

violations had been on-going for “years”. See *Carrera NAL* at ¶ 13. The *Carrera NAL* recognized that “[a]lthough we propose forfeitures only for apparent violations within the last year, we discuss below the history of Carrera’s noncompliance in prior years as useful background and to demonstrate the scope of Carrera’s misconduct and the context of the misconduct that is within the statute of limitations period and thus covered by this NAL.” *Id*

- *International Telecom Exchange, Inc., Forfeiture Order*, EB-04-IH-0654 (Rel. July 27, 2007)

The Commission found that ITE failed to make any TRS Fund contributions on a timely basis since it began providing telecommunications service in 2002. Notwithstanding the on-going nature of the alleged violations, the Commission correctly applied the one-year statute of limitations and found ITE liable for a base forfeiture in the amount of \$10,000 for failing to timely pay its TRS Fund contribution that was due on September 26, 2005. The Commission did impose an upward adjustment (in the amount of half the company’s unpaid contributions) based, in large part, on the fact that ITE failed to make any TRS Fund contributions on time since it began providing telecommunications service in 2002. But, yet again, the alleged violations occurring outside the limitations period were deemed relevant only for purposes of determining culpability, pursuant to 503(b)(2)(D), not liability.

- *Communications Options, Inc., Forfeiture Order*, EB-06-IH-2307 (Rel. March 13, 2008)

In *Communications Options*, the Commission issued one of its ballyhooed “warnings” to the industry.<sup>211</sup> However, these vague, general cautionary statements did not, and simply cannot alter the statute of limitations period.

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<sup>211</sup> “We again caution that additional violations of the Act or the Commission’s rules could subject COI to further enforcement action. Such action could take the form of higher monetary forfeitures and/or possible revocation of COI’s operating authority, including disqualification of

- *In the Matter of Verizon Communications, Inc.*, 20 FCC Rcd. 4244

In *Verizon*, the Commission admonished, but did not impose a forfeiture against, Verizon for its failure to publicize certain services in six states in accordance with Commission rules. The Commission specifically and accurately cited the statutory limits of its forfeiture authority when concluding:

“[n]otwithstanding Verizon’s violations of the Act and the Commission’s rules, we do not propose a forfeiture at this time. Section 503(b)(6) specifies that a proposed forfeiture must be issued against a common carrier for violations of the Act or the Commission’s rules within one year of the occurrence of the violation. Because Verizon undertook renewed outreach efforts in these six states within the last year, we are constrained from pursuing a proposed forfeiture this time. Nevertheless, we will closely monitor Verizon’s outreach efforts to ensure future compliance with the Act and the Commission’s rules.” *Id.* at , 4247, ¶ 8.

As elucidated above, the Commission’s own precedent clearly and unequivocally does not lend support to the Commission’s proposed extension of the one-year statute of limitations period to 22-months. Therefore, the Commission’s proposed 22-month forfeiture would be contrary to statute, arbitrary, capricious, and excessive and it must be reduced.

**H. THE COMMISSION MAY NOT REACH BEYOND THE 12-MONTH PERIOD TO IDENTIFY A VIOLATION THAT THEN BECOMES THE STARTING POINT FOR A “CONTINUING VIOLATION.”**

The Commission may not arbitrarily “reach beyond” the statutorily mandated 12-month period to identify an apparent violation that then becomes the starting point for a continuing violation. Such a reading of the “continuing violation” authority completely eviscerates the Statute of Limitations and renders it meaningless and of no effect, which is clearly not what Congress intended.

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COP’s principals from the provision of any interstate common carrier services without the prior consent of the Commission.” *Id.* at ¶ \_\_, n. 16.

1. The 12-Month Clock Began Ticking When the Alleged "Continuing Violations" Stopped In September 2006.

In an obvious attempt to somehow (anyhow) create liability and impose forfeitures against Compass, the Commission asserts the extended 22-month forfeiture period by claiming that the alleged violations were "continuing." This claim is contrary to the law and the facts.

It is well-established that violations are "continuing" only until corrective action is taken. See, *In the Matter of Arcorn Communications Owner of Antenna Structure*, 21 FCC Rcd. 8999, 2006 WL 2310791 (FCC) (finding that the violation continued until the violation was corrected by Arcorn's registration of the tower on August 10, 2005. Thus, issuance of the NAL on August 17, 2005 occurred well within the limitations period.); *In the Matter of Petition for Reconsideration Concerning Liability of Benito Rish*, 11 FCC Rcd 2861, 2861 (finding that "[a]lthough the violative conduct began outside the bounds of our forfeiture authority, that does not undercut our ability to impose a fine for the days that the violation continued within the statutory period preceding the ... NAL").

The Commission applied this principle in its Forfeiture Order issued against *Global Teldata, II, LLC*<sup>212</sup>. In its Order, the Commission concluded that Global Teldata's failure to register was continuing and, therefore, repeated within the meaning of section 503. Specifically,

Global Teldata's failure to register left it outside the purview of the Commission and USAC on a continuing basis each day it provided service without registering after

<sup>212</sup> *Global Teldata NAL*, 20 FCC Rcd at 17270-73, ¶¶ 14-22. In the *NAL*, the Commission proposed a forfeiture for Global Teldata's apparent willful and repeated violations of section 254(d) of the Act and sections 54.706(a), 54.711(a), and 64.1195 of the Commission's rules. The Commission proposed a forfeiture for Global Teldata's failure to register with the Commission within the one-year period preceding the issuance of the NAL. For Global Teldata's apparent failure to timely file Telecommunications Reporting Worksheets, the Commission proposed a forfeiture of \$50,000 for the one instance of non-filing within the one-year period preceding the NAL (i.e., the filing due November 1, 2004). Finally, for Global Teldata's apparent failure to pay universal service contributions, the Commission proposed a base forfeiture amount of \$20,000 for three months of nonpayment within the one-year period preceding the NAL (i.e., the payments due on November 15 and December 15, 2004, and January 15, 2005), for a base forfeiture and then added one-half of the total unpaid universal service contributions to the base forfeiture for a total proposed forfeiture.

