

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

In the Matter of)	File No.: EB-SED-13-00009451 ¹
)	
Call Mobile, Inc.)	Acct. No.: 201132100021
)	
Former licensee of Station WPKM300)	FRN: 0003780590

ORDER

Adopted: June 4, 2014

Released: June 5, 2014

By the Acting Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree to conclude its investigation into whether Call Mobile, Inc. (Call Mobile) operated a wireless radio station after the expiration of the station's license and also failed to timely file an application for renewal of the station license. The Bureau's investigation revealed that Call Mobile operated its wireless radio station without Commission authority for more than two and a half years. Compliance with the Commission's licensing rules is important because they are intended to prevent unlicensed radio operations from dangerously interfering with authorized radio communications services in the United States. For purposes of the settlement, Call Mobile admits that it operated the station after the expiration of the station license and that it failed to timely file a renewal application for the station, in violation of applicable licensing rules. Call Mobile will pay \$12,000 to resolve the allegations and will implement a three-year plan to ensure future compliance with the Commission's licensing rules.

2. In this Order, we adopt the attached Consent Decree entered into between the Bureau and Call Mobile. The Consent Decree resolves and terminates the Bureau's investigation into Call Mobile's compliance with Section 301 of the Communications Act of 1934, as amended (Act),² and Sections 1.903(a) and 1.949(a) of the Commission's rules (Rules),³ pertaining to Call Mobile's operation of a Private Land Mobile Radio Service station without Commission authority and its failure to timely file an application for renewal of the station's license.

3. The Bureau and Call Mobile have negotiated the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

4. 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.

¹ The investigation initiated under File No. EB-09-SE-130 was subsequently assigned File No. EB-SED-13-00009451. Any future correspondence with the FCC concerning this matter should reflect the new case number.

² 47 U.S.C. § 301.

³ 47 C.F.R. §§ 1.903(a), 1.949(a).

5. 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 Call Mobile possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Act,⁴ and Sections 0.111 and 0.311 of the Rules,⁵ the Consent Decree attached to this Order **IS ADOPTED**.

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

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 Christopher C. Dunbar, President, Call Mobile Inc., 3010 Duncan Machinery Drive, Suite 100, Lexington, KY 40504.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Acting Chief, Enforcement Bureau

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

⁵ 47 C.F.R. §§ 0.111, 0.311.

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Call Mobile, Inc.)	Acct. No.: 201132100021
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Former licensee of Station WPKM300)	FRN: 0003780590

CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Call Mobile, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into possible violations of Section 301 of the Communications Act of 1934, as amended,² Sections 1.903(a) and 1.949(a) of the Commission's rules,³ and the associated Commission orders requiring licensees to seek authority for any continued operations after license expiration,⁴ pertaining to the operation of a Private Land Mobile Radio Service (PLMRS) station without Commission authority and the failure to timely file an application for renewal of the station's license.

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) "Call Mobile" means Call Mobile, Inc., its subsidiaries, as well as its predecessors-in-interest and its successors-in-interest.
 - (e) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.

¹ The investigation initiated under File No. EB-09-SE-130 was subsequently assigned File No. EB-SED-13-00009451. Any future correspondence with the FCC concerning this matter should reflect the new case number.

² 47 U.S.C. § 301.

³ 47 C.F.R. §§ 1.903(a), 1.949(a).

⁴ See *Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services*, 13 FCC Rcd 21027, 21071, para. 96 (1998) (*Universal Licensing System Report and Order*) (adopting inter alia Section 1.949 of the Rules); Memorandum Opinion and Order on Reconsideration, 14 FCC Rcd 11476, 11485–86, para. 22 (1999) (*Universal Licensing System MO&O*) (collectively, *Universal Licensing System Orders*).

