

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

In the Matter of	)	
	)	
One Call Communications, Inc. d/b/a Opticom	)	
	)	File No. EB-02-TC-003
	)	NAL/Acct. No. 200232170005
Operator Service Provider Requirements	)	FRN: 0003772910
	)	

**MEMORANDUM OPINION AND ORDER**

Adopted: August 21, 2003

Released: August 22, 2003

By the Chief, Telecommunications Consumers Division, Enforcement Bureau:

1. On September 23, 2002, the Commission released a Notice of Apparent Liability (“NAL”) against One Call Communications, Inc., d/b/a Opticom regarding apparent non-compliance with Sections 226(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 226(b) (“the Act”) and Sections 64.703 *et seq.* of the Commission’s rules, 47 C.F.R. 64.703(a), (a)(3)(i), (a)(4).<sup>1</sup> On October 23, 2003, One Call Internet, Inc. (“OCI”) formerly known as One Call Communications, Inc. filed a Response and Motion to Dismiss the Notice of Apparent Liability.<sup>2</sup> On October 30, 2003, OCMC, Inc. (d/b/a “One Call Communications, Inc.” hereinafter “OCMC”) also filed a response to the NAL.

2. The NAL alleges violations of the Act and the Commission’s rules involving calls dialed in May and June of 2002 to twenty-six (26) specific toll-free access codes. The NAL tentatively concludes that a forfeiture is warranted for apparent violations of the requirements which govern operator service providers, in particular, branding and failure to give rate disclosures to consumers.

3. OCI states in its *Response* that, on January 31, 2002, it entered into an Asset Purchase Agreement with OCMC, whereby OCI agreed to transfer to OCMC all of the assets used in OCI’s telecommunications business, subject to the receipt of all necessary regulatory approvals. Thereafter, OCI states that OCMC provided management services to OCI in order to ensure continued service to existing OCI telecommunications customers pending regulatory approvals. An application to assign OCI’s international Section 214 authorization and to transfer

<sup>1</sup> See *One Call Communications, Inc. d/b/a/ Opticom*, Notice of Apparent Liability for Forfeiture, 17 FCC Rcd 18646 (2002).

<sup>2</sup> *Response and Motion to Dismiss*, File No. EB-02-TC-003, filed by One Call Internet, Inc., (October 23, 2002) (“Response”).

control of OCI's domestic 214 authorization was filed on July 24, 2002.<sup>3</sup> On August 5, 2003 respondents OCI and OCMC submitted a *Joint Stipulation* stating that both parties agree that OCI has not served, nor does it currently serve, any of the toll-free access codes cited in the *NAL*.<sup>4</sup>

4. The record, supplemented by the *Joint Stipulation*, indicates that OCI did not serve the toll-free access codes cited in the *NAL* at any time during the Investigation. Accordingly, to the extent OCI entered an appearance, it should be dismissed from this proceeding.

5. This Order has no impact on our proposal to assess a forfeiture against OCMC, Inc., the entity currently doing business as "One Call Communications, Inc.," "Opticom," and "One Call." The Commission will address the *NAL* as it relates to OCMC, Inc. in a separate order. Nothing herein constitutes a decision with respect to OCMC, Inc.

6. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), and 503(b),<sup>5</sup> and Section 1.80(f)(4) of the Commission's rules,<sup>6</sup> and authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311,<sup>7</sup> that the Motion to Dismiss the Notice of Apparent Liability with regard to One Call Internet, Inc. IS GRANTED.

7. IT IS FURTHER ORDERED that, a copy of this Order shall be sent by certified mail, return receipt requested, to counsel for One Call Internet, Inc., Steven A. Augustino, Esq., Kelley Drye & Warren LLP, 1200 19<sup>th</sup> Street, N.W., Suite 500, Washington, D.C. 20036.

#### FEDERAL COMMUNICATIONS COMMISSION

Colleen K. Heitkamp  
Chief, Telecommunications Consumers Division  
Enforcement Bureau

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<sup>3</sup> See One Call Communications, Inc. and OCMC, Inc. Application to Assign International Section 214 Authorizations and to Transfer Control of Domestic Section 214 Authorization, ITC-ASG-20020724-00410 (assignment of international authorization granted September 11, 2002, DA No. 02-2234). Approval of the transfer of control of the domestic Section 214 authorization is pending.

<sup>4</sup> See letter from Steven A. Augustino, Counsel to One Call Internet, Inc. to Colleen K. Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, August 5, 2003 ("*Joint Stipulation*").

<sup>5</sup> 47 U.S.C. §§ 151, 154(i), 154(j), and 503(b).

<sup>6</sup> 47 C.F.R. § 1.80(f)(4).

<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311.