction rather than just assigning it to the insider organization that suggested the auction to them. One of the FCC Commissioners even went out of their way to say in their comments that they would have preferred this.

Personal Background

My name is Bill Quimby and my contact information was and is still on the letterhead. I apologize that I got rid of my fax number over a year ago when transfer requests were no longer able to be sent via fax. I believe that is the only required element which I don't have. As the founder of TollFreeNumbers.com I have been in the toll free industry full time for 25 years, since before AT&T even had a website. In

that position I have helped more people get vanity numbers than anyone else in the country. I have been an active participant, and made suggestions about the code openings which were implemented, and done multiple filings at the FFC in the 855 code opening in 2010, 844 code opening in 2015 as well as the 833 opening code. Literally nobody has been more involved or focused on this for the past decade.

TollFreeNumbers.com is the most qualified to administer the auction and intends to submit a bid.

If you don't mind my addressing them out of order, my background leads to and is most relevant to point III, claiming that I'm not a prospective bidder. That couldn't be further from the truth. As one of the most successful vanity number businesses for the past 25 years, new code openings have always been one of the most important activities and occurrences in our business. A couple organizations and entities in the toll free world offered advice on the 855 release process, but it was my August 2nd, 2010 letter to the FCC that suggested that FCC needed to ration numbers and not simply release all 7,980,000 new numbers all at once as they had in the past. That was the only suggestion that the FCC adopted, and they used my rationing proposal for the next two code openings, 855, and 844.

I'm also the only one with experience running toll free auctions for the public in the past three toll free releases, 855, 844, and 833. I know the value of toll free numbers better than anyone. I know how many company names, trademarks and domain names could be started with every number, how fast they were taken during the 855 and 844 releases, and how many times they've been queried on our website for the past 15 or more years. Literally nobody understands the retail value of numbers like we do.

We are the only significant company in the toll free world that has always been both completely independent and does not sell the ongoing service or RespOrg services that literally every other phone company does, so we are both eminently qualified in the vanity number industry, and are not competing with any other RespOrgs.

Since I started TollFreeNumbers.com 25 years ago I have focused entirely on marketing the toll free number acquisition. To do this would obviously require us to send the retail customers that have requested these 833 numbers through us somewhere else, costing us some business but I've always put the industry first and attempted to do the right thing for the customer.

We started promoting and working toward the 833 code opening almost a year before the scheduled April 2017 opening, promoting it to all our retail customers in the 4th Quarter of 2016, and we had hundreds of customer requests before any other companies even started thinking about taking requests. The point of all this is that code openings have been a priority of ours for many years and we have always contributed to them and promoted them to retail customers for decades.

The huge part that Somos is missing is both the retail experience and vanity number experience. One of the most important lessons I learned over the past 10 years of doing this is that you have to be able to show both the relative value of each number and be able to justify and show *why* that number is worth that amount.

Not only did we show the vanity use of each number but we showed why each number is worth that amount based on the number of domain names, the amount of company names and trademarks it would relate to, and the speed that it was taken during the 844 and 855 releases. We use all of this along with the amount of queries we've gotten for each number over the past 15 years, plus thousands of hours of human analysis and comparison to provide our unique patent pending valuation to the process.

If you just auction them off without showing what they spell and their relative value, it's like conducting a car auction with cars covered, and not saying what type of car it is or it's book value. Some experts do know what type of car it is even with the cover on it but most don't and you'll be lucky to get barely half as much if you don't take the covers off and show why each number is valuable. Somos knows which numbers are to be auctioned but they don't know why those numbers are valuable so they can't effectively promote them.

I not only know the most valuable vanity use for each of the 17,638 833 numbers but have even had a team of researchers visiting the almost 100,000 domain names that match these numbers, collecting the email addresses and the urls of the "contact us" form of each website, so I could efficiently notify the most likely interested parties for every number when they were going to be available.

The last time I saw William Carter, the president of Somos he commented that he still had the "833" mug I gave him and everyone at the Somos conference over three years ago in 2016, before anyone else was even thinking about 833 numbers. It's been a long trip with a lot of strange twists, but I've been leading this process and think it's clearly necessary to step up and try to help make this a success. I certainly would submit a bid and am more than qualified and capable to administer the 833 auction. I'm not the only entity but factually, I'm the *most* qualified.

