

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
) File No.: EB-IHD-18-00027478
Combined Public Communications, LLC) FRN: 0004327656
) Acct. No.: 202032080001
)
)

ORDER

Adopted: October 4, 2019

Released: October 7, 2019

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree to resolve its investigation into whether Combined Public Communications, LLC (CPC or the Company),¹ and Protocall, LLC (Protocall), which was recently acquired by CPC, failed to properly file their annual reports and certifications detailing their provision of Inmate Calling Services (ICS) during 2017 (2017 Annual ICS Reports) pursuant to section 64.6060 of the Commission’s rules (Rules).² The reporting and certification requirement helps the Commission meet its statutory responsibilities regarding ICS rates and practices.³ The reporting and certification requirement also enables the Commission to capture any trends or changes in calling patterns in the ICS industry, facilitates any needed enforcement action, and permits the Commission to monitor ICS providers’ compliance with the Rules and relevant Commission orders.⁴ The Company admits that its 2017 Annual ICS Report omitted information required pursuant to section 64.6060 of the Rules, and that Protocall failed to timely file its 2017 Annual ICS Report.

2. The Consent Decree also resolves an investigation into whether the Company violated the Rules related to the unauthorized transfer of control of domestic and international authorizations to operate pursuant to section 214 of the Communications Act of 1934, as amended (Act),⁵ and sections 63.03, 63.04, 63.18, and 63.24 of the Rules.⁶ The Rules require prior approval of transfers of control to enable the Commission to apply a public interest standard in evaluating possible risks to competition and consumers that could result from transfers of substantial control of entities holding federally-granted

¹ Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

² 47 CFR § 64.6060. Section 64.6060 of the Rules requires ICS providers to submit a report to the Commission, by April 1st of each year, for the prior calendar year. The 2017 Annual ICS Reports were due April 2, 2018 because April 1, 2018 fell on a non-business day (Sunday). See 47 CFR § 1.4(j).

³ See Rates for Interstate Inmate Calling Services, Second Report and Order and Third Further Notice of Proposed Rulemaking, 30 FCC Rcd 12763, 12891, para. 266 (2015) (2015 ICS Order), affirmed in part, vacated in part, and remanded by Global Tel*Link v. FCC, 866 F.3d 397, 415 (D.C. Cir. 2017); see also 47 U.S.C. § 403.

⁴ See 2015 ICS Order, 30 FCC Rcd at 12891, para. 266.

⁵ 47 U.S.C. § 214.

⁶ 47 CFR §§ 63.03, 63.04, 63.18, 63.24.

authorizations pursuant to section 214 of the Act. CPC admits that it consummated transactions transferring: certain assets and customers of Protocall to CPC prior to receiving approval from the Commission's Wireline Competition Bureau (WCB) and International Bureau; all assets of Bealls Communications Group, LLC (Bealls), to CPC prior to receiving approval from WCB; and certain customers of Infinity Networks, Inc. (Infinity), to CPC prior to receiving approval from WCB. To settle the 2017 Annual ICS Report filing violations and the unauthorized transfers of control to CPC, the Company agrees to implement a compliance plan and pay a civil penalty in the amount of \$60,000.⁷

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 referenced investigations regarding the Company and Protocol's compliance with the requirement to properly file a 2017 Annual ICS Report pursuant to section 64.6060 of the Rules, and the Company's compliance with the requirement to obtain prior Commission approval for the transfer of certain assets and customers of Protocall, transfer of certain customers of Infinity, and transfer of control of Bealls to the Company as set forth in section 214 of the Act and sections 63.03, 63.04, 63.18 and 63.24 of the Rules.⁸

4. In the absence of material new evidence relating to this matter, we do not set for hearing the question of the Company's basic qualifications to hold or obtain any Commission license or authorization.⁹

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act¹⁰ and the authority delegated by sections 0.111 and 0.311 of the Rules,¹¹ the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

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

7. **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 Josh Welk, Chief Financial Officer, Combined Public Communications, LLC, 100 Aqua Drive, Cold Springs, Kentucky 41076.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary C. Harold
Chief
Enforcement Bureau

⁷ This action is limited to the 2017 Annual ICS Reports and does not limit the Commission's enforcement actions regarding ICS reports and submissions that have been filed subsequent to the 2017 Annual ICS Reports and prior to this action.

