

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

In the Matter of the Application of)	
)	
Total Call Mobile, Inc.)	File No. ITC-T/C-2009 _____
Transferor,)	
)	
and)	
)	
KDDI America, Inc. , Transferee)	
)	
For Grant of Authority Pursuant to)	
Section 214 of the Communications Act of 1934,)	
as amended, and Section 63.24 of the)	
Commission’s Rules to Complete a)	
Transfer of Control of an Authorized)	
International Section 214 Carrier)	
)	

STREAMLINED PROCESSING REQUESTED

I. INTRODUCTION

Total Call Mobile, Inc. (“Total Call Mobile” or “Licensee” or “Transferor”), and KDDI America, Inc. (“KDDI America” or “Transferee”) (together, the “Applicants”), pursuant to Section 214 of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 214, and Section 63.24 of the Commission’s Rules, 47 C.F.R. § 63.24, respectfully request Federal Communications Commission approval for the transfer of control of Licensee, a non-dominant carrier holding authority from the Commission to provide international telecommunications

services.¹ Streamlined processing is requested pursuant to section 63.12 of the Commission's Rules, 47 C.F.R. § 63.12.²

In support of this Application, Applicants provide the following information:

II. DESCRIPTION OF THE APPLICANTS

A. Total Call Mobile, Inc. (Transferor)

Total Call Mobile is a Delaware corporation with principal offices located at 707 Wilshire Blvd., 12th Floor, Los Angeles, California 90017. Total Call Mobile provides resold commercial radio services throughout most of the United States. Total Call Mobile is authorized to provide Global or Limited Global Facilities-based and Resale services granted by the Commission in FCC File No. ITC-214-20091105-00474. (Total Call Mobile does not provide local exchange service in any U.S. markets.) As of the date hereof, Total Call Mobile has two shareholders, Mark Leafstedt (51%), a U.S. citizen who serves as its Chief Executive Officer, and Daniel Ing, a U.S. citizen who serves as its President and Secretary. The proposed transactions in this application would transfer control of Total Call Mobile to KDDI America in the following steps: (1) Total Call Mobile will become a wholly owned subsidiary of Total Call International; and (2) control (i.e. 51%) of Total Call International will be sold to KDDI America. Total Call Mobile has no foreign ownership.

B. KDDI America, Inc. (Transferee)

KDDI America is a New York corporation with principal offices located at 825 Third Avenue, Third Floor, New York, NY 10022. KDDI America is 100% owned by KDDI

¹ Separate applications and filing fees has are being submitted for the related transfer of control of commonly-controlled Total Call Mobile affiliate Total Call International, Inc. to KDDI. The transaction described herein covers both transferor entities.

² As explained herein, KDDI America agrees to continued dominant regulatory treatment on the U.S.-Japan international route with respect to Total Call Mobile's provision of international service.

Corporation, a Japanese corporation, with principal offices located at 3-10-10 Iidabashi Chiyoda-ku, Tokyo 102-0072, Japan. KDDI America has long been authorized to provide resold and facilities-based international services granted by the Commission. (See Section V(d) below.) In addition, KDDI America holds blanket domestic Section 214 authority. KDDI America also holds authority from state regulatory commissions to provide resold telecommunications services throughout the United States. (KDDI America does not provide local exchange service in any U.S. markets.) KDDI America primarily provides international services, dial around services, and resold wireless services.

III. DESCRIPTION OF THE TRANSACTION

By this Application, the Applicants request approval for the transfer of control of Total Call Mobile to KDDI America. The transfer of control of Total Call Mobile is part and parcel to a broader transaction involving the transfer of control of Total Call Mobile affiliate Total Call International, Inc. (“Total Call International”). KDDI America has agreed, subject to applicable closing conditions, to acquire fifty-one percent (51%) of the capital stock of Total Call International, on a fully diluted, as converted basis. KDDI America will become the new corporate parent of Total Call International. Upon consummation, the remaining forty-nine percent (49%) will be held in the same ratio as Total Call International’s current ownership. Prior to KDDI’s acquisition of 51% of Total Call International, Total Call International will transfer its one plus long distance customer base to OPEX (Step 1) in a *pro forma* transaction, and then OPEX will be spun off to the current shareholders of Total Call International on a pro rata basis (the “Total Call International /OPEX Transaction”) (Step 2) via a second *pro forma* transaction.³ In connection with the Total Call International /OPEX Transaction, the

