

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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	)	
In the Matter of	)	File No. ISP-PDR-20110726-00007
	)	
Choice Holdings, LLC	)	

**PETITION TO ADOPT CONDITIONS TO  
AUTHORIZATIONS AND LICENSES**

The Department of Justice (“DOJ”), with the concurrence of the Department of Homeland Security (“DHS”) (collectively, the “Agencies”), submits this Petition to Adopt Conditions to Authorizations and Licenses (Petition), pursuant to Section 1.41 of the Federal Communications Commission (“Commission”) rules.<sup>1</sup> Through this Petition, the Agencies advise the Commission that they have no objection to the Commission approving the authority sought in the above-referenced proceeding, provided that the Commission conditions its approval on the assurance of Choice Holdings, LLC to abide by the commitments and undertakings set forth in the July 19, 2007, Letter of Assurances (“LOA”), which is attached hereto. In the above-referenced proceeding, the Applicant has petitioned the Commission under section 310(b)(4) of the Communications Act of 1934, as amended, to cover Wireless Communications Service license (KNLB242) in the assignment of authorization application from Cellutec, Inc. (FRN 0002147668) to Choice Phone, LLC (FRN 0004242475).

The Commission has long recognized that law enforcement, national security, and public safety concerns are part of its public interest analysis, and has accorded deference to the views of

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<sup>1</sup> 47 C.F.R. § 1.41.

other U.S. government agencies with expertise in those areas. *See In the Matter of Comsat Corporation d/b/a Comsat Mobile Communications, etc.*, 16 FCC Rcd. 21,661, 21707 ¶ 94 (2001).

After discussions with representatives of the Applicant in connection with the above-referenced proceedings, the Agencies have concluded that the additional commitments set forth in the LOA will help ensure that the Agencies with responsibility for enforcing the law, protecting the national security, and preserving public safety, can proceed appropriately to satisfy those responsibilities. Accordingly, the Agencies advise the Commission that they have no objection to the Commission granting the application in the above-referenced proceeding, provided that the Commission conditions its consent on compliance by Choice Holdings, LLC with the LOA.

Respectfully submitted,

/s/ Richard C. Sofield  
Richard C. Sofield  
U.S. Department of Justice  
Director – Foreign Investment Review Staff  
National Security Division  
600 E Street, NW, Suite 10000  
Washington, D.C. 20004

January 28, 2013

**EXHIBIT 1**

# **CHOICE HOLDINGS, LLC**

543-A Top Plaza Bldg., North Marine Dr., Tamuning, Guam 96913  
Post Office Box 12398 Tamuning, Guam 96931

July 19, 2007

Ms. Sigal P. Mandelker  
Deputy Assistant Attorney General  
Criminal Division  
United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Ms. Elaine N. Lammert  
Deputy General Counsel  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Mr. Stewart A. Baker  
Assistant Secretary for Policy  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Re: Choice Holdings LLC  
FCC File No. ISP-PDR-2005062400008

Dear Ms. Mandelker, Ms. Lammert and Mr Baker:

This letter outlines the commitments made by Choice Holdings LLC ("Choice"), to the U.S. Department of Justice ("DOJ"), including the Federal Bureau of Investigation ("FBI"), and to the U.S. Department of Homeland Security ("DHS"), in order to address national security, law enforcement, and public safety concerns raised with regard to Choice's Petition to the Federal Communications Commission ("FCC") for Declaratory Ruling by the FCC to find an increase of indirect foreign ownership in Choice consistent with the public interest standard under Section 310(b)(4) of the Communications Act of 1934, as amended.

Choice filed the petition with the FCC on June 24, 2005 (FCC File No. ISP-PDR-20050624-00008). The petition, as amended, seeks a declaratory ruling that the foreign ownership of Choice could be increased by 10%, to 35%, through the transfer of 10% of the ownership interests from a U.S. citizen to Ronnie S. Lim, a citizen of the Philippines. As a result of this transaction, Ronnie S. Lim would increase his ownership percentage from 25% to 35% while a U.S. citizen will reduce his ownership interest from 28% to 18%.

Choice owns 100% of Choice Phone LLC ("Choice Phone"). Choice Phone provides wireless two-way radio interconnect and data services in the U.S. Territory of Guam and in the Commonwealth of the Northern Marianas Islands. Choice also owns 100% of Wave Runner LLC. Wave Runner provides prepaid wireless telephone and data services in Guam and the Commonwealth of the Northern Marianas Islands.

