

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

In the Matter of	)	
	)	
TDS Telecommunications Corporation	)	File No.: EB-TCD-12-00000442 <sup>1</sup>
	)	
Compliance with the Commission's	)	Acct. No.: 201332170003
Rules and Regulations Governing Customer	)	
Proprietary Network Information	)	FRN: 0004948105

**ADOPTING ORDER**

**Adopted: November 15, 2012**

**Released: November 15, 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 (Commission) and TDS Telecommunications Corporation (TDS Telecom or Company). The Consent Decree terminates the investigation initiated by the Bureau regarding TDS Telecom's compliance with Section 222(c)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 222(c)(1), and Section 64.2007 of the Commission's rules, 47 C.F.R. § 64.2007.

2. The Bureau and TDS Telecom have negotiated the terms of the Consent Decree that resolves these matters. A copy of the Consent Decree is attached hereto and incorporated 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 referenced 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 TDS Telecom possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED**, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and the authority delegated by Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R §§ 0.111, 0.311, that the attached Consent Decree **IS ADOPTED**.

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<sup>1</sup> This case was formerly assigned the file number EB-11-TC-048. In January 2011, the Telecommunications Consumers Division assigned a new case number.

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

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Kevin G. Hess, Senior Vice President – Government & Regulatory Affairs, TDS Telecommunications Corporation, 525 Junction Road, Madison, WI 53717 and to Yaron Dori, Counsel for TDS Telecommunications Corporation, Covington & Burling, LLP, 1201 Pennsylvania Avenue NW, Washington, D.C. 20004-2401.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison  
Chief, Enforcement Bureau

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

In the Matter of	)	
	)	
TDS Telecommunications Corporation	)	File No.: EB-TCD-12-00000442 <sup>2</sup>
	)	
Compliance with the Commission's	)	Acct. No.: 201332170003
Rules and Regulations Governing Customer	)	
Proprietary Network Information	)	FRN: 0004948105

**CONSENT DECREE**

**I. INTRODUCTION**

1. The Enforcement Bureau of the Federal Communications Commission and TDS Telecommunications Corporation, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation regarding TDS Telecom's compliance with Section 222(c)(1) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 64.2007 of the Commission's rules.<sup>4</sup>

**II. DEFINITIONS**

2. For 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 and conditions of this Consent Decree without change, addition, or modification.
  - c. "Advisor" means an employee, agent, or independent contractor of TDS Telecom who is responsible for interacting with new residential subscribers and/or inputting new service orders.
  - d. "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
  - e. "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.

<sup>2</sup> This case was formerly assigned the file number EB-11-TC-048. In January 2011, the Telecommunications Consumers Division assigned a new case number.

<sup>3</sup> 47 U.S.C. § 222(c)(1).

<sup>4</sup> 47 C.F.R. § 64.2007.

- f. “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which TDS Telecom is subject by virtue of its business activities, including, but not limited to, the CPNI Rules.
- g. “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 14.
- h. “Covered Employees” means all employees and agents of TDS Telecom, including Advisors, who perform, or supervise, oversee, or manage the performance of, duties that relate to TDS Telecom’s responsibilities under the CPNI Rules.
- i. “CPNI Rules” means Section 222 of the Act, 47 U.S.C. § 222, the rules set forth at 47 C.F.R. § 64.2001 *et seq.*—including any amendments or additions to those rules subsequent to the Effective Date and other Communications Laws governing CPNI.
- j. “Effective Date” means the date on which the Bureau releases the Adopting Order.
- k. “Investigation” means the investigation commenced by the Bureau’s letter of inquiry dated April 25, 2011,<sup>5</sup> regarding TDS Telecom’s possible non-compliance with Sections 221(c)(1) of the Act and Sections 64.2001-2009 of the Rules.
- l. “Operating Procedures” means the standard, internal operating procedures and compliance policies established by TDS Telecom to implement the Compliance Plan.
- m. “Parties” means TDS Telecommunications Corporation and the Bureau, each of which is a “Party.”
- n. “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- o. “TDS Telecom” or “Company” means TDS Telecommunications Corporation and its regulated wholly owned subsidiaries and their predecessors-in-interest and successors-in-interest.

