

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

In the Matter of	)	
	)	File No. EB-09-SE-188
Total Call Mobile, Inc.	)	NAL/Acct. No. 201132100005
	)	FRN 0018458091
	)	

**ORDER AND NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: October 25, 2010**

**Released: October 26, 2010**

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find that Total Call Mobile, Inc. (“TCM”), a reseller of mobile wireless services,<sup>1</sup> apparently willfully violated the wireless handset hearing aid compatibility status report filing requirements set forth in Section 20.19(i)(1) of the Commission’s Rules (“Rules”)<sup>2</sup> and apparently willfully and repeatedly violated the public web site posting requirements set forth in Section 20.19(h) of the Rules.<sup>3</sup> For these apparent violations, we propose a forfeiture in the amount of twelve thousand dollars (\$12,000). We also direct TCM to file the required wireless handset hearing aid compatibility status report within thirty (30) days of the release of this NAL.

**II. BACKGROUND**

2. In the 2003 *Hearing Aid Compatibility Order*, the Commission adopted several measures to enhance the ability of individuals with hearing disabilities to access digital wireless telecommunications.<sup>4</sup> The Commission established technical standards that digital wireless handsets must meet to be considered compatible with hearing aids operating in acoustic coupling and inductive coupling (telecoil) modes.<sup>5</sup> The Commission further established, for each standard, deadlines by which manufacturers and service providers were required to offer specified numbers or percentages of digital wireless handsets per air interface<sup>6</sup> that are compliant with the relevant

<sup>1</sup> Total Call Mobile, Inc. also holds both domestic and international Section 214 authorizations.

<sup>2</sup> 47 C.F.R. § 20.19(i)(1).

<sup>3</sup> 47 C.F.R. § 20.19(h).

<sup>4</sup> The Commission adopted these requirements for digital wireless telephones under the authority of the Hearing Aid Compatibility Act of 1988, codified at Section 710(b)(2)(C) of the Communications Act of 1934, as amended, 47 U.S.C. § 610(b)(2)(C). See *Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones*, Report and Order, 18 FCC Rcd 16753, 16787 ¶ 89 (2003); Erratum, 18 FCC Rcd 18047 (2003) (“*Hearing Aid Compatibility Order*”); Order on Reconsideration and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11221 (2005).

<sup>5</sup> See *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16777 ¶ 56; 47 C.F.R. §§ 20.19(b)(1) and (2).

<sup>6</sup> The term “air interface” refers to the technical protocol that ensures compatibility between mobile radio service equipment, such as handsets, and the service provider’s base stations. Currently, the leading air interfaces include Code Division Multiple Access (CDMA), Global System for Mobile Communications

standard if they did not come under the *de minimis* exception.<sup>7</sup> In February 2008, as part of a comprehensive reconsideration of the effectiveness of the hearing aid compatibility rules, the Commission released an order that, among other things, adopted new compatible handset deployment benchmarks beginning in 2008.<sup>8</sup>

3. Of primary relevance, the Commission also adopted reporting requirements to ensure that it could monitor the availability of these handsets and to provide valuable information to the public concerning the technical testing and commercial availability of hearing aid-compatible handsets, including on the Internet.<sup>9</sup> The Commission initially required manufacturers and digital wireless service providers to report every six months on efforts toward compliance with the hearing aid compatibility requirements for the first three years of implementation (May 17, 2004, November 17, 2004, May 17, 2005, November 17, 2005, May 17, 2006 and November 17, 2006), and then annually thereafter through the fifth year of implementation (November 19, 2007 and November 17, 2008).<sup>10</sup> In its 2008 *Hearing Aid Compatibility First Report and Order*, the Commission extended these reporting requirements with certain modifications on an open ended basis, beginning January 15, 2009.<sup>11</sup> The Commission also made clear that these reporting requirements apply to manufacturers and service providers that fit within the *de minimis* exception.<sup>12</sup> In addition, the Commission instituted a requirement that manufacturers and service providers with publicly-accessible web sites maintain a list of hearing aid-compatible handset models and provide certain information regarding those models on their web sites.<sup>13</sup> The web site postings, which must be updated within 30 days of a change in a manufacturer's or service provider's offerings, enable consumers to obtain up-to-date hearing aid compatibility information from their service providers.<sup>14</sup>

4. TCM failed to file the required hearing aid compatibility status report for the period of July 1, 2008 through December 31, 2008 (due January 15, 2009). TCM also failed to post on its web site required information concerning the ratings and level of functionality of its hearing aid-compatible handset models. The Wireless Telecommunications Bureau ("WTB") referred TCM's apparent violation of the reporting requirements to the Enforcement Bureau for

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(GSM), Integrated Digital Enhanced Network (iDEN) and Wideband Code Division Multiple Access (WCDMA) a/k/a Universal Mobile Telecommunications System (UMTS).

