

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

In the Matter of	)	File No.: EB-10-SE-145
	)	
Uniradio Corporation	)	Acct. No.: 201232100020
	)	
	)	FRN: 0008982407

**ORDER**

**Adopted: March 14, 2012**

**Released: March 14, 2012**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission and Uniradio Corporation (Uniradio). The Consent Decree resolves and terminates the Bureau's investigation into Uniradio's compliance with Section 325(c) of the Communications Act of 1934, as amended (Act),<sup>1</sup> pertaining to the delivery of programming to a foreign broadcast station.

2. The Bureau and Uniradio have negotiated a Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

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 investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Uniradio possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act,<sup>2</sup> and Sections 0.111 and 0.311 of the Commission's Rules,<sup>3</sup> the Consent Decree attached to this Order **IS ADOPTED**.

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<sup>1</sup> 47 U.S.C. § 325(c).

<sup>2</sup> *Id.* § 154(i).

<sup>3</sup> 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **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 Ricardo Astiazaran, General Manager, Uniradio Corporation, 5030 Camino De La Siesta, Suite 403, San Diego, CA 92108, and to Mark C. Del Bianco, Esq., Counsel for Uniradio Corporation, 3929 Washington Street, Kensington, MD 20895.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison  
Chief, Enforcement Bureau

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**CONSENT DECREE**

The Enforcement Bureau of the Federal Communications Commission and Uniradio Corporation, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into possible violations of Section 325(c) of the Communications Act of 1934, as amended,<sup>4</sup> pertaining to the delivery of programming to a foreign broadcast station.

**I. DEFINITIONS**

1. For the purposes of this Consent Decree, the following definitions shall apply:
  - (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
  - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (c) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
  - (d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
  - (e) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Uniradio is subject by virtue of its business activities, including but not limited to, the Licensing and Permitting Rules.
  - (f) "Compliance Plan" means the compliance obligations and compliance program described in this Consent Decree at paragraph 9.
  - (g) "Covered Employees" means all employees and agents of Uniradio who perform duties, or supervise, oversee, or manage the performance of duties that relate to Uniradio's responsibilities under the Licensing and Permitting Rules.

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<sup>4</sup> 47 U.S.C. § 325(c).

- (h) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (i) “Investigation” means the investigation commenced by the Bureau’s July 25, 2011 letter of inquiry<sup>5</sup> regarding Uniradio’s delivery of cross-border programming to Mexican broadcast station XERCN, Tijuana, Mexico.
- (j) “Licensing and Permitting Rules” means Section 325(c), Section 301 of the Act, Section 1.949(a) of the Rules, and other Communications Laws that prohibit the use or operation of a wireless radio station or the delivery of programming to a foreign broadcast station without a valid authorization.
- (k) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by Uniradio to implement the Compliance Plan.
- (l) “Parties” means Uniradio and the Bureau, each of which is a “Party.”
- (m) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (n) “Section 325(c)” means Section 325(c) of the Act, 47 U.S.C. § 325(c).
- (o) “Uniradio” means Uniradio Corporation and its predecessors-in-interest and successors-in-interest.

## II. BACKGROUND

2. Section 325(c) prohibits the transmission or delivery of programming from a broadcast studio, place or other apparatus within the United States to a broadcast station located in a foreign country that can be received consistently in the United States without first obtaining a permit from the Commission.<sup>6</sup> The Commission reviews an application for a Section 325(c) permit under the same public interest, convenience, and necessity standard that is applied to applications for station licenses.<sup>7</sup> Section 325(c) serves to prevent interference to broadcast stations’ signals as well as the introduction of broadcast material deemed inimical to the public interest, within the United States.<sup>8</sup>

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<sup>5</sup> See Letter from John D. Poutasse, Acting Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to Ricardo Astiazaran, General Manager, Uniradio Corporation (July 25, 2011).

<sup>6</sup> See 47 U.S.C. § 325(c).

<sup>7</sup> See 47 U.S.C. § 325(d); see also 47 U.S.C. § 309(a).

<sup>8</sup> See *American Broadcasting Cos., Inc.*, 35 FCC 2d 1, 5–6, para. 9 (1972); see also *Fox Television Stations, Inc.*, 77 RR 2d 132, 133, 137–38, paras. 5, 30, 33–35 (1994), *vacated and remanded on other grounds, Channel 51 of San Diego v. FCC*, 79 F.3d 1187, 1188–89 (D.C. Cir. 1996), *rev’d on remand, Fox Television Stations, Inc.*, 11 FCC Rcd 14870, 14875–78, paras. 16–25 (1996); *aff’d sub nom, Radio Television S.A. de C.V. et al. v. FCC*, 130 F.3d 1078 (D.C. Cir. 1997).