⁸ 47 U.S.C. § 214; 47 CFR §§ 63.03, 63.04, 63.18, 63.24, 64.6060.

⁹ 47 CFR § 1.93(b).

¹⁰ 47 U.S.C. § 154(i).

¹¹ 47 CFR §§ 0.111, 0.311.

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Combined Public Communications, LLC) File No. EB-IHD-18-00027478
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) Acct. No.: 202032080001
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CONSENT DECREE

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC or Commission) and Combined Public Communications, LLC (CPC or the Company),¹ by its authorized representative, Josh Welk, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigations, as defined below, into whether the Company and Protocall, LLC (Protocall), violated the Commission’s rules related to the requirement that each Inmate Calling Services (ICS) provider file a report and certification detailing its provision of ICS during 2017 (2017 Annual ICS Report) pursuant to section 64.6060 of the Commission’s rules (Rules) by failing to file complete and timely reports;² and whether CPC engaged in transactions transferring control, assets, and/or customers from Protocall, Bealls Communications Group LLC (Bealls), and Infinity Networks, Inc. (Infinity), without first requesting and receiving the required approvals from the Commission, in violation of section 214 of the Communications Act of 1934, as amended (Act),³ and sections 63.03, 63.04, 63.18 and 63.24 of the Rules.⁴

I. DEFINITIONS

- 2. For the purposes of this Consent Decree, the following definitions shall apply:
(a) “2017 Annual ICS Report” means the Annual ICS Report for 2017 which was due April 2, 2018.
(b) “Act” means the Communications Act of 1934, as amended.⁵
(c) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.

¹ Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

² 47 CFR § 64.6060.

³ 47 U.S.C. § 214.

⁴ 47 CFR §§ 63.03, 63.04, 63.18, 63.24.

⁵ 47 U.S.C. §151 et seq.

- (d) “Annual ICS Report” means the report and certification, required pursuant to section 64.6060 of the Rules, due on April 1 of each year, detailing the provision of Inmate Calling Services for the prior calendar year.
- (e) “Bealls” means Bealls Communication Group, LLC, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (f) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
- (g) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- (h) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Company is subject by virtue of its business activities, including but not limited to section 64.6060 of the Rules and the Section 214 Rules.
- (i) “Company” means Combined Public Communications, LLC, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (j) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 19.
- (k) “Covered Employees” means all employees and agents of the Company who perform, supervise, oversee, or manage the performance of duties that relate to the Company’s responsibilities under the Communications Laws, including section 64.6060 of the Rules and the Section 214 Rules.
- (l) “Effective Date” means the date by which both the Bureau and the Company have signed the Consent Decree.
- (m) “ICS Reporting Requirements” means section 64.6060 of the Rules and other provisions of the Rules and Commission orders related to reporting information regarding Inmate Calling Services.
- (n) “Infinity” means Infinity Networks, Inc., and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (o) “Inmate Calling Services (ICS)” means a service that allows Inmates to make calls to individuals outside the Correctional Facility where the Inmate is being held, regardless of the technology used to deliver the service.
- (p) “Investigation” means the investigation commenced by the Bureau in EB-IHD-18-00027478 regarding whether the Company violated the Commission’s Rules governing ICS Reporting Requirements and sections of the Act and the Rules governing transfers of Section 214 authorizations.
- (q) “LOI” means each Letter of Inquiry issued by the Bureau to the Company and Protocall on August 22, 2018, investigating whether the Company and Protocall violated section 64.6060 of the Rules requiring ICS providers to timely file completed Annual ICS Reports. The LOI sent to the Company shall be referred to as the “CPC LOI” and the LOI sent to Protocall shall be referred to as the “Protocall LOI.”
- (r) “Operating Procedures” means the standard internal operating procedures and compliance policies established by the Company to implement the Compliance Plan.
- (s) “Parties” means the Company and the Bureau, each of which is a “Party.”

