

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

In the Matter of)	
)	
Nokia Inc.)	File No. EB-03-TS-015
)	
)	NAL/Acct. No. 200332100005
)	
)	FRN 0006-0770-51

ORDER

Adopted: June 4, 2003

Released: June 5, 2003

By the Chief, Enforcement Bureau:

1. In this *Order*, we adopt the attached Consent Decree entered into between the Enforcement Bureau and Nokia Inc. (“Nokia”). The Consent Decree terminates an investigation initiated by the Enforcement Bureau into Nokia’s compliance with the 911 call processing procedures set forth in Section 22.921 of the Commission’s Rules (“Rules”).

2. The Enforcement Bureau and Nokia have negotiated the terms of a Consent Decree that would resolve this matter and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based on the record before us, we conclude that no substantial or material questions of fact exist as to whether Nokia possesses the basic qualifications, including those related to character, to hold or obtain any FCC license or authorization.

4. After reviewing the terms of the Consent Decree, we believe that the public interest will be served by adopting the Consent Decree and terminating the investigation.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) and (j) of the Communications Act of 1934, as amended,¹ and Sections 0.111 and 0.311 of the Commission’s Rules,² the Consent Decree attached to this *Order* **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the Enforcement Bureau’s investigation of Nokia **IS TERMINATED**.

¹ 47 U.S.C. § 4(i) and (j).

² 47 C.F.R. §§ 0.111, 0.311.

7. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by first class mail and certified mail, return receipt requested, to Richard W. Stimson, Vice President, Legal Services, 6000 Connection Drive, Mail Drop 1:4-735, Irving, Texas 75038, and to Robert L. Pettit, Esq., Wiley Rein & Fielding LLP, 1776 K Street, N.W., Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Nokia Inc. (“Nokia”) hereby enter into a Consent Decree resolving possible violations by Nokia of the 911 call processing method rules as set forth in Section 22.921 of the Commission’s Rules.³

Statement of Facts

1. Under Section 22.921 of the Commission’s Rules, mobile phones manufactured after February 13, 2000, and capable of operating in an analog mode, are required to use one or more of the 911 call system selection processes endorsed or approved by the Commission. On October 27, 1999, Nokia filed a request for approval of an alternative 911 call processing method for its multi-mode phones. On January 28, 2000, the Wireless Telecommunications Bureau approved Nokia’s 911 call processing method.⁴ Under the approved Nokia method, the handset first attempts to complete the 911 call on the “presently acquired system,” the system the handset is currently using for non-emergency calls, whether this system is analog or digital. If the access attempts on that system are not successful, the handset will attempt to complete the 911 call on another network. The Wireless Telecommunications Bureau conditioned its approval of Nokia’s method on the requirement that handsets employing this method attempt to complete the 911 call using an alternative system if the initial access attempts are not successfully completed by the “presently acquired system” within 17 seconds.⁵ Under the Nokia method as approved, the handset will attempt to complete the call using an alternative system, either analog or digital, if the initial access attempts are not successfully completed by the presently acquired system within 17 seconds.

2. On or about December 7, 2002, Nokia discovered that there was a possibility that in certain circumstances one of its phones manufactured using the 911 call processing method approved in the *Nokia Order*, its Model 6385 multi-mode handset, may not always meet the 17 second requirement. In December 2002, Nokia contacted the Wireless Telecommunications Bureau staff to disclose the potential 911 call processing problem. On January 13, 2003, Nokia met with Commission staff to provide details of the situation. Nokia stated that on December 9, 2002, it stopped all shipments of Model 6385 in the United States, quarantined all units in the distribution channel, and notified all distributors and carrier customers of its 911 dialing process concern. Nokia further stated that at that time there were fewer than 15,000 Model 6385 handsets in the hands of end users. Nokia also outlined remedial steps that it had begun implementing, including development of revised software that would ensure that its Model 6385 handsets comply with the 17 second requirement, installing such software in all Model 6385 handsets in the U.S. distribution chain, and providing notification to end users of Model 6385 handsets that such revised software is available at no cost to the user. The Enforcement Bureau subsequently began an investigation into whether Nokia was in compliance with the requirements of Section 22.921 with respect to its Model 6385 handset.

³ 47 C.F.R. § 22.921.