3. On September 13, 2010, Uniradio filed a request for special temporary authority (STA Request) to deliver cross-border programming to Mexican broadcast station XERCN, Tijuana, Mexico (XERCN).<sup>9</sup> In its STA Request, Uniradio voluntarily disclosed that it lacked authority for certain ongoing cross border transmissions of Spanish language programming to XERCN. Uniradio further reported that it had discovered the previous week that an application prepared in May 2009 for the renewal of its Section 325(c) permit had not been filed with the Commission.<sup>10</sup> Uniradio submitted an application for a new Section 325(c) permit on September 14, 2010. The International Bureau granted the STA Request on September 22, 2010<sup>11</sup> and granted Uniradio's application for a new Section 325(c) permit on November 2, 2010.<sup>12</sup> The International Bureau subsequently referred Uniradio's apparent violation to the Bureau for investigation and possible enforcement action.

4. On July 25, 2011, the Bureau's Spectrum Enforcement Division issued the letter of inquiry (LOI) to Uniradio, directing the company to submit a sworn written response to a series of questions regarding its compliance with Section 325(c).<sup>13</sup> Uniradio responded to the LOI on August 19, 2011 (LOI Response).<sup>14</sup> In the LOI Response, Uniradio confirmed the information previously submitted in its STA request regarding certain unauthorized foreign transmissions, but claimed that it filed both the STA Request and the application for a new Section 325(c) permit promptly after discovering the issue.<sup>15</sup> The Bureau and Uniradio subsequently entered into tolling agreements to toll the statute of limitations.<sup>16</sup>

### III. TERMS OF AGREEMENT

5. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

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<sup>9</sup> See Letter from Mark C. Del Bianco, Counsel for Uniradio, to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 13, 2010) (File No. 325-STA-20100913-00005).

<sup>10</sup> *Id.* at 1.

<sup>11</sup> See *Permit to Deliver Programs to Foreign Broadcast Stations, Re: Actions Taken*, Public Notice, Report No. 325-00156 (Sept. 22, 2010), available at [http://licensing.fcc.gov/ibfswweb/ib.page.FetchPN?report\\_key=840663](http://licensing.fcc.gov/ibfswweb/ib.page.FetchPN?report_key=840663), amended, Report No. 325-00159 (Oct. 13, 2010), available at [http://licensing.fcc.gov/ibfswweb/ib.page.FetchPN?report\\_key=844838](http://licensing.fcc.gov/ibfswweb/ib.page.FetchPN?report_key=844838).

<sup>12</sup> See *Permit to Deliver Programs to Foreign Broadcast Stations, Re: Actions Taken*, Public Notice, Report No. 325-00160 (Nov. 2, 2010), available at [http://licensing.fcc.gov/ibfswweb/ib.page.FetchPN?report\\_key=849250](http://licensing.fcc.gov/ibfswweb/ib.page.FetchPN?report_key=849250).

<sup>13</sup> See *supra* note 2.

<sup>14</sup> See Letter from Mark C. Del Bianco, Counsel for Uniradio Corporation, to John D. Poutasse, Acting Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (Aug. 19, 2011).

<sup>15</sup> LOI Response at 1.

<sup>16</sup> See, e.g., Tolling Agreement Extension, File No. EB-10-SE-145, executed by and between John D. Poutasse, Acting Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, and Ricardo Astiazaran, General Manager, Uniradio Corporation (Dec. 13, 2011).

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

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

8. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Uniradio agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau 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 Uniradio 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 take any action on its own motion against Uniradio with respect to Uniradio's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, Uniradio agrees that it shall within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan to help ensure future compliance with the Communications Laws, including the Licensing and Permitting Rules, and with the terms and conditions of this Consent Decree. The Compliance Plan shall include, without limitation, the following components:

- (a) **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Uniradio shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Uniradio complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Licensing and Permitting Rules prior to assuming his/her duties. In addition, the Compliance Officer shall have reviewed and be familiar with the conditions imposed by the Commission in all Section 325(c) permits issued to Uniradio.
- (b) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, Uniradio shall establish Operating Procedures that all Covered Employees must follow to help ensure Uniradio's compliance with the Licensing and Permitting Rules. As part of the Operating Procedures, the

Compliance Officer shall designate a Covered Employee to be responsible for developing and maintaining a database of all licenses, permits, and other authorizations issued to Uniradio by the Commission, including all permits issued to Uniradio pursuant to Section 325(c), and the expiration date of each such authorization. The Compliance Officer shall ensure that Uniradio timely files an application for renewal of any license, permit, or authorization for which renewal is required under the Licensing and Permitting Rules. Uniradio shall also adopt Operating Procedures to ensure regular monitoring of its compliance with the conditions imposed by its Section 325(c) permits and other licenses and authorizations.