April 1, 2003. These negative consequences continued through the Bureau's first knowledge of Global Teldata's non-compliance through the 2004 audit and ended only when the company finally registered with the Commission on November 17, 2004. Accordingly, we find Global Teldata's violation of section 64.1195 of the Commission's rules occurred within the one-year limitations period before the *NAL* was issued on October 31, 2005.

Therefore, the 12-month limitations period began ticking the moment Compass took corrective action to comply with the applicable Rules.

**2. Compass Has Voluntarily Complied With the Commission's Rules Since September 2006.**

On April 9, 2008, the Commission released its *NAL* tentatively concluding that the Company is subject to the FCC's reporting and contribution rules. Notwithstanding the claimed unenforceability of these Rules to Compass, since September 2006, the Company has complied with those rules on a purely voluntary basis. Compass has made contributions to the various federal support funds as invoiced by the respective fund administrators since the Company's initial filings of Forms 499-A in September 2006. Therefore, the alleged "continued violations" were cured in September 2006.

As explained earlier, the *NAL*'s erroneous conclusions that Compass has failed to timely file Forms 499 and contribute to the Fund conveniently ignores the Commission's staff's waiver that effectively established an acceptable filing date of September 5, 2006 for Compass' Forms 499-A for 2005 and 2006. As has been documented herein, Compass complied with this filing deadline, and importantly, has consistently made timely submissions of FCC Forms 499-Q and 499-A since September 5, 2006. Compass also has remitted support contribution payments based upon amounts invoiced to it by the various support fund administrators beginning in October, 2006, the month following submission of its first Forms 499-A.<sup>213</sup> If the Commission wanted to propose a forfeiture

<sup>213</sup> Ironically, Compass continues to make support contributions despite the Company's knowledge that a portion of such contributions – perhaps the totality of such contributions – should

for these alleged "violations" it would have had to issue an NAL on or before September – October 2007.

**I. THE PROPOSED 22-MONTH FORFEITURE IS IN ERROR AND, AT A BARE MINIMUM, A 10-MONTH CANCELLATION IS BOTH APPROPRIATE AND REQUIRED.**

As discussed above, Commission precedent clearly provides that the forfeiture for liability is based only on the one-year period prior to the issuance of the NAL. The Commission's extension of the forfeiture limitations period to 22 months is arbitrary, capricious, excessive and, ultimately, unlawful.

Notably, the Commission conveniently neglected to set forth any factual or legal basis for its departure from its forfeiture liability precedent. Since the Commission has not put Compass on notice of the fact that it seeks to alter the statute of limitations, the proposed forfeiture is in error. Thus, even if the Commission were to decide that the wholesale cancellation of the proposed forfeiture penalty is inappropriate, a significant downward adjustment of the forfeiture penalty is required.

**J. DISCRIMINATORY TREATMENT.**

The Commission has never before imposed forfeitures extending beyond a 12-month period and never before has the Commission sought to impose liability for alleged violations that have been extinguished, as a matter of law, by the statute of limitations. As a result, to impose the proposed penalties against Compass would effect a greater punishment on Compass than penalties that have

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be considered "overpayments." Compass' federal support fund payments are documented at Section II hereof. As demonstrated therein, not only is the Commission incorrect that Compass has underpaid, Compass has actually overpaid federal support contributions and fees. Moreover, inasmuch as the Commission's waiver deemed Compass' September 5, 2006, 499-A filings timely, the FCC's rules mandate the acceptance by USAC of Compass' revised filings, submitted to USAC on September 4, 2007. Those revised forms reflect downward adjustments to Compass' reported revenues; thus, all payments made by Compass to date have been invoiced by the various administrative organizations at inflated rates, rendering all such contributions at least partial overpayments.

been imposed on other, similarly situated providers. As a result, the *NAL* arbitrarily and capriciously discriminates against Compass and, for this reason alone, the proposed forfeiture must be reduced, minimally, by 10 months.

No public interest warrants a departure here from the well-established one-year limitations period. Thus, cancellation of the portion of the proposed forfeiture falling outside the 12-month limitations period is warranted.

#### VI. THE NAL IS PROCEDURALLY FLAWED AND INEFFECTIVE

Compass has demonstrated that it is not providing the types of services nor is it the type of Company that would subject it to the Commission's rules and communications laws the Commission alleges were violated.<sup>214</sup> See Section IV.A through F, *supra*. Furthermore, Compass has provided conclusive evidence that, even if it were subject to the cited rules and laws, it did not violate them. See Sections II, III and IV.G through I, *supra*. And, at the very least, Compass has shown that if any violations did occur, they were neither willful nor repeated, but were instead the result of reasonable interpretations for which no penalties may lawfully be imposed. For these reasons, the Commission should cancel the *NAL* in its entirety and issue a Cancellation Order setting the record straight and clearing Compass' name. The Commission has all the more reason to follow this course of action given the defective *NAL*.

