

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	File No.: EB-TCD-12-00002713 ¹
)	
Sprint Corporation f/k/a Sprint Nextel Corporation)	Acct. No.: 201432170005
)	
Compliance with the Commission's Company-Specific Do-Not-Call Rules)	FRN: 0003774593
)	

ORDER

Adopted: May 16, 2014

Released: May 19, 2014

By the Acting Chief, Enforcement Bureau:

1. The Federal Communications Commission (Commission or FCC) has many rules that protect consumers' privacy, including rules that prohibit telemarketers from calling consumers who have made clear that they do not want to receive such calls. Consumers can stop telemarketers' calls by registering their phone numbers on the national Do-Not-Call list, as well as on similar lists that individual companies must maintain. The FCC's Enforcement Bureau (Bureau) has investigated disclosures by Sprint Corporation (Sprint or Company) that it failed to honor some consumers' do-not-call or do-not-text preferences. Specifically, Sprint failed to capture some consumers' do-not-call or do-not-text preferences. In addition, certain human errors and technical malfunctions may have caused Sprint to violate Commission rules. To resolve the Bureau's investigation, Sprint will make a payment of \$7.5 million to the U.S. Treasury, and the Company will implement a compliance plan designed to prevent it from failing to honor consumers' do-not-call and do-not text preferences in the future.

2. In this Order, we adopt the attached Consent Decree entered into between the Bureau and Sprint. The Consent Decree resolves and terminates the Bureau's investigation into Sprint's compliance with Section 227 of the Communications Act of 1934, as amended (Act),² and Section 64.1200 of the Commission's rules (Rules).³

3. The Bureau and Sprint have negotiated the terms of the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

4. 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.

5. Based solely on the record developed to date in this investigation and in the absence of material new evidence relating to this matter, we conclude that the Bureau's investigation raises no substantial or material questions of fact as to whether Sprint possesses the basic qualifications, including those related to character, to hold or obtain any Commission license, certification, or authorization.

¹ The investigation was originally identified as file number EB-09-TC-325.

² 47 U.S.C. § 227.

³ 47 C.F.R. § 64.1200.

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Act,⁴ and Sections 0.111 and 0.311 of the Rules,⁵ the attached Consent Decree **IS ADOPTED**.

7. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

8. **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 Sprint, c/o John K. Roche, Perkins Coie LLP, 700 13th St. NW, Suite 600, Washington, DC 20005-3960.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Acting Chief, Enforcement Bureau

⁴ 47 U.S.C. §§ 154(i), 154(j), 503(b).

⁵ 47 C.F.R. §§ 0.111, 0.311.

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CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Sprint Corporation f/k/a Sprint Nextel Corporation (“Sprint”), by their authorized representatives, hereby enter into this Consent Decree that resolves and terminates an investigation into Sprint’s compliance with Section 227 of the Communications Act of 1934, as amended,² and Section 64.1200 of the Commission’s Rules.

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, for purposes of this Order, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Sprint is subject that are related to the Company-Specific DNC Requirements.
 - (f) “Company-Specific DNC Rules” means the rules set forth at 47 C.F.R. § 64.1200(d).
 - (g) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 12.

¹ The investigation was originally identified as file number EB-09-TC-325.

² 47 U.S.C. § 227; 47 C.F.R. § 64.1200.

- (h) “Compliance Reports” mean the reports Sprint is required to file with the Commission pursuant to paragraph 14.
- (i) “Covered Personnel” means all employees of, and independent contractors and agents who provide telemarketing services for, Sprint who perform, supervise, oversee, or manage duties that relate to the Company’s responsibilities under, and compliance with, the Company-Specific Do-Not-Call Rules.
- (j) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (k) “Investigation” means the inquiry undertaken by the Bureau in File No. EB-TCD-12-00002713 (EB-09-TC-325).
- (l) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by Sprint to implement the Compliance Plan.
- (m) “Parties” means Sprint 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) “Sprint” or “Company” means Sprint Corporation f/k/a Sprint Nextel Corporation and each of its affiliates, predecessors-in-interest, and successors-in-interest.
- (p) “Voluntary Contribution” means the remittance to be made by Sprint to the United States Treasury pursuant to this Consent Decree and described at paragraph 17.

II. BACKGROUND

2. Pursuant to Section 227 of the Communications Act,³ the Commission has adopted Company-Specific DNC Rules.⁴ These rules generally prohibit a person or entity from making any call for telemarketing purposes to a residential telephone subscriber unless the person or entity has instituted certain defined minimum standards for maintaining a list of persons who request not to receive calls made by or on behalf of that person or entity.⁵ These standards include, among other things, the requirement that the person making the telemarketing calls honor such request for five years from the date such request was made.⁶

3. In June 2009, the Bureau began investigating Sprint in response to consumer complaints related to, among other things, telemarketing calls made to consumers who had requested that Sprint place their numbers on Sprint’s internal do-not-call (“DNC”) lists.⁷ During the investigation, Sprint stated that it had independently discovered an equipment malfunction that caused its servers to fail, for a

³ 47 U.S.C. § 227.

