

FEDERAL TRADE COMMISSION
915 2nd Ave, Ste 2896
Seattle, WA 98174
Phone: 206.220.6350
Fax: 206.220.6366
Randall H. Brook (RB9033)
Robert J. Schroeder (RS0528)
Nadine S. Samter (NS5444)

UNITED STATES ATTORNEY
(Designated local counsel)
970 Broad Street, 7th Floor
Newark, NJ 07102
Phone: 973-645-2700
Fax: 973-645-2702
Susan C. Cassell (SC8081)

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

NORVERGENCE, INC.,

Defendant

**CIVIL ACTION NO. 04-5414
(DRD)**

Hearing date: July 18, 2005

(PROPOSED)

**DEFAULT JUDGMENT AND
ORDER FOR PERMANENT
INJUNCTION AND
MONETARY RELIEF**

Plaintiff, the Federal Trade Commission (hereinafter "Commission" or "FTC"), having filed a Complaint under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain permanent injunctive relief, rescission of contracts, restitution, disgorgement, and other equitable relief for defendant NorVergence, Inc.'s ("NorVergence") deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Clerk of the Court having entered a default against defendant NorVergence and this Court having considered the pleadings, declarations, exhibits, and memoranda filed by the Commission and now, being advised in the premises, makes the following findings and enters the following Default Judgment and Order for Permanent Injunction and Monetary Relief:

FINDINGS

1. This Court has jurisdiction of the subject matter of this action and of the parties hereto.
2. The Commission is charged, *inter alia*, with responsibility for administering and enforcing Section 5 of the FTC Act, 15 U.S.C. § 45, which prohibits unfair or deceptive acts or practices in or affecting commerce.
3. The activities of defendant NorVergence are in or affecting commerce, as "commerce" is defined in 15 U.S.C. § 44.
4. This action was instituted by the Commission under Sections 5 and 13(b) of

the FTC Act, 15 U.S.C. §§ 45 and 53(b). The Commission seeks permanent injunctive relief, monetary relief, rescission of contracts, and other equitable relief for the alleged deceptive acts or practices by defendant NorVergence in connection with the sale and financing of telecommunications services and related products. Pursuant to Section 13(b) of the FTC Act, the Commission has the authority to seek the relief it has requested.

5. The Complaint states a claim upon which relief may be granted against defendant NorVergence under Sections 5 and 13(b) of the FTC Act, 15 U.S.C. §§ 45 and 53(b).

6. NorVergence is a debtor in a liquidation case under Chapter 7 of the Bankruptcy Code pending in this district (Docket 04-32079-RG). Charles Forman is the duly appointed Chapter 7 trustee for NorVergence. The Commission's action against NorVergence, including the enforcement of a judgment obtained in this action other than a money judgment against NorVergence, is not stayed by 11 U.S.C. § 362(a)(1), (2), (3), or (6) because it is an exercise of the Commission's police or regulatory power as a governmental unit pursuant to 11 U.S.C. § 362(b)(4) and, thus, falls within an exemption from the automatic stay.

7. NorVergence's principal business since at least 2002, and continuing until shortly before its bankruptcy filing in July 2004, has been reselling telecommunications services, purchased from common carriers or others,

