

**Before the  
Federal Communications Commission  
Washington, DC 20554**

|                                  |   |                              |
|----------------------------------|---|------------------------------|
| In the Matter of                 | ) |                              |
|                                  | ) |                              |
| Tele Circuit Network Corporation | ) | File No.: EB-TCD-17-00023953 |
|                                  | ) | NAL/Acct. No.: 201832170002  |
|                                  | ) | FRN: 0008800690              |

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: April 27, 2018**

**Released: April 27, 2018**

By the Commission: Commissioner O’Rielly approving in part and dissenting in part.

**I. INTRODUCTION**

1. The Federal Communications Commission (FCC or Commission) proposes a penalty of \$5,323,322 against Tele Circuit Network Corporation (Tele Circuit or Company) for apparently willfully and repeatedly violating Sections 201(b) and 258 of the Communications Act of 1934, as amended (Act), and Sections 1.17 and 64.1120 of the Commission’s rules (Rules). Specifically, we find that Tele Circuit apparently: (i) engaged in deceptive marketing practices; (ii) changed the preferred telecommunications service providers of consumers without proper authorization verified in accordance with the Rules, including but not limited to by misleading consumers as to the Company’s identity or the nature of the Company’s proposed offerings (commonly known as “slamming”); (iii) provided false and misleading material information to the Commission with respect to the foregoing practices; and (iv) placed unauthorized charges (commonly known as “cramming”) for its long distance service on consumers’ telephone bills. We also find that Tele Circuit failed to fully respond to an Enforcement Bureau (Bureau) letter of inquiry (LOI), in violation of a Commission order.

2. We take this action after reviewing numerous complaints against Tele Circuit, including many filed by or on behalf of elderly or low-income consumers alleging that the Company engaged in slamming and cramming. Slamming and cramming are deceptive practices that cause consumers to spend significant time and effort to return to their preferred carriers, to remove unauthorized charges from their bills, and to file complaints with law enforcement agencies. In some instances, the apparent misconduct of Tele Circuit left vulnerable consumers without telephone service for extended periods of time—with Tele Circuit allegedly refusing to reinstate service until the crammed charges were paid in full. Further, it appears that some of the third-party verification recordings that Tele Circuit provided to the Commission as “evidence” of consumer authorization were fabricated. Fabricating evidence, submitting false and misleading information to the Commission in violation of Section 1.17 of the Rules, or failing to fully respond to Commission orders requesting information, disrupts the critical law enforcement functions of this agency and hinders our investigations and ability to address consumer complaints. Based on our review of the evidence surrounding these apparent violations, including consumer complaints that demonstrate that Tele Circuit’s misconduct was widespread and intentional, we propose a monetary forfeiture of \$5,323,322. We also note that in light of Tele Circuit’s egregious misconduct and the nature of the apparent violations, we will consider initiating proceedings against the Company to revoke its Commission authorizations after assessing the Company’s response to this Notice of Apparent Liability for Forfeiture (NAL).

## II. BACKGROUND

3. Tele Circuit<sup>1</sup> is a non-facilities based interexchange carrier authorized by the Commission to provide domestic and international long distance telecommunications service.<sup>2</sup> The Bureau reviewed numerous complaints against Tele Circuit that consumers filed with the Commission, state regulatory agencies, and the Better Business Bureau (BBB).<sup>3</sup> The complainants, identified in the Appendix, contended that Tele Circuit switched their (or their elderly relative's) long distance service from their preferred carrier to Tele Circuit without authorization, and/or charged them for service they did not request. Many of the complainants explained that Tele Circuit's telemarketers misrepresented their identity<sup>4</sup> by stating that they were calling on behalf of the consumer's current telecommunications service provider. Some complainants stated that Tele Circuit offered a discount on the consumer's existing service or discussed a (fictitious) government program for low-income individuals or senior citizens that, Tele Circuit claimed, could lower the cost of service.<sup>5</sup> Tele Circuit provided third-party verification (TPV) recordings,<sup>6</sup> which are supposed to provide evidence that customers assented to changing their

<sup>1</sup> Tele Circuit identified its address as 1815 Satellite Blvd., Suite 504, Duluth, GA 30097. Tele Circuit's President is Ashar Syed; its CEO is Syed's wife, Pobish Khan. See E-mail and Response Document from Yara Paredes, Manager, Tele Circuit Network Corporation, to Mika Savir, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau (May 3, 2017, 15:47 EDT, 15:50 EDT, 15:53 EDT) (LOI Response). Syed previously worked for another toll reseller, America's Tele-Network Corp. See Letter from Lance J.M. Steinhart, Attorney for Tele Circuit Network Corp., to Marlene H. Dortch, Secretary, FCC (Aug. 25, 2016). America's Tele-Network Corp. terminated its operations as part of a settlement with the Florida Public Service Commission. See State of Florida, Public Service Commission, Memorandum (Apr. 21, 2004) (on file in EB-TCD-17-00023953).

<sup>2</sup> See ITC-214-20030417-00193 (granted May 16, 2003).

<sup>3</sup> Twenty-seven of these complaints involve apparent slamming and cramming violations that took place within the 12-month period prior to the release of the NAL. These complaints are identified in the Appendix. Other complaints discussed in the NAL, but not listed in the Appendix and described as "not in Appendix," arose from slams or crams before the 12-month period prior to the release date of the NAL. Such complaints are not used to calculate the proposed forfeiture but are included in the NAL to illustrate Tele Circuit's past conduct and to support the upward adjustment to the forfeiture amount.

<sup>4</sup> In response to the Bureau's instruction to identify the companies with which Tele Circuit contracts for marketing services, Tele Circuit stated that it conducts its own telemarketing. See LOI Response at 2.

<sup>5</sup> See, e.g., Complaint from P. Ballentine (filed May 17, 2017); Complaint from J. Nichols (filed Jan. 2, 2017) (not in Appendix); Complaint from T. Hickman (filed Feb. 22, 2017) (not in Appendix); Complaint from P. Irving (filed May 20, 2016) (not in Appendix) ("[m]y elderly mother received a phone call from Tele Circuit. They told her that they were affiliated with AT&T and could give her a senior citizen discount on her phone."); Complaint from C. Carroll on behalf of F. Byrd (filed June 26, 2017) ("my dad received a call from Tele Circuit Network Corp[;] they asked . . . his name and they told him they were AT&T and were offering him a Sr. Citizen Discount . . . Can you help him and can you stop this company from preying on Senior Citizens?"); Complaint from D. Gourley (filed Apr. 27, 2016) (not in Appendix) ("[Tele Circuit] is calling seniors saying that they are affiliated with the Government and can lower people's phone bills."); Complaint from ██████████ (filed Apr. 27, 2016) (not in Appendix) ("contacted by someone claiming that the FCC passed a regulation where senior citizens could switch their phone service to Tele Circuit for a lower rate"); Complaint from K. Dale (filed Apr. 4, 2016) (not in Appendix) ("received a call from a company called Tele Circuit claiming to be with AT&T stating that they would be able to lower her lifeline credit"); Complaint from M. Arellano (filed Feb. 5, 2016) (not in Appendix) ("my 90 year old mother . . . was called by a Mr. Murphy from Tele Circuit and told there was a new govt program for seniors that would give her a 38 [dollar] credit on her phone bill . . . they proceeded to change her over from ATT without her knowledge or consent and sent her a bill"); Complaint from ██████████ (filed June 21, 2016) (not in Appendix) ("receiv[ed] a call from Tele Circuit Network regarding a Government Assistance program for senior citizens that included caller ID, call waiting, unlimited local calls and 250 minutes of long distance calls, all for \$38 a month").

<sup>6</sup> Third party verification (TPV) is one method a carrier may use to verify and record a consumer's authorization to change his or her preferred long distance carrier. 47 CFR § 64.1120(c)(3). TPV must comply with Section 64.1120(c)(3) of the Commission's rules. *Id.*

long distance service from their existing carriers to Tele Circuit.<sup>7</sup> Complainants who listened to the recordings stated that the TPVs were fabricated.<sup>8</sup>

4. Tele Circuit utilized a billing aggregator, Billing Concepts, Inc. (dba USBI), to place charges on consumers' local exchange carrier (LEC) bills.<sup>9</sup> One such LEC was AT&T. In August 2016, AT&T agreed to cease billing for most third-party service providers as part of a settlement with the Commission.<sup>10</sup> AT&T stopped accepting charges for third parties billing through USBI as of November 30, 2016, and stopped placing third-party charges on its customers' bills as of January 5, 2017.<sup>11</sup> Subsequently, Tele Circuit started billing consumers directly for its service. Many consumers who received direct bills from Tele Circuit stated that they had never heard of the Company and did not understand why Tele Circuit was billing them given that they were AT&T customers and never intended to change their service.<sup>12</sup> Some consumers complained that Tele Circuit billed them for unauthorized charges multiple times over the course of many months, despite being informed by the consumer that the charges were improper.<sup>13</sup>

5. After reviewing the complaints received by the Commission about Tele Circuit's practices, the Bureau initiated an investigation of Tele Circuit and issued an LOI to the Company on March 28, 2017.<sup>14</sup> The LOI instructed the Company to produce various documents and records, including evidence that it had complied with the Commission's verification procedures prior to switching consumers' long distance service providers. Tele Circuit responded to the LOI on May 3, 2017, but failed to fully answer the Bureau's inquiries and provide all requested documents. In particular, Tele Circuit failed to provide proof that the complainants listed in the LOI had provided Tele Circuit authorization to switch their long distance carrier.<sup>15</sup>

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<sup>7</sup> See E-mails from Yara Paredes, Manager, Tele Circuit Network Corporation, to Erica McMahon and Mika Savir, Attorney Advisors, Telecommunications Consumers Division, FCC Enforcement Bureau (June 9, 2017, 15:15 EDT, 15:17 EDT, 15:18 EDT; 15:19 EDT, 15:21 EDT, 15:22 EDT, 15:23 EDT; June 19, 2017, 15:48 EDT, 15:52 EDT, 15:53 EDT; July 11, 2017, 10:05 EDT; Nov. 22, 2017, 11:17 EDT; Dec. 29, 2017, 10:11 EDT, 13:26 EDT; Jan. 26, 2018, 12:40 EDT; Feb. 19, 2018, 13:04 EDT).