³ In connection with the Total Call International /OPEX Transaction, all postpaid long distance customers of Total Call International being transferred to OPEX and the Commission will be notified in compliance with 47

Commission will be notified of the *pro forma* transfer of control of OPEX Communications, Inc. in accordance with Section 63.24(f) of the Commission's rules. The Total Call International /OPEX Transaction will result in Total Call International itself having no one plus long distance customers, but will have only prepaid calling card customers.

Prior to KDDI's acquisition of 51% of Total Call International, the shareholders of Total Call International affiliate and Transferor Total Call Mobile, Inc. will contribute 100% of the capital stock of Total Call Mobile to Total Call International in a separate restructuring *pro forma* transaction, resulting in Total Call Mobile becoming a wholly owned subsidiary of Total Call International. As such, when KDDI purchases 51% of Total Call International, it will also acquire a controlling interest in Total Call Mobile and Total Call Mobile's prepaid wireless business. In connection with the restructuring transaction, the Commission will be notified of the *pro forma* transfer of control of Total Call Mobile, and a separate application seeking consent to the transfer of control of Total Call International to KDDI will be filed concurrently with or shortly after the instant application. An organizational chart, showing the current ownership structure and after the transfer is completed, and illustrating the transactions described above, is attached hereto as Exhibit A.

The post-consummation ownership of Total Call Mobile is described in Section V below and illustrated on the corporate organizational charts attached hereto as Exhibit A. Although the proposed transaction will result in a change in the ultimate ownership and control of Licensee, no assignment or transfer of certificates, assets or customers from Total Call Mobile to a different entity will occur as an immediate consequence of the proposed transaction. Licensee will continue to provide service to its existing customers pursuant to its authorizations under the same rates, terms and conditions. Accordingly, this transaction will be virtually transparent to the

C.F.R. § 64.1120(e).

customers of Licensee. Also, management of Total Call Mobile's day-to-day operations will remain unchanged upon consummation.

IV. PUBLIC INTEREST STATEMENT

KDDI America's acquisition of Total Call Mobile will serve the public interest by bringing in a strong, well funded company to bolster Total Call Mobile's financial strength. Upon consummation of the transaction, Total Call Mobile will continue to provide high-quality services to its customers. In addition, the current management of Total Call Mobile is expected to remain in place.

Further, the proposed transaction does not present any anti-competitive issues. The transaction will be conducted in a manner that will be virtually transparent to Total Call Mobile's customers. The transfer of control of Total Call Mobile will not result in a change of carrier for customers or any assignment of authorizations. Moreover, as evidenced by this application's eligibility for streamlined processing, transactions such as these do not raise anticompetitive concerns for the Commission. In any event, the markets in which Total Call Mobile provides service are highly competitive, with numerous facilities-based and non-facilities-based international competitors. Following consummation of the proposed transaction, Total Call Mobile will continue to provide high-quality communications services to its customers without interruption and without immediate change in rates, terms or conditions. Furthermore, the proposed transaction will not have a negative impact on competition. No existing or potential competitors will be eliminated as a result of the proposed transaction. Instead, grant of the application will promote and preserve competition in the international telecommunications marketplace and ensure that the parties may continue to offer seamless international services to existing customers. The transaction poses no risk of anticompetitive impact on the U.S. international telecommunications marketplace. The

Commission's principal concern for "the exercise of foreign market power in the U.S. market" is that such market power "could harm U.S. consumers through increases in prices, decreases in quality, or reductions in alternatives in end user markets."⁴ As the Commission explained further, "generally, this risk occurs when a U.S. carrier is affiliated with a foreign carrier that has sufficient market power on the foreign end of a route to affect competition adversely in the U.S. market."⁵ As Total Call Mobile will be regulated as dominant on the U.S.-Japan route and is otherwise entitled to nondominant regulatory treatment on all other routes, including those where it will have foreign carrier affiliates, Applicants would have no ability to adversely affect competition. Thus, consumers will not be harmed by the transaction.

