

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

| | | |
|-----------------------------|---|-------------------------|
| In the Matter of |) | File No.: EB-09-SE-220 |
| |) | |
| The Chamberlain Group, Inc. |) | Acct. No.: 201232100033 |
| |) | |
| |) | FRN: 0004301545 |

ORDER

Adopted: July 30, 2012

Released: July 31, 2012

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and The Chamberlain Group, Inc. (Chamberlain). The Consent Decree resolves and terminates the Bureau's investigation into Chamberlain's compliance with Section 302(b) of the Communications Act of 1934, as amended (Act),¹ and Sections 2.803, 2.902, 2.1043, and 15.249 of the Commission's rules (Rules)² pertaining to the marketing of unlicensed devices that operate in the 902 to 928 MHz band.

2. The Bureau and Chamberlain have negotiated the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated herein 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 Chamberlain 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 Act,³ and Sections 0.111 and 0.311 of the Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. §§ 2.803, 2.902, 2.1043, 15.249.

³ 47 U.S.C. § 154(i).

⁴ 47 C.F.R. §§ 0.111, 0.311.

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

7. **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 Eric A. Reeves, Executive Vice President and General Counsel, The Chamberlain Group, Inc., 845 Larch Avenue, Elmhurst, IL 60126, as well as to J.G. Harrington, Esq., counsel for The Chamberlain Group, Inc., Dow Lohnes PLLC, 1200 New Hampshire Ave., NW, Suite 800, Washington, DC 20036-2222.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief
Enforcement Bureau

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CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and The Chamberlain Group, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into possible violations of Section 302(b) of the Communications Act of 1934, as amended,¹ and Sections 2.803, 2.902, 2.1043, and 15.249 of the Commission's rules² regarding the marketing of unlicensed radio frequency devices that operate in the 902 to 928 MHz band, including wireless intercoms and driveway alerts.

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) "Chamberlain" means The Chamberlain Group, Inc., its predecessors-in-interest and successors-interest.
 - (e) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - (f) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Chamberlain is subject by virtue of its business activities, including but not limited to, the Equipment Marketing Rules.
 - (g) "Compliance Plan" means the compliance obligations and compliance program described in this Consent Decree at paragraph 10.

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. §§ 2.803, 2.902, 2.1043, 15.249.

- (h) “Covered Employees” means all employees and agents of Chamberlain who perform, or supervise, oversee, or manage the performance of, duties that relate to Chamberlain’s responsibilities under the Equipment Marketing Rules.
- (i) “CWP” means Chamberlain Wireless Products Group, Inc., formerly a wholly-owned subsidiary of Chamberlain.
- (j) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (k) “Equipment Marketing Rules” means Section 302(b) of the Act and Sections 2.803, 2.902, 2.1043, and 15.249 of the Rules and other Commission requirements governing the marketing of radio frequency devices within the United States and its territories.
- (l) “Investigation” means the investigation commenced by the Bureau’s November 9, 2009 letter of inquiry³ to Chamberlain regarding possible violations of the Equipment Marketing Rules.
- (m) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by Chamberlain to implement the Compliance Plan.
- (n) “Parties” mean Chamberlain and the Bureau, each of which is a “Party.”
- (o) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Pursuant to Section 302(b) of the Act⁴ and Sections 2.803, 2.902, and 2.1043 of the Rules,⁵ radio frequency devices may not be marketed in the United States unless such devices comply with the applicable technical standards and administrative requirements relating to equipment labeling and consumer disclosure. Pursuant to Section 15.249 of the Rules,⁶ unlicensed devices operating in the 902 to 928 MHz band are required to comply with specified limits on output power. The radio frequency devices marketed by CWP operated within the 902 to 928 MHz band and included wireless portable intercoms, wireless indoor/outdoor intercoms, a wireless front doorbell with intercom, and a wireless driveway alert (the CWP 900 MHz Product Line).⁷

3. On March 31, 2008, Chamberlain voluntarily disclosed to the Commission that it had discovered potential violations of the Equipment Marketing Rules with respect to certain of the CWP 900

³ See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Robert Keller, Director, Design Engineering, The Chamberlain Group, Inc. (Nov. 9, 2009) (on file in EB-09-SE-220).