	TFN.com	Somos
Can process the results without outside Assistance	YES	YES
Experience dealing with Retail Customers	YES	NO
Has experience running auctions during previous code openings	THREE	NONE
Knows what the 17K 833 numbers set aside spell	YES	NO
Knows what trademarks, Domain names, and company names match the 833s	YES	NO
Has researched and collected contact info for matching domain names	YES	NO
Has given a fixed budget to administer the auction	YES	NO
Has potential conflicts due to other responsibilities with the RespOrgs	NO	YES

Two simple analogies to summarize the problem

This seems complicated when you look at it, just like the Affordable Healthcare Act looks complicated to anyone not familiar with the healthcare industry. Even if you know the industry, the legal jargon can be daunting, so let me make an analogy or two to explain what's ultimately happening.

It sounds good when they say they want to "modernize" the industry and create a secondary market. It also sounds good when the order says they want to increase the options for the consumers. Unfortunately though, just like a free public option does in healthcare, creating a free public option that allows consumers to get numbers for free from the same source (Somos) that all the other vendors (Resporgs) have to get them from, ultimately decreases the options. It puts vendors out of business, because no vendor can compete with their supplier giving away the product to consumers for free for very long. This does create a secondary market but only for Somos (or the Government that is

ultimately going to get the proceeds?), and it hurts everyone else in the number acquisition business. It does the same thing to the toll free industry, that a single payer system does to the healthcare industry.

It's kind of surprising that this would happen under a free market, Republican administration because this is ultimately a very Liberal, Big Government thing to do and will hurt the small businesses in this industry most of all, so I can only assume that this is a case of the best of intentions and unintended consequences.

Another analogy that explains the problem is if, in order to increase competition in banking, the government said that the public should be able to go directly to the Federal Reserve (even though the Federal Reserve said that they could only offer service through the banks). The Government might say that they're doing this in order to give the public more options, but it ultimately changes the role of the Federal Reserve and undermines the role of the banks.

Any supplier for that matter, with a network of agents that decides (or in this case is *forced* to) to sell their product directly, is undercutting and hurting their agent network. This is especially true if they sell them for less than their agents can or give it away for free. (When I say "Free", it refers to any fee above the winning bid amount which would be the same in either case and would go to Somos.) I don't blame Somos because they said very clearly that they could only do this through the Resporgs (see the next page below). Unfortunately, the FCC went ahead anyway and said that, since they said they could do it we're going to make them also give it away for free to the public, bypassing and undercutting the resporgs that it's their job to support. Good intentions, bad outcome!

Why the FCC says they choose Somos

In the entire 53 page Report and Order which was submitted with the request for dismissal, The FCC only gave ONE reason why they intended to choose Somos in the September 2018 Report and Order. Paragraph 61 said:

"were we to establish an independent auctioneer, the independent auctioneer would have to first coordinate with Somos to verify that the numbers available in the 833 Auction are indeed available. The independent auctioneer would then have to direct Somos to assign the number to the winning bidder. We find this step in the process unnecessary as Somos is capable to serve as auctioneer in accord with the specific and direct instruction to be set forth in the Auction Procedures Public Notice."

They're basically saying they're picking Somos as the Auctioneer because it's too much work for Somos to provide a list of the numbers to auction, which they did two years and four days ago on June 4th 2017 two days after the 833 opening. Sure they'll probably have to remove a few numbers that get set aside from the set aside numbers for non profit and government organizations. But Somos has already put all the set aside numbers under the resporg ID BR833 where they've been for the past two years. I'm pretty sure they will have moved the government requested numbers to a different ID so it's about a 10 second job to make a list of all the BR833 numbers.

In terms of having to share the results of the auction with Somos that's probably no more than another 10 second job to send the final results to Somos. It seems dumb to say the least, to suggest that it's so difficult for any auctioneer to share the results with Somos, especially when the FCC is requiring essentially all the details and data be provided to allow them or someone to analyze the results. Not to

mention that any resporg can be given access to BR833 and release the numbers according to the auction results as necessary. That's why I said in my summary the arguments which the FCC made for selecting Somos are so absurd if you think about them, that it doesn't look like there was really any thought put into it.