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<sup>5</sup> Letter from Richard A. Hindman, Division Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Yaron Dori, Counsel to TDS Telecom, Covington & Burling, LLP (April 25, 2011) (LOI 1) (on file in EB-TCD-12-00000442) (LOI).

### III. BACKGROUND

3. Pursuant to Section 222 of the Act, the Commission has adopted Rules to protect the confidentiality of customer proprietary network information (CPNI). These Rules generally require customer approval before a carrier may use, disclose or permit access to CPNI.<sup>6</sup>

4. On February 22, 2011, pursuant to Section 64.2009(f) of the Rules,<sup>7</sup> TDS Telecom filed a notice with the Commission self-reporting failures in its CPNI opt-out mechanism.<sup>8</sup> TDS Telecom reported that, prior to the implementation of new automated systems that delivered “Welcome Packets” to new residential subscribers, the Company used a manual process to facilitate the delivery of these materials. TDS Telecom also explained that, because Company personnel failed to submit some “Welcome Packet” requests through this manual process, approximately 41,660 residential customers did not receive the CPNI opt-out notifications between January 7, 2008 and February 6, 2011, and thus the CPNI of 30,254 customers may have been used without authorization. The Bureau issued an LOI to TDS Telecom on April 25, 2011.<sup>9</sup>

5. After discovering the failure associated with the manual protocols, TDS Telecom self-reported on May 3, 2011, two additional failures in its CPNI opt-out mechanism.<sup>10</sup> Specifically, TDS Telecom stated that, although its CPNI opt-out interactive voice response (IVR) system was functioning properly, the mechanism by which the requests were incorporated into its subscriber records database was not and, in addition, some subscriber opt-out requests previously received had not been properly maintained in its subscriber records database.

6. The Bureau agreed to extend TDS Telecom’s time to respond to LOI 1, so that the company could also respond to a second inquiry concerning the subsequently reported failures at the same time. The Bureau issued a second LOI to TDS Telecom on June 1, 2011.<sup>11</sup> On June 30, 2011, TDS Telecom filed its response to LOI 1 and LOI 2.<sup>12</sup> According to TDS Telecom, it had over-reported by a substantial margin the number of residential subscribers whose CPNI it may have used without authorization. The Company stated that, for the “Welcome Packet” transmission failure, it only used the CPNI of 3,582 residential subscribers without authorization. Further, the Company stated that, although a total of 8,135 residential subscribers were affected by its two additional failures to properly incorporate and maintain opt-out requests in its database, it only used the CPNI of 758 of them without authorization.

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<sup>6</sup> See 47 C.F.R. § 64.2007.

<sup>7</sup> See 47 C.F.R. § 64.2009(f).

<sup>8</sup> See Notification Letter from Yaron Dori, Counsel to TDS Telecom, Covington & Burling, LLP, to Marlene H. Dortch, Secretary, FCC (February 22, 2011) (on file in EB-TCD-12-00000442).

<sup>9</sup> See *supra* note 5.

<sup>10</sup> E-mail from Yaron Dori, Counsel for TDS Telecom, Covington & Burling, LLP to Donna Cyrus, Senior Attorney, Telecommunications Consumers Division, FCC Enforcement Bureau (May 3, 2011, 15:54 EDT).

<sup>11</sup> Letter from Richard A. Hindman, Division Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Yaron Dori, Counsel to TDS Telecom, Covington & Burling, LLP (June 1, 2011) (LOI 2) (on file in EB-TCD-12-00000442).

<sup>12</sup> Letter from Yaron Dori, Counsel for TDS Telecom, Covington & Burling, LLP, to Marlene H. Dortch, Secretary, FCC (June 30, 2011) (on file in EB-TCD-12-00000442).