V. INFORMATION REQUIRED BY SECTION 63.24(e)

Pursuant to Section 63.24(e)(2) of the Commission's Rules, the Applicants submit the following information requested in Section 63.18(a)-(d) and (h)-(p) in support of this Application:

(a) Name, address and telephone number of each Applicant:

Transferor:

Total Call Mobile, Inc.
707 Wilshire Blvd., 12th Floor
Los Angeles, CA 90017
Attention: Mark Leafstedt
Telephone: (213) 995-9700

Transferee:

KDDI America, Inc.
825 Third Ave.
Third Floor

⁴ *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order and Order on Reconsideration, 12 FCC Rcd. 23891, 23951-54 (1997).

⁵ *See id.*

New York, New York 10022
Attention: Daichi Nozaki
Telephone: (212) 295-1200

(b) Jurisdiction of Organizations:

Transferor: Total Call Mobile, Inc. is a Delaware corporation.

Transferee: KDDI America Inc. is a New York corporation.

(c) (Answer to Question 10) Correspondence concerning this Application should be sent to:

For Transferor and For Transferee:

Lance J.M. Steinhart, Esq.
Lance J.M. Steinhart, P.C.
1720 Windward Concourse, Suite 115
Alpharetta, Georgia 30005
Telephone: 770-232-9200
Facsimile: 770-232-9208
Email: lsteinhart@telecomcounsel.com

(d) Section 214 Authorizations

Total Call Mobile holds international Section 214 authority to provide Global or Limited Global Facilities-Based and resold services granted by the Commission in FCC File No. ITC-214-20091105-0047.⁶

KDDI America holds the following international Section 214 authorizations:⁷

- File No. ITC-214-19970212-00085 (Limited Global Resale Service to Belgium, France, Hong Kong, Mongolia and Russia)
- File No. ITC-214-19970113-00019 (Limited Global Resale Service to provide non-interconnected resold private line services to Belgium, France and Hong Kong)
- File No. ITC-214-19970212-00082 (Limited Global Resale Service to all international points except Japan, Belgium, France, Hong Kong, Mongolia and Russia)

⁶ Total Call Mobile affiliate Total Call International holds international Section 214 authority to provide Global or Limited Global Facilities-Based and resold services granted by the Commission in FCC File No. ITC-214-20000121-00036

⁷ KDDI affiliate KDDI Global LLC also holds global facilities-based and resale authority to all international points. *See* File No. ITC-214-20061027-00492. The Commission has also approved the transfer of control of Locus Telecommunications, Inc., File No. ITC-214-19950819-00044, to KDDI America. *See* File No. ITC-T/C-20091022-00453.

- File No. ITC-214-19971014-00620 (Limited Global Facilities-Based Service to all international points except Japan)
- File No. ITC-214-19980205-00076 (Limited Global Resale Service between the United States and Japan; Applicant agreed to be classified as a dominant carrier to Japan)
- File No. ITC-214-19980205-00077 (Limited Global Facilities-Based Service between the United States and Japan; Applicant agreed to be classified as a dominant carrier to Japan)
- File No. ITC-214-19980424-00275 (Limited Global Resale Service to provide non-interconnected resold private lines between the United States and all permissible international points except Japan, the United Kingdom, Belgium, Germany, France and Hong Kong)
- File No. ITC-214-19980607-00388 (Interconnected Private Line Switched Service to Japan; Applicant agreed to be classified as a dominant carrier to Japan)