The Commission violated its own procedural rules and forfeiture guidelines in issuing the *NAL* against Compass and, in so doing, has deprived Compass of the due process rights these rules

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<sup>214</sup> See *NAL* at ¶1 ("In this *Notice of Apparent Liability for Forfeiture*... , we find that Compass... apparently violated sections 9, 225, 251(e)(2), and 254 of the Communications Act of 1934, as amended..., and sections 1.1154, 1.1157, 52.17(a), 52.32(a), 54.706(a), and 64.604(c)(5)(iii)(A) of the Commission's rules").

are intended to protect. The Commission's procedural violations render the NAL ineffective, *ab initio*.<sup>215</sup>

The procedural rules Compass alleges the Commission violated are:

Sec. 1.80 Forfeiture proceedings.

(a) Persons against whom and violations for which a forfeiture may be assessed. A forfeiture penalty may be assessed against any person found to have:

...

(2) Willfully or repeatedly failed to comply with any of the provisions of the Communications Act of 1934, as amended; or of any rule, regulation or order issued by the Commission under that Act or under any treaty, convention, or other agreement to which the United States is a party and which is binding on the United States...

(f) Notice of apparent liability. Before imposing a forfeiture penalty under the provisions of this paragraph, the Commission or its designee will issue a written notice of apparent liability.

(1) Content of notice. The notice of apparent liability will:

(i) Identify each specific provision, term, or condition of any act, rule, regulation, order, treaty, convention, or other agreement, license, permit, certificate, or instrument of authorization which the respondent has apparently violated or with which he has failed to comply,

(ii) Set forth the nature of the act or omission charged against the respondent and the facts upon which such charge is based,

(iii) State the date(s) on which such conduct occurred, and

(iv) Specify the amount of the apparent forfeiture penalty.

47 C.F.R. §1.80(a) and (f) (emphasis added).

The Commission's rules require forfeitures be based on "findings" and "facts." The forfeitures proposed in the NAL, however, are based on discredited evidence and an incomplete record, both of which the Commission should have been aware of prior to issuing the NAL. As set forth in Sections II and IV.C-E, *supra*, Compass conclusively establishes its record of full and timely

<sup>215</sup> See *Canty v Board of Ed., City of New York*, 312 F.Supp. 254 (D.C.N.Y. 1970) ("The terms 'arbitrary' and 'capricious' embrace a concept which emerges from the due process clauses of the Fifth and Fourteenth Amendments of the United States Constitution and operates to guarantee that the acts of government will be grounded on established legal principles and have a rational factual basis. A decision is arbitrary or capricious when it is not supported by evidence or when there is no reasonable justification for the decision.") Citing *O'Boyle v Coe*, 155 F.Supp. 581, 584 (D.C.Dist.1957); *East Tex. Motor Freight Lines v United States*, 96 F.Supp. 424, 427 (N.D.Tex.1951); *Ford Motor Co. (Delaware) v United States*, 97 Ct.Cl. 370, 47 F.Supp. 259 (1942).

payment of all invoiced charges rendered by the FCC and the administrators of the USF, NANP, and LNP during the statutorily permissible 12-month forfeiture period, *see* Section V, *supra*. To the extent it failed to fully pay any invoice, specifically referencing NECA TRS invoices, Compass promptly took all actions required of it to ensure that its “non-payment” did not result in a violation of the Commission rules. *See generally*, Section II, *supra*. There are no “facts” to speak of, at least none which were properly investigated before being “set forth” in the NAL. The Commission simply cannot make findings where it has no verified facts upon which to base them. And the lack of verified facts in the NAL renders the “notice” defective and unenforceable.<sup>216</sup>

### CONCLUSION

By reason of the foregoing, Compass Global, Inc., hereby respectfully requests that the Commission dismiss the NAL in its entirety and direct the Enforcement Bureau to terminate proceeding File No. EB-06-IH-3060. Compass also respectfully requests that the Commission hold in abeyance all purported collection actions pending full and final resolution of Compass’ further appeal of the June 2, 2008 Administrator’s Decision and Compass’ pending TRS appeals; Compass also respectfully requests that the Commission direct NECA to issue rulings on Compass’ pending appeals within thirty (30) days of the date of full and final resolution of the issues raised in Compass’ USAC appeal. Compass further requests that the FCC take such actions as may be necessary to bring about the dismissal of the pending Department of Treasury federal debt collection proceeding against it.

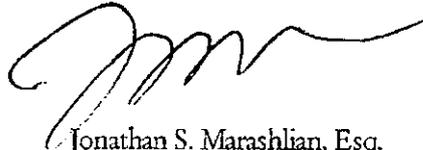
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<sup>216</sup> *See Williston Basin Interstate Pipeline Co. v F.E.R.C.* 165 F.3d 54 (C.A.D.C.,1999) (“It is well-established that “[a] party is entitled ... to know the issues on which decision will turn and to be apprised of the factual material on which the agency relies for decision so that he may rebut it. Indeed, the Due Process Clause forbids an agency to use evidence in a way that forecloses an opportunity to offer a contrary presentation.”) citing *Bowman Transp., Inc. v Arkansas-Best Freight System, Inc.*, 419 U.S. 281, 288 n. 4, 95 S.Ct. 438, 42 L.Ed.2d 447 (1974); *see also Hatch v FERC*, 654 F.2d 825, 835 (D.C.Cir.1981) (same); *United Gas Pipe Line Co. v FERC*, 597 F.2d 581, 586-87 (5th Cir.1979) (“The law will not tolerate ... after-the-fact, in fact retroactive, imposition of standards,” especially where there is “no evidence either to support or justify” the new standard.).