<sup>8</sup> See, e.g., Complaint from J. Castaneda (filed Mar. 8, 2017); Complaint from P. Morales (filed Apr. 5, 2017); Complaint from O. Valtierra (filed Oct. 6, 2016); Complaint from M. Casales (filed Feb. 1, 2017); Complaint from M. Hernandez (filed Mar. 13, 2017); Complaint from L. Arellano (filed Oct. 22, 2017).

<sup>9</sup> See LOI Response at 2.

<sup>10</sup> *AT&T Services, Inc.*, Order and Consent Decree, 31 FCC Rcd 8540, 8547, para. 16(a) (EB 2016).

<sup>11</sup> See *AT&T Service, Inc. Consent Decree 150-Day Compliance Report* at 2 (Jan. 5, 2017) (on file in EB-TCD-15-00019021).

<sup>12</sup> See, e.g., Complaint from L. Cordero (filed Mar. 9, 2017) (not in Appendix); Complaint from D. Perez-Benitoa (filed Apr. 6, 2017) (not in Appendix); Complaint from F. Salinas (filed Sept. 6, 2016) (not in Appendix); Complaint from D. Cowan (filed June 12, 2017).

<sup>13</sup> See, e.g., Complaint from C. De La Cruz (filed Mar. 10, 2017) (not in Appendix) (“[I] have been having problems for 4 months now with a telecommunications services on my home phone, i am 76 yrs old and i call them and they say the charges will no longer be on my phone bill but for months now it's still on there[.]”); Complaint from A. Viera (filed May 10, 2017) (“Tele Circuit LD has changed my long distance carrier without my authorization and has been charging me a fee since Dec. 2016 till today 5/10/17[.]”).

<sup>14</sup> See Letter from Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Tele Circuit Network Corporation (Mar. 28, 2017) (on file in EB-TCD-17-00023953) (LOI).

<sup>15</sup> After submitting an incomplete response to the LOI on May 3, 2017, Tele Circuit requested an extension of time to fully respond, and the Bureau granted a one-week extension. See E-mail from Mika Savir, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau, to Yara Paredes, Manager, Tele Circuit Network Corporation (May 3, 2017, 8:29 EDT). After Tele Circuit failed to provide any evidence of consumer authorizations by the extended due date, the Bureau asked whether the Company intended to submit any TPV

(continued....)

6. Additionally, many of the complainants identified themselves as senior citizens (or said they were filing on behalf of an elderly or infirm relative). The complainants stated that Tele Circuit's alleged misconduct caused great consternation among these victims and their family members, and created dangerous or potentially life-threatening situations.<sup>16</sup> For example,

- The Company told Complainant [REDACTED] that his grandmother authorized the switch of his carrier to Tele Circuit. [REDACTED] stated, "There are zero accounts in the house under [my grandmother's] name, she has macular degeneration so she can't even read, plus she has a nurse aid that comes to the house every day to help out. . . . This company is playing slick tricks on elderly people and it is completely unprofessional. . . . As for poor grandma, poor grandma, she is so afraid and concerned I told her not to worry she didn't do [any]thing wrong, she was just played by crooks."<sup>17</sup>
- Complainant [REDACTED] wrote, "Tele Circuit says that they talked to my 94-year old mother and persuaded her to change her landline telephone account from AT&T, who she has been with for decades. . . . It took me a week to get her landline phone service reconnected to AT&T." The complainant explained that she had to pay the Tele Circuit bill, late fee and service interruption fee to get her mother's service reconnected. "Aside from the financial aspects of slamming . . . there is the safety issue of . . . cutting off [my mother's] phone service before her conservator knew the service had been switched from AT&T. This is the only way she or her caregivers can contact me or anyone in case of an emergency."<sup>18</sup>
- Complainant [REDACTED] explained that, when Tele Circuit contacted him, he agreed to receive some information about Tele Circuit's service but not to switch his service to Tele Circuit. "An account was opened in my name and a bill was generated at the very time I received the phone call. . . . I have received no service from the company and they have billed me for \$50.02. I am 82 years old and am taking care of my wife who has lung cancer. I don't need this stress."<sup>19</sup>
- Complainant [REDACTED] filed a complaint on behalf of her 74-year old mother, "who has a severe heart condition and is also diabetic. . . . [N]ow her phone service has been disconnected because Tele Circuit has disconnected her service." When Ms. [REDACTED] asked to listen to the recording of her mother allegedly authorizing Tele Circuit's service, Tele Circuit could not provide it. "As of right now my mother is without a phone and if anything happens to her, she can't even dial 911 because she has no service at all. I was told that she had to pay \$44.00 to Tele Circuit . . . for her service to be restored. It's sad that these companies prey on the elderly."<sup>20</sup>

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recordings. See E-mails from Erica McMahon, Attorney Advisor, Telecommunications Consumers Division, FCC Enforcement Bureau, to Yara Paredes, Manager, Tele Circuit Network Corporation (May 25, 2017, 14:17 EDT, 15:26 EDT). Tele Circuit subsequently sent TPV recordings for some, but not all, of the consumers who had been switched to Tele Circuit.

<sup>16</sup> Many complainants stated that the elderly consumers impacted had never heard of Tele Circuit and therefore did not pay Tele Circuit's bills. Tele Circuit then apparently disconnected their local and long distance service, and the consumers could not easily get the service restored because of Tele Circuit's demands for payment.

<sup>17</sup> Complaint from [REDACTED] (filed Feb. 1, 2017).

<sup>18</sup> Complaint from [REDACTED] (filed Mar. 12, 2017) (not in Appendix).

<sup>19</sup> Complaint from [REDACTED] (filed Mar. 27, 2017) (not in Appendix).

<sup>20</sup> Complaint from [REDACTED] (filed Jan. 31, 2017) (not in Appendix).

- “Elderly Abuse Scam. Tele Circuit called my 87-year old father and switched his phone service from AT&T to Tele Circuit,” wrote Complainant [REDACTED] daughter. “[T]hey scammed him on the day of his last sibling’s funeral. He has had the same phone number with AT&T for about 70 years and now he has NO phone service. . . . Please help us. Plus [his] phone number is on the Do Not Call list. How can this happen?”<sup>21</sup>
- Complainant [REDACTED] brother filed a complaint against Tele Circuit, stating “[m]y sister who is 90% blind, extremely mentally handicapped, being treated for cancer, on medicare and medicaid, was contacted by this company called Tele Circuit concerning her phone service. They flim-flammed her into canceling her service with AT&T which she’s had for 20 years or more.” He went on to explain, “[Tele Circuit] arranged to get AT&T canceled and never provided one second of phone service to her. And then sent her a bill for \$34.00. She’s been without her phone for almost a week. I called Tele Circuit to explain the situation and . . . they told me to pay the \$34.00 and if I didn’t they would continue billing her.”<sup>22</sup>

### III. DISCUSSION

7. The Commission finds that Tele Circuit apparently willfully and repeatedly violated Sections 201(b) and 258 of the Act,<sup>23</sup> and Sections 1.17 and 64.1120 of the Rules.<sup>24</sup> Specifically, as discussed more fully below, we find that Tele Circuit apparently violated: (i) Section 201(b), for engaging in deceptive marketing practices and relying on fabricated TPV recordings; (ii) Section 258 of the Act and Section 64.1120 of the Rules, for submitting requests to switch consumers’ preferred long distance carriers without authorization verified in compliance with the Commission’s verification procedures; (iii) Section 1.17 of the Rules for providing false and misleading material information to the Commission; (iv) Section 201(b) of the Act for placing unauthorized charges on consumers’ telephone bills;<sup>25</sup> and (v) a Commission order to produce certain information and documents related to Tele Circuit’s business practices. As discussed below, we base these findings on the numerous consumer complaints alleging consistent patterns of deceptive behavior by Tele Circuit, and on the Company’s misconduct during the course of the investigation, which apparently violate the Act and the Rules. For the reasons discussed below, we find these complaints to be credible. Accordingly, we propose a forfeiture of \$5,323,322 for the apparent violations that occurred within the 12 months prior to the release date of this NAL.<sup>26</sup>

#### A. Tele Circuit Deceptively Marketed its Services in Apparent Violation of Section 201(b) of the Act

8. Section 201(b) of the Act states, in pertinent part, that “[a]ll charges, practices, classifications, and regulations for and in connection with [interstate or foreign] communication service [by wire or radio], shall be just and reasonable, and any such charge, practice, classification, or regulation

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<sup>21</sup> Complaint from [REDACTED] (filed Sept. 29, 2016) (not in Appendix).

<sup>22</sup> Complaint from [REDACTED] (filed May 2, 2016) (not in Appendix).

<sup>23</sup> 47 U.S.C. §§ 201(b), 258.

<sup>24</sup> 47 CFR §§ 1.17, 64.1120.

<sup>25</sup> See *Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges*, Notice of Proposed Rulemaking, 32 FCC Rcd 6022, 6028-29, n.48 (observing that notwithstanding the Notice of Proposed Rulemaking seeking comment on additional rules to protect consumers from slamming and cramming, the Commission continues to have authority under Section 201(b) of the Act to take enforcement action against cramming violations).

