

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

In the Matter of)	
)	
Simple Network, Inc.)	File No.: EB-IHD-13-00011486 ¹
)	NAL/Acct. No.: 201532080014
)	FRN: 0007921224

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 4, 2015

Released: May 4, 2015

By the Deputy Chief, Enforcement Bureau:

I. INTRODUCTION

1. We propose a penalty of \$100,000 against Simple Network, Inc. (Simple Network or Company) for apparently providing interstate telecommunications services without previously submitting the required registration form. Simple Network's failure to register allowed it to avoid payments required of all interstate telecommunications services providers to important federal programs, including the Universal Service Fund (USF). This failure could give the Company an unfair economic advantage over competitors who, because of Simple Network's apparent violations, must pay more than their fair share of the costs of these federal regulatory programs. We therefore view the Company's apparent failure to register as a serious dereliction of its responsibilities as a telecommunications services provider.

II. BACKGROUND

2. Companies that provide interstate telecommunications services, and certain other providers of interstate telecommunications, are subject to the provisions of the Communications Act of 1934, as amended (the Act) and the Commission's rules (Rules). Prior to entering into interstate telecommunications markets, these companies must register by filing an FCC Form 499-A, also known as the Annual Telecommunications Reporting Worksheet (Form 499-A) with the Universal Service Administrative Company (USAC).² Registration allows the Commission and the administrators of the USF, Telecommunications Relay Service (TRS) Fund, local number portability (LNP) and North American Numbering Plan (NANP) cost recovery mechanisms, and the federal regulatory fee program to determine the extent of a company's federal payment obligations.³

3. Simple Network is a New Jersey limited liability corporation,⁴ which provides prepaid calling card services.⁵ The Company claims to have "been in the international calling card and telecom

¹ This case was formerly assigned File No. EB-12-IH-0179.

² See 47 C.F.R. § 64.1195(a); see *Telecommunications Reporting Worksheet, FCC Form 499-A*, available at <http://www.fcc.gov/forms> (accessed May 1, 2015). USAC administers the USF program. See 47 C.F.R. § 54.701.

³ See *InPhonic, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 20 FCC Rcd 13277, 13283, para. 15 (2005) (*InPhonic NAL*), *forfeiture issued*, Order of Forfeiture and Further Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 8689, 8691, para. 5 (2007).

⁴ See *Simple Network, Inc.*, Apparent Liability for Forfeiture, 26 FCC Rcd. 16669, 16669 n.1 (2011) (issuing \$5,000,000 notice of apparent liability for deceptive marketing of prepaid calling cards).

⁵ See, e.g., <http://www.simple2call.com/> (accessed May 1, 2015).

services business for 15 years.”⁶ On November 13, 2013, the Enforcement Bureau issued a Letter of Inquiry (LOI) to Simple Network to investigate whether the Company had violated provisions of the Act and Rules by failing to: (i) file required federal regulatory data and certifications; (ii) pay assessments for the USF, TRS, LNP, NANP, and annual regulatory fee programs; and (iii) obtain authorization to provide international telecommunications services.⁷

4. The Company’s counsel submitted a partial, perfunctory response to the LOI on February 7, 2014,⁸ and claimed the Company was unable to state whether it had filed registration information required under Section 64.1195 of the Rules.⁹ On March 30, 2015, Enforcement Bureau staff determined through the FCC Form 499 Filer Database that Simple Network was unregistered.¹⁰ Additionally, on March 30, 2015, Enforcement Bureau staff confirmed with USAC staff that Simple Network had not filed a Form 499-A.¹¹

III. DISCUSSION

A. Simple Network Apparently Violated Section 64.1195(a) of the Rules

5. We find that Simple Network apparently willfully or repeatedly violated Section 64.1195 of the Rules by failing to register with a Form 499-A filing.¹² All companies that provide, or plan to provide, interstate telecommunications services, and certain other providers of interstate telecommunications, must register by submitting information through the Form 499-A.¹³ The Commission created this requirement to establish “a central repository of key facts about carriers” in order to monitor the entry and operation of such providers to ensure that, among other things, they are qualified, do not engage in fraud, and do not evade oversight.¹⁴ Likewise, the Rules require interstate telecommunications services providers to file revenue information on an annual and, in many instances, quarterly basis, using Form 499-A and the Quarterly Telecommunications Reporting Worksheet (Form

⁶ See <https://www.motherindiacard.com/Default.asp> (accessed May 1, 2015).

⁷ See Letter from Pamela S. Kane, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Simple Network, Inc. (Nov. 13, 2013) (addressing Company’s compliance with 47 U.S.C. §§ 214, 222, 251, 254; and 47 C.F.R. §§ 1.1154, 1.1157, 52.17, 52.32, 54.706, 54.711, 63.18, 64.604, 64.1195, 64.2009(e), 64.5001) (on file in EB-IHD-13-00011486) (LOI).