And, finally, to the extent the Commission concurs with the legal analysis and conclusions in Sections IV.A through F, *infra*, that Compass is not an entity subject to registration and Form 499 reporting requirements, Compass respectfully requests that the Commission: (1) direct the administrators of the respective funds and programs to which Compass paid contributions and fees in the past to issue full refunds of all payments made, including penalties and interest; and (2) order these administrators to suspend and cancel all future invoicing.

COMPASS GLOBAL, INC.

Respectfully submitted,



Jonathan S. Marashlian, Esq.  
Catherine M. Flannan, Esq.  
Christopher A. Canter, Esq.  
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E-mail: [jsm@CommLawGroup.com](mailto:jsm@CommLawGroup.com)

June 9, 2008

Counsel for Compass Global, Inc.

CERTIFICATE OF SERVICE

I, Suzanne Rafalko, hereby certify that true and correct copies of the foregoing Response of Compass Global, Inc., to Notice of Apparent Liability for Forfeiture, were served upon the following, in the manner indicated, this 9th day of June, 2008.

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
c/o NATEK  
236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, D.C. 20002  
(via Hand Delivery)

Ms. Cheryl Collins, Chief  
FCC Revenues and Receivables Operation Group  
445 12<sup>th</sup> Street, S.W., Room 1-A843  
Suite 110  
Washington, D.C. 20002  
(via Electronic mail to [Cheryl.Collins@fcc.gov](mailto:Cheryl.Collins@fcc.gov) and Overnight Courier)

Hillary S. DeNigro, Chief  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 4-C330  
Washington, D.C. 20005  
(Reference: NAL/Acct. No. 200832080083)  
(via Electronic mail to [Hillary.DeNigro@fcc.gov](mailto:Hillary.DeNigro@fcc.gov) and Overnight Courier)

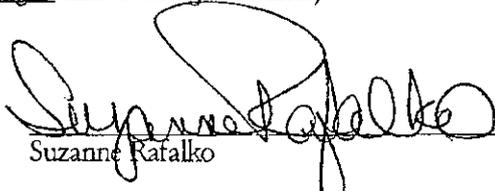
  
Suzanne Rafalko



EXHIBIT 3

Transmittal of Dean Cary to USAC,  
January 26, 2007

**FedEx** USAirbill  
Express

FedEx Tracking Number **8543 4636 7370**

1 From *Please print in permanent ink*  
Date **1/26/87** Sender's FedEx Account Number **1960-3913-9**  
Sender's Name **DEAN CARY** Phone **(201) 802-0600**  
Company **COMPASS GLOBAL** **X 101**  
Address **50 TICE BLVD STE 3**  
City **WOODCLIFF LAKE** State **NJ** ZIP **07677-7658**

2 Your Internal Billing Reference **OPTIONAL**  
3 To Recipient's Name **Form 449 DATA** Phone **888-641-8722**  
**Collection Agency**

Company  
Recipient's Address **C/O USAC**  
We cannot deliver to P.O. boxes or P.O. ZIP codes.  
Address **2000 L ST NW # 200**  
To request a package be held at a specific FedEx location, please FedEx address here.  
City **WASHINGTON** State **DC** ZIP **20036**

0319400049



By using this Airbill you agree to the service conditions on the back of this Airbill and in the current FedEx Service Guide, including terms that limit our liability.  
Questions? Go to our Web site at [fedex.com](http://fedex.com)  
or call 1.800.GoFedEx. 1.800.463.3333.

4a Express Package Service To use SATURDAY Delivery, see Section 6. Packages up to 120 lbs. (5.00 kg) maximum.

FedEx Priority Overnight Next business morning.  
 FedEx Standard Overnight Next business day.  
 FedEx Express Saver Third business day.  
 FedEx 2Day Second business day.  
 FedEx 2Day Freight Third business day.  
 FedEx 3Day Freight Third business day.

4b Express Freight Service To use SATURDAY Delivery, see Section 6. Packages over 120 lbs. (5.00 kg) maximum.

FedEx 3Day Freight Third business day.  
 FedEx 2Day Freight Third business day.  
 FedEx 3Day Freight Third business day.

5 Packaging  
 FedEx Envelope  
 FedEx Pak  
 FedEx Box  
 FedEx Tube  
 Other

6 Special Handling  
 SATURDAY Delivery Available only for FedEx Priority Overnight, FedEx 2Day, FedEx 3Day Freight and FedEx 3Day Freight. \*Does not apply to international shipments.  
 HOLD Weekday at FedEx Location NOT Available for FedEx Priority Overnight, FedEx 2Day and FedEx 3Day Freight.  
 HOLD Saturday at FedEx Location Available ONLY for FedEx Priority Overnight, FedEx 2Day and FedEx 3Day Freight.  
 No.  Yes. Shipper's Declaration. \*Shipper's Declaration required for hazardous materials.  
 Dry Ice. \*Dry Ice requires special handling.  
 Yes. Shipper's Declaration required.  
 Cargo Aircraft Only.