<sup>26</sup> The Appendix identifies the 33 complaints, evidencing 55 apparent violations of the Act and Rules that underlie the proposed forfeiture.

that is unjust or unreasonable is declared to be unlawful.”<sup>27</sup> The Commission has held that unfair and deceptive marketing practices by interstate common carriers generally, and misrepresentations about a carrier’s identity or the nature of its service to obtain a consumer’s authorization to change his or her preferred long distance carrier specifically, constitute unjust and unreasonable practices under Section 201(b) of the Act.<sup>28</sup>

9. The evidence shows that Tele Circuit repeatedly made misrepresentations to complainants (or the elderly or infirm relatives on whose behalf complainants were filing). Tele Circuit deceived them into believing that the Company was calling on behalf of the customer’s existing telecommunications provider and that the purpose of the call was to seek authorization to change the consumer to a new service with their existing provider (e.g., by offering a discounted rate). For example:

- Complainant Cortez stated, “Tele Circuit claimed to be a billing extension for AT&T and has been charging me from an account I never opened. . . . When confronted with the situation, Tele Circuit . . . continues to send bills to my current address stating that I must pay the pending charges prior to closing the account. When I asked for proof of authorization . . . Tele circuit played a recording from a woman with an entirely different name from my own.”<sup>29</sup> When Ms. Cortez informed Tele Circuit that the recording was not her authorization, they still insisted she pay the bill.
- Complainant Beal explained, “Tele Circuit will not release the block on my line. I am trying to get back to Global Connection. Tele Circuit lied about being Global Connection. I really want to stay with Global.”<sup>30</sup>
- Complainant Jones said she received a call from Tele Circuit pretending to be her Lifeline provider even though she receives her Lifeline service through Global Connection. The Tele Circuit representative claimed to be recertifying her Lifeline service but, instead, switched her carrier to Tele Circuit.<sup>31</sup>
- Complainant Nichols also received a call from a Tele Circuit representative about a so-called “Government program to cut in half the cost of [his] landline home phone.”<sup>32</sup> “I am a 75 year old man who had had AT&T phone service for many years. I . . . did not realize I was authorizing him to switch my service from AT&T until I received a bill from a company called Tele Circuit. . . . It concerns me that Tele Circuit has the ability to change my service provider based on an unsolicited phone conversation in which it

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<sup>27</sup> 47 U.S.C. § 201(b).

<sup>28</sup> See *Business Discount Plan, Inc.*, Order of Forfeiture, 15 FCC Rcd 14461, 14469, para. 17 (2000), *aff’d in relevant part on reconsideration*, 15 FCC Rcd 24396 (2000); *Advantage Telecommunications Corp.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 6843, 6849, para. 16 (2013) (*Advantage NAL*), Forfeiture Order, 32 FCC Rcd 3723, 3725, para. 7 (2017) (*Advantage Forfeiture Order*); *Preferred Long Distance, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 16489, 16491, para. 7 (2012) (*Preferred NAL*), Forfeiture Order, 30 FCC Rcd 13711, 13718, para. 16 (2015) (*Preferred Forfeiture Order*); *Central Telecom Long Distance, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5517, 5520, para. 7 (2014) (*Central NAL*), Forfeiture Order, 31 FCC Rcd 10392, 10403, para. 25 (2016) (*Central Forfeiture Order*); *U.S. Telecom Long Distance, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 823, 825–26, para. 7 (2014) (*USTLD NAL*), Forfeiture Order, 31 FCC Rcd 10413, 10424, para. 25 (2016) (*USTLD Forfeiture Order*); *Consumer Telcom, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 17196, 17198–99, para. 7 (2013) (*CTI NAL*), Forfeiture Order, 31 FCC Rcd 10435, 10446, para. 25 (2016) (*CTI Forfeiture Order*).

<sup>29</sup> Complaint from K. Cortez (filed Mar. 15, 2017) (not in Appendix).

<sup>30</sup> Complaint from P. Beal (filed Apr. 11, 2017) (not in Appendix).

<sup>31</sup> Complaint from K. Jones (filed Apr. 26, 2017) (not in Appendix).

<sup>32</sup> Complaint from J. Nichols (filed Jan. 2, 2017) (not in Appendix).

was not clear to me what they were going to do. They should be required to clearly identify themselves as not being a representative of my current service provider.”<sup>33</sup>

- Complainant Irving also stated that Tele Circuit deceptively marketed its service. “[M]y elderly mother received a phone call from Tele Circuit. They told her that they were affiliated with AT&T and could give her a senior citizen discount on her phone. When she tried to go back to AT&T, she found they had frozen the phone number and refused to release it to AT&T.”<sup>34</sup>

10. Numerous other complainants reported receiving calls from Tele Circuit telemarketers who misrepresented their identity.<sup>35</sup> The complaints regarding Tele Circuit’s deceptive marketing span the course of over a year.<sup>36</sup> Given the volume of complaints and the duration of Tele Circuit’s improper practices, it appears that Tele Circuit was aware of and benefited financially from its deceptive marketing scheme. Accordingly, we find Tele Circuit in apparent violation of Section 201(b) of the Act for engaging in deceptive practices by representing to complainants that it was calling on behalf of their existing long distance carriers and/or failing to disclose the true purpose of its marketing call.

**B. Tele Circuit Relied on Fabricated Audio Recordings as Evidence of Consumer Authorization in Apparent Violation of Section 201(b) of the Act and Provided False and Misleading Material Information to the Commission in Apparent Violation of Section 1.17 of the Rules**

11. Section 201(b) of the Act prohibits carriers from engaging in unjust and unreasonable practices, and the Commission has found that deceptive, fraudulent practices, including providing false or fabricated TPV recordings to consumers or the Commission, are such unlawful practices.<sup>37</sup>

12. Many complainants stated in their complaints or to Bureau staff that the voice on the TPV recording was not theirs, or that they did not otherwise have any conversation with Tele Circuit or its third-party verifier. For example:

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<sup>33</sup> *Id.*

<sup>34</sup> Complaint from P. Irving (filed May 20, 2016) (not in Appendix).

<sup>35</sup> See, e.g., Complaint from D. Hand (filed Feb. 18, 2016) (not in Appendix) (“I was tricked into changing my phone service to this company. They misrepresented themselves, making me believe that they were AT&T. I now have no phone!”); Complaint from M. Deason (filed Mar. 7, 2016) (not in Appendix) (“I received a call I thought was AT&T, my present landline provider offering [a] good deal on phone service.”); Complaint from R. Kelley (filed Mar. 17, 2016) (not in Appendix) (“This company scammed me by having someone call on the phone that I could not understand and talked so fast I could not hear what he was asking me. He said he was affiliated with AT&T and he was offering me a cheaper monthly phone bill.”); Complaint from R. Daniel (filed Mar. 30, 2016) (not in Appendix) (“[M]y 90 year old mother was the victim of a ‘slam.’ She was contacted on her home phone by a [Tele Circuit] agent representing himself as being with AT&T. He scammed my mother into changing phone service without her knowledge.”); Complaint from [REDACTED] (filed Jan. 20, 2017) (not in Appendix) (“... received a call from Tele Circuit stating to be from AT&T offering [her] a lower price with AT&T . . . then found out that it was not AT&T that called her.”).

<sup>36</sup> See, e.g., Complaint from D. Hand (filed Feb. 18, 2016) (not in Appendix); Complaint from R. McLeod (filed Jan. 2, 2018).

<sup>37</sup> See *Optic Internet Protocol, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 9056, 9061, para. 14 (2014) (*Optic NAL*), Forfeiture Order, 30 FCC Rcd 2539 (2015) (*Optic Forfeiture Order*); see also *OneLink Communications, Inc.*, *TeleDias Communications, Inc.*, *TeleUno, Inc.*, *Cytel, Inc.*, Notice of Apparent Liability for Forfeiture, 31 FCC Rcd 1403, 1420, para. 16 (2016) (*OneLink NAL*); *United Telecom, Inc.*, 27 FCC Rcd 16499, 16503, para. 11 (2012) (*United NAL*) (each finding a carrier in apparent violation of Section 201(b) for relying on fabricated TPV recordings).

- Upon learning that her carrier was switched from AT&T to Tele Circuit and listening to the TPV recording purportedly showing she had authorized the switch, Complainant Castaneda stated, “[t]his recording is actually rather horrifying. It is my voice (I do speak Spanish) but I NEVER agreed to change my local toll/long distance service. I believe I was confirming my identity for another purpose . . . I repeat; in the actual phone call I was NOT being asked to switch my long distance carrier. This is a ‘doctored’ recording. I hope these scoundrels are shut down.”<sup>38</sup>
- Complainant Morales similarly alleged the TPV recording was a fake. “I found charges from Qwest Long Distance [on behalf of Tele Circuit] in my home phone and I never requested that service . . . [T]hey play to me a recording where I say YES answering questions where they ask if I want the service. The YES sounds like my voice, but then they ask for my maiden name and a different voice answered my married name, no[t] my maiden name. They do not know my maiden name because I never answered those questions accepting the service.”<sup>39</sup>
- Complainant Valtierra was also adamant that she did not authorize Tele Circuit as her long distance provider. Ms. Valtierra contacted Tele Circuit and was played an audio recording of the person who allegedly requested the service. “I explained the answers to ‘maiden’ name or ‘birthday’ were incorrect. I told him to cancel and that I wanted a refund of the \$6.53 charge to USBI on behalf of Tele Circuit.”<sup>40</sup>
- Tele Circuit switched Complainant Casales’ carrier without his authorization. After returning to his preferred provider, Mr. Casales received a bill from Tele Circuit and immediately contacted the Company. “It is sort of a scam because they played a recording in which a female with a different name than mine was authorizing them to be my long distance carrier.” Tele Circuit informed Mr. Casales that any adult over 18 years old can make any changes to the account. “This is a scam and it is extremely abusive and unprofessional as now they want me to pay that fee.”<sup>41</sup>
- Complainant Hernandez stated that after receiving a bill from Tele Circuit, she contacted the Company to explain that she did not know Tele Circuit existed and that she does not make long distance calls from her house. “The representative asked me if I wanted to hear a recording proving that I requested the service and I said yes. As I was hearing the recording it seemed to me that the whole thing was made up because of the way the questions were answered. One of the questions asked in the recording was my mother’s maiden name and the answer was not correct. . . . I believe legal action needs to be taken against this company.”<sup>42</sup>
- Complainant Arellano stated that she never spoke to Tele Circuit or authorized the switching of her long distance company. Ms. Arellano’s son listened to the TPV recording with his mother and said that the maiden name provided on the recording was wrong. “In addition, the recording is suspicious because the man is speaking Spanish so fast that my mom and I can barely understand what he is saying. My mom would never

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<sup>38</sup> Complaint from J. Castaneda (filed Mar. 8, 2017).