So I'm going to throw this back to the FCC lawyers that requested to dismiss my protest. This protest is about the selection of Somos as the Auctioneer for the 833 Auction. I've explained quite thoroughly why they shouldn't be selected. So, it seems relevant to ask you to explain why was Somos selected without any competitive bid process? I have read quite thoroughly the Report and Order you submitted and every order related to this process. If you can't answer that, at least explain all the reasons why Somos was selected at all. I can only find the one utterly ridiculous reason I quoted above but I'm happy to hear if you have anything else, and I think whatever you find or don't find, will be related to and important for this case.

There are actually two other portions of that document that discuss the selection of Somos, but they're not really reasons to select Somos.

Excerpt from the Statement of Commissioner Michael O'Rielly page 51 of the September 2018 order:

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 would also like to add that I agree with Commissioner O'Rielly's further comments about multiple rounds being preferable but this is about the lack of a bid process to select the Auctioneer, not how the auction should be conducted.

In the paragraph directly above the one saying that they selected Somos so it won't be necessary for an independent entity to give the final results to Somos, they admit that one commenter said they shouldn't select Somos because they have no experience in conducting auctions, to which the FCC cites Somos statement that they are capable of doing an auction, and they have no basis to question that assertion.

60. One commenter posits that the present Toll Free Numbering Administrator should not serve as the toll free number auctioneer because Somos "has no experience in conducting auctions" and it "would be called upon to develop entirely new [auction] processes."¹³⁷ We disagree. Somos has asserted that it is fully capable of executing the Commission's proposed auction,¹³⁸ and we have no basis on which to question its assertion.

This isn't untrue but it completely ignores Somos' assertion that they can't bypass the resporg system and conduct a public auction. (see the quote directly below) Somos did say they could do an auction (meaning among resporgs) but the FCC is proposing a *public* auction. Somos said that the auction had

to be among resporgs not only because they have no experience in retail or selling to the public, but because for them to bypass the resporg system which they administer would undermine their current role as the toll free administrator, which they can't or shouldn't be asked to do. So although their statement isn't exactly a lie, it is a little misleading or deceiving because if you added the word PUBLIC in front of the word AUCTION, in the above statement which is what they're doing in this case, it becomes false. The FCC does have a basis to question the assertion for a PUBLIC auction.

Somos says pretty clearly they can't do this for the public

This was one of the largest (almost a full page) points made in Somos' reply comments.

B. Auction Participation Should Be Limited to Resp Orgs.

To the extent the Commission implements an auction-based assignment mechanism, Somos supports the Commission's further proposal to limit participation in any auction to Resp Orgs, as defined in 47 C.F.R. § 52.101(b). Resp Orgs are the only entities that possess both the expertise and the functional capabilities needed to effectively participate in a market-wide auction proceeding. They are essential partners who bring stability to the toll-free numbering process by ensuring that TFNs are assigned, routed, and managed accurately and in accordance with the Commission's rules. Further, as the Notice suggests, Resp Orgs have a system-wide perspective that would allow them to make markets in an auction and guide subscribers to bidding strategies that maximize value for the system as a whole.

Somos does not support direct subscriber participation in any TFN auction because it would introduce unnecessary and potentially costly administrative problems. Somos believes that any TFN auction mechanism should build on the functionalities of the SMS/800 database and be implemented consistent with the technical and procedural characteristics of that database. To achieve those efficiencies, Somos believes that it makes sense to limit auction participation to the Resp Orgs that are currently certified to have access to the SMS/800 database. Having access to the SMS/800 database requires Resp Orgs to take on defined obligations that ensure that the integrity of the database is maintained and that TFNs operate correctly, including becoming certified in the complex process of routing TFNs. Allowing subscriber participation in TFN auctions would undermine this delegation of responsibility to Resp Orgs and would require either constructing an auction mechanism outside of the existing SMS/800 database or qualifying a large number of new entities to access and use that database. Either of these options would be burdensome and complicated, thus impeding an effective and efficient auction.

