

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

In the Matter of
Liberty Latin America Limited,
Liberty Mobile Puerto Rico Inc.,
Liberty Mobile USVI Inc.

File No.: EB-TCD-23-00035125
CD Acct. No.: 202432170002
FRNs: 0003473709 & 0004499034

ORDER

Adopted: June 13, 2024

Released: June 13, 2024

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree resolving the Bureau’s investigation into whether Liberty Latin America Limited, through its affiliates Liberty Mobile Puerto Rico Inc., and Liberty Mobile USVI Inc. (collectively, Liberty), failed to: (i) reasonably protect the confidentiality of customer information; (ii) timely file a report in the Data Breach Reporting Portal; and (iii) abide by the conditions of a Commission order, in connection with a data breach of a third-party vendor.

2. A principal purpose of Communications Act (Act)<sup>1</sup> is to protect the “national defense.”<sup>2</sup> To further this purpose, the Commission reviews all applications from foreign telecommunications carriers, or those carriers with foreign ownership interests, before granting the carrier license to operate U.S. communications infrastructure.<sup>3</sup> This review is conducted pursuant to the Commission’s authority, under section 214 of the Act, where the Commission considers the public interest before granting any license or authorization. As part of the Commission’s public interest review, it may, in its discretion, refer an application to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee, commonly known as Team Telecom).<sup>4</sup>

3. When the Commission refers an application to the Committee, those agencies review the potential foreign ownership interests, identify any potential national security or law enforcement concerns, and enter into a binding mitigation agreement, often called a Letter of Agreement (LOA) with the applicant. The LOA contains commitments and undertakings by the applicant to address any identified concerns pending the Commission’s acceptance of its license application. The Committee may petition the Commission to condition grant of a license on compliance with the LOA.<sup>5</sup> As a result, any future failure to abide by the terms of the LOA are a violation of a Commission order, subject to enforcement action and other penalties by the Commission, up to and including revocation or termination of the underlying license.<sup>6</sup>

<sup>1</sup> 47 U.S.C. § 151 et seq.

<sup>2</sup> Id. § 151.

<sup>3</sup> Id. § 214(a); see also China Telecom (Americas) Corp., Order on Revocation and Termination, 36 FCC Rcd 15966, 15968-69, para. 3 (2021).

<sup>4</sup> Executive Order No. 13913, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, 85 FR 19643 (Apr. 8, 2020) (stating that, “[t]he security, integrity, and availability of United States telecommunications networks are vital to United States national security and law enforcement interests”); Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership, Second Report and Order, 36 FCC Rcd 14848, 14850, para. 2 (2020).

<sup>5</sup> 47 U.S.C. § 214(c).

<sup>6</sup> 47 U.S.C. § 503(b)(1)(A).

4. In November 2019, Liberty, a Bermuda company, sought Commission approval to acquire U.S. telecommunications operations from another carrier (Carrier 1). Liberty's application underwent the Commission's public interest review described above. The Commission ultimately conditioned approval of the transaction on Liberty's compliance with the LOA to address national security and law enforcement concerns,<sup>7</sup> including a 72-hour beach notification requirement. In January 2023, Liberty learned from Carrier 1 that over 130,000 Liberty customers were affected by a breach of Carrier 1's third-party vendor. The customer data had been provided to the vendor by Carrier 1 prior to Liberty's acquisition of the customers. When Liberty learned its customers had been affected by breach, it did not make timely notifications as required by Commission rules and the LOA. Instead, Liberty spent weeks negotiating with Carrier 1 over which carrier was required to notify the government when Liberty customers were affected.

5. To settle this matter, Liberty Mobile will pay a civil penalty of \$100,000 and implement a compliance plan to ensure that Liberty has in place appropriate programs and procedures to comply with statutory reporting requirements in the Act, the Commission's Customer Proprietary Network Information (CPNI) rules,<sup>8</sup> and the LOA. Specifically, Liberty will be required to designate a Compliance Officer and improve its compliance programs by: (i) revising its incident response plan; (ii) providing timely notification to customers of any future breach; (iii) providing privacy and security awareness training for employees; and (iv) requesting, or where permitted, requiring that vendors establish training programs on requirements for handling Liberty customer data. In addition, Liberty will file annual compliance reports with the Commission.

6. 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 regarding Liberty's compliance with sections 201(b) and 222 of the Act, section 64.2011 of the CPNI rules, and the LOA in connection with the aforementioned data breach.

7. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Liberty's basic qualifications to hold or obtain any Commission license or authorization.

8. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act, 47 U.S.C. § 154(i), and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 CFR §§ 0.111, 0.311, the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

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

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<sup>7</sup> Liberty's proposal was submitted to the Commission before the establishment of the Committee through Exec. Order 13913, and thus was not referred to the Committee but instead to the relevant partner national security agencies.