<sup>39</sup> Complaint from P. Morales (filed Apr. 5, 2017).

<sup>40</sup> Complaint from O. Valtierra (filed Oct. 6, 2016).

<sup>41</sup> Complaint from M. Casales (filed Feb. 1, 2017).

<sup>42</sup> Complaint from M. Hernandez (filed Mar. 13, 2017).

“speak to someone on the phone who was talking that fast. I believe the recording is a fraud.”<sup>43</sup>

13. Although Tele Circuit issued general denials of wrongdoing in response to some consumer complaints, the Company has not, to date, attempted to refute specific allegations made by consumers about evidence suggesting that certain TPVs were fabricated. For instance, in its response to Complainant Valtierra’s assertion that the voice portraying her on Tele Circuit’s TPV did not accurately state her maiden name and birthday, Tele Circuit simply stated that it “did not commit fraud” against the complainant.<sup>44</sup> Tele Circuit did not otherwise address the specific issues that Complainant Valtierra raised about the TPV nor did it specifically refute the allegation that the TPV was fabricated.<sup>45</sup> Tele Circuit issued an identical denial in response to specific allegations made by other complainants.<sup>46</sup> Tele Circuit’s bald assertions that it “did not commit fraud” are simply not enough to overcome its failure to refute any of the specific allegations raised by consumers of what actually occurred. We, therefore, conclude that Tele Circuit presented six fabricated audio recordings<sup>47</sup> to the Commission as evidence of consumer authorization in apparent violation of Section 201(b) of the Act.<sup>48</sup>

14. Based on the evidence discussed above, we find that Tele Circuit also apparently violated Section 1.17 of the Rules by submitting fabricated TPVs to the Commission. Section 1.17(a)(2) of the Rules provides that no person may provide to the Commission, in any written statement of fact, “material factual information that is incorrect or omit material information . . . without a reasonable basis for believing that any such material factual statement is correct and not misleading.”<sup>49</sup> This requirement is intended in part to enhance the effectiveness of the Commission’s enforcement efforts.<sup>50</sup> Thus, even absent an intent to deceive, a false statement may constitute a violation of Section 1.17 if provided without a reasonable basis for believing that the information is truthful and not misleading.<sup>51</sup>

15. In response to the Bureau’s request for evidence of consumer authorization, Tele Circuit submitted apparently fabricated TPV recordings to the Commission, despite receiving complaints over the

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<sup>43</sup> Complaint from L. Arellano (filed Oct. 22, 2017).

<sup>44</sup> Response from Tele Circuit to Complaint from O. Valtierra (on file in EB-TCD-17-00023953).

<sup>45</sup> *See id.*

<sup>46</sup> *See, e.g.,* Response from Tele Circuit to Complaint from M. Casales (on file in EB-TCD-17-00023953).

<sup>47</sup> Tele Circuit relied on apparently fabricated TPV recordings for Complainants J. Castaneda; O. Valtierra; M. Casales; P. Morales; M. Hernandez; and L. Arellano. We do not propose a forfeiture for each of the Section 201(b) violations; rather, we propose a forfeiture for Tele Circuit’s violations of Section 1.17, which were perfected when it submitted each apparently fabricated TPV to the Commission. *See infra* para. 29; *see also* Appendix (including the dates on which the TPVs were provided to the Commission).

<sup>48</sup> *See* 47 U.S.C. § 217. Section 217 imposes liability on a carrier for the acts and omissions of its agents simply if those agents act within the scope of their employment; a carrier’s knowledge of its agents’ misdeeds is not required. *See, e.g., Advantage Forfeiture Order*, 32 FCC Rcd at 3726, para. 9; *Preferred Forfeiture Order*, 30 FCC Rcd at 13724, para. 26 (each finding a carrier liable for deceptive marketing practices of the third-party telemarketers). In any event, Tele Circuit has not claimed or produced any evidence that it was unaware of its third-party verifier’s actions or that the Company should not be held responsible for those actions.

<sup>49</sup> 47 CFR § 1.17(a)(2).

<sup>50</sup> *See Amendment of Section 1.17 of the Commission’s Rules Concerning Truthful Statements to the Commission*, Report and Order, 18 FCC Rcd 4016, 4016-17, 4021, paras. 1–2, 12 (2003), *recon. denied*, Memorandum Opinion and Order, 19 FCC Rcd 5790, *further recon. denied*, Memorandum Opinion and Order, 20 FCC Rcd 1250 (2004) (*Amendment of Section 1.17*).

<sup>51</sup> *See id.* at 4017, para. 4 (stating that the revision to Section 1.17 is intended to “prohibit incorrect statements or omissions that are the result of negligence, as well as an intent to deceive”).

course of a year from consumers who said they did not authorize a switch to Tele Circuit's service.<sup>52</sup> As we have previously stated, parties must "use due diligence in providing information that is correct and not misleading to the Commission."<sup>53</sup> This includes taking appropriate steps to determine the truthfulness of what is being submitted. Nothing in the record suggests that Tele Circuit implemented even the most basic steps to do so, as evidenced by the six complaints discussed above that form the basis for this rule violation.<sup>54</sup> Accordingly, we find that Tele Circuit apparently violated Section 1.17(a)(2) of the Rules by providing false and misleading material information to the Commission in the form of six fabricated TPVs while lacking a reasonable basis for believing that those TPVs were authentic.

**C. Tele Circuit Submitted Requests to Switch Consumers' Preferred Carriers without Authorization in Apparent Violation of Section 258 of the Act and Section 64.1120 of the Rules**

16. Section 258 of the Act makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe."<sup>55</sup> Section 64.1120 of the Rules prohibits carriers from submitting a preferred carrier change order before obtaining verified authorization from the consumer. The Rules provide that the verified authorization can be obtained three ways, including written or electronic authorization or through use of an independent third-party verifier.<sup>56</sup> "Slamming" refers to the unlawful practice of switching a consumer's telephone service without first obtaining such verified authorization. Slamming not only harms the consumers who are victims of the unlawful act, it also distorts the telecommunications market by enabling carriers that engage in fraudulent activity to increase their revenues at the expense of consumers and law-abiding carriers.<sup>57</sup>

17. First, we find Tele Circuit in apparent violation of Section 258 of the Act and Section 64.1120 of the Rules for failing to obtain verified authorization before switching the telephone service providers of 11 consumers. After receiving complaints from consumers claiming they were slammed, the Bureau directed Tele Circuit to provide the verified authorization the Company relied upon in requesting to switch the carriers of those consumers.<sup>58</sup> CGB served additional slamming complaints on Tele Circuit that consumers filed through the Commission's Consumer Complaint Center. Tele Circuit failed to provide any kind of verified authorization for 11 of the consumers. The Rules require carriers to "maintain and preserve records of verification of subscriber authorization for a minimum for two years

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<sup>52</sup> We consider the TPV recordings to be "written statements" as they were submitted as part of written responses to the Consumer & Governmental Affairs Bureau's (CGB's) Notices of Informal Complaints.

<sup>53</sup> *Amendment of Section 1.17*, 18 FCC Rcd at 4021, para. 12. See *GPSPS, Inc.*, Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 2522, 2524-27, paras. 6-12 (2015) (*GPSPS NAL*), Forfeiture Order, 30 FCC Rcd 7814 (2015) (*GPSPS Forfeiture Order*); *OneLink NAL*, 31 FCC Rcd at 1420-21, paras. 17-18 (each finding that the carriers apparently violated Section 1.17 of the Rules for submitting fabricated TPV recordings to the Commission).

<sup>54</sup> See *supra* para. 12; see also Appendix (identifying complaints filed by S. Casteneda, O. Valtierra, M. Casales, P. Morales, M. Hernandez, and L. Arellano, each of whom alleged Tele Circuit's TPV recording was false or had been fabricated, along with the dates the TPVs were submitted to the Commission).

<sup>55</sup> 47 U.S.C. § 258(a). See also *AT&T Corporation v. FCC*, 323 F.3d 1081, 1086 (DC Cir. 2003) (stating that carriers must comply with Commission verification procedures and that "a 'procedure' is 'a particular course of action,' or 'a particular step adopted for doing or accomplishing something.'" (citing Webster's Third New International Dictionary 1807 (1993)).

<sup>56</sup> 47 CFR § 64.1120(c).

<sup>57</sup> See *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, Fourth Report and Order, 23 FCC Rcd 493, 493-494, para. 2 (2008).