⁴ 47 U.S.C. § 302a(b).

⁵ 47 C.F.R. §§ 2.803, 2.902, 2.1043.

⁶ *Id.* § 15.249.

⁷ See Letter from Kevin F. Reed, Counsel for Chamberlain, to Karen Onyeije, Associate Chief, Enforcement Bureau, Federal Communications Commission (Oct. 26, 2011) (October 26, 2011 Letter) (on file in EB-09-SE-220).

MHz Product Line devices.⁸ Chamberlain supplemented its disclosure of the potential violations on August 18, 2009.⁹ On November 9, 2009, the Bureau issued the letter of inquiry (LOI)¹⁰ to Chamberlain, directing the company to submit a sworn written response to a series of questions relating to the CWP 900 MHz Product Line devices described in the March 31, 2008 Letter and the August 18, 2009 Letter. Chamberlain responded to the LOI on December 16, 2009¹¹ and updated its LOI Response on October 26, 2011¹² and April 25, 2012.¹³

4. Chamberlain reported that it has either redesigned the CWP 900 MHz Product Line devices to comply with the Equipment Marketing Rules or discontinued the manufacture and marketing of such devices.¹⁴ Chamberlain also represented that it augmented its Regulatory Compliance Management (RCM) program, which incorporates as an integral part the training of Chamberlain employees on compliance with Parts 2 and 15 of the Rules, to include new due diligence protocols relating to the acquisition of new product lines that are subject to the Equipment Marketing Rules.¹⁵ The Bureau and Chamberlain entered into tolling agreements to toll the statute of limitations.¹⁶

III. TERMS OF AGREEMENT

5. **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.

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

7. **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 Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation

⁸ See Letter from Kevin F. Reed and J.G. Harrington, Counsel for The Chamberlain Group, Inc., to Raymond LaForge, Chief, Auditing and Compliance Branch, Laboratory Division, FCC Office of Engineering and Technology (Mar. 31, 2008) (March 31, 2008 Letter) (on file in EB-09-SE-220). Chamberlain acquired CWP (formerly International Electronics, Inc.) in 2007 and subsequently renamed the company “Chamberlain Wireless Products Group, Inc.” *Id.* at 1.

⁹ See Letter from Kevin F. Reed and J.G. Harrington, Counsel for The Chamberlain Group, Inc. to Raymond LaForge, Chief, Auditing and Compliance Branch, Laboratory Division, FCC Office of Engineering and Technology, (Aug. 18, 2009) (August 18, 2009 Letter) (on file in EB-09-SE-220).

¹⁰ See *supra* note 3.

¹¹ See Letter from Kevin F. Reed and J.G. Harrington, Counsel for Chamberlain, to Marlene H. Dortch, Secretary, Federal Communications Commission (Dec. 16, 2009) (on file in EB-09-SE-220).

¹² See October 26, 2011 Letter.

¹³ See email from J.G. Harrington, Counsel for Chamberlain, to Linda M. Nagel, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau (Apr. 25, 2012, 14:32 EDT) (on file in EB-09-SE-220).

¹⁴ See October 26, 2011 Letter at 2.

¹⁵ *Id.*

¹⁶ See, e.g., Tolling Agreement Extension, EB-09-SE-220, executed by and between John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, and Eric A. Reeves, Executive Vice President and General Counsel, Chamberlain Group, Inc. (Apr. 30, 2012) (on file in EB-09-SE-220).

of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

8. **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, Chamberlain agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against Chamberlain concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Chamberlain with respect to Chamberlain's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

9. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Chamberlain shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Chamberlain 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/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Equipment Marketing Rules prior to assuming his/her duties.