7. On July 12, 2011, the Bureau sent an email to TDS Telecom seeking further clarification on 1) its automated and manual “Welcome Packet” delivery process, 2) the breakdown in its manual process that resulted in the Company’s failure to deliver “Welcome Packets,” and 3) the breakdown in its transmission and incorporation of subscriber opt-out requests into the Company’s subscriber records database.<sup>13</sup> TDS Telecom filed its response on July 29, 2011 to the Bureau’s request for additional information.<sup>14</sup>

8. On July 20, 2011, the Company filed a supplemental response to include data on the names and dates of relevant marketing campaigns and affected subscriber accounts that it was unable to provide in its June 30, 2011 Response.<sup>15</sup> On August 12, 2011, the Company also filed 18 additional documents identifying the steps to cue a “Welcome Packet” for transmittal to a residential subscriber.<sup>16</sup>

#### IV. TERMS OF AGREEMENT

9. **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.

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

11. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. Upon 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.

12. **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, TDS Telecom agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that absent new material evidence, it shall 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, or refer to the Commission, any new proceeding, formal or informal,

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<sup>13</sup> E-mail from Donna Cyrus, Senior Attorney, Telecommunications Consumers Division, FCC Enforcement Bureau, to Yaron Dori, Counsel for TDS Telecom, Covington & Burling, LLP (July 12, 2011, 15:09 EDT).

<sup>14</sup> Letter from Yaron Dori, Counsel for TDS Telecom, Covington & Burling, LLP, to Marlene H. Dortch, Secretary, FCC (July 29, 2011) (on file in EB-TCD-12-00000442).

<sup>15</sup> Letter from Yaron Dori, Counsel for TDS Telecom, Covington & Burling, LLP, to Marlene H. Dortch, Secretary, FCC (July 20, 2011) (on file in EB-TCD-12-00000442).

<sup>16</sup> Letter from Yaron Dori, Counsel for TDS Telecom, Covington & Burling, LLP, to Marlene H. Dortch, Secretary, FCC (August 12, 2011) (on file in EB-TCD-12-00000442).

or to take, on its own motion, or refer to the Commission, any action against TDS Telecom concerning the matters that were the subject of the Investigation or with respect to TDS Telecom's basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission authorizations.

13. **Compliance Officer.** Within fifteen (15) calendar days after the Effective Date, TDS Telecom 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 ultimately shall be responsible for the development, implementation, and administration of the Compliance Plan and ensuring that TDS Telecom complies with the terms and conditions of the Compliance Plan and this Consent Decree. TDS Telecom may, at its election, also designate a Compliance Manager on which the Compliance Officer may rely to supplement his or her general knowledge of the Communications Laws and specific knowledge of the CPNI Rules, and to discharge of his/her duties under this Consent Decree.

14. **Compliance Plan.** For purposes of settling the matters set forth herein, TDS Telecom shall within thirty (30) calendar days after the Effective Date, develop and implement a Compliance Plan relating to TDS Telecom's future compliance with those portions of the Communications Laws relating to the CPNI Rules and with the terms and conditions of this Consent Decree. As to its broader compliance responsibilities, TDS Telecom represents that it has at least ten management employees who have responsibility for compliance with each of the Communications Laws that are relevant to its operations, and who collectively exercise responsibility for TDS Telecom's compliance with all of the Communications Laws that are relevant to its operations. TDS Telecom further represents that it supplements this compliance structure with independent third-party compliance evaluations as appropriate.<sup>17</sup> TDS Telecom agrees that it will either maintain this compliance structure, or, if it makes changes, shall ensure that it maintains equivalent management oversight over compliance with all Communication Laws that are applicable to its operations. The Compliance Plan shall include, at a minimum, the following components:

A. **Operating Procedures on CPNI.** Within forty-five (45) days after the Effective Date, TDS Telecom shall establish Operating Procedures that all employees responsible for CPNI opt-out policies and procedures must follow to help ensure TDS Telecom's compliance with the CPNI Rules. As part of its Operating Procedures, TDS Telecom shall develop a compliance checklist that describes the steps that employees responsible for CPNI opt-out policies and procedures must follow to ensure that TDS Telecom complies with the CPNI Rules and that it appropriately reports any non-compliance.