- (c) **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 requirements of the Licensing and Permitting Rules, and shall set forth the Operating Procedures that Covered Employees shall follow to help ensure compliance with such requirements. In addition, the Compliance Manual shall set forth the Operating Procedures that Covered Employees shall follow to help ensure Uniradio's compliance with the conditions imposed by its Section 325(c) permits. Uniradio shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. Uniradio shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (d) **Compliance Training**. Within sixty (60) calendar days after the Effective date, Uniradio shall establish and implement a Compliance Training Program on compliance with the Licensing and Permitting Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Uniradio's obligation to report any noncompliance with the Licensing and Permitting Rules under paragraph 10 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Uniradio shall repeat the compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.
- (e) **Termination Date**. Unless stated otherwise, the requirements of this paragraph 9 of the Consent Decree shall expire twenty-four (24) months after the Effective Date.

10. **Reporting Noncompliance**. Uniradio shall report any noncompliance with the Licensing and Permitting Rules and any noncompliance with 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 Uniradio 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 Uniradio has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W. Washington, D.C. 20554, with a copy submitted electronically to Kevin Pittman at Kevin.Pittman@fcc.gov and to Daudeline Meme at Daudeline.Meme@fcc.gov. The reporting obligations set forth in this paragraph 10 shall expire twenty-four (24) months after the Effective Date.

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

- (a) Each compliance report shall include a detailed description of Uniradio's efforts during the relevant period to comply with the Licensing and Permitting Rules, and with the terms and conditions of this Consent Decree. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Uniradio, stating that the Compliance Officer has personal knowledge that Uniradio (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 10 hereof.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules<sup>17</sup> and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Uniradio, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully (i) each instance of noncompliance; (ii) the steps that Uniradio 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 Uniradio has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Kevin Pittman at Kevin.Pittman@fcc.gov and to Daudeline Meme at Daudeline.Meme@fcc.gov.

12. **Voluntary Contribution.** Uniradio agrees that it will make a voluntary contribution to the United States Treasury in the amount of nine thousand dollars (\$9,000), such

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<sup>17</sup> 47 C.F.R. § 1.16.

Voluntary Contribution to be made in three equal payments (each an Installment Payment) of three thousand dollars (\$3,000). The first Installment Payment is due within thirty (30) calendar days of the Effective Date, the second Installment Payment is due within six (6) months after the Effective Date, and the final Installment Payment is due within twelve (12) months after the Effective Date (Maturity Date). Uniradio acknowledges and agrees that upon execution of this Consent Decree, the Voluntary Contribution and each Installment Payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).<sup>18</sup> Upon an Event of Default, all procedures for collection permitted by law may, at the Commission's discretion, be initiated. In addition, Uniradio agrees that it will make the first and all subsequent Installment Payments in United States Dollars without further demand or notice by the dates specified above. Installment Payments must be made by check or similar instrument, payable in United States Dollars to the order of the Federal Communications Commission. The payments must include the Account Number and FRN referenced in the caption to the Adopting Order. Payments by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payments by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payments by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. For payments by credit card, an FCC Form 159 (Remittance Advice) must be submitted. 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). Uniradio shall also send electronic notification to Kevin Pittman at Kevin.Pittman@fcc.gov, Daudeline Meme at Daudeline.Meme@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov. on the date each payment is made.

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

14. **Interest, Charges for Collection, and Acceleration of Maturity Date.** Upon an Event of Default under this Consent Decree, the then unpaid amount of the Voluntary Contribution shall accrue interest, computed using the rate of 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 Voluntary Contribution, together with interest, as aforesaid, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charge(s), 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 Uniradio.

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

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<sup>18</sup> Debt Collection Improvement Act of 1996, Pub. L. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

waive any claims it may have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 et seq., relating to the matters addressed in this Consent Decree.

16. **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.

17. **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 Uniradio does not expressly consent) that provision will be superseded by such Rule or Commission order.

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

19. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Communications Laws.

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

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

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

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

\_\_\_\_\_  
John D. Poutasse  
Acting Chief  
Spectrum Enforcement Division  
Enforcement Bureau

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ricardo Astiazaran  
General Manager  
Uniradio Corporation

\_\_\_\_\_  
Date