

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

In the Matter of)	File No. EB-07-SE-227
)	
Sling Media, Inc.)	Acct. No. 200832100081
)	
)	FRN No. 0018087270

ORDER

Adopted: September 11, 2008

Released: September 12, 2008

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Sling Media, Inc. (“Sling”). The Consent Decree terminates an investigation by the Bureau against Sling for possible violation of Section 15.117(i)(iv) of the Commission’s Rules (“Rules”)¹ regarding the importation or interstate shipment, after March 1, 2007, of video devices that receive over-the-air television signals without a digital television (“DTV”) tuner.

2. The Bureau and Sling have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

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

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,² and sections 0.111 and 0.311 of the Commission’s Rules,³ the Consent Decree attached to this Order **IS ADOPTED**.

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

7. **IT IS FURTHER ORDERED** that all third-party complaints against Sling before the Bureau related to the above-captioned-investigation as of the date of this Consent Decree **ARE DISMISSED**.

¹ 47 C.F.R. § 15.117(i)(iv).

² 47 U.S.C. § 154(i).

³ 47 C.F.R. §§ 0.111, 0.311.

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 David H. Solomon, Esq., Wilkinson Barker Knauer, LLP, 2300 N St., NW, Suite 700, Washington, DC 20037.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

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CONSENT DECREE

The Enforcement Bureau (“Bureau”) and Sling Media, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Commission’s Investigation into whether Sling violated Section 15.117(i)(iv) of the Commission’s Rules (“Rules”)¹ regarding the importation or interstate shipment, after March 1, 2007, of video devices that receive over-the-air television signals without a digital television (“DTV”) tuner.

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) “DTV” means digital television.
 - (f) “Effective Date” means the date on which the Bureau releases the Adopting Order.
 - (g) “Investigation” means the investigation commenced by the Bureau’s July 31, 2007 Letter of Inquiry regarding whether Sling violated Section 15.115(i)(iv) of the Rules, by importing or shipping interstate, after March 1, 2007, video devices that receive over-the-air television signals but do not include a DTV tuner.²
 - (h) “Parties” means Sling and the Bureau.

¹ 47 C.F.R. § 15.117(i)(iv).

² Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Blake Krikorian, CEO, Sling Media, Inc. (July 31, 2007) (“July 31, 2007 LOI”).

- (i) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (j) “Sling” means Sling Media, Inc. and its subsidiaries and its and their predecessors-in-interest and successors-in-interest.
- (k) “Slingbox” means a device manufactured by or for Sling that is an Internet Protocol (“IP”)-enabled digital device that permits a user to watch television programming, received or recorded on his or her home entertainment system, via a remote Internet or IP connection from a laptop, mobile phone, or other computing device.

II. BACKGROUND

2. Section 15.117(i)(iv) of the Commission’s Rules requires that new video devices that receive television signals, imported into the United States or shipped interstate, be equipped with a DTV tuner, effective March 1, 2007.³ The Bureau issued a Letter of Inquiry to Sling regarding Sling’s compliance with this rule on July 31, 2007.⁴ Sling responded on August 30, 2007, and filed a supplemental response on October 11, 2007.⁵

III. TERMS OF AGREEMENT

3. **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 without change, addition, modification, or deletion.

4. **Jurisdiction.** Sling agrees that the Bureau has jurisdiction with respect to the subject matter of this Consent Decree and has the authority to enter into and adopt this Consent Decree.

5. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Bureau Order.

6. **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 its Investigation. In consideration for the termination of said Investigation and the provisions set forth herein, Sling 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 of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, or recommend to the Commission, any new proceeding, formal or informal, or take any action on its own motion, or recommend to the Commission any action, against Sling concerning the matters that were the subject of the investigation. The Bureau also agrees that it will not use the facts developed in this investigation through the Effective Date of this Consent Decree, or the

³ 47 C.F.R. § 15.117(i)(iv).

⁴ July 31, 2007 LOI.

⁵ Letter from Glenn B. Manishin, Counsel for Sling, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (Aug. 30, 2007); Letter from Glenn B. Manishin, Counsel for Sling, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (Oct. 11, 2007).

existence of this Consent Decree, to institute on its own motion, or recommend to the Commission, any proceeding, formal or informal, or take any action on its own motion, or recommend to the Commission any action, against Sling with respect to Sling's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission authorizations.

7. **Compliance.** For purposes of settling the matters set forth herein, Sling agrees that, as of the Effective Date, all new Slingboxes it imports into the United States or ships in interstate commerce that include a tuner that is capable of receiving over-the-air television signals will include a DTV tuner to the extent required by Section 15.117(i)(iv) of the Commission's Rules. Sling will file compliance reports with the Commission twelve months after the Effective Date, and two years after the Effective Date. Each compliance report shall include a compliance certificate from the undersigned Sling official (or a similar official), as an agent of Sling, stating that, to the best of the official's personal knowledge, Sling has met the above-referenced compliance commitment. All compliance reports shall be submitted to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. This paragraph will expire two years from the Effective Date of the Adopting Order.

8. **Voluntary Contribution.** Sling agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$42,500. The payment will be made within 30 days after the Effective Date of the Adopting Order. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Sling will also send electronic notification on the date said payment is made to Kathy.Berthot@fcc.gov.

9. **Waivers.** Sling waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order adopting the Consent Decree without change, addition, modification, or deletion and, in the absence of new material evidence, no further action is taken against Sling with respect to the matters set forth herein. Sling 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 Sling nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Sling shall waive any statutory right to a trial *de novo*, provided the Bureau issues an Adopting Order adopting the Consent Decree without change, addition, modification, or deletion and, in the absence of new material evidence, no further action is taken against Sling with respect to the matters set forth herein. Sling may, however, present evidence that it has not violated the Consent Decree. Sling hereby agrees to waive any claims it may otherwise 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.

10. **Invalidity.** 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.

11. **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 Sling does not expressly consent) that provision will be superseded by such Commission rule or Order.

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

13. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission's Rules and Orders. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, Sling does not admit or deny noncompliance, violation or liability for violating the Act or Rules in connection with the matters that are the subject of this Consent Decree.

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

15. **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.

16. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

17. **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.

Kris Anne Monteith
Chief, Enforcement Bureau
Federal Communications Commission

Date

Jason Krikorian
Senior Vice President
Sling Media, Inc.

Date