- (f) “Communications Laws” means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Call Mobile is subject by virtue of its business activities, including but not limited to, the Licensing Rules.
- (g) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 9.
- (h) “Covered Employees” means all employees and agents of Call Mobile who perform, or supervise, oversee, or manage the performance of, duties that relate to Call Mobile’s responsibilities under the Licensing Rules.
- (i) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (j) “Investigation” means the investigation commenced by the Bureau’s January 5, 2010, Letter of Inquiry⁵ regarding Call Mobile’s apparent violation of the Licensing Rules, which culminated in the issuance of the Notice of Apparent Liability for Forfeiture.
- (k) “Licensing Rules” means Section 301 of the Act, Sections 1.903(a) and 1.949(a) of the Rules, the *Universal Licensing System Orders*, and other Communications Laws that prohibit the use or operation of a wireless radio station without a valid Commission authorization or in a manner inconsistent with such authorization.
- (l) “Notice of Apparent Liability for Forfeiture” or “NAL” means *Call Mobile, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 74 (Enf. Bur. 2011).
- (m) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by Call Mobile to implement the Compliance Plan.
- (n) “Parties” means Call Mobile and the Bureau, each of which is a “Party.”
- (o) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Section 301 of the Act⁶ and Section 1.903(a) of the Rules⁷ prohibit the use or operation of any apparatus for the transmission of energy or communications or signals by radio except under, and in accordance with, a Commission-granted authorization. Additionally, Section 1.949(a) of the Rules requires that licensees file renewal applications for wireless radio stations “no later than the expiration

⁵ See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Christopher Dunbar, President, Call Mobile, Inc. (Jan. 5, 2010) (on file in EB-SED-13-00009451).

⁶ 47 U.S.C. § 301.

⁷ 47 C.F.R. § 1.903(a).

date of the authorization for which renewal is sought, and no sooner than 90 days prior to expiration.”⁸ In the absence of a timely filed renewal application, a wireless radio station license automatically terminates.⁹

3. On April 16, 1997, Call Mobile was granted a license to operate PLMRS station WPKM300 until the license expiration date of April 16, 2007. Call Mobile did not submit a renewal application for station WPKM300 prior to the license expiration date. In the absence of such filing, Call Mobile’s license for station WPKM300 automatically terminated on the expiration date.¹⁰ On January 4, 2011, the Bureau’s Spectrum Enforcement Division (Division) issued the *NAL* to Call Mobile.¹¹ In the *NAL*, the Division found that Call Mobile operated PLMRS station WPKM300 without authority for more than two and a half years after the expiration of the station’s license, and failed to timely file a renewal application for the station.¹² The Bureau and Call Mobile subsequently entered into settlement negotiations to resolve this matter.¹³

III. TERMS OF AGREEMENT

4. **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.

5. **Jurisdiction.** Call Mobile agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

6. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date, as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

7. **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 the Investigation. In consideration for the termination of the Investigation, Call Mobile agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence

⁸ *Id.* § 1.949(a). If a licensee intending continued operations fails to file a timely renewal application, the Commission nevertheless requires such licensee to seek operating authority. *See Universal Licensing System Report and Order*, 13 FCC Rcd at 21071, para. 98 (directing licensees that fail to file timely renewal applications to submit a new application or, if necessary, a request for special temporary operating authority); *Universal Licensing System MO&O*, 14 FCC Rcd at 11485–86, para. 22 (permitting, in the alternative, the acceptance and processing of late filed renewal applications under certain circumstances).

⁹ 47 C.F.R. § 1.955(a)(1).

¹⁰ *See id.* (stating that “[a]uthorizations automatically terminate, without specific Commission action, on the expiration date specified therein, unless a timely application for renewal is filed”).

¹¹ *See Call Mobile, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 74 (Enf. Bur. 2011).

¹² *See id.* at 75, para. 6.