<sup>8</sup> 47 CFR § 64.2001 *et seq.*

10. **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 Alexandra Verdiales, Deputy Head of Compliance and Ethics, Liberty Latin America, Ltd., PO Box 192296, San Juan, PR 00918-2296; to John Winter, General Counsel, Liberty Latin America, Ltd., 1550 Wewatta Street Suite 810, Denver, CO 80202; and to Christopher W. Savage, Davis Wright Tremaine LLP, 1301 K Street NW, Suite 500 East, Washington, DC 20005.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal  
Chief  
Enforcement Bureau

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CONSENT DECREE

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) and Liberty Latin America Limited (LLA) on behalf of its affiliates Liberty Mobile Puerto Rico Inc. and Liberty Mobile USVI Inc. (Liberty), through their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving the Bureau’s Investigation into whether, in connection with a third-party data breach affecting the data of current and former Liberty customers, Liberty violated sections 201(b), 222(a) and (c) of the Communications Act (Act), as amended, section 64.2011 of the Commission’s Rules; and the terms of Liberty’s authorizations as conditioned by the Commission.<sup>1</sup>

2. To resolve this matter, Liberty agrees to: (i) implement a Compliance Plan that will include an incident response plan and compliance training program, and (ii) pay a \$100,000 civil penalty.

I. DEFINITIONS

- 3. For the purposes of this Consent Decree, the following definitions shall apply:
(a) “Act” means the Communications Act of 1934, as amended.<sup>2</sup>
(b) “Breach” means when a person, without authorization or exceeding authorization, gains access to, uses, or discloses Covered Data. A breach includes use of Covered Data by a Liberty employee or Covered Third Party outside the scope of uses authorized in their work for Liberty, but does not include a good faith acquisition of Covered Data by a Liberty employee or Covered Third Party where such information is not used improperly or further disclosed.
(c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
(d) “CD Acct No.” means account number 202432170002, associated with payment obligations described in paragraph 36 of this Consent Decree.
(e) “Commission” or “FCC” means the Federal Communications Commission and all of its bureaus and offices.
(f) “Commission’s Rules” means the Commission’s regulations, found in Title 47 of the Code of Federal Regulations.

<sup>1</sup> 47 U.S.C. §§ 201(b), 222(a), (c); 47 CFR § 64.2011.

<sup>2</sup> 47 U.S.C. § 151 et seq.

- (g) “Committee” means the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector established pursuant to Executive Order 13913.
- (h) “Communications Laws” means collectively, the Act, the Commission’s Rules, and the published and effective orders and decisions of the Commission to which Liberty is subject by virtue of its business activities, including but not limited to the Privacy and Data Protection Requirements.
- (i) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraphs 30 through 33.
- (j) “Covered Data” or “Liberty Covered Data” means PII and CPNI regarding Liberty Customers that is maintained in a Liberty Information System or a Liberty Vendor Information System.
- (k) “Covered Third Party” means a Liberty vendor that controls a system that processes, stores, or transmits Liberty Covered Data.
- (l) “CPNI Rules” means the Commission’s Rules set forth at section 64.2001 *et seq.* and any amendments or additions to those rules after the Effective Date.
- (m) “Customer” or “Liberty Customer” means a current, former, or prospective customer of a Liberty Mobile Service, provided that “prospective customer” is limited to individuals who have provided their CPNI and/or PII to Liberty. For avoidance of doubt, “Customer” does not include individuals to whom Liberty has marketed, or proposes to market, Liberty services but who have not provided Liberty with any CPNI and/or PII.
- (n) “Customer Proprietary Network Information” or “CPNI” has the meaning set forth at section 222(h) of the Act.
- (o) “Effective Date” means the date by which both the Bureau and Liberty have signed the Consent Decree and the Bureau has released the accompanying Adopting Order.
- (p) “Incident” means an occurrence that jeopardizes or is reasonably likely to jeopardize the confidentiality, integrity, or availability of a Liberty Information System or a Liberty Vendor Information System, or the information such system processes, stores, or transmits, or that constitutes a violation of the security policies, security procedures, or acceptable use policies applicable to such Liberty Information System or Liberty Vendor Information System. For avoidance of doubt, “Incident” does not include short-term downtime of a Liberty Information System or a Liberty Vendor Information System in the normal course of operations.
- (q) “Investigation” means the investigation commenced by the Bureau in EB-TCD-23-00035125 regarding whether Liberty violated the Act and the Privacy and Data Protection Requirements.
- (r) “July 2020 LOA” means the Letter of Agreement from John Winter, Senior Vice President, Chief Legal Officer & Secretary, Liberty, to the Assistant Attorney General for National Security, National Security Division, U.S. Department of Justice; Deputy Chief Information Officer for Cybersecurity, United States Department of Defense, [WT] Docket No. 19-384, File Nos. ITC-T/C-20191107-00178 *et al.* (July 1, 2020).
- (s) “Letter of Agreement” or “LOA” means a written agreement from an applicant for a Commission authorization or license to the Committee that contains binding commitments to mitigate national security and law enforcement risks identified by the Committee pursuant to Executive Order 13913.