7. Payment. Biller:  Sender,  Recipient,  Third Party,  Credit Card,  Cash.  
FedEx Account Number: \_\_\_\_\_  
Total Packages: **1** Total Weight: **1.02** lbs Total Declared Value: **\$ 00**

8 NEW Residential Delivery Signature Options. If you require a signature, check this:  
 No Signature Required. Packages may be left with no signature or signature.  
 Direct Signature. Requires recipient's signature.  
 Indirect Signature. Requires signature of someone at a neighborhood address near the delivery point.  
**519**

See back for peel and stick application instructions.

Originals already  
filed.  
Wanted to see  
original signed  
copies.

Dean H. Cary - President/CEO  
Compass Global, Inc.  
50 Tree Hill Rd. Woodcliff Lake, NJ 07677  
Tel: 201-802-0600 • Fax: 201-802-0601 • Email: [dcary@compassglobal.net](mailto:dcary@compassglobal.net)

1/26/07

Dear Sirs:

My accountant who handles our  
USF issuer has told me that  
you all wanted to see the signed  
originals of these forms, even though  
they have already been filed.

Therefore, here are the  
forms you requested. Let me  
know if you need anything  
further on this.

Thanks,  
Dean H. Cary

EXHIBIT 4

Compass Global "File-Stamp" Copy  
Revised 2005 Form 499-A Filing

RECEIVED SEP 05 2007



STAMP & RETURN

## The CommLaw Group

HELEIN & MARASHLIAN, LLC  
1483 Chain Bridge Road  
Suite 301  
McLean, Virginia 22101

Telephone: (703) 714-1300  
Facsimile: (703) 714-1330  
E-mail: [mail@CommLawGroup.com](mailto:mail@CommLawGroup.com)  
Website: [www.CommLawGroup.com](http://www.CommLawGroup.com)

Writer's Direct Dial Number  
(703) 714-1313

Writer's E-mail Address  
[jsm@commlawgroup.com](mailto:jsm@commlawgroup.com)

September 4, 2007

### VIA OVERNIGHT DELIVERY

Universal Service Administrative Company  
Attn: FCC Form 499 Data Collection Agent  
2000 L Street N.W., Suite 200  
Washington, DC 20036

RE: Compass Global, Inc.  
2005 Form 499-A - Revised

To Whom It May Concern:

Enclosed please find a revised 2005 Form 499-A, filed on behalf of:

Name:	Compass Global, Inc.
FCC Registration #:	0009-6902-56
Filer ID #:	826216

Compass originally filed its 2005 Form 499-A on or around September 5, 2006, at the urging of the FCC's Investigations and Hearings Division ("IHD"). Compass understands that it is USAC's policy to disallow downward revisions to Form 499-A if the revised form is remitted in excess of one (1) year from the original filing due date revisions (i.e., changes that would result in a decreased USF contribution).<sup>1</sup> However, Compass' revised 2005 Form 499-A presents a unique circumstance for which waiver of the one-way ratchet statute of limitations is appropriate.

<sup>1</sup> Filers shall submit any revised FCC Form 499-A Worksheet that would result in decreased contributions by March 31 of the year after the original filing due date. See Instructions to Telecommunications Reporting Worksheet at pg. 12; see also, *Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanism; Changes to the Board of Directors of the National Exchange Carrier Association,*

First, Compass files the instant revision within one (1) year from the date it filed its original 2005 Form 499-A. Compass filed its original on or around September 5, 2006 and now files this revised form on September 4, 2007, within a one (1) year period.

Waiver of the one-way ratchet is appropriate in this circumstance because the underlying policy behind the statute of limitations is not undermined by processing Compass' revision. The Commission's policy is to provide filers with the incentive to correct errors within 12 months. Refusal to waive the one-way ratchet and allow Compass' revision to be processed is inconsistent with the Commission's goals. Furthermore, it is discriminatory because USAC would halve the amount of time Compass has to file its revised 2005 Form 499-A in comparison to all other filers, which are allotted a full 12 months. Whereas all other filers have 12 months to identify and correct reporting errors, Compass would be provided half this time.

For reasons explained in a Petition for Review pending before the FCC, strict application of the 12 month firm deadline for submitting downward revisions would not be proper as applied to Compass. See *In the Matter of Heller Information Services, Inc., Request for Review of the Universal Service Administrative Company's Rejection of a Revised FCC Form 499-A for FY-2003*, Contingent Petition for Review, WC Docket No. 06-122 (Filed July 31, 2007).

Second, waiver is justified because of the unique factual and legal circumstances presented. Compass made the original 2005 filing at the direction and insistence of the FCC's IHD. Compass believed it was not required to register as an Interstate Telecommunications Service Provider (ITSP) and file any 499s; hence it had not previously registered. However, after discussing matters with the IHD, Compass felt compelled to file in order to avoid an investigation. Despite Compass' filing of 2005, 2006 and 2007 original Form 499-As on or around September 5, 2006, the IHD nevertheless instituted an investigation several months later. The IHD investigation prompted Compass to retain the services of expert telecommunications legal counsel. After consulting with legal counsel, Compass determined that its original conclusions with respect to the FCC's authority to regulate its services and require it to register as an ITSP were correct and that the FCC had no such authority under applicable laws, regulations and precedent. Attached hereto is a detailed explanation of Compass' legal position, provided in the context of Compass' supplemental response to the FCC's investigation in File No. EB-06-IH-3060. Despite the FCC's lack of legal authority to regulate Compass' service offerings as either "telecommunications" or "telecommunications services," Compass remains willing to remain a registered ITSP, but only under the condition it be permitted to report revenue not as "prepaid calling card" revenue, but as ordinary long distance revenue, according to book values, not "face value." In the event USAC refuses to waive the one-way ratchet and process Compass' revised 2005 Form 499-A, Compass will file to cancel and withdraw all Form 499s and will seek full refund of all USF and other regulatory charges billed to date, as is its legal right due to its status as neither a telecommunications carrier nor telecommunications provider under applicable laws and regulations.