- (t) “Protocall” means Protocall, LLC, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (u) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (v) “Section 214 Rules” means section 214 of the Act and other provisions of the Act, the Rules, and Commission orders related to the construction, acquisition, operation, or transmission of lines of communication, including any Rules implementing section 214 and any related Commission orders.
- (w) “SLOI” means the Supplemental Letter of Inquiry issued by the Bureau to the Company on December 6, 2018, investigating whether the Company violated the Section 214 Rules governing the transfer of certain assets and customers of Protocall to CPC, prior to receiving approval from the Commission’s Wireline Competition and International Bureaus.

II. BACKGROUND

3. Section 64.6060 of the Rules requires each ICS provider to file with the Commission, by April 1 of each calendar year, a report and certification detailing its provision of ICS during the prior calendar year (Annual ICS Report).⁶ The reporting and certification requirement helps the Commission meet its statutory responsibilities regarding ICS rates and practices.⁷ The reporting and certification requirement also enables the Commission to capture any trends or changes in calling patterns in the ICS industry, facilitates any needed enforcement action, and permits the Commission to monitor ICS providers’ compliance with the Rules and relevant Commission orders.⁸ As observed by the United States Court of Appeals for the District of Columbia Circuit, with regard to rates charged by ICS providers, the “Commission has plenary authority to regulate interstate rates under [section] 201(b) [of the Communications Act of 1934, as amended (Act)], including ‘practices ... for and in connection with interstate calls.’”⁹

4. Section 214(a) of the Act requires telecommunications carriers to obtain a certificate of public convenience and necessity from the Commission before constructing, acquiring, operating, or engaging in the transmission of common carrier communications services over communications lines, and before discontinuing, reducing, or impairing service to a community.¹⁰ The Commission granted all carriers blanket authority under section 214 to provide domestic interstate services and to construct, acquire, or operate any domestic transmission line.¹¹ In accordance with sections 63.03 and 63.18 of the Rules, however, any domestic or international carrier seeking to transfer the control of its lines or

⁶ 47 CFR § 64.6060.

⁷ See *Rates for Interstate Inmate Calling Services*, Second Report and Order and Third Further Notice of Proposed Rulemaking, 30 FCC Rcd 12763, 12891, para. 266 (2015) (*2015 ICS Order*), *affirmed in part, vacated in part, and remanded by Global Tel*Link v. FCC*, 866 F.3d 397, 415 (D.C. Cir. 2017) (*Global Tel*Link*) (vacating the video visitation services reporting requirement in section 64.6060(a)(4) of the Rules); *see also* 47 U.S.C. § 403.

⁸ See *2015 ICS Order*, 30 FCC Rcd at 12891, para. 266.

⁹ *Global Tel*Link*, 866 F.3d at 415 (quoting 47 U.S.C. § 201(b)). Section 201 of the Act authorizes the Commission to regulate “every common carrier engaged in interstate [] communication.” 47 U.S.C. § 201(a).

¹⁰ See 47 U.S.C. § 214(a).