- (t) “Liberty” means Liberty Mobile Puerto Rico Inc. and Liberty Mobile USVI Inc. and their successors-in-interest.
- (u) “Liberty Employees” means all employees of Liberty who perform, supervise, oversee, or manage the performance of duties that relate to Liberty’s responsibilities under the Communications Laws, including the CPNI Rules.
- (v) “Liberty Information System” means a data processing system that is operated or controlled by Liberty and that stores, processes, or transmits Liberty Covered Data.
- (w) “Liberty Vendor Information System” means a data processing system operated or controlled by a Liberty vendor on Liberty’s behalf to the extent that such system stores, processes, or transmits Liberty Covered Data.
- (x) “Mobile Service” has the meaning set forth at section 153(33) of the Act.
- (y) “National Security Agencies” means the agencies, including member agencies of the Committee, involved in the review of the Transaction for national security and law enforcement concerns prior to the issuance of Executive Order 13913.
- (z) “Operating Procedures” means the standard internal operating procedures and compliance policies established by Liberty to implement the Compliance Plan.
- (aa) “Parties” means Liberty and the Bureau, each of which is a “Party.”
- (bb) “Personally Identifiable Information” or “PII” means: (1) An individual’s first name or first initial, and last name, in combination with any government-issued identification numbers or information issued on a government document used to verify the identity of a specific individual, or other unique identification number used for authentication purposes; (2) An individual’s user name or e-mail address, in combination with a password or security question and answer, or any other authentication method or information necessary to permit access to an account; or (3) Unique biometric, genetic, or medical data. (4) Notwithstanding the above: (A) Dissociated data that, if linked, would constitute personally identifiable information is to be considered personally identifiable if the means to link the dissociated data were accessed in connection with access to the dissociated data; and (B) Any one of the discrete data elements listed in (bb)(1) to (3) above, or any combination of the discrete data elements listed above is personally identifiable information if the data element or combination of data elements would enable a person to commit identity theft or fraud against the individual to whom the data element or elements pertain. Notwithstanding the foregoing, “personally identifiable information” does not include information about an individual that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.
- (cc) “Privacy and Data Protection Requirements” means the requirements of (1) section 222 of the Act, (2) the CPNI Rules, (3) the published and effective orders and decisions of the Commission interpreting and implementing section 222 of the Act and the CPNI Rules, (4) the published and effective orders and decisions of the Commission interpreting and implementing section 201(b) of the Act to the extent that such orders and decisions relate to privacy and data security requirements, and (5) the terms and conditions of any license, permit, certificate, or other instrument or authorization granted to Liberty related to privacy and data protection.

## II. BACKGROUND

4. *Liberty Latin America*. LLA is a Bermuda company that provides communications and entertainment services, including video, broadband, telephony, and mobile services in Puerto Rico, the

Caribbean, and across Latin America. LLA is the parent entity of Liberty Mobile Puerto Rico Inc. and Liberty Mobile USVI Inc.

5. Liberty serves “over 1 million mobile subscribers through Puerto Rico and the U.S. Virgin Islands.”<sup>3</sup>

6. *Protection of Customer Data and Breach Notification.* The Act and the Commission’s Rules govern and limit telecommunications carriers’ use and disclosure of certain customer data. Section 222(a) of the Act imposes a duty on telecommunications carriers to “protect the confidentiality of proprietary information” in their possession or under their direct or indirect control, including that of their customers. Section 222(c) of the Act establishes specific privacy requirements carriers must follow to protect CPNI (a subset of customer data) when that data is made available to them by virtue of their provision of telecommunications services to the customer.<sup>4</sup> The Commission has promulgated rules implementing the privacy requirements of section 222, and has amended them from time to time.

7. Among the Commission Rules are requirements for carriers to notify law enforcement after a carrier makes a “reasonable determination” that “a breach of its customers’ CPNI” has occurred.<sup>5</sup> Specifically, section 64.2011(b) of the CPNI Rules requires that “[a]s soon as practicable, and in no event later than seven (7) business days, after reasonable determination of the breach, the telecommunications carrier shall electronically notify the United States Secret Service (USSS) and the Federal Bureau of Investigation (FBI) through a central reporting facility.”<sup>6</sup> What constitutes a “reasonable determination” that triggers the reporting obligation is highly fact-dependent.<sup>7</sup>

8. *Reasonable Privacy and Data Security Practices.* Section 201(b) states that “[a]ll charges, practices, classifications, and regulations for and in connection with [interstate or foreign] communication service [by wire or radio], shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful.”<sup>8</sup> In *TerraCom*, the Commission stated that section 201(b) of the Act extends to carriers’ data security practices.<sup>9</sup> The Commission has further stated that section 201(b) requires carriers to have in place reasonable data governance and compliance programs. Such programs have long been cornerstones of data security and

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<sup>3</sup> Liberty Communications of Puerto Rico, *About Us*, <https://www.libertypr.com/en/about> (last visited May 28, 2024).

<sup>4</sup> 47 U.S.C. § 222(a), (c), (h)(1)(A).

<sup>5</sup> 47 CFR §§ 64.2011(a) (“A telecommunications carrier shall notify law enforcement of a breach of its customers’ CPNI”), 64.2011(b) (“after reasonable determination of the breach, the telecommunications carrier shall electronically notify [law enforcement agencies]”). In December 2023, the Commission approved updates to the Commission’s Rules requiring notification of a breach of customer data; these updates are not in effect as of the Effective Date. *See Data Breach Reporting Requirements*, Report and Order, FCC 23-111, (WC Dec. 21, 2023) (*Data Breach Order*). At the time of the Vendor Breach and of the Effective Date of this Consent Decree, Commission Rules required notification only after a carrier’s reasonable determination that a breach affected CPNI.