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*Inc.*, Order, CC Docket Nos. 96-45, 98-171, 97-21, 20 FCC Rcd 1012 (2004), applications for review pending.

We look forward to USAC's processing of Compass revised 2005 Form 499-A and we reserve all right to appeal an adverse decision.

Please contact Jonathan Marashlian at (703) 714-1313 with any questions concerning this filing. Thank you for your assistance in this matter.

Sincerely,



Jonathan S. Marashlian  
Helein & Marashlian, LLC

Enclosure

ATTACHMENT 1

REVISED 2005 Form 499-A (Reporting 2004 Revenue)

Filed with USAC on September 4, 2006

2005 FCC Form 499-A Telecommunications Reporting Worksheet

Approval by OMB  
3060-0855

>>> Please read instructions before completing. <<<

Annual Filing -- due April 1.

Block 1: Contributor Identification Information

During the year, carriers must refile Blocks 1, 2 and 6. If there are any changes in Lines 104 or 112, See Instructions.

101 Filer 499 ID [If you don't know your number, contact the administrator at (888) 641-8722. If you are a new filer, write "new" in this block and a Filer 499 ID will be assigned to you.] **826216**

102 Legal name of reporting entity **Compass Global, Inc.**

103 IRS employer identification number **22-3559398**

104 Name telecommunications service provider is doing business as **Compass Global, Inc.**

105 Telecommunications activities of filer [Select up to 5 boxes that best describe the reporting entity. Enter numbers starting with "1" to show the order of importance -- see directions.]

- |   |  |  |  |
|---|--|--|--|
| <input type="checkbox"/> All Distance   | <input type="checkbox"/> CAP/CLEC                    | <input type="checkbox"/> Cellular/PCS/SMR (wireless telephony incl. by resale) | <input type="checkbox"/> Coaxial Cable                   |
| <input type="checkbox"/> Incumbent LEC  | <input type="checkbox"/> Interexchange Carrier (IXC) | <input type="checkbox"/> Local Reseller  | <input type="checkbox"/> Operator Service Provider (OSP) |
| <input type="checkbox"/> Payphone Service Provider  | <input type="checkbox"/> Prepaid Card                | <input type="checkbox"/> Private Service Provider                              | <input type="checkbox"/> Paging & Messaging              |
| <input type="checkbox"/> Shared-Tenant Service Provider / Building LEC  | <input type="checkbox"/> SMR (dispatch)              | <input type="checkbox"/> Toll Reseller   | <input type="checkbox"/> Satellite Service Provider      |
| If Other Local, Other Mobile or Other Toll is selected, describe carrier type / services provided: → Toll-free PIN Accessible Prepaid Platform Services |  | <input type="checkbox"/> Other Local   | <input type="checkbox"/> Other Mobile                    |
|   |  |  | <input checked="" type="checkbox"/> Other Toll           |

106.1 Holding company name (All affiliated companies must show the same name on this line.)

106.2 Holding company IRS employer identification number

107 FCC Registration Number (FRN) [ <https://svartifoss2.fcc.gov/cores/CoresHome.html> ] **0009-6902-56**  
(For assistance, contact the CORES help desk at 877-480-3201 or CORES@fcc.gov)

108 Management company (if carrier is managed by another entity)

109 Complete mailing address of reporting entity corporate headquarters

Street 1	50 Tice Blvd., 3rd Floor	City	Woodcliff Lake
Street 2		St	NJ Zip 07677
Street 3		Country	USA

110 Complete business address for customer inquiries and complaints (if different from address entered on Line 109) check if same as Line 109

Street 1	50 Tice Blvd., 3rd Floor	City	Woodcliff Lake
Street 2		St	NJ Zip 07677
Street 3		Country	USA

111 Telephone number for customer complaints and inquiries (Toll-free number if available) ( 201 ) - 802-0600 Ext

112 List all trade names used in the past 3 years in providing telecommunications. Include all names by which you are known by customers.

a	Forval International Tel	g	
b		h	
c		i	
d		j	
e		k	
f		l	

Use an additional sheet if necessary. Each reporting entity must provide all names used for carrier activities.

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001  
FCC Form 499-A  
April 2005

2005 FCC Form 499-A Telecommunications Reporting Worksheet

Block 2-A: Regulatory Contact Information

201 Filer 499 ID [from Line 101]	826216				
202 Legal name of reporting entity [from Line 102]	Compass Global, Inc.				
203 Person who completed this Worksheet	First Jonathan	Last Marashlian			
204 Telephone number of this person	( 703 ) - 714-1313	Ext			
205 Fax number of this person	( 703 ) - 714-1330				
206 E-mail of this person	jsm@commlawgroup.com				
207 Corporate office, alt. name, and mailing address to which future Telecommunications Reporting Worksheets should be sent	Street 1	Compass Global, Inc.	City Woodcliff Lake	First Dean	Last Cary
	Street 2	50 Tice Blvd.	St NJ	Zip 07677	Ph. 201 802-0600 Ext
	Street 3	3rd Floor	E-Mail deancary@compassglobal.net		fax
208 Billing address and billing contact person: [Plan administrators will send bills for contributions to this address. Please attach a written request for alternative billing arrangements.]	Street 1	Compass Global, Inc.	City Woodcliff Lake	First Dean	Last Cary
	Street 2	50 Tice Blvd.	St NJ	Zip 07677	Ph. 201 802-0600 Ext
	Street 3	3rd Floor	E-Mail		fax

Block 2-B: Agent for Service of Process

All carriers must complete Lines 209 through 213.