<sup>58</sup> See LOI at 4.

after obtaining such verification.”<sup>59</sup> Once the Commission notifies a carrier of an unauthorized carrier change complaint, “[f]ailure by the carrier to respond or provide proof of verification will be presumed to be clear and convincing evidence of a violation.”<sup>60</sup> In 11 cases, Tele Circuit simply did not respond to the complaints served on the Company.<sup>61</sup> We conclude that Tele Circuit apparently violated Section 258 of the Act and Section 64.1120 of the Rules with respect to 11 complainants because the Company failed to provide proof of verification in response to those consumers’ unauthorized carrier change complaints.

18. Second, we find Tele Circuit in apparent violation of Section 258 of the Act and Section 64.1120 of the Rules for failing to meet the requirements prescribed when a carrier chooses to rely on third-party verification to prove consumer authorization for a carrier switch. Section 64.1120(c)(3)(iii) lays out the content and format that must be used when a carrier relies on third party verification of consumer authorization. Specifically, the Rules state that the verifier “must not be misleading,” and must elicit, at a minimum, certain information, including “confirmation that the person on the call wants to make the carrier change; [and] confirmation that the person on the call understands that a carrier change, not an upgrade to existing service, bill consolidation, or any other misleading description of the transaction, is being authorized.”<sup>62</sup>

19. We find that for 13 additional consumers, the third-party verification recordings purportedly demonstrating their authorization all failed to comply with the requirements of Section 64.1120(c)(3)(iii). In all 13 recordings, the verifier fails to confirm that the consumer understands they are making a carrier change and that they wish to make such a change. In fact, the verifier does not mention a carrier change at all during the call. At the end of the call, after concluding a series of rapid-fire questions, the verifier says, “Welcome to Tele Circuit Network Corporation” and provides a telephone number the consumer can call with questions. At best, consumers may be able to glean from this statement that the named company is in some way involved with the actions described during the TPV recording and preceding sales call. However, at no point does the verifier directly ask the consumer if they want to make a carrier change or if they understand that they are authorizing a carrier change rather than making a change to existing service or a billing change.<sup>63</sup> The actions taken by Tele Circuit and its verifier do not elicit “confirmation that the person on the call wants to make the carrier change” or “confirmation that the person on the call understands that a carrier change is being authorized” as required by the Rules.

20. Taken together, for 11 complainants Tele Circuit could not provide the Commission with any evidence of a verified consumer authorization to switch carriers and in 13 cases where Tele Circuit

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<sup>59</sup> 47 CFR § 64.1120(a)(1)(ii).

<sup>60</sup> 47 CFR § 64.1150(d).

<sup>61</sup> The complainants are M. Washington; M. Wood; P. McCandless; R. Butler; R. Moore; G. Ferguson; A. Scivally; B. Hendrix; V. Bell; W. White; D. Cowan. See *TeleCircuit, Complaints Regarding Unauthorized Change of Subscriber’s Telecommunications Carrier*, Order, DA 17-1132, 32 FCC Rcd 9532, 9534, para. 4 (CGB 2017); *TeleCircuit, Complaint Regarding Unauthorized Change of Subscriber’s Telecommunications Carrier*, Order, DA 17-1044, 32 FCC Rcd 7672, 7673-74, para. 4 (CGB 2017); *TeleCircuit, Complaints Regarding Unauthorized Change of Subscriber’s Telecommunications Carrier*, Order, DA 18-87, 2018 WL 654860, at \*2, para. 4 (CGB Jan. 30, 2018) (each granting complaints because Tele Circuit did not respond to the complaints and did not provide proof of verification).

<sup>62</sup> 47 CFR § 64.1120(c)(3)(iii). The other kinds of information the Rule requires is “[t]he date of the verification; the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; . . . the names of the carriers affected by the change (not including the name of the displaced carrier); the telephone numbers to be switched; and the types of service involved (including a brief description of a service about which the subscriber demonstrates confusion regarding the nature of that service.). *Id.*

<sup>63</sup> See TPVs associated with Complainants P. Ballentine, J. Lowry, C. Webb, F. Byrd, S. Jones, F. Stevenson, J. Locklear, D. Trent, L. Mayes, R. McLeod, J. Hayes, I. Coleman, E. Coronado.

relied on third-party verification, the verifications were flawed and did not comply with our Rules. As such, Tele Circuit apparently switched the telephone service of 24 consumers without verified authorization to do so, in violation of Section 258 of the Act and Section 64.1120 of the Rules.<sup>64</sup>

**D. Tele Circuit Placed Unauthorized Charges on Consumers' Telephone Bills in Apparent Violation of Section 201(b) of the Act**

21. Section 201(b) of the Act makes it unlawful for a carrier, such as Tele Circuit, to engage in any practice in connection with its provision of a telecommunications service that is unjust and unreasonable.<sup>65</sup> The Commission has found that the inclusion of unauthorized charges and fees on consumers' telephone bills (i.e., cramming) is an "unjust and unreasonable" practice under Section 201(b).<sup>66</sup> Cramming can occur either when third parties place or cause to be placed unauthorized charges on consumers' local telephone bills or when billing carriers place unauthorized charges on the telephone bills of their customers for their services or those of a third party.<sup>67</sup> In either case, any assessment of an unauthorized charge or fee on a telephone bill is an "unjust and unreasonable" practice under Section 201(b) of the Act.<sup>68</sup>

22. We have reviewed the evidence in the record, including consumers' complaints and their telephone bills, and find that Tele Circuit caused to be placed on complainants' telephone bills unauthorized charges in apparent violation of Section 201(b) of the Act. The complainants identified in the Appendix maintain that they neither requested nor agreed to receive service from Tele Circuit and were billed for service that they never authorized. In some of the cases, Tele Circuit switched the consumer's long distance carrier to Tele Circuit and began charging them for its service. In other cases, Tele Circuit did not complete a carrier switch, but nevertheless charged the complainants a monthly fee for its long distance service, even though they were not providing service to the consumers. The charges were placed on the complainants' LEC bills or on a bill from Tele Circuit.<sup>69</sup>

23. As we have said previously, a carrier that engages in an initial slam that leads to a subsequent cram violates both Sections 258 and 201(b) of the Act for slamming and cramming.<sup>70</sup> In such

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<sup>64</sup> The attached Appendix provides a list of complainants who alleged slamming violations that occurred within the 12-month period prior to the release of this NAL and the dates on which the apparent violations took place.

<sup>65</sup> 47 U.S.C. § 201(b).

<sup>66</sup> See, e.g., *Advantage Forfeiture Order*, 32 FCC Rcd at 3728, para. 14; *CTI Forfeiture Order*, 31 FCC Rcd at 10441-42, para. 15; *Central Forfeiture Order*, 31 FCC Rcd at 10392, para. 15; *USTLD Forfeiture Order*, 31 FCC Rcd at 10419-10420, para. 15; see also *Long Distance Direct, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 3297, 3302, para. 14 (2000) (*LDDI MO&O*) (finding that the company's practice of cramming membership and other unauthorized fees on consumer telephone bills was an unjust and unreasonable practice in connection with communication services).

<sup>67</sup> See *Advantage Forfeiture Order*, 32 FCC Rcd at 3728, para. 14; see also *Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges ("Cramming")*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 4436, 4437, 4439, paras. 1, 6 (2012).

<sup>68</sup> See, e.g., *LDDI MO&O*, 15 FCC Rcd at 3302, para. 14; see also *Advantage Forfeiture Order*, 32 FCC Rcd at 3728, para. 14; *CTI Forfeiture Order*, 31 FCC Rcd at 10441-42, para. 15; *Central Forfeiture Order*, 31 FCC Rcd at 10392, para. 15; *USTLD Forfeiture Order*, 31 FCC Rcd at 10419-10420, para. 15; *Telseven, LLC*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 15558, 15564, 15567, paras. 12, 16 (2012), *Forfeiture Order*, 31 FCC Rcd 1639 (2016).

<sup>69</sup> As discussed above, once AT&T terminated billing for most third-party providers in January 2017, Tele Circuit began sending consumers direct bills for service. See *supra* para. 4. Only then did some consumers become aware that Tele Circuit had switched their local and/or long distance service to Tele Circuit and in some cases, had been billing them a monthly service fee for many months without their knowledge or authorization.

<sup>70</sup> See *Advantage NAL*, 28 FCC Rcd at 6850, para. 18 & n.48, *Advantage Forfeiture Order*, 32 FCC Rcd at 3728, para. 15; *Optic NAL*, 29 FCC Rcd at 9063, para. 19, *Optic Forfeiture Order*, 30 FCC Rcd at 2539, para. 1.

cases, we may exercise our authority to assess forfeitures for both violations,<sup>71</sup> and based on the fact that Tele Circuit has been on notice that we could propose forfeitures for each such violations, we do so here.<sup>72</sup> Accordingly, we find that Tele Circuit apparently violated Section 201(b) in 21 instances for placing unauthorized charges on consumers' telephone bills.<sup>73</sup>

**E. Tele Circuit Violated a Commission Order by Failing to Respond Fully to a Bureau LOI**

24. Sections 4(i), 218, and 403 of the Act give the Commission broad power to compel carriers, such as Tele Circuit, to provide information and documents sought by the Bureau through LOIs.<sup>74</sup> It is well established that failure to respond to an LOI from the Bureau constitutes a violation of a Commission order.<sup>75</sup>

25. The Bureau's LOI directed Tele Circuit to provide specific information related to its compliance with Sections 201(b) and 258 of the Act and the Commission's anti-slamming rules. This information is necessary to enable the Bureau to perform its investigatory function. Tele Circuit responded to the LOI, but provided only some of the required information. Specifically, Tele Circuit failed to provide the Bureau with consumer complaints or inquiries it received from consumers directly or through its billing aggregator, state regulatory authorities, or the BBB. In addition, Tele Circuit failed to provide the Bureau with TPV recordings associated with those complaints. Further, the Company did not provide the scripts used by its telemarketers and third-party verifiers, its contracts with any billing aggregator or local exchange carrier, or its state registrations. Tele Circuit did not explain the reason for its failure to provide the required documents or request an extension of time within which to submit all of them. Accordingly, in light of well-established Commission precedent,<sup>76</sup> we find that Tele Circuit's failure to provide all of the information and documents responsive to the Bureau's LOI constitutes an apparent willful violation of a Commission order.