<sup>6</sup> 47 CFR § 64.2011.

<sup>7</sup> In the *Data Breach Order*, the Commission did not lay out any specific relevant factors, but for the first time clarified that a “reasonable determination” occurs “when the carrier has information indicating that it is more likely than not that there was a breach.” *Data Breach Order*, FCC 23-111 at para. 37.

<sup>8</sup> 47 U.S.C. § 201(b).

<sup>9</sup> *See TerraCom, Inc. and YourTel America, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd at 13335-37, paras. 31-35 (2014) (*TerraCom*), consent decree adopted, *TerraCom, Inc. and YourTel America, Inc.*, Order, 30 FCC Rcd 7075 (2015) (companies paid forfeiture of \$3.5 million). *See also Advantage Telecommunications Corp.*, Forfeiture Order, 32 FCC Rcd 3723 (2017); *Preferred Long Distance, Inc.*, Forfeiture Order, 30 FCC Rcd 13711 (2015).

privacy protections.<sup>10</sup> What constitutes a reasonable practice is highly fact-dependent. The Commission expects carriers to employ effective protections of customer data in their own particular systems and to require reasonable oversight policies and procedures to protect customer data held and accessed in the systems of carriers' vendors.<sup>11</sup> Such practices could include encrypting data, placing limits on uses of customer data, and appropriate inventory and accounting for data the carrier or vendor holds on customers.<sup>12</sup>

9. *Foreign Ownership and Operation of U.S. Telecommunications Services and Committee Review of National Security and Law Enforcement Risks.* The Act provides the Commission with authority to regulate U.S. communications infrastructure. A principal purpose of the Act is to protect the "national defense."<sup>13</sup> To further this purpose and the Commission's oversight of U.S. communications infrastructure, any company seeking to use or operate a transmission line for interstate or foreign communications must receive authorization from the Commission pursuant to section 214 of the Act.<sup>14</sup> Any person or entity that holds domestic or international section 214 authority must obtain Commission approval prior to consummating a substantial transfer of control of its domestic or international section 214 license.<sup>15</sup>

10. During the section 214 approval process for carriers with the requisite foreign ownership interests, the Commission considers public interest issues related to national security, law enforcement, foreign policy, and trade policy.<sup>16</sup> For over 25 years, the Commission, at its discretion, has referred certain applications from entities that have reportable foreign ownership to the National Security Agencies, which have expertise in identifying and reviewing areas of potential concern arising from applicants' foreign ownership.<sup>17</sup> In April 2020, Executive Order No. 13913 formalized this process and

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<sup>10</sup> See, e.g., Nat'l Inst. Stds. & Tech., The NIST Cybersecurity Framework (CSF) 2.0 (2024), <https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.29.pdf>; Nat'l Inst. Stds. & Tech., Framework for Improving Critical Infrastructure Cybersecurity (2018), <https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.04162018.pdf>. See also Commc'ns Sec., Reliability & Interoperability Council IV, Cybersecurity Risk Management and Best Practices Working Group 4: Final Report at 9 (2015), [https://transition.fcc.gov/pshs/advisory/csric4/CSRIC\\_IV\\_WG4\\_Final\\_Report\\_031815.pdf](https://transition.fcc.gov/pshs/advisory/csric4/CSRIC_IV_WG4_Final_Report_031815.pdf) (stating that "[w]hen managing cybersecurity risks, it is essential to incorporate a risk governance process into the program").

<sup>11</sup> *AT&T Inc.*, Notice of Apparent Liability for Forfeiture and Admonishment, 35 FCC Rcd 1743, 1746, para. 8 (2020).

<sup>12</sup> See, e.g., *id.* at paras. 7-9, 51-52 (2020) (describing several privacy and security practices as a minimum for reasonableness and stating that, when reviewing a breach, the Commission treats the fact of unauthorized disclosure as *prima facie* evidence that there were not reasonable practices in place).

<sup>13</sup> 47 U.S.C. § 151.

<sup>14</sup> 47 U.S.C. § 214(a) (prohibiting any carrier from constructing, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate from the Commission "that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such . . . line . . ."); see also *China Telecom (Americas) Corp.*, Order on Revocation and Termination, 36 FCC Rcd 15966, 15968-69, para. 3 (2021) (*China Telecom Order*), *aff'd*, *China Telecom (Americas) Corp. v. FCC*, 57 F.4th 256 (D.C. Cir. 2022).

<sup>15</sup> 47 CFR §§ 63.03-04, 63.24.

<sup>16</sup> *China Telecom Order*, 36 FCC Rcd at 15970, para. 5.

