

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

In the matter of	)	
	)	
One Call Internet, Inc.	)	
	)	
	)	File No. EB-03-TC-072
	)	NAL/Acct. No. 200332170005
	)	FRN: 0003772910
	)	
Section 214 Transfer of Control of Domestic	)	
Interstate Transmission Lines Requirements	)	
	)	

**ORDER**

**Adopted: December 10, 2003**

**Released: December 12, 2003**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt a Consent Decree terminating an investigation into possible violations by One Call Internet, Inc. ("OCI"), formerly known as One Call Communications, Inc. d/b/a Opticom, of Section 214 the Communications Act of 1934, as amended (the "Act"), and Section 63.01 of the Commission's rules regarding transfers of control for domestic interstate transmission lines.<sup>1</sup>

2. The Commission and OCI have negotiated the terms of a Consent Decree that would resolve this matter and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree, we find that the public interest would be served by approving the Consent Decree and terminating the investigation.

4. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 4(j) of the Communications Act of 1934, as amended,<sup>2</sup> that the attached Consent Decree IS ADOPTED.

5. OCI shall make its voluntary contribution to the United States Treasury by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200332170005 and FRN 0003772910.

<sup>1</sup> 47 U.S.C. § 214; 47 C.F.R. § 63.01.

<sup>2</sup> 47 U.S.C. §§ 154(i), 154(j).

6. IT IS FURTHER ORDERED that the Commission investigation into the matter described herein is terminated.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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CONSENT DECREE

I. INTRODUCTION

1. The Enforcement Bureau (the "Bureau") of the Federal Communications Commission (the "FCC" or the "Commission") and One Call Internet, Inc., ("OCI") formerly known as One Call Communications, Inc. ("One Call") d/b/a/ Opticom, by their authorized representative, hereby enter into this Consent Decree to resolve an investigation (the "Investigation") by the Bureau regarding possible violations of Section 214 of the Act and Section 63.01 of the Commission's rules regarding transfers of control for domestic interstate transmission lines.3 The Investigation was initiated by a Letter of Inquiry to One Call Communications, Inc.,4 and was undertaken pursuant to Sections 4(i), 218, and 403 of the Act.5

2. On January 31, 2002, OCI (at that time operating as One Call Communications, Inc.) entered into an agreement to sell, subject to the necessary federal and state regulatory approvals, its telecommunications business to OCMC, Inc. ("OCMC"). OCMC was a newly formed entity created by certain members of the One Call management team and additional third party investors. Pending final regulatory approvals, OCI and OCMC also entered into a management agreement, whereby OCMC provided management services to OCI in order to ensure continued service to existing OCI telecommunications customers. From January 31, 2002, forward, OCMC obtained all rights in the trade name One Call Communications, Inc. On February 8, 2002, One Call changed its name to One Call Internet. In order to complete the sale, OCI and OCMC filed a consolidated application to assign/transfer control of OCI's domestic and international 214 authorizations.6 During the course of the Investigation, several issues emerged

3 47 U.S.C. § 214; 47 C.F.R. § 63.01

4 See letter from Colleen K. Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission to Joseph Pence, September 23, 2002.

5 47 U.S.C. §§ 154(i), 218, 403.

6 See One Call Communications, Inc. and OCMC, Inc. Application to Assign Section 214 Authorizations and to Transfer Control of Domestic 214 Authorization, filed July 24, 2002.

regarding possible violations of the Act and the Commission's rules regarding this sale and the transfer of control.

## II. DEFINITIONS

3. For the Purposes of this Consent Decree, the following definitions shall apply:
  - (a) The "FCC" or the "Commission" means the Federal Communications Commission and all Bureaus and Offices of the Commission, including the Enforcement Bureau.
  - (b) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
  - (c) "OCI" or the "Company" means One Call Internet, Inc., or any of these entities' subsidiaries, affiliates, and successors.
  - (d) "Parties" means OCI and the Bureau.
  - (e) "Adopting Order" means an Order of the Commission or the Bureau adopting the terms and conditions of this Consent Decree.
  - (f) "Effective Date" means the date on which the Commission or the Bureau adopts the Adopting Order.