**F. Proposed Forfeiture**

26. 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,

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<sup>71</sup> See *Neon Phone Service, Inc.*, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 7964, 7971-72, para. 19 & Appendix (2017) (*Neon NAL*); *Long Distance Consolidated Billing Co.*, Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 8664, 8671, para. 21 & Appendix (2015) (each proposing forfeitures for both the slam and cram violation where each occurred within the statute of limitations period).

<sup>72</sup> See *Central NAL*, 29 FCC Rcd at 5529, para. 25 & n.83; *USTLD NAL*, 29 FCC Rcd at 835-836, para. 24 & n.93; *CTI NAL*, 28 FCC Rcd at 17208, para. 26 & n.78.

<sup>73</sup> For those consumers whose slams took place outside the statute of limitations, we are proposing a forfeiture based only on the unlawful cramming that took place within the last 12 months. Similarly, in instances where the evidence shows that Tele Circuit did not successfully change the complainant's long distance service provider, but nevertheless began charging the complainant for unauthorized monthly long distance service, we propose a forfeiture only for the unlawful cramming. See Complainant LEC Information (on file in EB-TCDD-17-00023953).

<sup>74</sup> 47 U.S.C. §§ 154(i), 218, 155(c)(3). "Any order . . . or action made or taken pursuant to any [ ] delegation . . . shall have the same force and effect . . . and [be] enforced in the same manner, as orders . . . of the Commission." 47 U.S.C. § 155(c)(3).

<sup>75</sup> 47 U.S.C. § 503(b)(1)(B). See *GPSPS NAL*, 30 FCC Rcd at 2522, para. 1; *GPSPS Forfeiture Order*, 30 FCC Rcd at 7814, para. 2; *Net One Int'l, Net One, LLC, Farrahtel Int'l, LLC*, Order of Forfeiture, 29 FCC Rcd 264 (EB 2014) (*Net One Forfeiture Order*); *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589 (2002) (*SBC Forfeiture Order*).

<sup>76</sup> See *GPSPS NAL*, 30 FCC Rcd at 2522, para. 1; *GPSPS Forfeiture Order*, 30 FCC Rcd at 7814, para. 2; *Net One Forfeiture Order*, 29 FCC Rcd at 264, para. 1; *SBC Forfeiture Order*, 17 FCC Rcd at 7589, para. 1.

regulation, or order issued by the Commission.”<sup>77</sup> Here, Section 503(b)(2)(B) of the Act authorizes us to assess a forfeiture against Tele Circuit of up to a statutory maximum of \$196,387 for a single act or failure to act.<sup>78</sup> 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.”<sup>79</sup> In addition, the Commission has established forfeiture guidelines that establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.<sup>80</sup> Under the 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.<sup>81</sup>

27. Section 1.80(b) of the Rules sets a base forfeiture amount of \$40,000 for violations of our slamming rules.<sup>82</sup> Although the guidelines provide no base forfeiture for cramming, the Commission has established through case law a base forfeiture of \$40,000 for cramming violations.<sup>83</sup> As discussed above, the Commission can assess separate forfeitures for an unlawful carrier change request and for any unauthorized charges that result from that unlawful carrier change request.<sup>84</sup> However, where Tele Circuit submitted the unlawful carrier change request more than a year prior to the date of this NAL, we assess a forfeiture not for the slam, but for the unauthorized charges Tele Circuit placed on the consumers’ telephone bills within the last 12 months. Similarly, in those cases where Tele Circuit apparently did not submit a request to change the consumer’s preferred carrier<sup>85</sup> but nevertheless charged the consumer for service without authorization, we assess a forfeiture for the unauthorized charge only.<sup>86</sup>

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<sup>77</sup> See 47 U.S.C. § 503(b).

<sup>78</sup> See 47 U.S.C. § 503(b)(2)(B); see also 47 CFR § 1.80(b)(2). This amount reflects inflation adjustments to the forfeitures specified in Section 503(b)(2)(B) of the Act (\$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), as further amended by the Federal Reports Elimination Act of 1998, Pub. L. No. 105-362, Sec. 1301, 112 Stat. 3280, and as further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701, Pub. L. No. 114-74, 129 Stat. 599 (codified as amended 28 U.S.C. § 2461) (the 2015 Inflation Adjustment Act), requires the Commission to adjust annually its forfeiture penalties for inflation. See 28 U.S.C. § 2461. The Commission most recently amended its relevant rules on January 5, 2018, effective February 1, 2018. See *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 18-12, 33 FCC Rcd 46 (EB 2018); see also *Adjustment of Civil Monetary Penalties to Reflect Inflation*, 83 Fed. Reg. 4600-01 (Feb. 1, 2018).

<sup>79</sup> See 47 U.S.C. § 503(b)(2)(E).

<sup>80</sup> 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

<sup>81</sup> *Id.*

<sup>82</sup> See 47 CFR § 1.80, Appendix A, Section I.

<sup>83</sup> See *LDDI MO&O*, 15 FCC Rcd at 3304, para. 19 (affirming the \$40,000 penalty for each cramming violation imposed by the Commission in the forfeiture order).

<sup>84</sup> See *supra* para. 23.

<sup>85</sup> See *supra* note 73.

<sup>86</sup> The Commission has made clear that each unauthorized charge a carrier places on a consumer’s bill constitutes a separate and distinct violation of Section 201(b). See *CTI NAL*, 28 FCC Rcd at 17208, para. 26 & n.79 (citing *NOS Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 1833 (2001)). Although Tele Circuit placed multiple unauthorized charges on many complainants’ telephone bills, in this case we do not treat each charge as a separate violation and instead propose a forfeiture for one cramming violation per complainant. However, we caution other carriers that the Commission is committed to aggressive enforcement of its rules, especially in giving effect to the protections afforded consumers, and in other cases may impose a forfeiture for each unauthorized charge.

Applying the \$40,000 base forfeiture to each of the 45 slamming and cramming violations<sup>87</sup> that occurred within the last 12 months results in a proposed forfeiture of \$1,800,000.

28. The Commission's forfeiture guidelines provide that the base forfeiture amount for misrepresentation or lack of candor is the statutory maximum,<sup>88</sup> or, in this case, \$196,387.<sup>89</sup> Considering the circumstances of this case, we find that the base forfeiture is warranted for Tele Circuit's willful violations of Section 1.17 of the Rules. The Commission relies heavily on the truthfulness and accuracy of the information provided to it. "If information submitted to us is incorrect, we cannot properly carry out our statutory responsibilities."<sup>90</sup> Here, Tele Circuit submitted apparently fabricated TPVs, as evidence that the consumers had agreed to the carrier change. Such fake TPVs hamper our ability to properly enforce the carrier change rules. Therefore, applying the base forfeiture of \$196,387 to the six instances when Tele Circuit provided false material information to the Commission within the last 12 months results in a proposed forfeiture of \$1,178,322.<sup>91</sup>

29. Pursuant to Section 1.80 of the Commission's rules and the Commission's *Forfeiture Policy Statement*, the base forfeiture amount for failure to respond to Commission communications is \$4,000.<sup>92</sup> Using our discretion to adjust the base forfeiture as circumstances warrant, however, we have imposed penalties that are many times higher for failing to respond properly to LOIs.<sup>93</sup> As the Commission has stated in cases where carriers have not provided complete responses to Commission orders, "misconduct of this type exhibits contempt for the Commission's authority, and threatens to compromise the Commission's ability to adequately investigate violations of its rules."<sup>94</sup> The proposed forfeiture is appropriate given the extent and willfulness of the violation, and the insufficiency of the LOI Response.<sup>95</sup> Consistent with prior cases involving carriers that failed to comply with Bureau LOIs, we find that Tele Circuit's failure to respond fully to the Bureau's LOI in this case warrants a forfeiture of \$25,000.<sup>96</sup>

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<sup>87</sup> A slamming violation occurs whenever a carrier submits an unlawful request to change service providers regardless of whether the change actually takes place. See 47 U.S.C. § 258(a) ("[n]o telecommunications carrier shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with [the Commission's] verification procedures. . . .").

<sup>88</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, 17113 (1997) *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*); 47 CFR § 1.80(b)(4), Note to Paragraph (b)(4); Section I. *Base Amounts for Section 503 Forfeitures*.

<sup>89</sup> See *supra* para. 26 and note 78.

<sup>90</sup> *Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission*, Notice of Proposed Rulemaking, 17 FCC Rcd 3296, 3297, para. 3 (2002).

<sup>91</sup> The six instances of apparent violations of Section 1.17 that occurred within the 12-month period prior to the release of this NAL are identified in the Appendix.

<sup>92</sup> 47 CFR § 1.80; *Forfeiture Policy Statement*, 12 FCC Rcd at 17114, Appendix A, Section I.

<sup>93</sup> See, e.g., *GPSPS NAL*, 30 FCC Rcd at 2533, para. 28 (upwardly adjusting the base forfeiture to \$25,000 for the failure to respond fully to an LOI).

<sup>94</sup> *Technical Communication Network, LLC*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 1018, 1020, para. 7 (EB 2013) (alteration omitted) (proposing a \$25,000 forfeiture for failure to provide a complete response to an LOI).