B. **Regular Testing and Monitoring.** TDS Telecom shall regularly review its CPNI opt-out mechanisms to ensure that they are functioning properly and report any non-compliance as set forth in paragraph 14. Specifically:

- i) Every weekday, a member of TDS Telecom's contact support

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<sup>17</sup> As an example, after reporting the errors on a timely basis, TDS Telecom's compliance organization suspended the company's use of CPNI in those areas of concern, implemented effective mitigation measures, and retained an independent third party to evaluate its internal CPNI controls.

center team shall review fulfillment reports for “Welcome Packets” that were not transmitted to residential subscribers; where the results indicate that “Welcome Packets” intended to be transmitted were not transmitted, TDS Telecom personnel shall investigate, implement any required corrections, and send a written report of the investigation results to the Compliance Officer.

- ii) Once per week, TDS Telecom personnel shall compare the quantity of opt-out requests received each day via IVR with those recorded in its subscriber records database; where the numbers do not conform, TDS Telecom personnel shall investigate, implement any required corrections, and send a written report of the investigation results to the Compliance Officer.
- iii) Once per month, TDS Telecom personnel shall review random fulfillment samples for new subscribers to ensure that all “Welcome Packet” cueing processes are functioning properly and to ensure that “Welcome Packets” contain all relevant information including opt-out notifications; where the cueing processes are not functioning properly or where “Welcome Packets” do not contain all relevant information including opt-out notifications, TDS Telecom personnel shall investigate, implement any required corrections, and send a written report of the investigation results to the Compliance Officer.
- iv) Once per month, TDS Telecom personnel shall compare reports of opt-out requests recorded on its subscriber records database for that month to those of the previous month; where the results show significant variances, TDS Telecom personnel shall investigate and implement any required corrections, and send a written report of the investigation results to the Compliance Officer.
- v) Annually, TDS Telecom shall perform a self-assessment of its CPNI processes to ensure ongoing compliance with the testing and monitoring requirements of this Consent Decree. TDS Telecom personnel shall send a written report of the results of the self-assessment to the Compliance Officer.

C. **Material Changes to Opt-Out Systems.** TDS Telecom agrees that prior to making any material changes with respect to its opt-out systems that may affect the successful and compliant operation thereof, it shall perform appropriate validation tests to verify proper performance of such systems and shall effectively communicate and coordinate with all relevant departments within the Company; where such validation tests reveal that any of the opt-out systems are not functioning properly, TDS Telecom shall delay those material changes until such time that the validation tests indicate proper performance.

D. **Electronic Reminders to Cue “Welcome Packets.”** TDS Telecom shall ensure that its Advisors who are responsible for processing service orders for new residential incumbent local exchange carrier (ILEC) subscribers shall receive electronic reminders to cue delivery of “Welcome Packets” in the following circumstances:

- i) *Manual Cueing* – When an Advisor processes a service order for a new subscriber in a circumstance in which it is necessary to cue “Welcome Packet” delivery manually, the Advisor shall at a time prior to the completion of the service ordering process receive an electronic reminder to cue “Welcome Packet” delivery.
- ii) *Automatic Cueing* – When an Advisor processes a service order for a new subscriber in a circumstance in which “Welcome Packet” delivery shall be cued automatically, the Advisor shall receive an electronic reminder to cue “Welcome Packet” delivery manually if automatic cueing is unsuccessful in generating a “Welcome Packet” for delivery and manual cueing becomes necessary.

E. **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 may be made available and distributed by electronic means. The Compliance Manual shall include the compliance checklist described above and explain the CPNI Rules, setting forth the Operating Procedures that Covered Employees shall follow to help ensure TDS Telecom’s compliance with the CPNI Rules. TDS Telecom shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. TDS Telecom shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

F. **Compliance Training Program.** TDS Telecom shall establish and implement a Compliance Training Program on compliance with the CPNI Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of TDS Telecom’s obligation to report any noncompliance with the CPNI Rules under paragraph 15 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. The training shall also include but not be limited to the following: (i) cueing the delivery of “Welcome Packets” containing opt-out notices; (ii) the proper operation of TDS Telecom’s opt-out mechanisms, including but not limited to its IVR; and (iii) the maintenance of its subscriber records database. 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 sixty (60) calendar days after the date such person becomes a Covered Employee. TDS Telecom shall repeat the compliance training on an annual basis and shall periodically review and revise the Compliance Training Program to ensure that it remains current and complete and to enhance its effectiveness.