¹¹ 47 CFR § 63.01. See *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996; Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, Report and Order and Second Memorandum Opinion and Order, 14 FCC Rcd 11364 (1999) (*1999 Streamlining Order*).

authorizations to operate pursuant to section 214 of the Act resulting from a transfer of corporate control must obtain prior approval from the Commission.¹² Sections 63.04 and 63.24 of the Rules set forth the required contents of domestic and international transfer of control applications. When evaluating a proposed transfer of control, the Commission employs a public interest standard under section 214(a) of the Act that involves the examination of the public interest impact of the proposed transaction.¹³

5. CPC is a Delaware limited liability company with headquarters in Cold Springs, Kentucky, that provides ICS in Alabama, Colorado, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, North Carolina, Ohio, South Carolina, Tennessee, and Wyoming.¹⁴ Protocall was a Kansas limited liability company, with headquarters in Olathe, Kansas, authorized to provide ICS to correctional facilities in Iowa, Kansas, Colorado, Nebraska, and Missouri.¹⁵ Bealls is a Georgia limited liability company with headquarters in Panama City Beach, Florida, that provides or is authorized to provide ICS to correctional facilities in Alabama, Florida, and Georgia.¹⁶ Infinity is a Louisiana corporation with headquarters in Austin, Texas, that provides or is authorized to provide ICS in Alabama, Florida, Georgia, Idaho, Louisiana, Mississippi and Texas.¹⁷

6. On August 22, 2018, the Bureau issued separate Letters of Inquiry (LOIs) to CPC (CPC LOI) and Protocall (Protocall LOI), investigating whether each company had properly filed its 2017 Annual ICS Report.¹⁸ Protocall filed a response to the Protocall LOI on October 10, 2018, revealing that it filed its 2017 Annual ICS Report on October 9, 2018, well after the April 2, 2018, filing deadline, following receipt of the Protocall LOI.¹⁹ CPC filed a response to the CPC LOI on October 5, 2018, asserting that it had properly filed its 2017 Annual ICS Report.²⁰

¹² 47 CFR §§ 63.03, 63.18. *See Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, Report and Order, 17 FCC Rcd 5517, 5521, para. 5 (2002) (2002 Streamlining Order); *see also* 47 CFR § 63.03(d)(1) (excluding all *pro forma* transactions, which do not result in a change in the carrier's ultimate ownership or control, from the domestic Section 214 application and approval requirements), *Id.* § 63.04(d)(2) (requiring that a post-transaction notice be filed with the Commission within 30 days of a *pro forma* transfer of a domestic section 214 authorization to a trustee, a debtor-in-possession, or any other party pursuant to any applicable chapter of the Bankruptcy Code).

¹³ *See* 47 U.S.C. § 214(a).

¹⁴ *See* Response to Letter of Inquiry from Lance J.M. Steinhart, Counsel for Combined Public Communications, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission at 1, Responses to Questions 1, 3 (Oct. 5, 2018) (on file in EB-IHD-18-00027478) (CPC LOI Response).

¹⁵ *See* Response to Letter of Inquiry from Lance J.M. Steinhart, Counsel for Protocall, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission at 1, Responses to Questions 1, 3 (Oct. 10, 2018) (on file in EB-IHD-18-00027478) (Protocall LOI Response).

¹⁶ Domestic Section 214 Application for Consent to Transfer Control of Company Subject to Blanket Domestic Authority Filed by Bealls Communication Group, LLC, and Combined Public Communications, LLC, WC Docket No. 19-182 at 5 (filed June 25, 2019) (Bealls/CPC Domestic 214 Application).

¹⁷ Domestic Section 214 Application of Combined Public Communications, LLC, for Consent to Transfer Customers of Company Subject to Blanket Domestic Authority at 4 (filed July 26, 2019) (Infinity/CPC Domestic 214 Application).

¹⁸ *See* Letter from Jeffrey J. Gee, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Ms. Cathleen Engle, Combined Public Communications, LLC, (Aug. 22, 2018) (on file in EB-IHD-18-00027478) (CPC LOI); Letter from Jeffrey J. Gee, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. David R. Lindgren, President, Protocall, LLC, (Aug. 22, 2018) (on file in EB-IHD-18-00027499) (Protocall LOI).

¹⁹ *See* Protocall LOI Response at 2, Response to Question 8.

²⁰ CPC LOI Response at 3, Responses to Questions 10, 11.