⁸ See Letter from Neil S. Ende, Technology Law Group, LLC, Counsel to Simple Network, Inc., to Teresa Z. Cavanaugh, Chief, Investigations and Hearings Division, FCC Enforcement Bureau (Feb. 7, 2014) (on file in EB-IHD-13-00011486) (LOI Response).

⁹ See *id.* at 8 (“Simple Network cannot presently locate documents setting forth whether it has or the date on which it filed the requested registration information. The person who would have had the information necessary to respond to this inquiry has passed away.”).

¹⁰ See <http://apps.fcc.gov/cgb/form499/499a.cfm>.

¹¹ See Email from Rich Seetoo, Universal Service Administrative Company, to David Janas, Special Counsel, Investigations & Hearings Division, FCC Enforcement Bureau (Mar. 30, 2015) (on file in EB-IHD-13-00011486).

¹² See 47 C.F.R. § 64.1195.

¹³ Every provider of interstate telecommunications has an affirmative obligation to know and comply with all applicable federal regulatory requirements. See *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, 17099, para. 22 (1997) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

¹⁴ See *Implementation of the Subscriber Carrier Selection Provisions of the Telecommunications Act of 1996*, Third Report & Order and Second Order on Reconsideration, 15 FCC Rcd 15996, 16024-26, paras. 59-62 (2000).

499-Q), respectively.¹⁵ These reporting requirements are designed to provide the information necessary to calculate amounts that a provider of interstate telecommunications or telecommunications services must contribute to federal regulatory programs.

6. Based on the evidence, we conclude that Simple Network apparently violated Section 64.1195(a) of the Rules by failing to register prior to providing interstate telecommunications services. As a result of its misconduct, Simple Network has been operating for several years without participation in the federal programs tied to the registration requirement.¹⁶ This failure to register constitutes a continuing violation, which will not be cured until Simple Network files its initial Form 499-A or ceases providing services subject to the registration requirement.¹⁷

B. Proposed Forfeiture

7. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that “willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission.”¹⁸ Here, Section 503(b)(2)(B) of the Act authorizes us to assess a forfeiture against Simple Network of up to \$160,000 for each day of a continuing violation, up to a statutory maximum of \$1,575,000 for a single act or failure to act.¹⁹ In exercising our forfeiture authority, we must consider 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.”²⁰ In addition, the Commission has established forfeiture guidelines; they establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.²¹ Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.²²

¹⁵ See 47 C.F.R. §§ 52.17(b), 52.32(b), 54.711, 64.604(c)(5)(iii)(B). Companies that are *de minimis* for USF purposes (*i.e.*, whose annual required USF contributions are less than \$10,000) need not file quarterly revenue information. See 47 C.F.R. § 54.708.

¹⁶ Simple Network claims it has been in business since at least 2000. See *supra* note 6 and accompanying text.

¹⁷ See *ADMA Telecom, Inc.*, Forfeiture Order, 26 FCC Rcd 4152, 5154–55, paras. 7–8 (2011); *Global Teledata II, LLC*, Order of Forfeiture, 22 FCC Rcd 8710, 8716–17, paras. 15–17 (2007).

¹⁸ 47 U.S.C. § 503(b).

¹⁹ See 47 U.S.C. § 503(b)(2)(B); 47 C.F.R. § 1.80(b)(9). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(B) (\$100,000 per violation or per day of a continuing violation and \$1,000,000 per any single act or failure to act). The Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321 (DCIA), requires the Commission to adjust its forfeiture penalties periodically for inflation. See 28 U.S.C. § 2461 note (4). The Commission most recently adjusted its penalties to account for inflation in 2013. See *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 28 FCC Rcd 10785 (Enf. Bur. 2013); see also *Inflation Adjustment of Monetary Penalties*, 78 Fed. Reg. 49,370-01 (Aug. 14, 2013) (setting Sept. 13, 2013, as the effective date for the increases).

²⁰ 47 U.S.C. § 503(b)(2)(E).

²¹ 47 C.F.R. § 1.80(b)(8), Note to paragraph (b)(8).

²² *Id.* See also *Forfeiture Policy Statement*, Report and Order, 12 FCC Rcd at 17098–99, para. 22 (noting that “[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act”).

8. The Commission has imposed a base forfeiture of \$100,000 for the failure to register under Rule 64.1195.²³ Therefore, consistent with precedent and after applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors, we propose a total forfeiture of \$100,000, for which Simple Network is apparently liable.

IV. CONCLUSION

9. We have determined that Simple Network apparently willfully and repeatedly violated Section 64.1195 of the Commission's Rules. As such, Simple Network is apparently liable for a forfeiture of \$100,000. We note that this is a very limited action that does not reflect the full extent of Simple Network's potential forfeiture liability and that does not in any way preclude the Commission from imposing additional forfeitures against Simple Network in the future. Appendix A lists a number of requirements that Simple Network may be violating. We expect that Simple Network's response to this Notice of Apparent Liability will include, in addition to the Company registering as a telecommunications service provider, immediate and effective efforts to come into full compliance with all its federal regulatory obligations.

V. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act²⁴ and Sections 1.80 of the Rules,²⁵ Simple Network, Inc. is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of One Hundred Thousand Dollars (\$100,000) for willful or repeated violations of section 64.1195 of the Rules.²⁶

11. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules,²⁷ within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Simple Network, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraphs 14–15 below.

12. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Simple Network, Inc. shall send electronic notification of payment to Jeffrey Gee at Jeffrey.Gee@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, William Kehoe at William.Kehoe@fcc.gov and David Janas at David.Janas@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁸ 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 that should be followed based on the form of payment selected:

²³ *E.g.*, *RB Communications, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 4394, 4401, para. 24 (2012), *forfeiture issued*, Forfeiture Order, 29 FCC Rcd 5668 (2014); *Telecom House, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 20 FCC Rcd 15131, 15142, para. 29 (2005), *consent decree adopted*, Order, 21 FCC Rcd 10883 (2006); *Teletronics, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 20 FCC Rcd 13291, 13302, para. 30 (2005), *consent decree adopted*, Order, 22 FCC Rcd 8681 (2007).

²⁴ 47 U.S.C. § 503(b).

²⁵ 47 C.F.R. § 1.80.

²⁶ 47 C.F.R. § 64.1195.

²⁷ 47 C.F.R. § 1.80.

²⁸ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- 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.

13. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.²⁹ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

14. 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 1.16 and 1.80(f)(3) of the Rules.³⁰ The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau – Investigations & Hearings Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Jeffrey Gee at Jeffrey.Gee@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, William Kehoe at William.Kehoe@fcc.gov and David Janas at David.Janas@fcc.gov.

15. 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.

16. **IT IS FURTHER ORDERED** that, pursuant to Section 4(i) and 254(d) of the Act, and sections 54.711 and 64.1195 of the Rules,³¹ Simple Network, Inc. **SHALL FILE** with USAC within 30 days (1) all Annual Telecommunications Reporting Worksheets required under the Rules from the date that the Company commenced providing telecommunications services to the date of this NAL, or (2) a written statement with supporting evidence explaining why the Company is not required under the Rules to file Annual Telecommunications Reporting Worksheets.

²⁹ See 47 C.F.R. § 1.1914.

³⁰ 47 C.F.R. §§ 1.16, 1.80(f)(3).

³¹ 47 U.S.C. §§ 154(i); 254(d); 47 C.F.R. §§ 54.711, 64.1195(a).

17. **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 Mr. Hemant R. Patel, President, Simple Network, Inc., 25 S. Main Street, Suite 6, Edison, New Jersey 08837-3448.

FEDERAL COMMUNICATIONS COMMISSION

Paula L. Blizzard
Deputy Chief
Enforcement Bureau

Appendix A

List of Relevant Statutory and Rule Provisions

Set forth below is a list of regulatory obligations that a company that has failed to register with the Universal Service Administrative Company may be violating. The list is intended to serve as a reference resource only and is not an exhaustive list of the federal regulatory requirements for providers of interstate telecommunications services. Every provider of interstate telecommunications services has an affirmative obligation to know and comply with all its federal regulatory requirements.³²

- FCC Form 499-A Filings (47 C.F.R. §§ 52.17(b), 52.32(b), 54.711, 64.604(c)(5)(iii)(B))
- FCC Form 499-Q Filings (47 C.F.R. § 54.711)
- Universal Service Fund Contributions (47 U.S.C. § 254(d); 47 C.F.R. § 54.706)
- Telecommunications Relay Services Fund Contributions (47 C.F.R. § 64.604(c)(5)(iii)(A))
- Local Number Portability Payments (47 U.S.C. § 251(e)(2); 47 C.F.R. § 52.32)
- North American Numbering Plan Payments (47 U.S.C. § 251(e)(2); 47 C.F.R. § 52.17(a))
- Regulatory Fees (47 U.S.C. § 159(a); 47 C.F.R. §§ 1.1154, 1.1156, 1.1157)
- Authority to Provide International Telecommunications Service (47 U.S.C. § 214; 47 C.F.R. § 63.18)
- International Telecommunications Traffic Reports (47 C.F.R. §§ 1.7001, 43.61)
- Communications Assistance for Law Enforcement Act Policies and Procedures Filings (47 U.S.C. § 229(c); 47 C.F.R. § 1.20005)
- FCC Form 477 Filings (47 C.F.R. § 43.11)
- Carrier-Customer Verification (47 C.F.R. § 64.1195(h))
- Customer Proprietary Network Information Reports (47 U.S.C. § 222; 47 C.F.R. § 64.2009(e))

³² See 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, 17099, para. 22 (1997).