G. **Notice of Consent Decree.** Within fifteen (15) calendar days after the Effective Date, TDS Telecom shall notify all directors, officers, and Covered Employees, of the terms and conditions set forth herein.

H. **Compliance Reports.** TDS Telecom shall submit Compliance Reports to the Bureau six (6), twelve (12), and twenty-four (24) months after the Effective Date (Compliance Reports).

- i) Each Compliance Report shall include a detailed description of the Company's efforts to comply with the terms and conditions of the Consent Decree and the CPNI Rules, and shall include a certification from the Compliance Officer, as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that TDS Telecom has established and implemented the Compliance Plan, has utilized the Operating Procedures since the implementation of the Compliance Plan, and after due inquiry is not aware of any instances of non-compliance, including with regards to the reporting obligations set forth in paragraph 15 herein.
- ii) 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 and be subscribed to as true under penalty of perjury.
- iii) If the Compliance Officer is not able to so certify, the Compliance Officer, as an agent of and on behalf of TDS Telecom, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully each instance of non-compliance; the steps TDS Telecom has taken or shall take to remedy such non-compliance, including the schedule on which the proposed remedial actions shall be taken; and the steps TDS Telecom has taken or shall take to prevent the recurrence of any such non-compliance, including the schedule on which such preventive action shall be taken.
- iv) All Compliance Reports shall be in writing and directed to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. TDS Telecom shall also send an electronic copy of its Compliance Report to [Kimberly.Wild@fcc.gov](mailto:Kimberly.Wild@fcc.gov) and [Donna.Cyrus@fcc.gov](mailto:Donna.Cyrus@fcc.gov).

I. **Termination.** The obligations set forth in paragraphs 13, 14, and 15 of this Consent Decree shall expire twenty-four (24) months after the Effective Date.

15. **Reporting Noncompliance.** The Company shall report any non-compliance with the terms and condition of this Consent Decree as well as any non-compliance with the CPNI Rules within fifteen (15) calendar days after discovery of such non-compliance. Such reports

shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that TDS Telecom has taken or shall take to remedy such noncompliance; (iii) the schedule on which such remedial actions shall be taken; and (iv) the steps that TDS Telecom has taken or shall take to prevent the recurrence of any such non-compliance. All reports of noncompliance shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Rm. 4C-224, Washington, D.C. 20554, with a copy submitted electronically to [Kimberly.Wild@fcc.gov](mailto:Kimberly.Wild@fcc.gov) and [Donna.Cyrus@fcc.gov](mailto:Donna.Cyrus@fcc.gov). The reporting obligations set forth in this paragraph 15 shall expire twenty-four (24) months after the Effective Date.

16. **Voluntary Contribution.** TDS Telecom agrees that it will make a voluntary contribution to the United States Treasury in the amount of Three Hundred Fifty Thousand dollars (\$350,000) within thirty (30) calendar days after the Effective Date. TDS Telecom shall also send electronic notification of payment to Johnny Drake at [johnny.drake@fcc.gov](mailto:johnny.drake@fcc.gov) on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>18</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 you should follow based on the form of payment you select:

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

If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

17. **Waivers.** TDS Telecom 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. If either Party (or the United States on behalf of the

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<sup>18</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

Commission) brings a judicial action to enforce the terms of the Adopting Order or Consent Decree, neither TDS Telecom nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and TDS Telecom shall waive any statutory right to a trial de novo. TDS Telecom hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>19</sup> relating to the matters addressed in this Consent Decree.

18. **Subsequent Rule or Order.** The Parties agree that if any provision of this 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 TDS Telecom does not expressly consent), such provision shall be superseded by such Rule or Commission order.

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

20. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement of the Investigation.

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

22. **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.

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

24. **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.

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

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<sup>19</sup> Equal Access to Justice Act, Pub L. No 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501-1.1530.

26. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile or scanned form), 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.

For: Federal Communications Commission

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P. Michele Ellison  
Chief  
Enforcement Bureau

\_\_\_\_\_  
Date

For: TDS Telecommunications Corporation

\_\_\_\_\_  
Kevin G. Hess  
Senior Vice President - Government and Regulatory Affairs

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Date