¹³ During the course of settlement negotiations, Call Mobile supplied the Bureau with documentation evidencing its financial status.

of new material evidence, it will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against Call Mobile concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence, it will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Call Mobile with respect to Call Mobile's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

8. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Call Mobile shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Call Mobile complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Licensing Rules prior to assuming his/her duties.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, Call Mobile agrees that it shall within sixty (60) calendar days after the Effective Date develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Licensing Rules, Call Mobile shall implement the following procedures:

- (a) **Operating Procedures on Licensing Rules.** Within sixty (60) calendar days after the Effective Date, Call Mobile shall establish Operating Procedures that all Covered Employees must follow to help ensure Call Mobile's compliance with the Licensing Rules. As part of its Operating Procedures, the Compliance Officer shall designate a Covered Employee to be responsible for developing and maintaining a database of all FCC licenses held by Call Mobile and the expiration date of each such license. The Compliance Officer shall ensure that Call Mobile timely files an application for renewal for any FCC license that Call Mobile intends to operate after the license's expiration date.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Licensing Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Call Mobile's compliance with the Licensing Rules. Call Mobile shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. Call Mobile shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Call Mobile shall establish and implement a Compliance Training Program on compliance with the Licensing Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Call Mobile's obligation to report any noncompliance with the Licensing Rules under paragraph 10 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who

becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Call Mobile shall repeat the compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

10. **Reporting Noncompliance.** Call Mobile shall report any noncompliance with the Licensing Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after the discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that Call Mobile has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Call Mobile has taken or will take to prevent the recurrence of any such noncompliance. All such reports of noncompliance shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 3-C366, Washington, DC 20554, with a copy submitted electronically to Paul Noone at Paul.Noone@fcc.gov and Pamela Hairston at Pamela.Hairston@fcc.gov.

11. **Compliance Reports.** Call Mobile shall file Compliance Reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Call Mobile's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Licensing Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Call Mobile, stating that the Compliance Officer has personal knowledge that Call Mobile (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 10 hereof.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules¹⁴ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Call Mobile, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully (i) each instance of noncompliance; (ii) the steps that Call Mobile has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Call Mobile has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th

¹⁴ 47 C.F.R. § 1.16.

Street, S.W., Washington, DC 20554, with a copy submitted electronically to Paul Noone at Paul.Noone@fcc.gov and Pamera Hairston at Pamera.Hairston@fcc.gov.

12. **Termination Date.** Unless stated otherwise, the requirements of paragraphs 8 through 11 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

13. **Voluntary Contribution.** Call Mobile agrees that it will make a voluntary contribution to the United States Treasury in the amount of twelve thousand dollars (\$12,000) within thirty (30) calendar days after the Effective Date. Call Mobile shall also send electronic notification of payment to Paul Noone at Paul.Noone@fcc.gov, Pamera Hairston at Pamera.Hairston@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹⁵ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions Call Mobile should follow based on the form of payment it selects:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

If Call Mobile has questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

14. **Waivers.** Call Mobile waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. Call Mobile shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Call Mobile nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and Call Mobile shall waive any statutory

¹⁵ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

right to a trial de novo. Call Mobile hereby agrees to waive any claims it may have under the Equal Access to Justice Act¹⁶ relating to the matters addressed in this Consent Decree.

15. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

16. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Call Mobile does not expressly consent) that provision will be superseded by such Rule or Commission order.

17. **Successors and Assigns.** Call Mobile agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

18. **Admission of Liability.** Call Mobile admits for Commission civil enforcement purposes and in express reliance on the provisions of paragraph 7 herein, that the operation of its PLMRS station after the expiration of the station license and its failure to timely file a renewal application for the station violated the Commission's Licensing Rules.

19. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

20. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

21. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

22. **Authorized Representative.** The individual signing this Consent Decree on behalf of Call Mobile represents and warrants that he is authorized by Call Mobile to execute this Consent Decree and to bind Call Mobile to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

¹⁶ Equal Access to Justice Act, Pub L. No. 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501-1.1530.

23. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

John D. Poutasse
Chief, Spectrum Enforcement Division
Enforcement Bureau

Date

Christopher C. Dunbar
President
Call Mobile, Inc.

Date