

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

In the Matter of)	
)	
Toyota Motor Sales, U.S.A., Inc.)	File No. EB-00-TS-279
)	NAL/Acct. No. 200132100013
)	

ORDER

Adopted: March 2, 2001

Released: March 6, 2001

By the Chief, Enforcement Bureau:

1. In this Order, we adopt a Consent Decree terminating an inquiry into whether Toyota Motor Sales, U.S.A., Inc. (“TMS”) apparently violated Section 301 of the Communications Act of 1934, as amended (“Act”),¹ by operating a Ku-band Very Small Aperture Terminal satellite system without Commission authorization.

2. After reviewing the facts of record, we negotiated the terms of a Consent Decree with TMS that will terminate our inquiry. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Following our adoption of this Order, TMS will institute a compliance plan and will make a voluntary contribution to the United States Treasury of \$15,000.

4. We believe that the public interest would be served by approving the Consent Decree and terminating our inquiry.

5. Accordingly, IT IS ORDERED, pursuant to Sections 4(i), 4(j) and 503(b) of the Act,² and Sections 0.111 and 0.311 of the Commission’s Rules,³ that the attached Consent Decree IS ADOPTED.

¹ 47 U.S.C. § 301.

² 47 U.S.C. §§ 154(i), 154(j) and 503(b).

³ 47 C.F.R. §§ 0.111 and 0.311.

6. TMS shall make its voluntary contribution to the United States Treasury by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200132100013.

7. IT IS FURTHER ORDERED that the Commission staff inquiry into the matter described herein IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission (“Bureau”) and Toyota Motor Sales, U.S.A., Inc. (“TMS”), by their attorneys or authorized representatives, hereby enter into this voluntary Consent Decree regarding possible violations of the Communications Act and the Commission’s rules concerning unauthorized operation of a Ku-band Very Small Aperture Terminal (“VSAT”) satellite system.

2. On February 17, 1989, the Federal Communications Commission authorized TMS to construct and operate a Ku-band VSAT network designed as an umbrella system connecting Toyota subsidiaries and affiliates (“the TMS Network”). The TMS Network was authorized to consist of:

- a. up to 2,700 1.8 meter VSAT terminals;
- b. up to 300 2.4 meter VSAT terminals; and
- c. one 6.1 meter hub station located in Torrance, California.

3. Since 1989 the TMS Network has been the principal communications link between TMS headquarters and dealerships throughout the United States. During this period of operation, no complaint or enforcement action has been brought against the TMS Network or Toyota Motor Sales.

4. In October 2000, TMS became aware that the TMS Network license expired in 1999, without a renewal application having been filed. TMS immediately informed the Commission and, on October 23, 2000, sought Special Temporary Authority (“STA”) *nunc pro tunc*, to continue to operate the TMS Network as licensed in 1989. The International Bureau granted the STA request on November 1, 2000.

5. TMS began preparation of the necessary application to reinstate the authorization of the TMS Network. In doing so, it was discovered that an additional four 1.2 meter earth stations had been deployed as part of the TMS Network. TMS requested additional *nunc pro tunc* STA for operation of these earth stations on November 14, 2000. The International Bureau granted this STA request on January 3, 2001. On November 27, 2000, TMS filed the requisite application for authority to construct and operate the entire TMS Network, including the 1.2, 1.8, 2.4 and 6.1 meter earth stations. The International Bureau granted the application on January 26, 2001.

6. TMS and the Bureau have met to seek a resolution of the matters described in the STA requests and the application. In consideration of the termination by the Bureau of its inquiry into whether TMS may have violated the Communications Act and the Commission’s rules, and in accordance with the terms of this Consent Decree, TMS agrees to the following terms, conditions and procedures.

7. For the purposes of this Consent Decree, the following definitions shall apply:

- 7.1 “Commission” or “FCC” means the Federal Communications Commission;
- 7.2 “Bureau” means the Enforcement Bureau of the Federal Communications Commission;
- 7.3 “TMS” means Toyota Motor Sales, U.S.A., Inc.;
- 7.4 “Parties” means TMS and the Bureau;
- 7.5 “Adopting Order” means an order of the Bureau adopting the terms and conditions of this

Consent Decree.

8. The Parties agree that the provisions of this voluntary Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order and that either party may withdraw from this Consent Decree upon written notice to the other party prior to the issuance of such Adopting Order.

9. The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission and any violation of the terms of this Consent Decree shall constitute a violation of a Commission order entitling the Commission to exercise any and all rights and to seek any and all remedies authorized by law for an enforcement of a Commission order.

10. TMS acknowledges the jurisdiction of the Commission to adopt this Consent Decree.

11. TMS waives any rights it may have to seek judicial review or otherwise challenge or contest the validity of the Adopting Order or this Consent Decree.

12. TMS waives any rights it may have under any provision of the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. §§ 1.1501 *et seq.*

13. The Parties agree that this Consent Decree is for settlement purposes and that TMS does not admit any alleged violation or liability.

14. TMS shall make a voluntary contribution to the United States Treasury in the amount of \$15,000 within 30 days of the effective date of this Consent Decree. Such contribution shall be made, without further protest or recourse, by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200132100013.

15. TMS will implement a Regulatory Compliance Plan (“RCP”) that will include the appointment of an employee, the VSAT Manager, who will be responsible for overseeing compliance with the Commission’s technical rules. This employee will review Commission rules for specific applicability to the TMS VSAT system. The VSAT Manager will also review current periodicals and other information provided by the TMS satellite services provider. The Project Management Office of the Information Systems Department at TMS will be responsible for alerting the VSAT Manager of the impending due date for compliance certifications, regulatory filing fees and license renewals. The VSAT Manager is the person responsible for completing the required compliance certifications, as well as documentation for annual regulatory fees and/or license renewals, and submitting these to the Commission. TMS shall provide the Chief of the Bureau (or the designee of the Chief) within thirty (30) calendar days of the receipt of a written request from the Bureau, copies of business records kept in the ordinary course demonstrating implementation and use of the RCP. TMS may request that such records be treated as confidential business records and such records shall be subject to all the protections afforded to confidential business records under the Commission’s rules. Nothing in this Consent decree shall be deemed to be an obligation on the part of TMS to disclose to the Bureau “material inside information” as that term is defined in applicable securities laws and regulations, or proprietary technical or engineering data, techniques or procedures.

16. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement of the inquiry of the Bureau into the matters described above. The Bureau will not initiate or entertain any enforcement actions against TMS, nor will it seek, entertain or impose any administrative or other penalties or injunctive or other relief from or against TMS based on any complaint, claim or allegation arising out of the matters described above.

17. The Parties agree that the terms and conditions of this Consent Decree shall remain in effect for twenty-four (24) months from the effective date of this Consent Decree, which shall be the date of the release of the Adopting Order.

18. If this Consent Decree is not signed by both Parties, is not adopted by the Bureau or is otherwise rendered invalid by any court of competent jurisdiction, it shall become null and void and shall not become part of the record in these enforcement proceedings nor may it be used by any party in a legal proceeding. The Parties agree, however, that except as otherwise ordered by any court of competent jurisdiction, the Parties will comply with, defend and support the validity of this Consent Decree and the Adopting Order in any proceeding seeking to nullify, void or otherwise modify the Consent Decree or the Adopting Order.

19. This Consent Decree may be signed in counterparts.

For the Federal Communications Commission:

David H. Solomon
Chief, Enforcement Bureau

For Toyota Motor Sales, U.S.A., Inc.

Veronica M. Ahern
Its Attorney