(h) **(Answer to Questions 11 & 12)** The following entities and persons hold, directly or indirectly, a ten percent or greater interest in KDDI America as calculated pursuant to the Commission ownership attribution rules for wireline and international telecommunications carriers:

Information concerning the ten percent (10%) or greater shareholders of Transfree:

Name: KDDI Corporation
 Business Address: 3-10-10 Iidabashi Chiyoda-ku
 Tokyo 102-0072, Japan
 Ownership: 100% direct shareholder in KDDI America.
 Citizenship: Japanese Corporation
 Principal Business: Telecommunications

The following entities hold a 10 percent or greater interest in KDDI Corporation (which, in turn, holds a 100 percent direct ownership interest in Applicant KDDI America):

Name: Kyocera Corporation
 Business Address: 6 Takeda Tobadono-cho,
 Fushimi-ku, Kyoto
 Japan 612-8501
 Ownership: 12.76% in KDDI Corporation
 Citizenship: Japanese Corporation
 Principal Business: Conglomerate – advanced materials, components, devices, equipment, networks and services.

Name: Toyota Motor Corporation
 Business Address: 1 Toyota-Cho, Toyota City

Aichi Prefecture 471-8571
 Japan
 Ownership: 11.09% in KDDI Corporation
 Citizenship: Japanese Corporation
 Principal Business: Automobile manufacturing and sales

No single entity holds a 50 percent or greater or otherwise controlling interest in either Kyocera Corporation or Toyota Motor Corporation that would result in any additional 10 percent or greater indirect ownership in KDDI America. No other entity holds a 10 percent or greater interest in KDDI America.

KDDI America, Inc. has the following interlocking directorates with foreign carriers (not all of whom are foreign carrier affiliates for purposes of the Commission’s rules and Question 14 below):

- Mr. Masaaki Nakanishi is a director of KDDI America, Inc. and the following entities: KDDI Europe Ltd.; KDDI China Corp.; KDDI Taiwan; KDDI Singapore; Hola Paraguay
- Mr. Yasushi Kubota is a director of KDDI America, Inc. and KDDI Europe Ltd.
- Mr. Koichiro Nakagiri is a director of KDDI America, Inc. and the following entities: KDDI Europe; KDDI Hong Kong; KDDI China Corp; KDDI Shanghai; KDDI Korea; and KDDI Singapore

(i) **(Answer to Question 14)** As evidenced by the signature of its authorized representative to this filing, KDDI America certifies that it is affiliated with foreign carriers as follows:

<u>Foreign Carrier</u>	<u>Country</u>
KDDI Korea Corporation	Korea
Hola Paraguay S.A.	Paraguay
KDDI Hong Kong, Ltd.	Hong Kong
KDDI Singapore Pte Ltd	Singapore
KDDI Australia Pty Ltd	Australia
Mobicom Corporation	Mongolia
Vostoktelecom Co. Led.	Russia
KDDI Europe Ltd.	United Kingdom
KDDI Deutschland GmbH	Germany
KDDI France SAS	France
KDDI Thailand	Thailand
KDDI Malaysia	Malaysia
KDDI Indonesia	Indonesia
KDD Philippines	Philippines
KDD Vietnam	Vietnam
KDDI India	India

- (j) ***(Answer to Question 15)*** KDDI America certifies that it seeks to provide international telecommunications services to each of the countries listed in response to Question 14. KDDI's parent company controls a foreign carrier in each of these countries, with the exception of Mongolia and Russia.
- (k) Not applicable.
- (l) Not applicable.
- (m) For purposes of this application, Applicants submit that, with the exception of KDDI Corporation, Japan, KDDI America qualifies for a presumption of non-dominance for each of the routes where it holds foreign carrier affiliations under Section 63.10(a)(3) of the Commission Rules, 47 C.F.R. § 63.10(a)(3), as each of these carriers lacks a 50% market share in the international transport and local access markets on the foreign end of that route. With respect to all other routes, KDDI America will have no foreign carrier affiliates. Applicants agree to be classified as a dominant carrier on the U.S.-Japan route under Sections 63.10(c)-(e) of the Commission's Rules, 47 C.F.R. §§ 63.10(c)-(e) without prejudice to its right to petition for reclassification at a later date.
- (n) Transferee certifies that it has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.
- (o) Applicants certify that they are not subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. *See* 21 U.S.C. § 853a; *see also* 47 C.F.R. §§ 1.2001-1.2003.
- (p) As discussed above, KDDI America qualifies for a presumption of non-dominance on the routes where it holds foreign carrier affiliations (except Japan) under Section 63.10(a)(3) of the Commission Rules, 47 C.F.R. § 63.10(a)(3). KDDI America also agrees to continued dominant regulatory classification on the U.S.-Japan route. This application is therefore eligible for streamlined processing under section 63.12(c)(1)(ii) and (v) of the Rules, 47 C.F.R. § 63.12(c)(1)(ii), (v).