<sup>95</sup> See 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

<sup>96</sup> *Net One Forfeiture Order*, 29 FCC Rcd at 264-66, paras. 1-4 (imposing \$25,000 penalty for failure to respond fully to an LOI), *petition for reconsideration denied*, Memorandum Opinion and Order, 30 FCC Rcd 1021 (EB 2015).

30. Under Section 503 of the Act and our forfeiture guidelines, we must take into account the repeated and egregious nature of Tele Circuit's actions and the harm Tele Circuit caused consumers.<sup>97</sup> Given the facts presented here, and consistent with similar cramming and slamming enforcement actions, we conclude that a significant upward adjustment to the base forfeiture penalty for the slamming and cramming violations is warranted for the repeated and egregious nature of Tele Circuit's misconduct and the substantial harm that Tele Circuit's actions caused the public. In the *Preferred Forfeiture Order*, the Commission affirmed a forfeiture against a carrier that repeatedly engaged in misrepresentation and changed consumers' preferred long distance providers without properly verifying their authorization.<sup>98</sup> In doing so, the Commission stated that "[c]arriers have long been on notice that such misrepresentations to consumers [associated with slamming] may result in substantial forfeiture amounts."<sup>99</sup> Likewise, as noted in the *CTI NAL*, the Commission has repeatedly warned carriers engaged in cramming that "we may propose more significant forfeitures in the future as high as is necessary, within the range of our statutory authority, to ensure that such companies do not charge consumers for unauthorized services."<sup>100</sup>

31. As explained in the Discussion section above, Tele Circuit apparently engaged in slamming and cramming repeatedly over an extended period of time. Although we base the proposed forfeiture on those apparent violations that occurred within the 12 months of the release date of this NAL, the Bureau reviewed and investigated numerous other complaints about conduct that took place prior to that 12-month period alleging that Tele Circuit had switched consumers' carriers without their authorization<sup>101</sup> and placed unauthorized charges on consumers' telephone bills multiple times.<sup>102</sup> For instance, one 76-year-old complainant expressed frustration with having to contact Tele Circuit multiple times over the course of four months to attempt to remove an improper charge, to no avail.<sup>103</sup>

32. The record also shows that Tele Circuit's apparent violations were egregious.<sup>104</sup> Roughly half of the complaints the Bureau reviewed in this investigation are from senior citizens or relatives of elderly or infirm consumers—those who are especially vulnerable to the deceptive tactics employed by Tele Circuit.<sup>105</sup> Indeed, the record suggests that, at least in some instances, Tele Circuit and its third-party

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<sup>97</sup> 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

<sup>98</sup> *Preferred Forfeiture Order*, 30 FCC Rcd at 13724-26, paras. 27-31.

<sup>99</sup> *Preferred Forfeiture Order*, 30 FCC Rcd at 13725, para. 29 (citing *Central NAL*, 29 FCC Rcd at 5531, para. 28; *USTLD NAL*, 29 FCC Rcd at 837, para. 27; *Advantage NAL*, 28 FCC Rcd at 6855-56, para. 30; *Silv Communication Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 5178, 5186, para. 16 (2010) (*Silv NAL*) ("The Commission has warned carriers that it would take swift and decisive enforcement action, including the imposition of substantial monetary forfeitures, against any carrier found to have engaged in slamming.")).

<sup>100</sup> *CTI NAL*, 28 FCC Rcd at 17209, para. 29 (citing *Main Street NAL*, 26 FCC Rcd at 8861, para. 24).

<sup>101</sup> See, e.g., Complaints from R. MacDowell (filed Aug. 5, 2016); J. Fernandez (filed Oct. 6, 2016); H. Burris (filed Jan. 11, 2017); F. Salinas (filed Sept. 6, 2016); E. Jones (filed Oct. 25, 2016); H. Mount (filed Sept. 29, 2016); J. Torres (filed Aug. 29, 2016) (each not identified in the Appendix), along with other complaints described throughout the NAL and identified as "not in Appendix." See *supra* note 3.

<sup>102</sup> Tele Circuit placed unauthorized charges on more than one telephone bill for the following complainants: M. Casales; O. Valtierra; R. Moore; M. Washington; M. Wood; A. Scivally; and A. Viera.

<sup>103</sup> See *supra* para. 4, note 13.

<sup>104</sup> 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

<sup>105</sup> See *supra* para. 6; see also, e.g., Complaint from C. Almonte (filed Feb. 2, 2017) (not in Appendix); Complaint from H. Burris (filed Jan. 11, 2017) (not in Appendix); Complaint from J. Nichols (filed Jan. 2, 2017) (not in Appendix); Complaint from C. Jones (filed Jan. 31, 2017) (not in Appendix); Complaint from E. Bauer (filed Feb. 1, 2017) (not in Appendix); Complaint from M. Cook (filed July 1, 2016) (not in Appendix); Complaint from C. De La Cruz (filed Mar. 10, 2017) (not in Appendix); Complaint from A. Urgelles (filed Mar. 10, 2017) (not in Appendix); Complaint from M. Gutierrez (filed Apr. 2, 2017) (not in Appendix); Complaint from J. Chambless (filed Mar. 29, 2017) (not in Appendix); Complaint from P. Pestana (filed Apr. 10, 2017) (not in Appendix); Complaint from C.

(continued....)

verifiers deliberately exploited these consumers' obvious confusion and inability to understand the sales pitch they heard and understand the questions they were asked.<sup>106</sup> Moreover, Tele Circuit's actions left these vulnerable consumers without telephone service for extended periods of time, often because Tele Circuit demanded payment of unauthorized charges and other fees prior to reinstating service, creating dangerous and, potentially, life-threatening situations for the impacted consumers.<sup>107</sup>

33. Given the egregious and repeated nature of Tele Circuit's improper conduct,<sup>108</sup> all in the face of multiple warnings from the Commission that these practices would be met with significant and substantial penalties, we determine that an upward adjustment of \$2,000,000 to the overall base forfeiture for the slamming and cramming violations is appropriate. This significant upward adjustment for the alleged conduct here is consistent with Commission precedent in cases dealing with similar egregious and repeated misconduct.<sup>109</sup> In addition, in light of the Company's egregious misconduct and the nature of the apparent violations, we will consider initiating proceedings against the Company to revoke its

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Peterson (filed May 3, 2017) (not in Appendix); Complaint from K. Jones (filed Apr. 26, 2017) (not in Appendix); Complaint from D. Cowan (filed June 12, 2017).

<sup>106</sup> See *supra* para. 6.

<sup>107</sup> See, e.g., Complaint from J. Castaneda (filed Mar. 8, 2017) ("I have NEVER authorized a change to my long distance service plan or a change of carrier. Now, I find that I have a block on my telephone so I can't place calls!"); Complaint from M. Cook (filed July 1, 2016) (not in Appendix) ("phone was turned off before we knew our number was changed to telecircuit and I want to change back to att but [Tele Circuit] will not release my phone back to prior phone service carrier . . . a 87 year old should not have to go [through] this."); Complaint from [REDACTED] (filed Mar. 12, 2017) (not in Appendix) ("Aside from the financial aspects of slamming . . . there is the safety issue of . . . cutting off [my mother's] phone service before her conservator knew the service had been switched from AT&T. This is the only way she or her caregivers can contact me or anyone in case of an emergency."); Complaint from [REDACTED] (filed Jan. 31, 2017) (not in Appendix) ("As of right now my mother is without a phone and if anything happens to her, she can't even dial 911 because she has no service at all. I was told that she had to pay \$44.00 to Tele Circuit . . . for her service to be restored. It's sad that these companies prey on the elderly."); Complaint from [REDACTED] (filed Sept. 29, 2016) (not in Appendix) ("Tele Circuit called my 87-year old father and switched his phone service from AT&T to Tele Circuit. . . . [T]hey scammed him on the day of his last sibling's funeral. He has had the same phone number with AT&T for about 70 years and now he has NO phone service. . . . Please help us."); Complaint from [REDACTED] (filed May 2, 2016) (not in Appendix) ("[Tele Circuit] arranged to get AT&T canceled and never provided one second of phone service to her. And then sent her a bill for \$34.00. She's been without her phone for almost a week.").

<sup>108</sup> 47 CFR § 1.80(b)(8), Note to paragraph (b)(8). See Complaint from O. Valtierra (filed Oct. 6, 2016); Complaint from J. Castaneda (filed Mar. 8, 2017); Complaint from P. Morales (filed Apr. 5, 2017); Complaint from M. Casales (filed Feb. 1, 2017); Complaint from M. Hernandez (filed Mar. 13, 2017); Complaint from L. Arellano (filed Oct. 22, 2017) (each alleging that Tele Circuit's TPV recording was fabricated); see also Complaint from J. Nichols (filed Jan. 2, 2017) (not in Appendix); Complaint from K. Cortez (filed Mar. 15, 2017) (not in Appendix); Complaint from K. Jones (filed Apr. 26, 2017) (not in Appendix); Complaint from T. Hickman (filed Feb. 22, 2017) (not in Appendix); Complaint from P. Beal (filed Apr. 11, 2017) (not in Appendix); Complaint from P. Ballentine (filed May 17, 2017); (each alleging that Tele Circuit's telemarketer misrepresented their identity).