⁴ See 47 C.F.R. § 64.1200, *et. seq.*

⁵ 47 C.F.R. § 64.1200(d).

⁶ 47 C.F.R. § 64.1200(d)(6).

⁷ Letter from Josh Zeldis, Assistant Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Edward Palmieri, Deputy Chief Privacy Officer, Sprint Nextel Corp. (June 11, 2009) (on file in EB-TCD-12-00002713).

time, to process requests from consumers who did not wish to be contacted by Sprint. The failure resulted in apparent violations of the Commission's Company-Specific DNC Rules. The Parties engaged in settlement discussions that led to the *2011 Consent Decree*, which, among other things, required Sprint to report to the Bureau, for a period of two years, any noncompliance with the consent decree or the Company-Specific DNC Rules.⁸

4. On March 2, 2012, Sprint disclosed that, beginning in early 2012, it discovered additional issues that resulted in possible violations of the Rules.⁹ Sprint identified various issues involving human error and technical malfunctions with respect to Sprint's or its vendor's DNC processes that caused potential noncompliance with certain consumers' recorded DNC or do-not-text (SMS) preferences, or prevented timely capture of such preferences. Sprint also represented that it ceased telemarketing and SMS campaigns to investigate issues and mitigate potential risks. Subsequently, Sprint disclosed other events implicating further potential noncompliance with the Rules.

5. Sprint states that as a result of investigation of the issues described above in Paragraph 4, it has undertaken and will continue to take significant steps to improve oversight of its DNC/SMS databases in order to prevent future potential DNC violations. Sprint represents that it has conducted a thorough, top-to-bottom evaluation of its DNC data management systems, and has made a significant capital investment to implement improvements to its DNC/SMS architecture and compliance efforts, including establishment of one, centralized system that accurately records the DNC/SMS preferences of all consumers with respect to telemarketing by Sprint, or a third party acting on behalf of Sprint, and with which Sprint requires all telemarketing campaigns conducted on behalf of it to comply.

III. TERMS OF AGREEMENT

6. **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.

7. **Jurisdiction.** Sprint 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.

8. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. 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.

9. **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, Sprint 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 this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal

⁸ *Sprint Nextel Corporation, Compliance with the Commission's Company-Specific Do-Not-Call Rules*, Order, 26 FCC Rcd 14121, 14123 (2011) (*2011 Consent Decree*).

⁹ Although most of these issues began before the issuance of the *2011 Consent Decree*, Sprint claims that it was not aware of them at the time of those settlement discussions. In addition, many of the unrecorded DNC preferences included requests not to receive SMS messages.

or informal, or take any action on its own motion against Sprint 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 this 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 Sprint with respect to Sprint's basic qualifications, including its character qualifications, to hold Commission certifications, licenses, or authorizations.

10. **Representations; Warranties.** Sprint represents and warrants that as of the Effective Date, Sprint has simplified its methods for recording customer DNC/SMS preferences to address customer facing technologies (*e.g.*, Sprint.com, IVR, reply "S" to short code, in-person request at a retail store) such that all methods currently transmit DNC/SMS requests into the Sprint centralized DNC/SMS repository. Sprint further represents and warrants that it has reported to the Bureau all known instances of a consumer's Sprint-specific do-not-call or do-not-text preference that Sprint or its agents: (1) failed to record, or (2) failed to honor by making a call or sending a text to such consumer within thirty days of such request being made. Sprint further represents and warrants that it has taken all reasonable steps necessary to determine the extent of such failures.

11. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Sprint 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 Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Sprint complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Company-Specific DNC Rules prior to assuming his or her duties.

12. **Compliance Plan.** Sprint agrees that it shall within sixty (60) calendar days after the Effective Date, develop, implement, and maintain a Compliance Plan that is designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Company-Specific DNC Rules, Sprint shall implement the following:

- (a) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, Sprint shall establish, use, and maintain Operating Procedures that the Compliance Officer and all Covered Personnel shall follow to help ensure Sprint's compliance with the Company-Specific DNC Rules and terms of this Consent Decree. Sprint's Operating Procedures shall, at a minimum, include procedures and policies specifically designed to ensure that Sprint's operations comply with all Company-Specific DNC Rules.
- (b) **Compliance Manual.** Within ninety (90) calendar days after the Effective Date, Sprint shall develop, use, and maintain a Compliance Manual, which may be an online Manual, and distribute the Compliance Manual to all Covered Personnel. For any person who becomes Covered Personnel more than ninety (90) calendar days after the Effective Date, Sprint shall distribute the Compliance Manual to that person within sixty (60) calendar days after the date such person becomes Covered Personnel. The Compliance Manual shall explain the Company-Specific DNC Rules and instruct Covered Personnel to consult and follow the Operating Procedures help ensure Sprint's compliance with the Company-Specific DNC Rules. The Compliance Manual shall require Covered Personnel to contact their supervisor and/or the Compliance Officer with any questions or concerns that arise with respect to Sprint's obligations under or compliance with the Company-Specific DNC Rules, and require any supervisor who receives such information from Covered Personnel to promptly notify the Compliance Officer. Sprint shall

periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete, taking into account changes in Sprint's products and processes and any modifications to the Company-Specific DNC Rules. Sprint shall distribute any revisions to the Compliance Manual to all Covered Personnel within sixty (60) calendar days after any revisions have been made by Sprint.

- (c) **Compliance Training Program**. Within ninety (90) calendar days of the Effective Date, Sprint shall establish, implement, and maintain a Compliance Training Program to ensure compliance with the Company-Specific DNC Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Personnel shall be advised of Sprint's obligation to report any noncompliance with the Company-Specific DNC Rules under paragraph 13 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Personnel shall be trained pursuant to the Compliance Training Program within ninety (90) calendar days after the Effective Date, except that any person who becomes Covered Personnel at any time after the Effective Date shall be trained within sixty (60) calendar days after the date such person becomes Covered Personnel. Sprint 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.
- (d) **Acts or Omissions of Contractors and Agents**. Sprint acknowledges that the act, failure to act, or omission by any independent contractor, subcontractor, or third-party agent of Sprint, acting in such capacity, that results in a violation of the Company-Specific DNC Rules, or this Consent Decree, constitutes an act, failure to act, or omission by Sprint.

13. **Reporting Noncompliance**. Sprint shall report any noncompliance with the Company-Specific DNC Rules and with the terms and conditions of this Consent Decree within thirty (30) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that Sprint 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 Sprint has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, Room 3-C224, 445 12th Street SW, Washington, D.C. 20554, with a copy submitted electronically to Lloyd Collier at lloyd.collier@fcc.gov.

14. **Compliance Reports**. Sprint 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 Sprint's efforts during the relevant period (beginning on the Effective Date, and continuing through to the filing date of each report) to comply with the terms and conditions of this Consent Decree and the Company-Specific DNC Rules.
- (b) In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Sprint, stating that the Compliance Officer has personal knowledge that Sprint: (i) has established, implemented, and is maintaining 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 14 herein.

- (c) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must be in the form set forth in Section 1.16 of the Rules¹⁰ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- (d) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Sprint, 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 Sprint 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 Sprint has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (e) All Compliance Reports shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Lloyd Collier at lloyd.collier@fcc.gov.
- (f) Such certification must be mailed within fifteen (15) calendar days of the one (1) and the two (2) year anniversary of the Effective Date.

15. **Termination Date.** The obligations set forth in paragraphs 11 through 14 of this Consent Decree shall expire twenty-four (24) months after the Effective Date.

16. **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 Sprint or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Sprint with the Communications Laws.

17. **Voluntary Contribution.** Sprint agrees that it will make a Voluntary Contribution to the United States Treasury in the amount of seven million, five hundred thousand dollars (\$7,500,000) within thirty (30) calendar days of the Effective Date. Sprint acknowledges and agrees that upon execution of this Consent Decree, the Voluntary Contribution shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).¹¹ Sprint shall send electronic notification of each payment to Lloyd Collier at lloyd.collier@fcc.gov and to fccebaaccess@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 Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹² 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

¹⁰ 47 C.F.R. § 1.16.

¹¹ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

¹² An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

(payment type code). Below are additional instructions Sprint should follow based on the form of payment it selects:

- 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 Sprint has questions regarding payment procedures, it may contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

18. **Waivers.** Sprint 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 the Adopting Order as defined herein. Sprint 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 Sprint nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Sprint shall waive any statutory right to a trial *de novo*. Sprint hereby agrees to 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.

19. **Invalidity.** The Parties agree that if a court of competent jurisdiction renders any of the provisions of the Adopting Order or the Consent Decree invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. 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.

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

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

22. **Final Settlement.** The Bureau conducted the Investigation into Sprint's possible violation of the Company-Specific DNC Rules. 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 an adjudication on the merits, or a

factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

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

24. **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.

25. **Authorized Representative**. The individual signing this Consent Decree on behalf of Sprint represents and warrants that he is authorized by Sprint to execute this Consent Decree and to bind Sprint to the obligations, including all payment 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.

26. **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.

Travis LeBlanc
Acting Chief
Enforcement Bureau

Date

Peter P. Campbell
Chief Information Officer and Senior Vice President Information Technology
Sprint Corporation f/k/a Sprint Nextel Corporation

Date