VII. CONCLUSION

For the reasons stated above, Applicants respectfully submit that the public interest, convenience, and necessity would be furthered by a grant of this Application for the transfer of control of Total Call Mobile to KDDI America as described herein.

Respectfully submitted,

/s/ _____

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COUNSEL FOR KDDI AMERICA, INC.

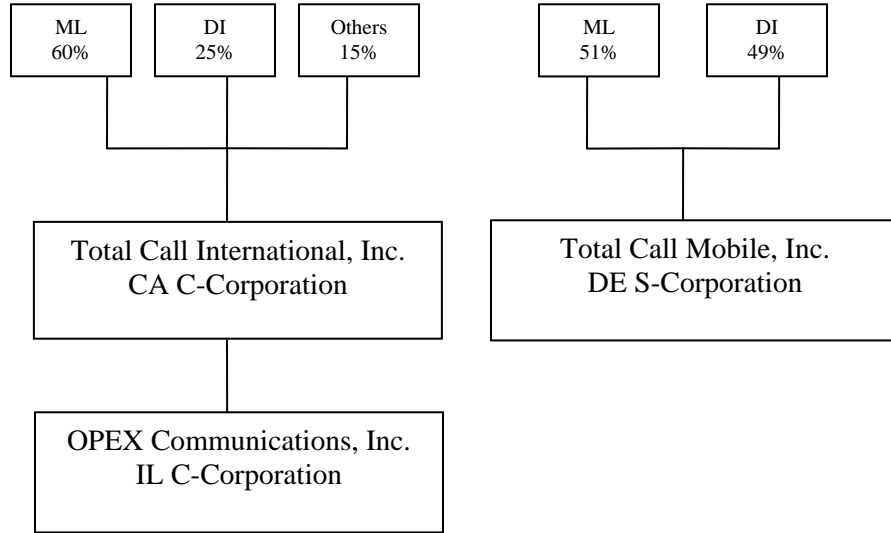
Dated: December 10, 2009

EXHIBIT A

Pre- and Post-Transaction Corporate Structure of Total Call Mobile, Inc.