<sup>109</sup> See *Central NAL*, 29 FCC Rcd at 5531, para. 28, *Central Forfeiture Order*, 31 FCC Rcd at 10408-09, paras. 39-41 (assessing an upward adjustment of \$1,500,000 for egregious misconduct related to 31 slamming and cramming violations); *CTI NAL*, 28 FCC Rcd at 17209, para. 29, *CTI Forfeiture Order*, 31 FCC Rcd at 10451-53, paras. 38-40 (assessing an upward adjustment of \$1,500,000 for egregious misconduct related to 25 slamming and cramming violations); *USTLD NAL*, 29 FCC Rcd at 837, para. 27, *USTLD Forfeiture Order*, 31 FCC Rcd at 10430-31, paras. 39-40 (assessing an upward adjustment of \$2,000,000 for egregious misconduct related to 36 slamming and cramming violations).

Commission authorizations after assessing the Company's response to this Notice of Apparent Liability for Forfeiture.<sup>110</sup>

34. Under the circumstances here we do not propose a separate forfeiture for Tele Circuit's deceptive marketing. Rather, consistent with the *Forfeiture Policy Statement*<sup>111</sup> and with prior slamming and cramming orders that involved evidence of deceptive marketing,<sup>112</sup> we upwardly adjust the proposed base forfeiture for the underlying slam and cram violations that are coupled with direct evidence of such misconduct.<sup>113</sup> In past cases we have upwardly adjusted the base penalty for slamming and cramming violations by \$80,000, and we have repeatedly warned carriers that we may propose significant forfeitures "to ensure that such companies do not use deception to charge consumers for unauthorized services."<sup>114</sup> Accordingly, consistent with Commission precedent, we propose an upward adjustment of \$80,000 for each of the four slamming and cramming violations that occurred in the past 12 months and for which Tele Circuit apparently misrepresented its identity to the consumers as purported proof of their authorization, resulting in a further upward adjustment of \$320,000.

35. Therefore, after applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors, we propose a total forfeiture of \$5,323,322, for which Tele Circuit is apparently liable.

#### IV. CONCLUSION

36. We have determined that Tele Circuit apparently willfully and repeatedly violated Sections 201(b) and 258 of the Act, Sections 1.17 and 64.1120 of the Rules, and a Commission order. As such, Tele Circuit is apparently liable for a forfeiture of \$5,323,322.

#### V. ORDERING CLAUSES

37. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act<sup>115</sup> and Section 1.80 of the Rules,<sup>116</sup> Tele Circuit Network Corporation is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR FORFEITURE** in the amount of five million, three hundred twenty-three thousand, three hundred twenty-two dollars (\$5,323,322) for willful and repeated violations of Sections 201(b) and 258 of the Act,<sup>117</sup> Sections 1.17 and 64.1120 of the Rules,<sup>118</sup> and a Commission order.

38. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules,<sup>119</sup> within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Tele Circuit Network Corporation **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a

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<sup>110</sup> See *OneLink NAL*, 31 FCC Rcd at 1429-30, para. 36 (noting that the Commission will consider initiating proceedings against carriers to revoke their Commission authorizations in cases involving egregious misconduct).

<sup>111</sup> *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01, para. 27.

<sup>112</sup> *USTLD Forfeiture Order*, 31 FCC Rcd at 10429, paras. 37-38; *Central Forfeiture Order*, 31 FCC Rcd at 10408, paras. 39-40.

<sup>113</sup> See *supra* para. 9.

<sup>114</sup> See, e.g., *USTLD NAL*, 29 FCC Rcd at 837, para. 27 (citing cases), *USTLD Forfeiture Order*, 31 FCC Rcd at 10429, para. 37; *Central NAL*, 29 FCC Rcd at 5531, para. 28, *Central Forfeiture Order*, 31 FCC Rcd at 10408-09, paras. 39-41; *Silv NAL*, 25 FCC Rcd at 5186, para. 16.

<sup>115</sup> 47 U.S.C. § 503(b).

<sup>116</sup> 47 CFR § 1.80.

<sup>117</sup> 47 U.S.C. §§ 201(b), 258.

<sup>118</sup> 47 CFR §§ 1.17, 64.1120.

<sup>119</sup> 47 CFR § 1.80.

written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraphs 42 and 43 below.

39. 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. Tele Circuit Phone Service, Inc. shall send electronic notification of payment to Lisa Williford at [lisa.williford@fcc.gov](mailto:lisa.williford@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.<sup>120</sup> 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:

- 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.

40. 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.<sup>121</sup> Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

41. 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.<sup>122</sup> 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, Telecommunications Consumers Division, and to Kristi Thompson, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Mika Savir and Erica McMahon at [mika.savir@fcc.gov](mailto:mika.savir@fcc.gov) and [erica.mcmahon@fcc.gov](mailto:erica.mcmahon@fcc.gov).

42. 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; and

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<sup>120</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>121</sup> See 47 CFR § 1.1914.

<sup>122</sup> 47 CFR §§ 1.16, 1.80(f)(3).

(3) any 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.

43. **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 Ashar Syed, President, Tele Circuit Network Corporation, 1815 Satellite Blvd., Suite 504, Duluth GA 30097.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

## APPENDIX

| <b>Apparent violations of Sections 258 and 201(b) of the Act</b> |                            |  |   |
|--|----------------------------|--|---|
|  | <b>Complainant</b>         | <b>Date of carrier change and/or date charge placed on consumer's bill</b> | <b>Apparent violation</b>   |
| 1.   | Ballentine, P.<br>BBB      | 4/28/17<br>5/1/17  | Section 201(b) cram<br>Section 258 slam<br>Section 201(b) misrepresentation |
| 2.   | Washington, M.<br>#1824556 | 4/28/17<br>5/28/17   | Section 258 slam<br>Section 201(b) cram                                     |
| 3.   | Viera, A.<br>#1638031      | 5/22/17  | Section 201(b) cram   |
| 4.   | Cowan, D.<br>#1697833      | 5/26/17<br>5/30/17   | Section 201(b) cram<br>Section 258 slam                                     |
| 5.   | Byrd, F.<br>#1729110       | 6/5/17   | Section 258 slam  |
| 6.   | Dorn, R.<br>#2058169       | 6/10/17  | Section 201(b) cram   |
| 7.   | Tiller, C.<br>#1761647     | 6/16/17  | Section 201(b) cram   |
| 8.   | Wood, M.<br>#1964453       | 8/12/17<br>9/22/17   | Section 258 slam<br>Section 201(b) cram                                     |
| 9.   | Lowry, J.<br>BBB           | 8/22/17<br>9/2/17  | Section 258 slam<br>Section 201(b) cram                                     |
| 10.  | McCandless, P.<br>#1976500 | 8/23/17<br>10/3/17   | Section 258 slam<br>Section 201(b) cram                                     |
| 11.  | Jones, S.<br>BBB           | 8/25/17  | Section 258 slam  |
| 12.  | Butler, R.<br>#1936262     | 8/28/17<br>9/8/17  | Section 258 slam<br>Section 201(b) cram<br>Section 201(b) misrepresentation |
| 13.  | Moore, R.<br>#1985411      | 9/15/17<br>9/28/17   | Section 258 slam<br>Section 201(b) cram                                     |
| 14.  | Hendrix, B.<br>#1935875    | 9/17/17<br>9/18/17   | Section 258 slam<br>Section 201(b) cram                                     |
| 15.  | Mayes, L.<br>#2051254      | 9/19/17<br>10/3/17   | Section 258 slam<br>Section 201(b) cram                                     |
| 16.  | Webb, C.<br>BBB, #2002243  | 9/22/17<br>10/7/17   | Section 258 slam<br>Section 201(b) cram                                     |
| 17.  | McLeod, R.<br>#2140282     | 9/23/17<br>10/7/17   | Section 258 slam<br>Section 201(b) cram<br>Section 201(b) misrepresentation |
| 18.  | Stevenson, F.<br>BBB       | 9/25/17  | Section 258 slam  |
| 19.  | Ferguson, G.<br>#1984246   | 9/28/17<br>10/2/17   | Section 201(b) cram<br>Section 258 slam                                     |
| 20.  | Scivally, A.<br>#1967778   | 10/2/17<br>11/12/17  | Section 258 slam<br>Section 201(b) cram<br>Section 201(b) misrepresentation |

|     |                          |                      |   |
|-----|--------------------------|----------------------|---|
| 21. | Coronado, E.<br>#2234007 | 10/9/17<br>1/9/18    | Section 258 slam<br>Section 201(b) cram |
| 22. | Trent, D.<br>#2115257    | 10/19/17             | Section 258 slam                        |
| 23. | White, W.<br>#2045774    | 10/29/17<br>11/8/17  | Section 258 slam<br>Section 201(b) cram |
| 24. | Bell, V.<br>#2033552     | 10/30/17<br>10/31/17 | Section 201(b) cram<br>Section 258 slam |
| 25. | Locklear, J.<br>#2071906 | 11/1/17<br>11/11/17  | Section 258 slam<br>Section 201(b) cram |
| 26. | Coleman, I.<br>#2183677  | 11/22/17             | Section 258 slam                        |
| 27. | Hayes, J.<br>#2129292    | 12/6/17              | Section 258 slam                        |

**Apparent Violations of Section 1.17 of the Rules**

|    | <b>Complainant</b>        | <b>Date Tele Circuit provided TPV to the Commission</b> | <b>Violation</b> |
|----|---------------------------|---|------------------|
| 1. | Castaneda, J.<br>#1495083 | 5/31/17   | Section 1.17     |
| 2. | Valtierra, O.<br>#1238489 | 5/31/17   | Section 1.17     |
| 3. | Casales, M.<br>#1429595   | 5/31/17   | Section 1.17     |
| 4. | Morales, P.<br>#1549092   | 6/9/17  | Section 1.17     |
| 5. | Hernandez, M.<br>BBB      | 6/19/17   | Section 1.17     |
| 6. | Arellano, L.<br>#1999351  | 1/26/18   | Section 1.17     |