Somos can't bypass the RespOrgs but an outside organization could without hurting or changing the RespOrg relationship

It's also worth pointing out that Somos didn't argue that no auction administrator could or should allow customers to place bids directly. They were only really arguing that SOMOS couldn't and shouldn't have the public bidding directly. They have a unique position, and are simply unable to do or promote something that undermines their current role as the 800 administrator and all of their relationships with the RespOrgs.

Allowing the public to bypass the RespOrgs and go to the auction administrator directly would actually change the whole process much more than it appears at first glance. The FCC Order doesn't specifically preclude customers from going to their existing RespOrg, and only includes the intention to allow

customers to go directly to Somos *as well*. But in reality, it's impossible for RespOrgs to compete with the auction administrator, who gets to take the costs of the system to receive the bids and administration, out of the proceeds, and presumably won't charge any fee to the customer. The FCC is adding additional duties, requiring additional programming and expenses with significant penalties, while at the same time preventing the resorgs from charging anything for this by offering to do it directly for free. If that's not undermining the resorgs I don't know what is.

What is the Role of Toll Free Number Administrator?

The very first sentence of section 3, titled **Somos as Auctioneer for the 833 Auction**, reads:

“We establish Somos, the Toll Free Numbering Administrator, as the auctioneer for the 833 Auction. We believe this role is commensurate with its present statutory and regulatory duties and its responsibilities.”

They say similar things throughout the order. I had to dig pretty deep to get the statutory duties and responsibilities of the Toll Free Numbering Administrator, but I don't think they're quite as commensurate as the order suggests. The FCC does have fairly broad rights to distribute toll free numbers in “any fair and equitable manner,” which I believe can be said to be an auction. But the role of Toll Free Numbering Administrator is much more narrowly defined. Here's what I believe the statute says is the definition of the toll free number administrator.
(<https://www.law.cornell.edu/cfr/text/47/52.101>)

§ 52.101 General definitions.

As used in this part:

(a) Toll Free Numbering Administrator (TFNA). The entity appointed by the Commission under its authority pursuant to [47 U.S.C. 251\(e\)\(1\)](#) that provides user support for the Service Management System database and administers the Service Management System database on a day-to-day basis.

The role of TFNA does not appear to actually give them the authority to go outside of or bypass the users of the SMS database. Yes, they will be requiring the end user to select a user (resorg) but the current definition of TFNA does not allow them to transact or conduct business (sell anything to) with their users of the SMS', end users. That's actually a fairly big jump and significant change from the current statutory definition. So, unless the FCC officially modifies the statutory definition of the TFNA, or limits the auction to Resorgs, the statutory TFNA role does NOT include offering numbers directly to the public!

It's probably within the rights of the FCC to change the definition of the TFNA but I suggest that, isn't necessary or appropriate to do just for a test, when an actual *independent* organization that doesn't already have a major role in system, can easily administer the auction for this small group of numbers. (raises my hand politely)

This is ONLY a problem if the Auction is administered by the 800 database administrator

This is only problematic if the auction administrator is also the 800 database administrator. If the auction administrator is a separate entity, allowing the public to go to them directly would be like creating another RespOrg. New RespOrgs are added all the time but that doesn't undermine or change the whole system. It's only by forcing the actual 800 database administrator to take on this brand new,

unprecedented role, to deal with the public and their users' end-users directly which they argued strenuously against that undermines their position, their relationships and dramatically changes their role and the whole system.

The FCC is *intentionally* lowering the Resporgs profit and incentive to participate

Paragraph 41 of the FCC Report and Order states this, "And by allowing potential subscribers to bid on their own, we lower administrative costs for participants who choose not to place a bid through a RespOrg." So the FCC is intentionally making it hard or impossible for the RespOrgs to charge a fee. They have to realize that this will take away any incentive from the RespOrgs to participate, to promote it. Plus, in the end if this is declared a success, which Somos will do everything possible to do no matter what, the number acquisition role which is the role of the RespOrg by statute and for decades of precedence, will be gone, just given to Somos. None of this would be an issue if it was an outside organization.