7. In Protocall's October 10, 2018, LOI response, Protocall disclosed that on October 1, 2017, Protocall and CPC completed a transaction which transferred certain assets and customers of Protocall to CPC and that it had concurrently filed an application with the Commission's Wireline Competition Bureau (WCB) seeking approval of the transfer of certain assets and customers of Protocall to CPC, pursuant to section 214 of the Act.²¹ That application, dated October 10, 2018, and unprompted by the Commission, is currently pending.²² Also on October 10, 2018, unprompted by the Commission, Protocall and CPC filed a joint request for special temporary authority (STA) for CPC to serve Protocall's customers pending approval of the transfer of control application.²³ WCB granted that STA request on November 27, 2018, and has extended the STA to allow CPC to provide service to Protocall's customers using Protocall's domestic authorization until November 25, 2019.²⁴ Further, Protocall and CPC filed a joint application for the partial assignment of Protocall's international authorizations with the International Bureau (IB) on October 10, 2018, which was granted pursuant to a streamlined basis on December 20, 2018.²⁵

8. On December 6, 2018, the Bureau sent a Supplemental Letter of Inquiry (SLOI) to CPC, inquiring why CPC had apparently omitted required data from its 2017 Annual ICS Report, including the Disability Access data required in Section VII regarding the provision of TTY calls.²⁶ The SLOI also expanded the Bureau's investigation to cover whether CPC had consummated a transaction transferring certain assets and customers of Protocall to CPC prior to receiving approval from WCB and IB.²⁷

9. On January 11, 2019, the Company filed a response to the SLOI, claiming that it did not provide the Disability Access information required in Section VII of the Annual ICS Report because it does not charge for TTY calls.²⁸ However, the Company failed to provide justification as to why it had not included other information required by Section VII, beyond pricing for TTY calls, such as the number of TTY-based ICS calls provided per facility, the number of dropped TTY-based calls during the reporting period, and the number of complaints received during the reporting period.²⁹ Also in its

²¹ Protocall LOI Response at 4, Responses to Questions 11, 14.

²² Domestic Section 214 Application for the Transfer of Assets Filed by Protocall, LLC and Combined Public Communications, LLC, WC Docket No. 18-309 (filed Oct. 10, 2018) (Protocall/CPC Domestic 214 Application); CPC and Protocall filed a supplement to the Protocall/CPC Domestic 214 Application on November 19, 2018. Letter from Lance Steinhart, Attorney for Combined Public Communications, LLC and Protocall, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 18-309 (filed Nov. 19, 2018). *See Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Protocall, LLC by Combined Public Communications*, Public Notice, WC Docket Nos. 18-309, 2018 WL 6241413 (WCB 2018) (*Protocall/CPC Domestic 214 Public Notice*).

²³ *See* Letter from Lance J.M. Steinhart, Counsel for CPC, to Marlene H. Dortch, Secretary, Federal Communications Commission (Oct. 10, 2018) (Protocall/CPC STA Request).

²⁴ *See* Protocall/CPC STA Request, (grant stamped on Nov. 27, 2018, Feb. 8, 2019, Apr. 9, 2019, June 5, 2019, Aug. 1, 2019, and Sept. 26, 2019).

²⁵ Application to Partially Assign International Section 214 Authority Filed by Protocall, LLC, and Combined Public Communications, LLC, WC Docket No. 18-309 (filed Oct. 10, 2018).

²⁶ *See* Letter from Jeffrey J. Gee, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Ms. Cathleen Engle, Combined Public Communications, LLC, at 6 (Dec. 6, 2018) (on file in EB-IHD-18-00027478) (SLOI).

²⁷ *Id.* at 5-6.

²⁸ *See* Response to Supplemental Letter of Inquiry from Lance J.M. Steinhart, Counsel for Combined Public Communications, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission at 10, Response to Question 12 (Jan. 11, 2019) (CPC SLOI Response).