<sup>7</sup> See *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16780 ¶ 65; 47 C.F.R. §§ 20.19(c) and (d). The *de minimis* exception provides that manufacturers or mobile service providers that offer two or fewer digital wireless handset models per air interface are exempt from the hearing aid compatibility deployment requirements, and manufacturers or mobile service providers that offer three digital wireless handset models per air interface must offer at least one compliant model. 47 C.F.R. § 20.19(e).

<sup>8</sup> See *Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, First Report and Order, 23 FCC Rcd 3406 (2008) ("*Hearing Aid Compatibility First Report and Order*"), Order on Reconsideration and Erratum, 23 FCC Rcd 7249 (2008).

<sup>9</sup> See *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3443 ¶ 91.

<sup>10</sup> *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16787 ¶ 89; see also *Wireless Telecommunications Bureau Announces Hearing Aid Compatibility Reporting Dates for Wireless Carriers and Handset Manufacturers*, Public Notice, 19 FCC Rcd 4097 (Wireless Tel. Bur. 2004).

<sup>11</sup> See *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3445-46 ¶¶ 97-99.

<sup>12</sup> *Id.* at 3446 ¶ 99.

<sup>13</sup> *Id.* at 3450 ¶ 112.

<sup>14</sup> *Id.*

possible enforcement action.

5. On November 23, 2009, the Enforcement Bureau's Spectrum Enforcement Division ("Division") issued TCM a Letter of Inquiry ("LOI"),<sup>15</sup> to which TCM responded on February 4, 2010.<sup>16</sup> In its LOI response, TCM explained that once aware of the requirement to file the status report set forth in Section 20.19(i)(1) of the Rules, it filed this year's annual status report on January 15, 2010.<sup>17</sup> In addition, TCM noted that on January 15, 2010, its web site<sup>18</sup> complied with Section 20.19(h) of the Rules, listing its hearing aid-compatible handsets, the compatibility ratings, and an explanation of the ratings system.<sup>19</sup>

### III. DISCUSSION

#### A. Failure to File Timely Hearing Aid Compatibility Status Report

6. Section 20.19(i)(1) of the Rules requires service providers to submit hearing aid compatibility status reports on January 15, 2009 (covering the six-month period ending December 31, 2008) and then annually thereafter.<sup>20</sup> These reports are necessary to enable the Commission to perform its enforcement function and evaluate whether TCM is in compliance with Commission mandates that were adopted to facilitate the accessibility of hearing aid-compatible wireless handsets. These reports also provide valuable information to the public concerning the technical testing and commercial availability of hearing aid-compatible handsets. To date, Commission records show no January 15, 2009 status report on file for TCM.<sup>21</sup> Accordingly, we find that TCM failed to timely file the hearing aid compatibility status report due on January 15, 2009 in apparent willful<sup>22</sup> violation of the requirements set forth in Section 20.19(i)(1) of the Rules.<sup>23</sup>

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<sup>15</sup> See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau to Mark Leafstedt, CEO, Total Call Mobile, Inc. (November 23, 2009) ("LOI").

<sup>16</sup> See Letter from Mark Leafstedt, CEO, Total Call Mobile, Inc., to Spectrum Enforcement Division, Enforcement Bureau (January 26, 2010) (received February 4, 2010) ("LOI Response").

<sup>17</sup> See *id.* We note that the January 2010 Hearing Aid Compatibility Status Reports are now posted on the Commission's web site at [http://wireless.fcc.gov/hac/index.htm?jobs\\_reports\\_sp](http://wireless.fcc.gov/hac/index.htm?jobs_reports_sp).

<sup>18</sup> See <http://www.totalcallmobile.com/phones.aspx>.

<sup>19</sup> See LOI Response at 2.

<sup>20</sup> 47 C.F.R. § 20.19(i)(1).

<sup>21</sup> As TCM noted in its *LOI Response*, and as Commission records confirm, TCM filed this year's report on January 15, 2010, as required under our Rules. See LOI Response at 2. To date, however, TCM has not filed the January 15, 2009 report.