10. **Compliance Plan.** For purposes of settling the matters set forth herein, Chamberlain 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 Equipment Marketing Rules, Chamberlain shall implement the following procedures:

- (a) **Operating Procedures on Equipment Marketing.** Within sixty (60) calendar days after the Effective Date, Chamberlain shall review and augment as necessary its recently revised Operating Procedures to help ensure Chamberlain's compliance with the Equipment Marketing Rules. Chamberlain's Operating Procedures shall include internal procedures and policies that all Covered Employees must follow and which are specifically designed to ensure that all radio frequency devices marketed by Chamberlain comply with applicable technical standards, have been properly authorized (via the certification, verification, or declaration of conformity procedures, as applicable), and comply with the applicable administrative requirements relating to equipment labeling and consumer disclosure. Chamberlain's Operating Procedures also shall incorporate its augmented RCM program relating to the acquisition of new product lines that are subject to the Equipment Marketing Rules.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Equipment Marketing Rules and set forth the Operating Procedures that Covered Employees shall follow to help

ensure Chamberlain's compliance with the Equipment Marketing Rules. Chamberlain shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. Chamberlain shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

- (c) **Compliance Training Program.** Chamberlain shall maintain its RCM employee training program on compliance with the Equipment Marketing Rules and incorporate training on Chamberlain's Operating Procedures (Compliance Training Program). As part of the Compliance Training Program, Covered Employees shall be advised of Chamberlain's obligation to report any noncompliance with the Equipment Marketing Rules under paragraph 11 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Chamberlain shall repeat the compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

11. **Reporting Noncompliance.** Chamberlain shall report any noncompliance with the Equipment Marketing Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that Chamberlain 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 Chamberlain has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Linda Nagel at Linda.Nagel@fcc.gov and to Ricardo Durham at Ricardo.Durham@fcc.gov.

12. **Compliance Reports.** Chamberlain shall file Compliance Reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date.

- (a) Each compliance report shall include a detailed description of Chamberlain's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Equipment Marketing Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Chamberlain, stating that the Compliance Officer has personal knowledge that Chamberlain (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 11 hereof.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the

Rules¹⁷ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.

- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Chamberlain, 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 Chamberlain 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 Chamberlain has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Linda Nagel at Linda.Nagel@fcc.gov and to Ricardo Durham at Ricardo.Durham@fcc.gov.

13. **Termination Date.** Unless stated otherwise, the obligations set forth in paragraphs 9 through 12 of this Consent Decree shall expire twenty-four (24) months after the Effective Date.

14. **Voluntary Contribution.** Chamberlain agrees that it will make a voluntary contribution to the United States Treasury in the amount of thirty five thousand dollars (\$35,000) within thirty (30) calendar days after the Effective Date. Chamberlain shall also send electronic notification of payment to Linda Nagel at Linda.Nagel@fcc.gov, Ricardo Durham at Ricardo.Durham@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹⁸ 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). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO

¹⁷ 47 C.F.R. § 1.16.

¹⁸ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

63101.

If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

15. **Waivers.** Chamberlain 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 as defined herein. Chamberlain 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 Chamberlain nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and Chamberlain shall waive any statutory right to a trial *de novo*. Chamberlain hereby agrees to waive any claims it may have under the Equal Access to Justice Act¹⁹ relating to the matters addressed in this Consent Decree.

16. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

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

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

19. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

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

21. **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.

22. **Authorized Representative.** The individual signing this Consent Decree on behalf of Chamberlain represents and warrants that he/she is authorized by Chamberlain to execute this Consent Decree and to bind Chamberlain to the obligations set forth herein. The FCC signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

¹⁹ Equal Access to Justice Act, Pub L. No 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501-1.1530.

23. **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.

P. Michele Ellison
Chief
Enforcement Bureau

Date

Mark Karasek
Executive Vice President
Engineering and Chief Technology Officer
The Chamberlain Group, Inc.

Date