<sup>17</sup> *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Second Report and Order, 36 FCC Rcd 14848, 14850, para. 2 (2021) (*Foreign Ownership Application Reform Order*). See *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-21, paras. 59-66 (1997) (*Foreign Participation Order*), *recon. denied*, *Rules and Policies on Foreign Participation in the U.S.*

(continued....)



established the Committee, which is also commonly known as Team Telecom.<sup>18</sup> The Commission, when deciding whether to grant an authorization, ultimately makes an independent decision in light of the information in the record, including any information provided by the applicant, authorization holder, or licensee in response to any filings by the Committee or National Security Agencies.<sup>19</sup>

11. During the course of the Committee's review, the applicant may enter into a mitigation agreement with the Committee, such as a Letter of Agreement (LOA), in which the applicant commits to certain terms in order to address national security and law enforcement risks of concern to the Committee.<sup>20</sup> Following its review, the Committee may recommend that, to mitigate any such concerns, the Commission condition grant of the application on the applicant's compliance with the terms of the LOA.<sup>21</sup> The Commission may, at its discretion, condition its grant of the application on the applicant's compliance with the terms of the LOA. Pursuant to delegated authority, the Commission's Wireless Telecommunications Bureau, Wireline Competition Bureau, and Office of International Affairs monitor compliance with the terms and conditions of authorizations and licenses and pursue enforcement actions in conjunction with appropriate bureaus and offices.<sup>22</sup>

12. The Commission may impose a forfeiture on a carrier that willfully or repeatedly fails to substantially comply with the terms of a Commission order, including the terms of an LOA, where, as here, grant of the carrier's authorizations is conditioned on compliance with the LOA terms.<sup>23</sup> The Act requires that, when determining whether to impose a forfeiture and/or its amount, the Commission must consider the nature, circumstances, extent, and gravity of the violation and, with respect to the carrier, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.<sup>24</sup>

13. *Liberty's Purchase of U.S. Caribbean Telecommunications Operations.* On October 31, 2020, LLA, through subsidiary entities, acquired U.S. telecommunications operations in Puerto Rico and the U.S. Virgin Islands (the Transaction) from a third-party telecommunications company (Carrier 1). As

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*Telecommunications Market*, IB Docket 97-142, Order on Reconsideration, 15 FCC Rcd 18158 (2000); *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, Report and Order, 35 FCC Rcd 10927, 10928-29, para. 3 (2020) (*Executive Branch Process Reform Order*).

<sup>18</sup> Executive Order No. 13913, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, 85 Fed. Reg. 19643 (Apr. 8, 2020) (stating that, "[t]he security, integrity, and availability of United States telecommunications networks are vital to United States national security and law enforcement interests") (Exec. Order 13913).

<sup>19</sup> *Foreign Participation Order*, 12 FCC Rcd at 23921, para. 66.

<sup>20</sup> Exec. Order 13913, 85 Fed. Reg. at 19648 (Sec. 10); see *Executive Branch Process Reform Order*, 35 FCC Rcd at 10929-30, para. 5.

<sup>21</sup> *Id.* (Sec. 10(a)). For example, on June 8, 2020, the Executive Branch filed a petition to adopt conditions, and the Commission conditioned its grant of the authorization on the applicant's compliance with the terms of the applicant's letter of assurances. See Petition of the U.S. Dep't of Justice to Adopt Conditions to Authorizations and Licenses, File No. ITC-214-20190131-00073 (filed June 8, 2020); *International Authorizations Granted Section 214 Applications (47 CFR §§ 63.18, 63.24); Section 310(b) Petitions (47 CFR § 1.5000)*, Report No. TEL-02025, Public Notice, 35 FCC Rcd 6478 (IB 2020).

<sup>22</sup> See 47 CFR §§ 0.19(i), 0.91, 0.131(h).

<sup>23</sup> 47 U.S.C. § 503(b)(1)(A).

<sup>24</sup> *Id.* § 503(b)(2).

part of the Transaction, more than one million individuals who had been customers of Carrier 1 became Liberty Customers.<sup>25</sup>

14. The Transaction involved transfers of control with potential foreign ownership of U.S. telecommunications services that required Commission approval through the section 214 application process.<sup>26</sup> On November 12, 2019, Liberty filed with the Commission applications for transfer of control and a petition for declaratory ruling to exceed the section 310(b) statutory foreign ownership benchmarks, requesting approval of the Transaction. Following its standard practice, the Commission's International Bureau, the predecessor of the Office of International Affairs, referred the Transaction to the National Security Agencies.

15. As a result of the National Security Agencies' review, LLA entered into the July 2020 LOA with the U.S. Departments of Justice (DOJ) and Defense (DOD) in order to address national security and law enforcement risks. The July 2020 LOA requires, among others terms, that Liberty would have and maintain adequate systems and procedures for protecting Liberty Customers' confidential information after the Transaction closed.<sup>27</sup> The July 2020 LOA does not establish any LLA obligations with respect to actions that Carrier 1 may have taken prior to the Transaction. Instead, the July 2020 LOA states that LLA's obligations "should be reasonably interpreted in the context of, and limited in application to, LLA's acquisition" of Carrier 1's U.S. telecommunications operations.<sup>28</sup>

16. Specifically, the July 2020 LOA states that Liberty would report to DOJ in writing "no later than 72 hours[] after [Liberty] learns of information that reasonably indicates . . . [u]nauthorized [a]ccess to, or disclosure of, any information . . . referring or relating in any way, to Liberty's customers."<sup>29</sup> In addition, Liberty agreed to follow Commission CPNI reporting requirements as stated in section 64.2011 of the Commission's Rules.<sup>30</sup> DOJ advised the Commission that "the additional commitments set forth in the LOA will help ensure that [DOJ and DOD] can proceed appropriately in satisfying [DOJ and DOD's] responsibilities to enforce the law, protect the national security, and preserve public safety."<sup>31</sup> DOJ's recommendation to the Commission was predicated on Liberty's compliance with the terms of the July 2020 LOA.