During the year, carriers must refile Blocks 1, 2 and 6 if there are any changes in this section. See Instructions.

209 D.C. Agent for Service of Process per 47 U.S.C. §413	First Jerold	Last Schneider	Company
210 Telephone number of D.C. agent	( 202 ) - 393-6222	Ext	
211 Fax number of D.C. agent	( ) -		
212 E-mail of D.C. agent			
213 Complete business address of D.C. agent for hand service of documents	Street 1	801 Pennsylvania Ave., NW	City Washington
	Street 2	Suite 800	St DC
	Street 3		Zip 20004
214 Local/alternate Agent for Service of Process (optional)	First Jonathan	Last Marashlian	Company Helain & Marashlian, LLC
215 Telephone number of local/alternate agent	( 703 ) - 714-1300	Ext	
216 Fax number of local/alternate agent	( 703 ) - 714-1330		
217 E-mail of local/alternate agent	jsm@commlawgroup.com		
218 Complete business address of local/alternate agent for hand service of documents	Street 1	1483 Chain Bridge Road	City McLean
	Street 2	Suite 301	St VA
	Street 3		Zip 22101

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2005 FCC Form 499-A Telecommunications Reporting Worksheet

Block 3: Carrier's Carrier Revenue Information

301	Filer 499 ID [from Line 101]	826216				
302	Legal name of reporting entity [from Line 102]	Compass Global, Inc.				
Report billed revenues for January 1 through December 31, 2004. Do not report any negative numbers. Dollar amounts may be rounded to the nearest thousand dollars. However, report all amounts as whole dollars.		Total Revenues (a)	If breakouts are not book amounts, enter whole percentage estimates		Breakouts	
See instructions regarding percent interstate & international.			Interstate (b)	International (c)	Interstate Revenues (d)	International Revenues (e)
Revenues from Services Provided for Resale by Other Contributors to Federal Universal Service Support Mechanisms						
<i>Fixed local service</i>						
Monthly service, local calling, connection charges, vertical features, and other local exchange service including subscriber line and PICC charges to IXCs						
303.1	Provided as unbundled network elements (UNEs)	\$0.00	0.00	0.00	\$0.00	\$0.00
303.2	Provided under other arrangements	\$0.00	0.00	0.00	\$0.00	\$0.00
Per-minute charges for originating or terminating calls						
304.1	Provided under state or federal access tariff	\$0.00	0.00	0.00	\$0.00	\$0.00
304.2	Provided as unbundled network elements or other contract arrangement	\$0.00	0.00	0.00	\$0.00	\$0.00
305	Local private line & special access service	\$0.00	0.00	0.00	\$0.00	\$0.00
306	Payphone compensation from toll carriers	\$0.00	0.00	0.00	\$0.00	\$0.00
307	Other local telecommunications service revenues	\$0.00	0.00	0.00	\$0.00	\$0.00
308	Universal service support revenues received from Federal or state sources	\$0.00	0.00	0.00	\$0.00	\$0.00
<i>Mobile services (including wireless telephony, paging &amp; messaging, and other mobile services)</i>						
309	Monthly, activation, and message charges except toll	\$0.00	0.00	0.00	\$0.00	\$0.00
<i>Toll services</i>						
310	Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.)	\$0.00	0.00	0.00	\$0.00	\$0.00
311	Ordinary long distance (direct-dialed MTS, customer toll-free (800/888 etc.) service, "10-10" calls, associated monthly account maintenance, PICC pass-through, and other switched services not reported above)	\$0.00	0.00	0.00	\$0.00	\$0.00
312	Long distance private line services	\$0.00	0.00	0.00	\$0.00	\$0.00
313	Satellite services	\$0.00	0.00	0.00	\$0.00	\$0.00
314	All other long distance services					

Note: As stated in the instructions, for all revenues reported on this page, you must retain the Filer 499 ID and contact information for the associated customers. You must verify that each of these customers is a direct contributor to the federal universal service support mechanism and that the customer is purchasing service for resale as telecommunications. These records must be made available to the administrator or the FCC upon request. (See instructions.)

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2005 FCC Form 499-A Telecommunications Reporting Worksheet

Block 4-A: End-User and Non-Telecommunications Revenue Information

401 Filer 499 ID (from Line 101)

402 Legal name of reporting entity (from Line 102)

826216  
Compass Global, Inc.

Report billed revenues for January 1 through December 31, 2004.  
Do not report any negative numbers. Dollar amounts may be rounded to the nearest thousand dollars. However, report all amounts as whole dollars. See instructions regarding percent interstate & international.