<sup>22</sup> Section 312(f)(1) of the Act defines "willful" as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97<sup>th</sup> Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the Section 503(b) context. See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 ¶ 5 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992) ("*Southern California*"); see also *Telrite Corporation*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 7231, 7237 ¶ 12 (2008) ("*Telrite*"); *Regent USA*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 10520, 10523 ¶ 9 (2007); *San Jose Navigation, Inc.*, Forfeiture Order 22 FCC Rcd 1040, 1042 ¶ 9 (2007).

<sup>23</sup> 47 C.F.R. § 20.19(i)(1).

**B. Failure to Post Required Information Concerning Hearing Aid-Compatible Handset Models on its Web Site**

7. Section 20.19(h) of the Rules requires that, beginning January 15, 2009, each manufacturer and service provider that operates a publicly-accessible web site make available on its web site a list of all hearing aid-compatible handset models currently offered, the ratings of those models, and an explanation of the rating system. Section 20.19(h) also requires service providers to post on their web sites the level of functionality of each model and an explanation of the service provider's methodology for designating levels of functionality.<sup>24</sup> In addition, the Commission has stated that any changes to a manufacturer's or service provider's offerings must be reflected on its public web site listing within 30 days of the change.<sup>25</sup> These web site postings provide consumers up-to-date hearing aid compatibility information. TCM states that as of January 15, 2010, it complied with the web site posting requirements, providing a detailed listing of hearing aid-compatible phones, the ratings of each model offered, and an explanation of the rating system. TCM also states that the web site information will be updated as necessary. TCM states that it regrets that it failed to comply in a timely manner and asserts that it promptly posted the information on its web site once it was aware of the requirement.<sup>26</sup> In light of TCM's admissions, we find that TCM failed to timely meet the web site information posting requirements in apparent willful and repeated<sup>27</sup> violation of Section 20.19(h) of the Rules.<sup>28</sup>

**C. Proposed Forfeiture**

8. Under Section 503(b)(1)(B) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.<sup>29</sup> To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability and the person against whom such notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.<sup>30</sup> The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.<sup>31</sup> Under this standard, we conclude that TCM is apparently liable for forfeiture for its failure to timely file the required hearing aid compatibility status report in apparent willful violation of Section 20.19(i)(1) of the Rules, and for its failure to timely post the required information regarding its hearing aid-compatible handsets on its web site in apparent willful and repeated violation of Section 20.19(h) of the Rules.

9. The Commission's *Forfeiture Policy Statement* and Section 1.80(b) of the Rules

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<sup>24</sup> See 47 C.F.R. § 20.19(h).

<sup>25</sup> See *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3450 ¶ 112.

<sup>26</sup> *LOI Response* at 2.

<sup>27</sup> Section 312(f)(2) of the Act provides that "[t]he term 'repeated', ... means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2). As with the definition of "willful," the Commission has interpreted the term to apply to forfeiture proceedings. See *Southern California, supra*.

<sup>28</sup> 47 C.F.R. § 20.19(h).

<sup>29</sup> 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

<sup>30</sup> 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

<sup>31</sup> See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 ¶ 4 (2002).

set a base forfeiture amount of \$3,000 for the failure to file required forms or information.<sup>32</sup> While the base forfeiture guidelines lend some predictability to the forfeiture process, the Commission retains the discretion to depart from these guidelines and issue forfeitures on a case-by-case basis under its general forfeiture authority contained in Section 503 of the Act.<sup>33</sup> In exercising such discretion, we are required to take into account “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”<sup>34</sup>

10. We have exercised our discretion to set a higher base forfeiture amount for violations of the wireless hearing aid compatibility reporting requirements. In the *American Samoa Telecommunications Authority NAL*,<sup>35</sup> we found that status reports are essential to the implementation and enforcement of the hearing aid compatibility rules. The Commission relies on these reports to provide consumers with information regarding the technical specifications and commercial availability of hearing aid-compatible digital wireless handsets and to hold the digital wireless industry accountable to the increasing number of hearing-impaired individuals.<sup>36</sup> We noted that when setting an \$8,000 base forfeiture for violations of the hearing aid-compatible handset labeling requirements, the Commission emphasized that individuals with hearing impairments could only take advantage of critically important public safety benefits of digital wireless services if they had access to accurate information regarding hearing aid compatibility features of handsets.<sup>37</sup> We also noted that the Commission has adjusted the base forfeiture upward when noncompliance with filing requirements interferes with the accurate administration and enforcement of Commission rules.<sup>38</sup> Because the failure to file hearing aid compatibility status reports implicates similar public safety and enforcement concerns, we exercised our discretionary authority and established a base forfeiture amount of \$6,000 for failure to file hearing aid compatibility reports.<sup>39</sup> Consistent with *ASTCA*, we believe the established \$6,000 base forfeiture for each hearing aid compatibility reporting violation should apply here.