As I said above this harmless sounding clause is as damaging to the toll free number industry as a Free Public option is to the healthcare industry.

Lets give everyone who knows the customers a dis-incentive to cooperate and participate

This essentially forces Somos to undercut their current customers who would ultimately be forced to refer customers to Somos to place bids or make a significant investment just to create a system for this one time "test" which they couldn't charge any fee for. Somos wouldn't have to charge any fee because their costs are coming out of the proceeds. Instead of having an incentive to help their customers, RespOrgs may actually have a DIS-incentive to help and might even want the test to fail, or at a minimum would have no incentive to participate or cooperate or promote it to their customers, since they can't charge anything.

It's also important to point out that Somos knows which RespOrgs requested which 833 numbers but they don't know what actual customers requested them. Only the RespOrgs that submitted the 833 requests knows that. So, if the FCC takes the incentive of the RespOrgs away from participating, they are not only cutting out the RespOrgs, they're eliminating the only people that know who the original requests were submitted by and have an existing relationship with them. Somos has absolutely no idea who requested a single 833 numbers nor do they have any good way to reach any of them. Only the RespOrgs do. Somos has never even had a single retail toll free customer. So they would not only not be able to reach the customers that requested the 833 numbers set aside, they would have no real way to reach any toll free users other than general advertising which would be very expensive and time consuming, and completely impractical for this "test".

Requiring Somos to add the staff necessary to handle thousands of retail customers, purchasing a new product in a new system they don't understand and have never used before, all at one time would certainly not provide better service to the customer, than allowing them to go through all of the existing and experienced staff of hundreds of major phone companies which those customers already have accounts and relationships with. Somos said this in their reply, "Somos does not support direct subscriber participation in any TFN auction because it would introduce unnecessary and potentially costly administrative problems."

Promotion is Key

Finally not discussion of this can be complete without touching on the biggest factor in the success or failure of an auction, and that's the promotion of the auction. The FCC order barely even touches on this and Somos has little or no actual experience in it. As a wholesale monopoly, they have never had a single retail customer. The promotion of the auction and the administration of the auction are two different skills and while they have administered technical things they have never done any retail sales or retail promotion.

They claimed in their comments that they could "administer" an auction. That's good but that's the easy part. The hard part is promoting the numbers and you can't just promote 833-244-5322 without knowing the value of it, what it spells, and who to promote it to. This number spells CHILD CARE, and the difference between promoting it as 833-244-5322 and 833-CHILDCARE is huge. And while you may think you can figure this out manually, if you only spent 1 minute to try to figure that out for each number for 8 hours per day it would take over 36 days to check all 17,368 833 numbers and you'd probably miss the fact that 833-244-5322 also spells CHILD ABUSE, or maybe you'd find that and miss CHILD CARE.

This isn't something you can buy off the shelf the way you can auction software. It requires more than just knowing the best use and alternatives for them, it requires being able to explain why a number is valuable and it's relative value. Even a customer that wants a specific number needs input in this area because there's no book value, not comparable sales to give them an idea what they should expect. I've learned this and come up with this unique number data, in my past experience auctioning numbers. But I'm sure Somos is so good at number administration this will make up for not having any of this.

This would also change or affect future code openings

It may sound like it's not going to hurt much to allow customers to go to Somos just this once, but it also potentially changes more than just this one situation. There's a good chance that once this precedence has been set, future code openings are much more likely be handled this way, essentially taking the whole number acquisition process completely away from the RespOrgs. Granted, most phone companies are lazy and see the number acquisition portion of their business as an afterthought, but that's the entire business or an important part of many RespOrgs in this niche business including mine. That's why I've been forced to protest this bid, or the lack there of. I don't have any choice, if I want my business to survive. Allowing toll free numbers to be bought and sold would help my business, but allowing Somos to swallow the whole vanity number industry and become the defacto source for good numbers would hurt the entire industry, to say the least.

On top of all that, having Somos administer the auction both takes away one of your best judges of this test, and also makes it hard for anyone that depends on their relationship with them (which is just about everyone in the toll free industry) to honestly judge the results or express an opinion about it. They're simply too connected to be an effective test. Just the fact alone that the principles of Somos suggested this, (according to Jay Schwarz from Chairman Pai's office at the Somos toll free user summit, on Wednesday, October 10th, 2018) may be enough to disqualify them from judging the results.

