

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

In the Matter of	)	File No. EB-07-SE-227
	)	
Sling Media, Inc.	)	Acct. No. 200832100081
	)	
	)	FRN No. 0018087270

**ORDER**

**Adopted: September 11, 2008**

**Released: September 12, 2008**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau ("Bureau") and Sling Media, Inc. ("Sling"). The Consent Decree terminates an investigation by the Bureau against Sling for possible violation of Section 15.117(i)(iv) of the Commission's Rules ("Rules")<sup>1</sup> regarding the importation or interstate shipment, after March 1, 2007, of video devices that receive over-the-air television signals without a digital television ("DTV") tuner.

2. The Bureau and Sling have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Sling possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,<sup>2</sup> and sections 0.111 and 0.311 of the Commission's Rules,<sup>3</sup> the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that all third-party complaints against Sling before the Bureau related to the above-captioned-investigation as of the date of this Consent Decree **ARE DISMISSED**.

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<sup>1</sup> 47 C.F.R. § 15.117(i)(iv).

<sup>2</sup> 47 U.S.C. § 154(i).

<sup>3</sup> 47 C.F.R. §§ 0.111, 0.311.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to David H. Solomon, Esq., Wilkinson Barker Knauer, LLP, 2300 N St., NW, Suite 700, Washington, DC 20037.

FEDERAL COMMUNICATIONS COMMISSION

*For*   
Kris Anne Monteith  
Chief, Enforcement Bureau

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**CONSENT DECREE**

The Enforcement Bureau ("Bureau") and Sling Media, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Commission's Investigation into whether Sling violated Section 15.117(i)(iv) of the Commission's Rules ("Rules")<sup>1</sup> regarding the importation or interstate shipment, after March 1, 2007, of video devices that receive over-the-air television signals without a digital television ("DTV") tuner.

**I. DEFINITIONS**

1. For the purposes of this Consent Decree, the following definitions shall apply:
  - (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
  - (b) "Adopting Order" means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (c) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
  - (d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
  - (e) "DTV" means digital television.
  - (f) "Effective Date" means the date on which the Bureau releases the Adopting Order.
  - (g) "Investigation" means the investigation commenced by the Bureau's July 31, 2007 Letter of Inquiry regarding whether Sling violated Section 15.115(i)(iv) of the Rules, by importing or shipping interstate, after March 1, 2007, video devices that receive over-the-air television signals but do not include a DTV tuner.<sup>2</sup>
  - (h) "Parties" means Sling and the Bureau.

<sup>1</sup> 47 C.F.R. § 15.117(i)(iv).

<sup>2</sup> Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Blake Krikorian, CEO, Sling Media, Inc. (July 31, 2007) ("July 31, 2007 LOI").

- (i) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.
- (j) "Sling" means Sling Media, Inc. and its subsidiaries and its and their predecessors-in-interest and successors-in-interest.
- (k) "Slingbox" means a device manufactured by or for Sling that is an Internet Protocol ("IP")-enabled digital device that permits a user to watch television programming, received or recorded on his or her home entertainment system, via a remote Internet or IP connection from a laptop, mobile phone, or other computing device.

## II. BACKGROUND

2. Section 15.117(i)(iv) of the Commission's Rules requires that new video devices that receive television signals, imported into the United States or shipped interstate, be equipped with a DTV tuner, effective March 1, 2007.<sup>3</sup> The Bureau issued a Letter of Inquiry to Sling regarding Sling's compliance with this rule on July 31, 2007.<sup>4</sup> Sling responded on August 30, 2007, and filed a supplemental response on October 11, 2007.<sup>5</sup>

## III. TERMS OF AGREEMENT

3. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

4. **Jurisdiction.** Sling agrees that the Bureau has jurisdiction with respect to the subject matter of this Consent Decree and has the authority to enter into and adopt this Consent Decree.

5. **Effective Date; Violations.** 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 Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Bureau Order.

6. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate its Investigation. In consideration for the termination of said Investigation and the provisions set forth herein, Sling agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, or recommend to the Commission, any new proceeding, formal or informal, or take any action on its own motion, or recommend to the Commission any action, against Sling concerning the matters that were the subject of the investigation. The Bureau also agrees that it will not use the facts developed in this investigation through the Effective Date of this Consent Decree, or the

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<sup>3</sup> 47 C.F.R. § 15.117(i)(iv).

<sup>4</sup> July 31, 2007 LOI.

