

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APCC Services, Inc.,
Data Net Systems, LLC,
Davel Communications, Inc.,
Jaroth, Inc. dba Pacific Telemanagement
Services, and
Intera Communications Corp.,
Complainants,
v.
Telstar International, Inc.,
Defendant.

File No. EB-03-MDIC-0022

ORDER

Adopted: June 30, 2004

Released: July 1, 2004

By the Deputy Chief, Market Disputes Resolution Division, Enforcement Bureau:

1. On June 30, 2003, APCC Services, Inc., et al. ("APCC" or "Complainants") filed an informal complaint alleging that Telstar International, Inc. ("Telstar") is responsible for paying dial around compensation for certain types of completed calls carried by its network that originated from APCC's payphones.1 Telstar replied to the Complaint on August 16, 2003.2 Therefore, pursuant to section 1.718 of the Commission's rules, the Complainants were required

1 Letter from Allan C. Hubbard, Attorney for Complainants, to Marlene H. Dortch, Secretary, Federal Communications Commission, File No. EB-03-MDIC-0022 (June 30, 2003).

2 Letter from Menachem Ash, General Counsel, Telstar, to Sandra Gray-Fields, Staff Assistant, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-03-MDIC-0022 (Aug. 16, 2003).

to convert their informal complaint into a formal complaint by February 16, 2004, or their informal complaint would be deemed to have been abandoned.<sup>3</sup>

2. Since Telstar's response, the parties have engaged in discussions in an attempt to resolve the complaint.<sup>4</sup> Consequently, on February 5, 2004, APCC sought a waiver of section 1.718 of the Commission's rules, and, in particular, requested an extension of the deadline for filing a formal complaint from February 16, 2004, to March 16, 2004 ("February 5, 2004 APCC Waiver Request").<sup>5</sup> Because Telstar did not object to the extension, and because we determined that the extension would serve the public interest by promoting the private resolution of disputes, we granted the extension.<sup>6</sup> Similarly, on March 2, 2004, the parties filed a joint request for further extension of time from March 16, 2004, to June 11, 2004 ("March 2, 2004 Joint Waiver Request"), and on June 10, 2004, the parties filed an additional joint request for further extension of time seeking an extension of the deadline for filing a formal complaint from June 11, 2004, to August 20, 2004 ("June 10, 2004 Joint Waiver Request").<sup>7</sup> For the same reasons we granted the February 5, 2004 APCC Waiver Request, we granted the March 2, 2004 Joint Waiver Request and the June 10, 2004 Joint Waiver Request.<sup>8</sup>

3. Pursuant to discussions with Commission staff, the parties are currently scheduled to participate in a staff-sponsored mediation session on September 2, 2004. Accordingly, on June 28, 2004, the parties filed a joint request for further extension of time seeking an extension of the deadline for filing a formal complaint from August 20, 2004, to September 24, 2004 ("June 28, 2004 Joint Waiver Request").<sup>9</sup> In view of the parties' good faith and progress toward settlement of outstanding issues, we are satisfied that granting the June 28, 2004 Joint Waiver Request will serve the public interest, and will postpone the need for further litigation and

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<sup>3</sup> 47 C.F.R. § 1.718.

<sup>4</sup> See Letter from Allan C. Hubbard, Attorney for Complainants, to Jonathan Reel, Attorney, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-03-MDIC-0022 (Feb. 5, 2004).

<sup>5</sup> *Id.* at 1.

<sup>6</sup> Letter from Menachem Ash, Attorney for Defendant, to Jonathan Reel, Attorney, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-03-MDIC-0022 (Feb. 9, 2004); *APCC et al. v. Telstar*, Order, DA No. 04-343, File No. EB-03-MDIC-0022 (rel. Feb. 11, 2004).

<sup>7</sup> Letter from Allan C. Hubbard, Attorney for Complainants, to Jonathan Reel, Attorney, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-03-MDIC-0022 (Mar. 2, 2004); Letter from Menachem Ash, Attorney for Defendants, to Michael Engel, Attorney, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-03-MDIC-0022 (June 10, 2004).

<sup>8</sup> *APCC et al. v. Telstar*, Order, DA No. 04-1043, File No. EB-03-MDIC-0022 (rel. Apr. 19, 2004); *APCC et al. v. Telstar*, Order, DA No. 04-1749, File No. EB-03-MDIC-0022 (rel. June 21, 2004).

<sup>9</sup> Letter from Menachem Ash, Attorney for Defendant, and Allan Hubbard, Attorney for Complainants, to Michael Engel, Attorney, Market Disputes Resolution Division, Enforcement Bureau, FCC, File No. EB-03-MDIC-0022 (June 28, 2004).

expenditure of further time and resources of the parties and of this Commission until such time as may actually be necessary.

4. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and sections 1.3 and 1.718 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.718, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that the request for extension of time to file complainants' formal complaint IS GRANTED.

5. IT IS FURTHER ORDERED that the deadlines that otherwise would apply under section 1.718 of the Commission's rules, 47 C.F.R. § 1.718, are hereby waived, and the date that the Complainants must convert their informal complaint against Telstar to a formal complaint pursuant to section 1.718 of the Commission's rules, 47 C.F.R. § 1.718, is extended to September 24, 2004, unless otherwise extended by further order.

FEDERAL COMMUNICATIONS COMMISSION

Lisa B. Griffin  
Deputy Chief, Market Disputes Resolution Division  
Enforcement Bureau