11. Failure to file these reports, as is the case here, can have an adverse impact on the Commission’s ability to ensure the commercial availability of hearing aid-compatible digital wireless handsets, to the detriment of consumers. Furthermore, in *ASTCA*, we made clear that failure to file a hearing aid compatibility status report constitutes a continuing violation that

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<sup>32</sup> *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17114, *recon. denied*, 15 FCC Rcd 303 (1999) (“*Forfeiture Policy Statement*”); 47 C.F.R. § 1.80(b), Note to paragraph (b)(4): Section I. Base Amounts for Section 503 Forfeitures.

<sup>33</sup> *See Forfeiture Policy Statement*, 12 FCC Rcd at 17099 ¶ 22, 17101 ¶ 29. *See also* 47 C.F.R. § 1.80(b)(4) (“The Commission and its staff *may* use these guidelines in particular cases [and] retain the discretion to issue a higher or lower forfeiture than provided in the guidelines, to issue no forfeiture at all, or to apply alternative or additional sanctions as permitted by the statute.”) (*emphasis added*).

<sup>34</sup> 47 U.S.C. § 503(b)(2)(E). *See also* 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section II. Adjustment Criteria for Section 503 Forfeitures.

<sup>35</sup> *See American Samoa Telecommunications Authority*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 16432 (Enf. Bur., Spectrum Enf. Div. 2008), *response pending* (“*ASTCA NAL*”).

<sup>36</sup> *See ASTCA NAL*, 23 FCC Rcd at 16436-47 ¶ 10.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

continues until the violation is cured.<sup>40</sup> TCM's failure to file the report on time had an adverse impact on the Commission's ability to monitor and ensure the commercial availability of hearing aid-compatible digital wireless handsets. We do not believe that the circumstances presented warrant any downward adjustment of the proposed forfeiture amount. It is well established that a violator's lack of knowledge or erroneous beliefs are not a mitigating factor warranting a forfeiture reduction.<sup>41</sup> Accordingly, we propose a forfeiture of \$6,000 against TCM for apparently willfully failing to timely file its January 15, 2009 hearing aid compatibility status report in violation of Section 20.19(i)(1) of the Rules.<sup>42</sup>

12. We have also recently exercised our discretion to set a higher base forfeiture amount for violation of the web posting requirements set forth in Section 20.19(h) of the Rules. In determining the appropriate forfeiture amount for violation of the web site information posting requirements, we noted that these requirements are "essential to the proper functioning of our hearing aid compatibility rules" and serve to increase the availability of up-to-date hearing aid compatibility information to consumers and service providers.<sup>43</sup> In particular, we found that the web site may be the primary means through which consumers obtain information, and that the updated information between status reports is likely to be critical to both consumers and service providers.<sup>44</sup> We further found that the web site postings, which must be updated within 30 days of a change in a manufacturer's or service provider's offerings, will enable consumers to obtain up-to-date hearing aid compatibility information from their service providers and will also enable service providers to readily obtain up-to-date information from their manufacturer suppliers.<sup>45</sup> Accordingly, we concluded that the same considerations that led us to increase the base forfeitures

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<sup>40</sup> *Id.* at 16437 ¶ 11. *See also Telrite*, 23 FCC Rcd at 7244-45 ¶ 30 (determining that the failure to file Telecommunications Reporting Worksheets was a continuing violation); *Compass Global, Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6125, 6138 ¶ 29 (2008) (same); *VCI Company*, Notice of Apparent Liability for Forfeiture and Order, 22 FCC Rcd 15933, 15940 ¶ 20 (2007) (determining that the failure to file Lifeline and Linkup Worksheets was a continuing violation).