²⁹ *See id.*

response to the SLOI, the Company admitted that the Commission's approval was not requested by either Protocall or CPC prior to consummation of the transaction transferring certain assets and customers of Protocall to CPC, and that consent was not given by the Commission.³⁰

10. On June 25, 2019, during settlement discussions, CPC belatedly filed an application with WCB seeking approval of the transfer of all ownership interests of Bealls to CPC pursuant to section 214 of the Act, for a transaction that occurred on May 31, 2017.³¹ On the same day, CPC also filed a request for an STA for CPC to serve Bealls' customers pending approval of the transfer of control application.³² WCB granted the STA Request on June 26, 2019, and extended it on August 22, 2019, allowing CPC to provide service to Bealls' customers using Bealls' domestic authorization until October 21, 2019.³³

11. On July 26, 2019, during settlement discussions, CPC belatedly filed an application with WCB seeking approval of the transfer of certain customers of Infinity to CPC pursuant to section 214 of the Act, for a transaction that occurred on February 26, 2018.³⁴ On August 1, 2019, CPC filed a request for an STA for CPC to serve Infinity's customers pending approval of the transfer of control application.³⁵ WCB granted the STA Request on August 12, 2019, allowing CPC to provide service to Infinity's customers using Bealls' domestic authorization until October 11, 2019.³⁶

12. The Parties have negotiated the following terms and conditions of settlement, and hereby enter into this Consent Decree as provided below.

III. TERMS OF AGREEMENT

13. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

14. **Jurisdiction.** The Company agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

15. **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 Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

16. **Termination of Investigation.** In express reliance on the covenants and representations

³⁰ See *id.* at 7, Response to Question 7.

³¹ See Bealls/CPC Domestic 214 Application; *Domestic Section 214 Application Filed for the Transfer of Control of Bealls Communication Group, LLC to Combined Public Communications*, Public Notice, WC Docket No. 19-182, 2019 WL 3220336 (WCB 2019) (*Bealls/CPC Domestic 214 Public Notice*).

³² See Letter from Lance J.M. Steinhart, Counsel for Combined Public Communications, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (June 25, 2019) (grant stamped June 26, 2019) (*Bealls/CPC STA Request*).

³³ *Id.*

³⁴ See *Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Infinity Networks, Inc., by Combined Public Communications, LLC*, Public Notice, WC Docket No. 19-221, 2019 WL 4010882 (WCB 2019) (*Infinity/CPC Domestic 214 Public Notice*).

³⁵ See Letter from Lance J.M. Steinhart, Counsel for Combined Public Communications, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 1, 2019) (granted stamped Aug. 12, 2019) (*Infinity/CPC STA Request*).

³⁶ *Id.*

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 the Investigation, the Company agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the 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 the Company 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 the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or to set for hearing the question of the Company's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.³⁷

17. **Admission of Liability.** The Company admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 16 herein, that the actions described in paragraphs 6, 7, 9, 10, and 11, herein, violated section 64.6060 of the Rules and the Section 214 Rules.

18. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, the Company shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a 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 the Company 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 or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the ICS Reporting Requirements and the Section 214 Rules prior to assuming his/her duties.

19. **Compliance Plan.** For purposes of settling the matters set forth herein, the Company 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 ICS Reporting Requirements and the Section 214 Rules, the Company will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within thirty (30) calendar days after the Effective Date, the Company shall establish Operating Procedures that all Covered Employees must follow to help ensure the Company's compliance with the ICS Reporting Requirements and the Section 214 Rules. The Company's Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Company complies with the ICS Reporting Requirements and the Section 214 Rules. The Company shall also develop a Compliance Checklist that describes the steps a Covered Employee must follow to ensure compliance with the ICS Reporting Requirements and the Section 214 Rules.
- (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 ICS Reporting Requirements and the Section 214 Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure the Company's regulatory compliance. The Company shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current

³⁷ See 47 CFR § 1.93(b).

and accurate. The Company shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

- (c) **Compliance Training Program.** The Company shall establish and implement a Compliance Training Program on compliance with the ICS Reporting Requirements and the Section 214 Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of the Company's obligation to report any regulatory noncompliance as required by paragraph 20 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 initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. The Company shall repeat 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.