	Total Revenues (a)	If breakouts are not booked amounts, enter whole percentage estimates		Breakouts	
		Interstate (b)	International (c)	Interstate Revenues (d)	International Revenues (e)
<b>Revenues from All Other Sources (end-user telecom. &amp; non-telecom.)</b>					
403 Surcharges or other amounts on bills identified as recovering State or Federal universal service contributions	\$0.00	0.00	0.00	\$0.00	\$0.00
<i>Fixed local services</i>					
404.1 Monthly service, local calling, connection charges, vertical features, and other local exchange service charges except for federally tariffed subscriber line charges and PICC charges Provided at a flat rate including interstate toll service	\$0.00	0.00	0.00	\$0.00	\$0.00
404.2 Provided without interstate toll included (see instructions)	\$0.00	0.00	0.00	\$0.00	\$0.00
405 Tariffed subscriber line charges and PICC charges levied by a local exchange carrier on a no-PIC customer	\$0.00	0.00	0.00	\$0.00	\$0.00
406 Local private line and special access service	\$0.00	0.00	0.00	\$0.00	\$0.00
407 Payphone coin revenues (local and long distance)	\$0.00	0.00	0.00	\$0.00	\$0.00
408 Other local telecommunications service revenues	\$0.00	0.00	0.00	\$0.00	\$0.00
<i>Mobile services (including wireless telephony, paging &amp; messaging, and other mobile services)</i>					
409 Monthly and activation charges	\$0.00	0.00	0.00	\$0.00	\$0.00
410 Message charges including roaming, but excluding toll charges	\$0.00	0.00	0.00	\$0.00	\$0.00
<i>Toll services</i>					
411 Prepaid calling card (including card sales to customers and non-carrier distributors) reported at face value of cards	\$0.00	0.00	0.00	\$0.00	\$0.00
412 International calls that both originate and terminate in foreign points	\$0.00	0%	100%		\$0.00
413 Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.) other than revenues reported on Line 412	\$0.00	0.00	0.00	\$0.00	\$0.00
414 Ordinary long distance (direct-dialed MTS, customer toll-free (800/888 etc.) service, "10-10" calls, associated monthly account maintenance, PICC pass-through, and other switched services not reported above)	\$5,534,644.00	3.36	95.79	\$195,658.00	\$5,301,908.00
415 Long distance private line services	\$0.00	0.00	0.00	\$0.00	\$0.00
416 Satellite services	\$0.00	0.00	0.00	\$0.00	\$0.00
417 All other long distance services					
418 Revenues other than U.S. telecommunications revenues. Information services, inside wiring maintenance, billing and collection customer premises equipment, published directory, dark fiber, Internet access, cable TV program transmission, foreign carrier operations, and non-telecommunications revenues (See instructions.)	\$13,814,800.00				

2005 FCC Form 499-A Telecommunications Reporting Worksheet

Block 4-B: Total Revenue and Uncollectible Revenue Information

	Total Revenues (a)	Breakouts	
		Interstate Revenues (d)	International Revenues (e)
419 Gross billed revenues from all sources (incl. reseller & non-telecom.) [Lines 303 through 314 plus Lines 403 through 418]	\$19,349,544.00	\$185,858.00	\$5,301,998.00
420 Gross universal service contribution base amounts [Lines 403 through 411 Lines 413 through 417] See Figure 4 in instructions.	\$5,534,644.00	\$185,858.00	\$5,301,998.00
421 Uncollectible revenue/bad debt expense associated with gross billed revenues amounts shown on Line 419	\$0.00	\$0.00	\$0.00
422 Uncollectible revenue/bad debt expense associated with universal service contribution base amounts shown on Line 420	\$0.00	\$0.00	\$0.00
423 Net universal service contribution base revenues [Line 420 minus line 422]	\$5,534,644.00	\$185,858.00	\$5,301,998.00

Block 5: Additional Revenue Breakouts

501 Filer 499 ID [from Line 101]	
502 Legal name of reporting entity [from Line 102]	Compass Global, Inc.

Most filers must contribute to LNP administration and must provide the percentages requested in Lines 503 through 510. Filing entities that use Line 503 to certify that they are exempt from this requirement need not provide this information.

Percentage of revenues reported in Block 3 and Block 4 billed in each region of the country. Round or estimate to nearest whole percentage. Enter 0 if no service was provided in the region.

	Block 3 Carrier's Carrier (a)	Block 4 End-User Telecom. (b)
503 Southeast: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and U.S. Virgin Islands	%	%
504 Western: Alaska, Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming	%	%
505 West Coast: California, Hawaii, Nevada, American Samoa, Guam, Johnston Atoll, Midway Atoll, Northern Mariana Islands, and Wake Island.	%	%
506 Mid-Atlantic: Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia	%	%
507 Mid-West: Illinois, Indiana, Michigan, Ohio, and Wisconsin	%	%
508 Northeast: Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont	%	100 %
509 Southwest: Arkansas, Kansas, Missouri, Oklahoma, and Texas	0 %	100 %
510 Total [Percentages must add to 0 or 100.]		

511 Revenues from resellers that do not contribute to Universal Service support mechanisms are included in Block 4-B, Line 420 but may be excluded from a filer's TRS, NANPA, LNP, and FCC interstate telephone service provider regulatory fee contribution bases. To have these amounts excluded, the filer has the option of identifying such revenues below. As stated in the instructions, you must have in your records the FCC Filer 499 ID for each customer whose revenues are included on Line 511. (See instructions.)

	(a)	(b)
	Total Revenues	Interstate and International
Revenues from resellers that do not contribute to Universal Service	\$	\$

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