<sup>41</sup> *See, e.g., Profit Enterprises, Inc.*, Notice of Apparent Liability for Forfeiture, 8 FCC Rcd 2846, 2846 ¶ 5 (1993), *cancelled on other grounds*, 12 FCC Rcd 14999 (1997) (denying the mitigation claim of a manufacturer/distributor who thought that the equipment certification and marketing requirements were inapplicable, stating that its "prior knowledge or understanding of the law is unnecessary to a determination of whether a violation existed ... ignorance of the law is [not] a mitigating factor"); *Lakewood Broadcasting Service, Inc.*, Memorandum Opinion and Order, 37 FCC 2d 437, 438 ¶ 6 (1972) (denying a mitigation claim of a broadcast licensee who asserted an unfamiliarity with the station identification requirements, stating that licensees are expected "to know and conform their conduct to the requirements of our rules"); *Kenneth Paul Harris, Sr.*, Notice of Apparent Liability for Forfeiture, 15 FCC Rcd 12933, 12935 ¶ 7 (Enf. Bur. 2000), *forfeiture ordered*, 15 FCC Rcd 23991 (Enf. Bur. 2000), (denying a mitigation claim of a broadcast licensee, stating that its ignorance of the law did not excuse the unauthorized transfer of the station); *Maxwell Broadcasting Group, Inc.*, Memorandum Opinion and Order, 8 FCC Rcd 784, 784 ¶ 2 (MMB 1993), *recon. denied*, Memorandum Opinion and Order, 8 FCC Rcd 4322 (MMB 1993) (denying a mitigation claim of a noncommercial broadcast licensee, stating that the excuse of "inadverten[ce], due to inexperience and ignorance of the rules ... are not reasons to mitigate a forfeiture" for violation of the advertisement restrictions).

<sup>42</sup> 47 C.F.R. § 20.19(i)(1).

<sup>43</sup> *See e.g., Locus Telecommunications, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 330, 335 ¶ 13 (Enf. Bur., Spectrum Enf. Div. 2010) ("*Locus*") (quoting *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3450 ¶ 112).

<sup>44</sup> *Locus*, 25 FCC Rcd at 335 ¶ 14.

<sup>45</sup> *Id.*

for hearing aid compatibility status reporting violations also apply to the requirement for web posting.<sup>46</sup> We therefore established \$6,000 as the base forfeiture for violation of Section 20.19(h).<sup>47</sup>

13. As noted above, TCM admitted in its LOI Response that it failed to timely post the required information about its hearing aid-compatible handset models on its web site, stating that the information was posted on January 15, 2010, and would be updated as necessary. Accordingly, we propose a forfeiture of \$6,000 against TCM for apparently willfully and repeatedly failing to provide required information concerning its hearing aid-compatible handset models on its public web site in violation of Section 20.19(h) of the Rules.<sup>48</sup>

14. Finally, it appears that TCM still has not filed its hearing aid compatibility status report for the six-month period ending December 31, 2008, which was due on January 15, 2009. This report is necessary to enable the Commission to monitor the commercial availability of hearing aid-compatible handsets and to assess TCM's compliance with the hearing aid compatibility handset requirements during that period. We accordingly direct TCM to submit the report within thirty (30) days of the release of this *NAL*.

#### IV. ORDERING CLAUSES

15. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Section 1.80 of the Rules, Total Call Mobile, Inc. **IS NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twelve thousand dollars (\$12,000) for its failure to timely file its hearing aid compatibility status reports in apparent willful violation of the requirements set forth in Section 20.19(i)(1) of the Rules, and for failing to post required information concerning its hearing aid-compatible handset models on its public web site in apparent willful and repeated violation of Section 20.19(h) of the Rules.

16. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules, within thirty (30) days of the release date of this Notice of Apparent Liability for Forfeiture, TCM **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

17. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the *NAL*/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the *NAL*/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov) with any questions regarding payment procedures. TCM also shall send electronic notification to JoAnn Lucanik at [JoAnn.Lucanik@fcc.gov](mailto:JoAnn.Lucanik@fcc.gov) and to Jacqueline Johnson at [Jacqui.Johnson@fcc.gov](mailto:Jacqui.Johnson@fcc.gov)

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<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> 47 C.F.R. § 20.19(h).

on the date said payment is made.

18. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.80 (f)(3) and 1.16 of the Rules. The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption. The statement should also be e-mailed to JoAnn.Lucanik@fcc.gov and to Jacqui.Johnson@fcc.gov.

19. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

20. **IT IS FURTHER ORDERED** that, pursuant to Sections 4(i) and 4(j) of the Act and Section 20.19(i) of the Rules, TCM **SHALL SUBMIT** the report described in paragraph 14 within thirty (30) days of the release of this *NAL*. The report must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption. A copy of the report must also be emailed to JoAnn.Lucanik at JoAnn.Lucanik@fcc.gov, Jacqueline Johnson at Jacqui.Johnson@fcc.gov and Weiren Wang at Weiren.Wang@fcc.gov.

21. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail return receipt requested to Mark Leafstedt, CEO, Total Call Mobile, Inc., 707 Wilshire Boulevard, 12<sup>th</sup> Floor, Los Angeles, CA 90017.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot  
Chief, Spectrum Enforcement Division  
Enforcement Bureau