## III. AGREEMENT

4. OCI represents and warrants that it is the properly named party to this Consent Decree and has sufficient funds available to meet fully all financial and other obligations set forth herein. OCI further represents and warrants that it has caused this Consent Decree to be executed by its authorized representative, as a true act and deed, as of the date affixed next to said representative's signature. Said representative and OCI respectively affirm and warrant that said representative is acting in his/her capacity and within his/her authority as a corporate officer of OCI, and on behalf of OCI and that by his/her signature said representative is binding OCI to the terms and conditions of this Consent Decree.

5. OCI agrees that the Bureau has jurisdiction over it for the purposes of (but not limited to) this Consent Decree and that the Bureau has jurisdiction over the subject matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

6. OCI will make a voluntary contribution to the United States Treasury in the amount of eight thousand dollars (\$8,000) within 10 calendar days after the Commission Order adopting this Consent Decree becomes final to resolve the issues regarding possible violations of Section 214 of the Act and Section 63.01 of the Commission's rules regarding transfers of control for domestic interstate transmission lines. OCI must make this payment by check, wire

transfer, or money order drawn to the order of the Federal Communications Commission, and the check, wire transfer, or money order should refer to "NAL Acct. No. 200332170005." If OCI makes this payment by check or money order, it must mail the check or money order to: Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois, 60673-7482. If OCI makes this payment by wire transfer, it must wire such payment in accordance with Commission procedures for wire transfers.

7. In express reliance on the covenants and representations contained herein, the Bureau agrees to terminate the Investigation with respect to OCI, including, without limitations, issues concerning compliance with Section 214 of the Act, and Section 63.01 of the Commission's rules.

8. OCI agrees and acknowledges that this Consent Decree shall constitute a final settlement of the Investigation. The Bureau agrees that, in the absence of new material evidence, it will not, on its own motion, initiate or recommend to the Commission any other enforcement action against OCI including, without limitations, actions alleging violations of Section 214 of the Act and Section 63.01 of the Commission's rules occurring prior to the Effective Date, nor will the Bureau, on its own motion, seek or recommend to the Commission any administrative or other penalties from OCI based on this Investigation. Consistent with the foregoing, nothing in this Consent Decree limits the Commission's authority to consider and adjudicate any complaint that may be filed pursuant to Section 208 of the Act, 47 U.S.C. § 208.

9. OCI 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 Order adopting this Consent Decree, provided the Order adopts the Consent Decree without change, addition, or modification.

10. OCI's agreement to enter into this Consent Decree is expressly contingent upon the issuance of an Order by the Bureau that is consistent with this Consent Decree, and which adopts the Consent Decree without change, addition, or modification.

11. In the event that this Consent Decree 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.

12. OCI represents and warrants that neither OCI nor any of its representatives, employees, agents or any other person acting under, by, through, or on behalf of OCI, directly or indirectly, or through any corporate or other device, shall state, represent, or imply that the FCC, or any other governmental unit or subdivision thereof, approved or authorized any practice, act, or conduct of OCI as a result of this Consent Decree, other than the standards and actions set forth in this Consent Decree.

13. By this Consent Decree, OCI does not waive or alter its right to assert and seek protection from disclosure of any privileged or otherwise confidential and protected documents

and information, or to seek appropriate safeguards of confidentiality for any competitively sensitive or proprietary information.

14. 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 OCI nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and OCI and the Commission will waive any statutory right to a trial de novo with respect to any matter upon which the Adopting Order is based, and shall consent to a judgment incorporating the terms of this Consent Decree.

15. The Parties 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 Act and the Rules. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, OCI does not admit or deny any liability for violating Commission rules in connection with the matters that are the subject of this Consent Decree.

16. OCI agrees that any violation of the Consent Decree or the Adopting Order will constitute a separate violation of a Commission order, entitling the Commission to exercise any rights or remedies attendant to the enforcement of a Commission order.

17. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau

For One Call Internet, Inc.

By: \_\_\_\_\_  
David H. Solomon  
Chief, Enforcement Bureau  
Federal Communications Commission

By: \_\_\_\_\_  
Larry E. Dunigan  
Chairman  
One Call Internet, Inc.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date