Choice agrees that, for all customer billing records, subscriber information, and any other related information used, processed, or maintained in the ordinary course of business relating to communications services offered to U.S. persons ("U.S. Records"), Choice will make such U.S. Records available in the United States in response to lawful U.S. process. For these purposes, U.S. Records shall include information subject to disclosure to a U.S. Federal or state governmental entity under the procedures specified in Sections 2703(c) and (d) and Section 2709 of Title 18 of the United States Code. Choice agrees to ensure that U.S. Records are not made subject to mandatory destruction under any foreign laws. Choice agrees to take all practicable measures to prevent unauthorized access to, or disclosure of the content of, communications or U.S. Records, in violation of any U.S. Federal, state, or local laws or of the commitments set forth in this letter. If Choice learns of any such disclosure, they will deliver a written notification containing all the known details concerning each such incident to the FBI, DOJ and DHS within five (5) business days.

Choice agrees that it will not, directly or indirectly, disclose or permit disclosure of or access to U.S. Records, domestic communications, or to any information (including the content of communications) pertaining to a wiretap order, pen/trap order, subpoena or other lawful demand by a U.S. law enforcement agency for U.S. Records, to any person if the purpose of such disclosure or access is to respond to the legal process or request on behalf of a non-U.S. government without first satisfying all pertinent requirements of U.S. law and obtaining the express written consent of the FBI, DOJ and DHS or the authorization of a court of competent jurisdiction in the United States. The term "non-U.S. government" means any government, including an identified representative, agent, component or subdivision thereof, that is not a local, state or Federal government in the United States. Any such requests or legal process submitted by a non-U.S. government to Choice shall be referred to the FBI, DOJ and DHS as soon as possible, and in no event later than five (5) business days after such request or legal process is received by or known to Choice, unless the disclosure of the request or legal process would be in violation of U.S. law or an order of a court in the United States.

Choice also agrees that it will maintain one or more points of contact within the United States with the authority and responsibility for accepting and overseeing compliance with a wiretap order, pen/trap order, subpoena or other lawful demand by U.S. law enforcement authorities for the content of communications or U.S. Records. Choice will notify the FBI, DOJ and DHS in writing at the addresses listed above of the point(s) of contact within ten (10) days of this letter, and shall promptly notify the FBI, DOJ and DHS of any change in its designated point(s) of contact. Any new point of contact shall be a resident U.S. citizen, and Choice shall cooperate with any request by a U.S. government authority that a background check or security clearance process be completed for a designated point of contact.

Choice agrees that it will notify the FBI, DOJ and DHS before it seeks to commence the sale (or resale) of any type of communications services not currently offered and described in this letter, or if there are any other material changes in any of the facts as represented in this letter. All notices to be provided to the FBI, DOJ, or DHS shall be directed to the named addressees of this letter.

Choice agrees that, in the event the commitments set forth in this letter are breached, in addition to any other remedy available at law or equity, the DOJ, FBI, or DHS may request that the FCC modify, condition, revoke, cancel, or render null and void any relevant license, permit, or other authorization granted by the FCC to Choice or any successor-in-interest to Choice. Choice requests written notice of any breach in order that Choice may have an opportunity to either explain or rectify any such breach.

Nothing in this letter is intended to excuse Choice or its subsidiaries from any obligation they may have to comply with U.S. legal requirements for the retention, preservation, or production of information, records or data, or from any applicable requirements of the Communications Assistance for Law Enforcement Act, 47 U.S.C. 1001, et seq., nor shall it constitute a waiver of: (a) any obligation imposed by any U.S. Federal, state or local laws on Choice or its subsidiaries; (b) any enforcement authority available under any U.S. or state laws; (c) the sovereign immunity of the United States; or (d) any authority the U.S. government may possess (including without limitation authority pursuant to International Emergency Economic Powers Act) over the activities of Choice or its subsidiaries located within or outside the United States. Nothing in this letter is intended to or is to be interpreted to require the parties to violate any applicable U.S. law. Likewise, nothing in this letter limits the right of the United States Government to pursue criminal sanctions or charges against Choice or its subsidiaries, and nothing in this letter provides Choice or its subsidiaries with any relief from civil liability.


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Choice understands that, upon execution of this letter by an authorized representative or attorney for Choice, the DOJ, FBI, and DHS shall notify the FCC that the DOJ, FBI, and DHS have no objection to the FCC's grant of the above-referenced application.

Sincerely,

Date:

By:

  
Printed Name: RICHARD C. YU  
Title: MEMBER  
Choice Holdings LLC