<sup>5</sup> Letter from Glenn B. Manishin, Counsel for Sling, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (Aug. 30, 2007); Letter from Glenn B. Manishin, Counsel for Sling, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (Oct. 11, 2007).

the incumbent LEC's (FairPoint) territory in Portland, Lewiston, Augusta, Waterville, Bangor, and Ellsworth, Maine,<sup>3</sup> and two interexchange carriers serving customers in Maine and Alabama.<sup>4</sup> Applicants state that no stockholder holds a ten percent or greater interest in Otelco.

Pursuant to the proposed transaction, Otelco will purchase all of the issued and outstanding capital stock of Pine Tree Holdings, Inc., Granby Holdings, Inc. and War Holdings, Inc., each of which are wholly owned subsidiaries of Country Road. As a result, Otelco will have full indirect ownership of the Country Road Companies. Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(iii) of the Commission's rules and that a grant of the application will serve the public interest, convenience, and necessity.<sup>5</sup>

Application Filed for the Transfer of Control of Country Road Communications LLC to Otelco Inc., WC Docket No. 08-169 (filed Aug. 18, 2008).

### **GENERAL INFORMATION**

The Wireline Competition Bureau finds, upon initial review, that the transfer of control identified herein is acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 63.03(a) of the Commission's rules, 47 C.F.R. § 63.03(a), interested parties may file comments on or before September 18, 2008, and reply comments on or before September 25, 2008. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31<sup>st</sup> day after the date of this notice.<sup>6</sup> Comments must be filed electronically using (1) the Commission's Electronic Comment Filing System (ECFS) or (2) the Federal Government's eRulemaking Portal. See 47 C.F.R. § 63.03(a) ("All comments on streamlined applications shall be filed electronically . . ."); *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

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Alabama; (5) through Mid-Missouri Holding Corp, Mid-Missouri Telephone Company, serving twelve exchanges in Cooper, Moniteau, Morgan, Pettis, and Saline Counties, Missouri; (6) through Mid-Maine Communications, Inc., Mid-Maine Telecom, Inc., serving exchanges in Levant, Plymouth, Alton, Old Town Rural, and West Enfield, Maine.

<sup>3</sup> Otelco wholly owns Mid-Maine Telplus d/b/a Mid-Maine Long Distance (Mid-Maine Telplus) that provides competitive LEC services in the listed areas in Maine. Applicants state that Mid-Maine Telplus does not provide service in the exchange areas served by Country Road's Maine incumbent LECs, and CRC does not provide service in the exchanges served by Otelco's Maine incumbent LEC. Applicants state that CRC is authorized by the Maine Public Utilities Commission to provide competitive LEC services in the telephone exchanges served by Otelco's Mid-Maine Telecom, Inc. as part of its state-wide authorization. They further state that CRC, however, does not have an interconnection agreement with Mid-Maine Telecom, Inc., and that CRC does not actually provide service in the exchanges served by Mid-Maine Telecom, Inc.

<sup>4</sup> Otelco owns 100 percent of Otelco Telecommunications LLC that serves the customers of Otelco's four incumbent LECs in Alabama. Mid-Maine Telplus also offers interexchange services to its competitive LEC subscribers and to the local subscribers of Mid-Maine Telecom, Inc.

<sup>5</sup> 47 C.F.R. § 63.03(b)(2)(iii).

<sup>6</sup> Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

- Comments may be filed electronically using the Internet by accessing the ECFS, <http://www.fcc.gov/cgb/ecfs/>, or the Federal eRulemaking Portal, <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

**In addition, email one copy of each pleading to each of the following:**

- 1) The Commission's duplicating contractor, Best Copy and Printing, Inc., [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com); phone: 202 / 488-5300; fax: 202 / 488-5563;
- 2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, [tracey.wilson-parker@fcc.gov](mailto:tracey.wilson-parker@fcc.gov);
- 3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, [dennis.johnson@fcc.gov](mailto:dennis.johnson@fcc.gov);
- 4) David Krech, International Bureau, Policy Division, International Bureau, [david.krech@fcc.gov](mailto:david.krech@fcc.gov);
- 5) Jim Bird, Office of General Counsel, [jim.bird@fcc.gov](mailto:jim.bird@fcc.gov).

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; telephone: 202 / 488-5300; fax: 202 / 488-5563; email: [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com); url: [www.bcpiweb.com](http://www.bcpiweb.com).

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For further information, please contact Tracey Wilson-Parker at 202 / 418-1394 or Dennis Johnson at 202 / 418-0809.

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