

Obtaining a Toll-Free 800 Number Could Get More Expensive

The Federal Communications Commission has just issued a notice of proposed rulemaking that could dramatically change the way companies obtain 800 numbers, especially so-called vanity numbers or easy-to-remember numbers. The notice can be seen [here](#).

Today, 800 numbers are assigned on a first-come, first-served basis. The FCC is concerned that this system may not be the most efficient or fair way to allocate what is in effect a scarce resource. The problem particularly arises for 800 numbers in high demand, like 1-800-FLOWERS or 1-800-LAWYERS, or repeater numbers like 1-800-222-2222. There is so much demand for 800 numbers generally that the FCC has opened up several 8XX codes over the years such as 888, 877 or, more recently, 833. They all allow consumers to make toll-free calls. When the 833 code was opened, there were 17,000 vanity or repeater numbers requested by multiple companies. These numbers still have not been assigned.

The FCC is now considering auctioning 800 numbers to the highest bidder, particularly numbers with high demand. The agency believes auctioning numbers may be a more equitable approach than the current first-come, first-served assignment process.

A second major change under consideration involves reassigning 800 numbers should a business fold or the number otherwise becomes available. Currently, it is unlawful to “sell” 800 numbers, even though the FCC acknowledges there is an active market for 800 numbers. The FCC is considering creating a legal secondary market for 800 numbers so that, for example, companies could sell their 800 numbers when going out of business. Effectively this would allow companies to treat 800 numbers as a marketable asset. This might be good for companies with 800 numbers to sell, but might make it more expensive for other companies to obtain such numbers.

The FCC’s notice drew a dissent from Commissioner Mignon Clyburn, who expressed concern that the FCC was moving too quickly without fully understanding the impact on consumers and small businesses. She would have preferred the FCC gather more information before proposing new rules.

The FCC is seeking comment on these ideas, such as how an auction might be structured and who should be able to bid. Comments will be due 30 days after the notice is published in the *Federal Register*.

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