The FCC specifically reserved the right to use a competitive bid process to select a different Auctioneer.

As I mentioned in the opening, Paragraph 64, page 22 of FCC 18-137 in the section about selecting Somos as Auctioneer states, “In designating Somos as the auctioneer of the 833 Auction, we do not foreclose the Commission’s ability to assign this role to a different entity, or through a different method, such as a competitive process, in a future toll free number auction.” So the FCC states very clearly that they have the right and ability to choose another auctioneer and they specifically mention a competitive process, so they are admitting that this specifically is a viable option.

That’s why I’m requesting that the Comptroller General of the United States direct them to conduct the competitive bid process they specifically say they are able to do in Paragraph 64, page 22 of FCC 18-137.

The FCC is still in the process of establishing the procedures so it’s not really late

The claim that my protest wasn’t timely is a harder issue to address because it assumes that there was a bid process. The Bid protest process isn’t set up to protest a government agency that didn’t have a bid process. It’s designed to protest the results OF a bid process, because it’s rare that a government agency that admits they could have used a competitive bid process *just skips it*, when there is plenty of time and several potential bidders.

It’s true that it was suggested that the FCC would select Somos as the auctioneer in the September 26th filing, but that wasn’t the final conclusion. This has been an ongoing process with multiple rounds of notice and comments from the FCC and it wasn’t clear when that selection was finalized. The Report and Order from September 2018 said more than the previous one from September 2017, but on page 11, paragraph 28 of the 2018 Report, it included, “Given the experimental nature of using competitive bidding as a mechanism for assigning toll free numbers, we outline here a general framework for the 833 Auction and require a pre-auction proceeding in which we will seek public input on the procedures for the auction after the release of this Report and Order.” They made arguments for it which I’m addressing but the bottom line is that this was much more of an ongoing process and there was no exact bid date since there was no bid. So it’s harder to claim this is too late because they evaluated the bids already since there was no evaluation or deciding process at all. Further, there isn’t even an auction date and is no details so how can this be said to delay a process which has no conclusion date yet.

I did reply in a timely manner to the May 9th publication of FCC SEEKS COMMENT ON PROCEDURES FOR TOLL FREE NUMBER AUCTION. So even if the FCC claims that selection was made in the September 26th document they are clearly still trying to finalize the process, and whether the selection was made at one point in the process or another they’re clearly still IN that process and able to make any changes. Without a specific bid date, the process can’t be said to be too late if there is still time to conduct a bid. We’re not asking them to hold up the auction in order to have a competitive bid process to use the competitive selection process they say they can do now, since there is still time to complete this in a timely manner before the auction date which hasn’t been set yet.

Can the FCC make any changes in the process at the last minute?

It sounds like the FCC is making an argument that they can’t make a change so late in the process. The obvious answer this is their own April 21st 2017 announcement was just ONE DAY before the scheduled 833 release to take place on April 22nd. They had Somos and the whole industry ready to do the release and only announced that they were changing entirely the whole system 24 hours before it was set to occur. At that point they had the ability to delay the actual opening as much as it was

necessary to not only reschedule it but to completely change the entire process. They could have put it off 6 months if they felt that much notice was necessary. How long did they delay the 833 opening to allow resporgs to put together lists of all their requests, and for Somos to make a whole new process to receive and process requests? TWO WEEKS! It was rescheduled to June 3rd, 2017

So to argue that they can redo the whole process with two weeks notice, but there's no time to evaluate who should administer the auction which doesn't even have a date yet and is obviously still many months away at the earliest, seems extremely disingenuous.