17. The Wireless Telecommunications Bureau, Wireline Competition Bureau, and International Bureau conditioned approval of the Transaction on Liberty's compliance with the July 2020 LOA. Once the grant was so conditioned, a failure to comply with the terms of the July 2020 LOA would also constitute a violation of the grant. In accordance with the provisions of the Act noted above, the

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<sup>25</sup> Response to Letter of Inquiry from Christopher W. Savage, Counsel, Liberty Communications of Puerto Rico LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at 2 (July 7, 2023) (on file in EB-TCD-23-00035125) (Liberty LOI Response).

<sup>26</sup> 47 U.S.C. § 214 (transfers of control of international and domestic section 214 authority). The Transaction also included transfers of control of wireless licenses and leases, and an associated foreign ownership ruling that the foreign ownership in the wireless licenses and leases in excess of the statutory benchmarks was in the public interest. 47 U.S.C. §§ 310(b), 310(d).

<sup>27</sup> U.S. Dep't of Justice, Petition to Adopt Conditions to Authorizations and Licenses, WT Docket No. 19-384, File Nos. ITC-T/C-20191107-00178 *et al.* (filed July 2, 2020) (July 2020 Petition). See Letter from John Winter, Senior Vice President, Chief Legal Officer & Secretary, Liberty, to Assistant Attorney General for National Security, Nat'l Sec. Div., U.S. Dep't of Justice; Deputy Chief Information Officer for Cybersecurity, U.S. Dep't of Defense, W Docket No. 19-384, File Nos. ITC-T/C-20191107-00178 *et al.* (July 1, 2020) (July 2020 LOA).

<sup>28</sup> July 2020 LOA, *supra* note 27 at para. 1.

<sup>29</sup> *Id.* at para. 28.

<sup>30</sup> *Id.* at para. 31.

<sup>31</sup> See July 2020 Petition, *supra* note 27.

Commission's order stated that failure to remain in compliance with the July 2020 LOA could result in monetary sanctions or other Commission enforcement actions, including license revocation.

18. *Security Incident Involving Certain Customers Acquired by Liberty.* Years prior to the Transaction, Carrier 1 provided data regarding Carrier 1's customers to a third-party vendor. In January 2023, following the Transaction, that vendor experienced a data breach (the Vendor Breach).<sup>32</sup> The Vendor Breach affected data that Carrier 1 had shared with the vendor, including data on Customers that had been acquired by Liberty through the Transaction. Liberty has never had, prior to or following the Transaction, any direct relationship with the vendor; Liberty Customers were affected by the Vendor Breach solely because Carrier 1 had shared the Customer data with the third-party vendor prior to the Transaction. The Vendor Breach did not involve compromise of any Liberty Information System or any Liberty Vendor Information System and did not affect any systems that Liberty acquired, used, or established "in the context of" or as a result of the Transaction.<sup>33</sup> However, the Vendor Breach did affect data that "referred or related" to Liberty Customers.<sup>34</sup>

19. Though the Vendor Breach affected Liberty Customer data, Liberty was not in possession of the data affected by the Vendor Breach at any point before, during, or after the closing of the Transaction. Prior to learning about the Vendor Breach from Carrier 1, Liberty was unaware that Carrier 1 had supplied data on now-Liberty Customers to the affected vendor or that the vendor retained such data.

20. *Liberty's Knowledge of Breach and Notification.* On January 14, 2023, Carrier 1 advised Liberty of the existence of the Vendor Breach, stating that a Carrier 1 vendor had experienced a Breach which "involved a large number of . . . Liberty customers."<sup>35</sup> Shortly thereafter, on or about January 19, 2023, Carrier 1 provided Liberty with information regarding the Vendor Breach. However, that information was incomplete and conflicting as it related to Liberty customers. On or about February 28, 2023, Carrier 1 provided Liberty with a spreadsheet indicating that the Vendor Breach included data from 130,690 accounts and 269,114 lines that became Liberty Customers when Liberty purchased Carrier 1's Puerto Rico and U.S. Virgin Islands wireless operations.<sup>36</sup>

21. Carrier 1 filed a report in the CPNI Data Breach Reporting Portal of the Vendor Breach on or about February 6, 2023, and provided Liberty with a copy of that notification. The breach report stated that Carrier 1 had not determined that the Vendor Breach involved CPNI, and Carrier 1 advised Liberty that Liberty would need to make its own determination as to whether the Vendor Breach involved CPNI, and whether Liberty had any separate obligation to report the Vendor Breach. Liberty was also aware by this time that the Vendor Breach did not involve any Liberty Information System or any Liberty Vendor Information System.

