

FCC Prepaid Card Investigations Continue; Bureau Proposes \$25,000 Fine for Non-Response

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After [six NALs](#) and an Enforcement Advisory, the FCC is not finished with prepaid calling card marketing practices. On February 7th, the Enforcement Bureau issued a [Notice of Apparent Liability](#) against a prepaid card provider for failing to respond to the Bureau's investigation. This action serves both as a reminder to carriers of the importance of responding fully to FCC investigations and as a warning to prepaid card carriers that, despite the previous actions, the FCC's investigations are likely to continue. Any provider that receives or has received an inquiry from the FCC Enforcement Bureau should carefully consider its response.

The entity receiving the NAL is Technical Communication Network (TCN), a small prepaid card provider in Clifton, New Jersey. A few things are particularly noteworthy about the NAL:

- **The Bureau remains active.** According to the NAL, the investigation was started in February 2012, which was after the first five prepaid card NALs were issued but before the most recent NAL. Clearly, the Bureau continues to identify potential targets for investigation. Moreover, the fact that the NAL orders the provider to respond substantively to the investigation suggests that the Bureau is actively pursuing additional enforcement of prepaid card marketing practices.
- **\$25,000 is not the new base forfeiture.** The NAL notes that the base forfeiture for a failure to respond to a Commission communication is \$4,000. It applies an upward adjustment because it found the carrier's misconduct "egregious, intentional and continuous." Despite a few recent cases proposing similar \$25,000 fines, the base forfeiture has not changed here.
- **The NAL orders a response within an unusually short time period.** While the NAL portion of the order grants the TCN the usual 30 days to respond to the proposed fine, the Bureau provides only *10 calendar days* to respond to the questions raised in the LOI.

Clearly, the prepaid card marketing issue is not closed. Not only has the FCC not resolved the six pending forfeitures (at \$5 million each), but it appears ready to continue issuing NALs for failure to provide adequate disclosures in marketing materials.