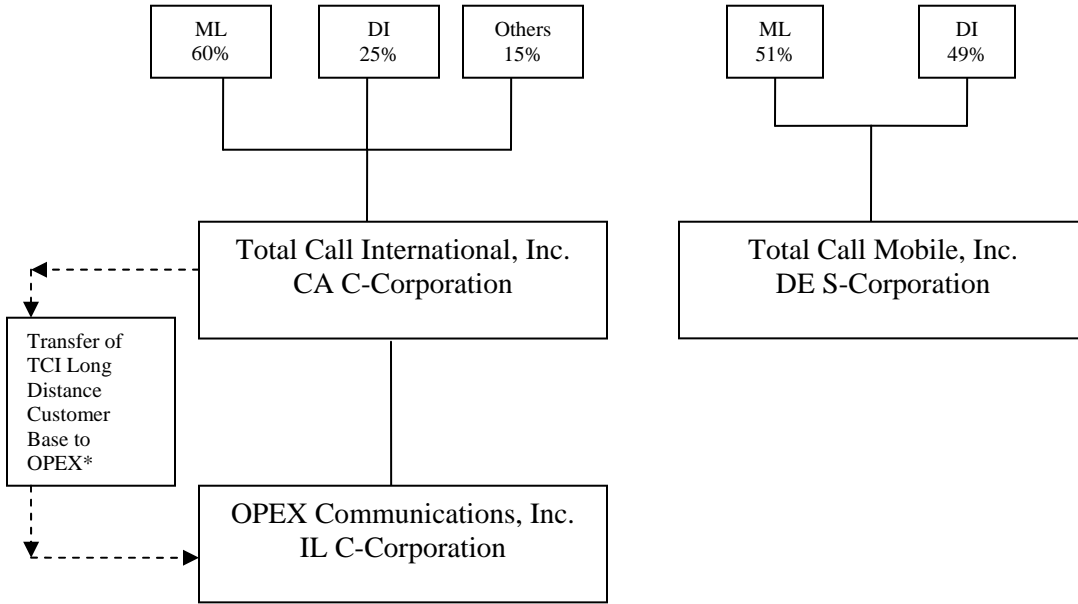
Current Structure of Total Call/TCMI/OPEX as of 10/28/09

The current organizational structure of Total Call International, Inc., OPEX Communications, Inc., and Total Call Mobile, Inc., as of October 28, 2009. Mark Leafstedt (“ML”) and Daniel Ing (“DI”) are the majority shareholders of Total Call International, Inc., a California C-Corporation. Total Call International is the sole shareholder of all issued and outstanding shares of OPEX Communications, Inc., an Illinois C-Corporation. Total Call Mobile, Inc., a Delaware S-Corporation, is owned jointly by ML and DI. ML and DI are the only shareholders of Total Call Mobile. Note that all percentages are approximate and that none of those in the “Others” category own more than 10% individually.



Step 1 -Transfer of Total Call International Long Distance Customer Base to OPEX

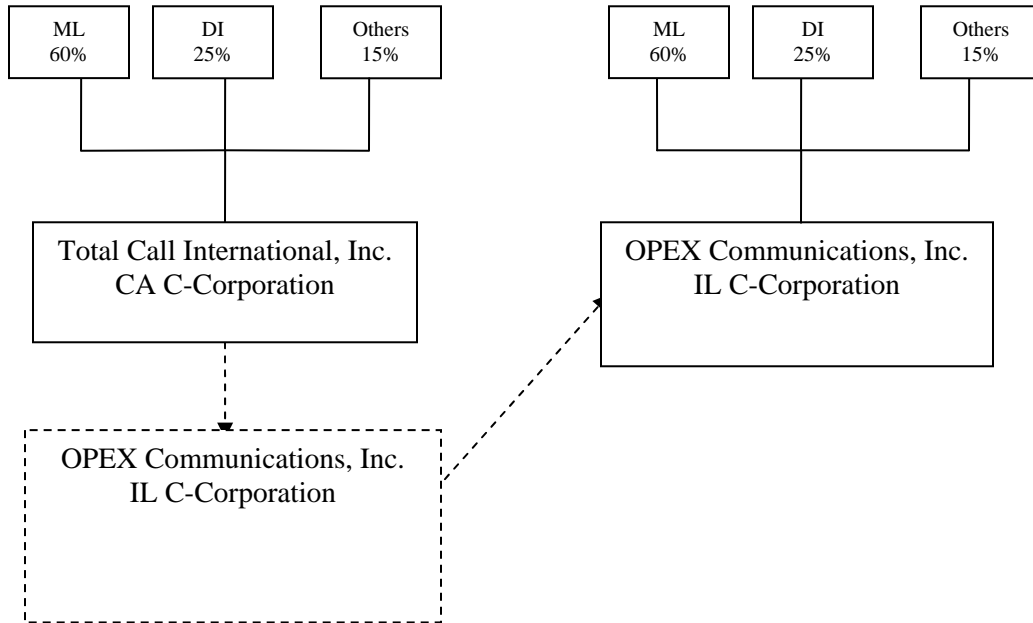
The first step in the proposed transaction will be to transfer Total Call International, Inc.'s One-Plus (i.e. Long Distance) customer base to OPEX Communications, Inc. Note that all percentages are approximate and that none of those in the "Others" category own more than 10% individually.