22. Liberty believed that because the Vendor Breach did not involve any Liberty Information System or Liberty Vendor Information System, any obligation to report the Breach under the Commission's CPNI Rules lay not with Liberty but with Carrier 1, whose vendor had experienced the Breach. However, after Carrier 1 told Liberty that Carrier 1 did not intend its breach report to cover the

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<sup>32</sup> Liberty LOI Response at 17, Response to Inquiry 8 (stating that, according to a forensic report, "the earliest evidence of Threat Actor activity occurred on January 1, 2023, and the latest evidence of Threat Actor activity occurred on January 8, 2023") (internal quotations omitted).

<sup>33</sup> See July 2020 LOA, *supra* note 27 at 1.

<sup>34</sup> See *id.* at para. 28.

<sup>35</sup> Liberty LOI Response at 17, Response to Inquiry 8.

<sup>36</sup> Response to Supplemental Letter of Inquiry from Christopher W. Savage, Counsel, Liberty Mobile Puerto Rico LLC & Liberty Mobile USVI Inc., to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at 2, Response to Inquiry 1 (Feb. 16, 2024) (on file in EB-TCD-23-00035125) (Liberty SLOI Response).

affected Liberty Customers, and after multiple discussions with Carrier 1 on this issue, Liberty concluded on March 23, 2023, that Carrier 1 would not amend its breach report to make clear that the Vendor Breach affected some Liberty Customers. As a result, and in what Liberty believed to be an abundance of caution, Liberty filed a report in the Data Breach Reporting Portal regarding the Vendor Breach on March 30, 2023.<sup>37</sup>

23. Through communications with Carrier 1, Liberty was aware no later than January 19, 2023, that the Vendor Breach included information “referring or relating” to certain Liberty customers. Liberty notified DOJ of the Vendor Breach on or about March 31, 2023.

24. After receiving Liberty’s March 30, 2023 CPNI breach report, the Bureau conducted an investigation regarding whether Liberty: (i) failed to provide timely notification of the Vendor Breach to the Commission as required by section 64.2011 of the CPNI Rules; (ii) failed to maintain a reasonable governance program to protect Covered Data as required by sections 201(b) and 222 of the Act; and, on behalf of and in coordination with the Wireless Telecommunications Bureau, Wireline Competition Bureau and Office of International Affairs,<sup>38</sup> (iii) failed to comply with the requirements of the July 2020 LOA. The Parties negotiated the following terms and conditions of settlement and hereby enter into this Consent Decree as provided below.

### III. TERMS OF AGREEMENT

25. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

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

27. **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 Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

28. **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, Liberty agrees to the terms, conditions, and procedures contained herein. The Bureau further 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 any new proceeding on its own motion against Liberty concerning the matters that were the subject of the Investigation, or to set for hearing the question of Liberty’s basic qualifications to be a Commission licensee or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.<sup>39</sup>

29. **Admission of Facts.** For the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraphs 4 through 24 herein, Liberty agrees that the description of the facts underlying the Investigation contained in this Consent Decree is true and accurate.

30. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Liberty shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a 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

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<sup>37</sup> Liberty LOI Response at 35, Response to Inquiry 24; FBI/USSS CPNI Data Breach Reporting Portal Report 2023-2032 (Mar. 30, 2023) (Liberty CPNI Report).

<sup>38</sup> See 47 C.F.R. § 0.111(a)(16).

<sup>39</sup> See 47 CFR § 1.93(b).

Plan and ensuring that Liberty 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 Privacy and Security Requirements prior to assuming his/her duties.

31. **Compliance Plan.** For purposes of settling the matters set forth herein, Liberty agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Privacy and Security Requirements, Liberty will implement, at a minimum, the following procedures:

- (a) **Incident Response Plan.** Within one hundred and twenty (120) calendar days after the Effective Date, Liberty shall review, revise, and maintain its Incident Response Plan to ensure that it is reasonable, comprehensive, and enables Liberty to detect, respond to, and provide timely notification as required by law, regulation, or Letter of Agreement to all relevant Customers and relevant governmental authorities of any Breach involving Covered Data. Such Incident Response Plan shall contain processes to: (i) identify; (ii) investigate; (iii) mitigate; (iv) remediate; and (v) review information security Incidents arising from a Breach of any Liberty Information System or Liberty Vendor Information System, to identify root causes and to develop improved responses to security threats to such systems. No later than its first annual report to the Commission under this Consent Decree, Liberty shall certify to the Commission that it has performed a test exercise of the Incident Response Plan and provide the Commission with a summary of results from the exercise.
- (b) **Compliance Training Program.** Within six (6) months after the Effective Date, Liberty shall review, revise, implement, and maintain a Compliance Training Program to ensure compliance with the CPNI Rules in effect, the July 2020 LOA, applicable Privacy and Data Protection Requirements, and this Consent Decree.
  - i. The Compliance Training Program shall include reasonable and comprehensive privacy and security awareness training for all Liberty Employees. It shall include instruction on Liberty's obligations, policies, and procedures for protecting Covered Data pursuant to the July 2020 LOA, CPNI rules in effect, applicable Privacy and Data Protection Requirements, and this Consent Decree, including identifying and collecting Covered Data from Liberty Customers, recognizing security threats and suspicious activity that may indicate that Covered Data has been compromised, the timely reporting of Breaches, and other reasonable and appropriate training regarding the protection of Covered Data. Liberty shall cause all Liberty Employees whose job functions relate to implementation of remediation measures to receive training regarding such remediation measures. For purposes of complying with the provisions of this paragraph, Liberty is permitted to provide the training itself or to use a third party to provide the training described herein.
  - ii. As part of the Compliance Training Program, Liberty shall ensure that each Liberty Employee is advised of Liberty's obligations to report any noncompliance with the Privacy and Data Protection Requirements and this Consent Decree, and is instructed on how to disclose noncompliance to the Compliance Officer, including instructions on how to anonymously report such noncompliance.
  - iii. Liberty shall ensure that the training for Liberty Employees is conducted pursuant to the Compliance Training Program within six (6) months after the Effective Date, except that any person who becomes a Liberty Employee at any time after that period shall be trained within sixty (60) calendar days after the date such person becomes a Liberty Employee. Liberty shall document Liberty Employees' completion of such trainings.