The FCC may make the argument that Somos has already started to prepare for the auction. That might be true if Somos wasn't right in the final steps of the biggest transition in the history of their company. On June 22nd the entire toll free database will be taken offline for two days (which has never been done before) and the legacy system that was originally set up in the 90s will be decommissioned and the new system will cut over and start on June 24th. They have never shut the entire system down for this long and never made such a huge change in the history of toll free numbers. This has been a several year process and it's an all hands-on deck situation for the whole organization. They may have had a few discussions or meetings but they wouldn't want to do any significant preparation for this on the old system. They would not only be totally occupied by this transition, but they wouldn't start anything to develop a new process on the old system about to be decommissioned. They would wait until the new system is in and functioning smoothly before adding anything to it. So they clearly won't have done any work on this until after this major transition. This may actually be at least part of the reason for the two year long delay with almost nothing happening.

My mother always said you have to not only avoid evil, but the appearance of evil

The FCC may have the authority to require Somos to serve as the auctioneer for 833 numbers but that doesn't mean that they *should*. The credibility of the FCC is literally at stake here. When you look at the whole picture, that Somos suggested this, and then met with the FCC to ask for it and then the FCC literally just gave them an open ended multi-million dollar contract that is not part of their job description or existing administration, despite their claims that it is, in a way that undermines the whole resorg system, without a competitive bid process, this looks bad no matter how they spin it.

That's why even if the FCC isn't specifically required to use a competitive bidding process for this because of a technicality, they clearly have a much higher obligation to at least try to avoid the appearance of wrong doing and go the extra mile to not look corrupt. The whole point of the 833 auction is to promote openness and a free market. Why would that apply to the numbers but not the auctioneer? Somos can't just decide no other organization will want a specific number and just give it to a private company that they are familiar with because that's easier for them. So why is the FCC doing that? They clearly realize the cost of this may be significant, potentially millions of dollars based on the sections about the disbursement of the funds.

I'm very reluctant to say the following because I don't mean to start rumors or cast dispersions on anyone at all, but this illustrates a point. I have no knowledge of any payment, donations or favors given to anyone by Somos, and do NOT mean to imply that any was made. But just the fact that it looks like something like that *could* have taken place demonstrates how wrong this is and looks. And whether or not the FCC is technically obligated to use a competitive bid process or not, they clearly have an obligation to avoid the appearance of impropriety if at all possible. And this is clearly very possible.

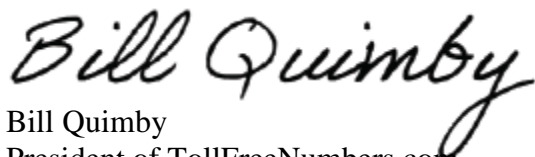
What's the worst that could happen?

If you made a list of the PROS and CONS of using a competitive bid process for this, the PROS would be that you would have multiple competitive options to choose from. The FCC could still choose Somos, but you would have gotten a more competitive bid from them as well as being able to compare them. Or if you choose someone else, you can still have Somos administer any auction in the future. Either way you win, because you avoid the appearance of an insider deal, you get a more competitive bid, and you have more information to evaluate this test with. Even if the FCC has the authority to order this without a competitive bid, they have an obligation to err on the side of openness and increasing competition, not to mention to avoid the appearance of an insider uncompetitive sweetheart deal.

The only CON I can see is that it could delay things a couple months. But it's already been *two years* with almost no progress, and Somos can't begin anything for a couple months anyway with their big cut over just days away. There are obvious benefits and literally no downside to having a competitive bid to select an auctioneer which they specifically admit is a possible option. I feel like I'm asking for the obvious right thing that any other government agency would have done.

I'm going to also add that I'd like the opportunity to meet with representatives of the FCC. I'm not against the FCC or Somos and sincerely apologize that this may come across that way. I'm replying to the FCC's request to summarily dismiss my protest without being heard, and trying very hard to make the best case possible. I disagree with some of the details of the auction proposals, but this isn't the place to get into that, but as a small business owner that has dedicated my life to this industry, I am both sincerely looking for what's best for the toll free industry and 100% in favor of an INDEPENDENT free market. I realize this gets complicated, but I think this is the right thing to do and I'm willing to stand up and say that in spite of the arrows I'll get and I mean it when I say I'll do anything I can to help make this a success for everyone.

Very sincerely,

A handwritten signature in black ink that reads "Bill Quimby". The script is fluid and cursive, with the first letters of "Bill" and "Quimby" being capitalized and prominent.

Bill Quimby
President of TollFreeNumbers.com