***Note: Transfer of TCI Long Distance Customer Base will take place prior to Spinoff of OPEX to TCI Shareholders.**

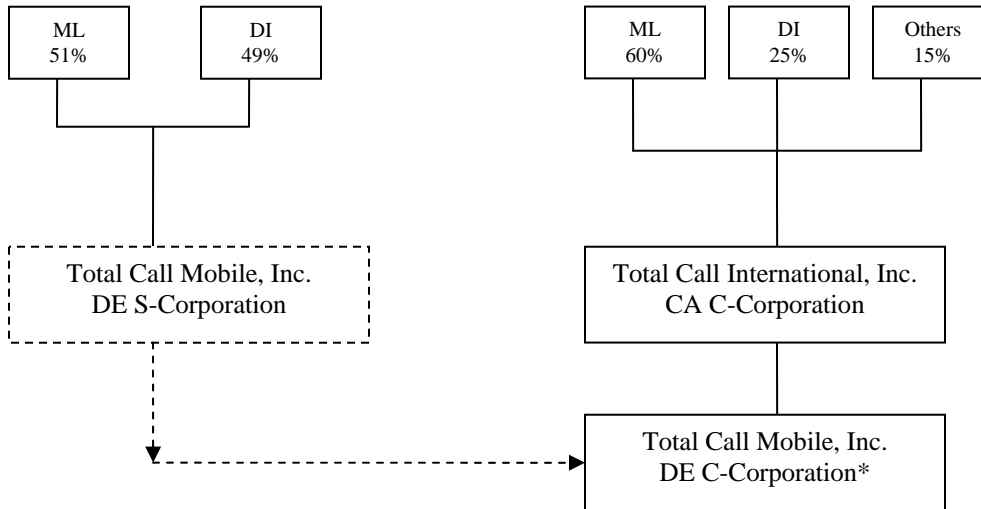
Step 2 – Spin-off/Transfer of Control of OPEX to Total Call International Shareholders

The second step in the proposed transaction will be to spinoff OPEX Communications, Inc., to the shareholders of Total Call International, Inc. Note that all percentages are approximate and that none of those in the “Others” category own more than 10% individually.



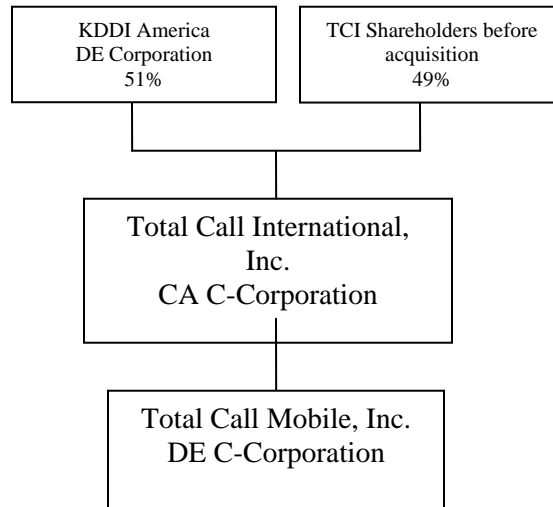
Step 3 - Acquisition of Total Call Mobile by Total Call International

Step 3 in the proposed transaction will be the transfer of ownership of Total Call Mobile, Inc. from ML and DI to Total Call International, Inc. After this transaction, Total Call Mobile will be converted into a C-Corporation. Note that all percentages are approximate and that none of those in the “Others” category own more than 10% individually.