- iv. Liberty shall ensure that the Compliance Training Program is conducted at least annually for Liberty Employees. Liberty shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.
- v. In addition, Liberty shall request, and, where permitted by contract, require certification from all Covered Third Parties that each Covered Third Party has provided their employees with the trainings and disseminated to their employees information as required in (i) – (iv) above.

32. **Reporting Noncompliance.** Liberty shall report any material noncompliance with the Privacy and Security Requirements and with the terms and conditions of this Consent Decree within seven (7) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance, (ii) the steps that Liberty 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 Liberty 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, 45 L Street NE, Room 5.350, Washington, DC 20554, with a copy submitted electronically to [Shana.Yates@fcc.gov](mailto:Shana.Yates@fcc.gov), [Jeff.Gary@fcc.gov](mailto:Jeff.Gary@fcc.gov), and [eb-tcd-privacy@fcc.gov](mailto:eb-tcd-privacy@fcc.gov).

33. **Compliance Reports.** Liberty shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Liberty's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the CPNI Rules in effect. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Liberty, stating that the Compliance Officer has personal knowledge that Liberty: (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 32 of this Consent Decree.
- (b) Each Compliance Report shall confirm that in the event of a Breach in any Liberty Information System or Liberty Vendor Information System, Liberty shall, to the extent required by law, regulation, or Letter of Agreement, notify all Liberty Customers (at the Customer's last known email or physical address and pursuant to Liberty's reasonable efforts to locate the Customer) whose fully or partially unredacted and/or unencrypted Covered Data has been affected by a Breach.
- (c) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.<sup>40</sup>
- (d) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Liberty, 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 Liberty 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 Liberty has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will

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<sup>40</sup> *Id.* § 1.16.

be taken.

- (e) All Compliance Reports shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 45 L Street NE, Room 5.350, Washington, DC 20554, with a copy submitted electronically to [Shana.Yates@fcc.gov](mailto:Shana.Yates@fcc.gov), [Jeff.Gary@fcc.gov](mailto:Jeff.Gary@fcc.gov), and [eb-tcd-privacy@fcc.gov](mailto:eb-tcd-privacy@fcc.gov).

34. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 30 through 33 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

35. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed by a third party pursuant to section 208 of the Act<sup>41</sup> against Liberty 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 Liberty with the Communications Laws.

36. **Civil Penalty.** Liberty will pay a civil penalty to the United States Treasury in the amount of \$100,000 within thirty (30) calendar days of the Effective Date. Liberty acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).<sup>42</sup> Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. Liberty shall send electronic notification of payment to [Shana.Yates@fcc.gov](mailto:Shana.Yates@fcc.gov), [Jeff.Gary@fcc.gov](mailto:Jeff.Gary@fcc.gov), and [eb-tcd-privacy@fcc.gov](mailto:eb-tcd-privacy@fcc.gov) on the date said payment is made. Payment of the Civil Penalty must be made by credit card using the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:<sup>43</sup>

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159<sup>44</sup> or printed CORES form<sup>45</sup> must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov) on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).<sup>46</sup> For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

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<sup>41</sup> 47 U.S.C. § 208.

<sup>42</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

<sup>43</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6).

<sup>44</sup> FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

<sup>45</sup> Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

<sup>46</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

37. **Event of Default.** Liberty agrees that an Event of Default shall occur upon the failure by Liberty to pay the full amount of the Civil Penalty on or before the due date specified in this Consent Decree.

38. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Civil Penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Civil Penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, 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 Liberty.

39. **Waivers.** As of the Effective Date, Liberty 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. Liberty 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 Consent Decree or the Adopting Order, neither Liberty nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Liberty shall waive any statutory right to a trial *de novo*. Liberty hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>47</sup> relating to the matters addressed in this Consent Decree.

40. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

41. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any

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<sup>47</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.



court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

42. **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 Liberty does not expressly consent) that provision will be superseded by such Rule or order.

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

44. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

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

46. **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.

47. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

48. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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Loyaan A. Egal  
Chief  
Enforcement Bureau

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Date

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Carla Framil Ferran  
General Counsel  
Liberty Mobile Puerto Rico Inc.

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Date

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Carla Framil Ferran  
General Counsel  
Liberty Mobile USVI Inc.

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