20. **Reporting Noncompliance.** The Company shall report any noncompliance with the ICS Reporting Requirements, the Section 214 Rules and the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that the Company 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 the Company has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to Jeffrey J. Gee, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Rizwan.Chowdhry@fcc.gov, David.Janas@fcc.gov, and Genevieve.Ross@fcc.gov.

21. **Compliance Reports.** The Company shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, and then annually thereafter for forty-eight (48) months.

- (a) Each Compliance Report shall include a detailed description of the Company's efforts during the relevant period to comply with the terms and conditions of this Consent Decree, the ICS Reporting Requirements, and the Section 214 Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that the Company: (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 20 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.³⁸
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Company, shall provide the Commission

³⁸ 47 CFR § 1.16.

with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that the Company 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 the Company 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 Jeffrey J. Gee, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Rizwan.Chowdhry@fcc.gov, David.Janas@fcc.gov, and Genevieve.Ross@fcc.gov.

22. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 18 through 21 of this Consent Decree shall expire sixty (60) months after the Effective Date.

23. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act³⁹ against the Company or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by the Company with the Communications Laws.

24. **Civil Penalty.** The Company agrees to pay a civil penalty to the United States Treasury in the amount of sixty thousand dollars (\$60,000). Such payment shall be made in 60 installments (each an Installment Payment). The first Installment Payment in the amount of one thousand dollars (\$1,000) payable to the United States Treasury is due within thirty (30) calendar days of the Effective Date. Thereafter, subsequent Installment Payments of one thousand dollars (\$1,000) will be due on the first calendar day of each subsequent month. CPC acknowledges and agrees that upon execution of this Consent Decree, the settlement and each Installment Payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).⁴⁰ Upon an Event of Default (as defined below), all procedures for collection as permitted by law may, at the Commission's discretion, be initiated.

25. CPC shall send notification of each payment to Jeffrey J. Gee, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Rizwan.Chowdhry@fcc.gov, David.Janas@fcc.gov, and Genevieve.Ross@fcc.gov on the date said payment is made. Payment of the fine must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's Fee Filer (the Commission's online payment system),⁴¹ or by wire transfer. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:⁴²

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the

³⁹ 47 U.S.C. § 208.

⁴⁰ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

⁴¹ Payments made using the Commission's Fee Filer system do not require the submission of an FCC Form 159.

⁴² For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).⁴³ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

- Payment by credit card must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu, and select the bill number associated with the NAL Account – the bill number is the NAL Account number with the first two digits excluded – and then choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu and then select the bill number associated to the NAL Account – the bill number is the NAL Account number with the first two digits excluded – and choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

26. **Event of Default.** CPC agrees that an Event of Default shall occur upon the failure by the Company to pay the full amount of any Installment Payment on or before the due date specified in this Consent Decree.

27. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the settlement amount shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75 percent, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the settlement amount, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys’ fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by CPC.

28. **Waivers.** As of the Effective Date, the Company 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. The Company shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither the Company nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Company shall waive any statutory right to

⁴³ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

a trial *de novo*. The Company hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act⁴⁴ relating to the matters addressed in this Consent Decree.

29. **Severability**. The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

30. **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.

31. **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 the Company does not expressly consent) that provision will be superseded by such Rule or Order.

32. **Successors and Assigns**. The Company agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

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

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

35. **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.

36. **Authorized Representative**. Each Party represents and warrants to the others that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

⁴⁴ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

37. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Rosemary C. Harold
Chief
Enforcement Bureau

Date

Josh Welk, Chief Financial Officer
Combined Public Communications, LLC
100 Aqua Drive
Cold Springs, Kentucky 41076

Date