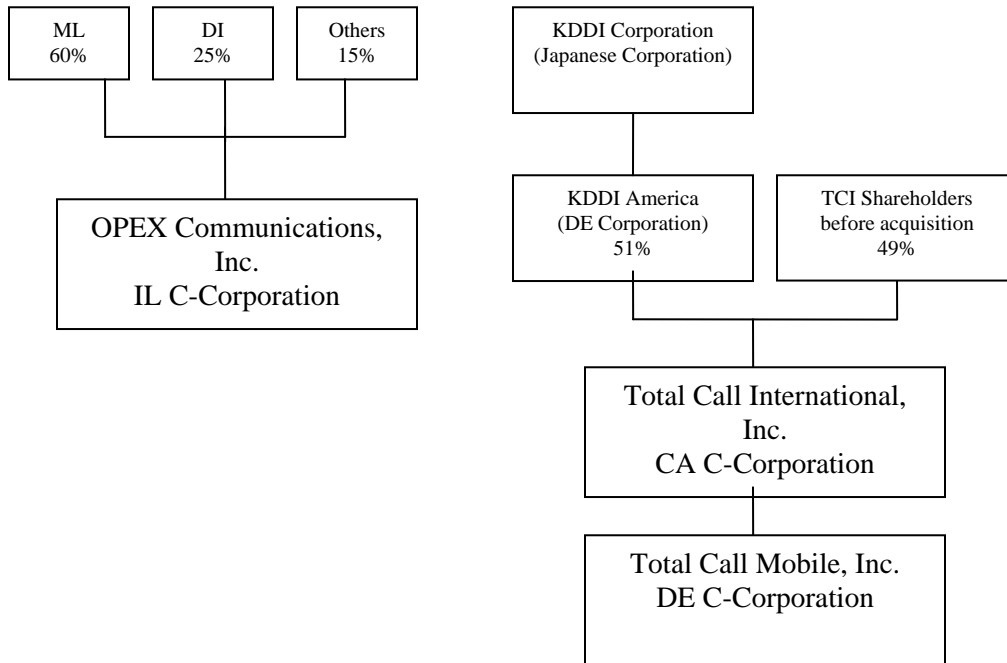
Step 4 –Transfer of Control of Total Call – Purchase of 51% of Total Call by KDDI

The fourth step in the proposed transaction will be the purchase of 51% of the issued and outstanding shares of Total Call International by KDDI America. After the consummation of the proposed transaction, KDDI America will own a controlling interest in Total Call International (with Total Call Mobile being a wholly owned subsidiary of Total Call International).



Organizational Structure of OPEX/TCM/TCI after Proposed Transactions

Note that all percentages are approximate and that none of those in the “Others” category own more than 10% individually. After the consummation of the proposed transactions, the organizational structure of all companies referenced in this application will be as follows:



CERTIFICATION

I, Mark E. Leafstedt, Chief Executive Officer, of Total Call Mobile, Inc., hereby certify under penalty of perjury that I am authorized to make this Certification on behalf of the Transferor in the foregoing application. I further certify that the information in the foregoing application as it pertains to the Transferor is true and accurate to the best of my knowledge, and that the Transferor is not subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853(a), as amended.



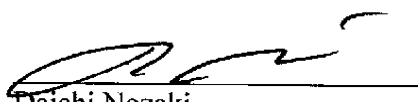
Mark E. Leafstedt
Chief Executive Officer

Date: 12/3/2009

CERTIFICATION

I, Daichi Nozaki, Vice-President, Marketing, of KDDI America, Inc., hereby certify under penalty of perjury that I am authorized to make this Certification on behalf of KDDI America, Inc., the Transferee in the foregoing application. I further certify that the information in the foregoing application as it pertains to the Transferee is true and accurate to the best of my knowledge, and that the Transferee is not subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853(a), as amended.

Following consummation of the transaction, Total Call Mobile, Inc. also agrees to be classified as a dominant carrier to Japan under Section 63.10 of the Commission's rules, without prejudice, to its right to petition for reclassification at a later date.



Daichi Nozaki
Vice-President, Marketing
KDDI America, Inc.

Date: December 7, 2009