⁴ *911 Call Processing Modes*, WT Docket No. 99-328, 15 FCC Rcd 1911 (Wireless Telecom. Bur., 2000) (“*Nokia Order*”). The Wireless Telecommunications Bureau also granted Nokia’s request for a temporary waiver of the requirements of Section 22.921 for its multi-mode phones until May 28, 2000.

⁵ Hereinafter, “17 second requirement.” The Wireless Telecommunications Bureau also conditioned its approval on the requirement that the handset provide effective feedback to inform the user when 911 call processing is underway and has not finished. This requirement was further clarified in a recent letter to Nokia’s counsel from the Chief of the Commission’s Wireless Telecommunications Bureau. Letter from John B. Muleta, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, to Robert L. Pettit, Counsel for Nokia, Inc. (May 30, 2003) (“*Muleta Letter*”).

Terms of Settlement

3. For purposes of this Consent Decree the following definitions shall apply:
- (a) “Commission” or “FCC” means the Federal Communications Commission;
 - (b) “Bureau” means the FCC’s Enforcement Bureau;
 - (c) “Parties” means Nokia Inc. and the Commission;
 - (d) “Nokia” means Nokia Inc., its subsidiaries, affiliates and any successors or assigns;
 - (e) “Adopting Order” means an order of the FCC adopting this Consent Decree;
 - (f) “Effective Date” means the date on which the FCC releases the Adopting Order;
 - (g) “Final Order” means the status of the Adopting Order after the period for administrative and judicial review has lapsed;
 - (h) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations;
 - (i) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (j) “*Nokia Order*” means the Order granting Nokia’s request for approval of an alternative 911 call processing method, *911 Call Processing Modes*, WT Docket No. 99-328, 15 FCC Rcd 1911 (Wireless Telecom. Bur., 2000).
 - (k) “17 second requirement” means the requirement set forth in the *Nokia Order* that a multi-mode handset employing the 911 call processing method approved in the *Nokia Order* attempt to complete the 911 call using an alternative system, either analog or digital, if the initial access attempts on the presently acquired system are not successfully completed within 17 seconds.⁶

4. 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 an Adopting Order.

5. The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other orders of the Commission and any violation of the terms of this Consent Decree shall constitute a violation of a Commission order.

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

7. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between Nokia and the Bureau regarding compliance of the Model 6385 handset with Section 22.921. In consideration for termination by the Bureau of its investigation into whether Nokia may have violated Section 22.921 for its Model 6385 handsets and in accordance with the terms of this Consent Decree, Nokia agrees to the terms set forth herein.

8. In express reliance on the covenants and representations in this Consent Decree, the Bureau agrees to terminate its investigation without any finding of liability on the part of Nokia.

9. Nokia agrees that for phones capable of operating in analog mode that it sells in the United States, it will comply with the 911 call processing method rule as follows:

- (a) First, Nokia agrees that analog capable, multimode handsets manufactured by

⁶ See *Muleta Letter* at 2.

Nokia for sale in the United States will use one or more of the 911 call system selection processes endorsed or approved by the Commission. To the extent that Nokia handsets employ the 911 call processing method approved in the *Nokia Order*, the handset will comply with the 17 second requirement as set forth in the *Nokia Order*.

- (b) Second, Nokia has developed revised software to help ensure that its Model 6385 handsets comply with the 17 second requirement and will continue to install this or similar software in all Model 6385 handsets in the U.S. distribution chain. In addition, Nokia will continue with its efforts to install this or similar software in Model 6385 handsets that are already in the hands of end users. Specifically, Nokia will continue to provide notification to end users of Model 6385 handsets via mail, SMS messages and/or telephone that a software issue exists with the handsets potentially affecting 911 calls and offer to install upgraded software in the handsets at no cost to the end user. Further, Nokia agrees to ensure that this or similar software is installed in any Model 6385 handsets that are returned to Nokia for repairs unrelated to the 911 call processing issue. Nokia also agrees to provide the Chief, Technical and Public Safety Division, Enforcement Bureau, progress reports on the status of its consumer outreach efforts at six months, twelve months and twenty four months from the effective date of this Consent Decree.
- (c) Third, Nokia will include in its internal handset testing procedure a test specification to ensure that analog capable handsets which employ the 911 call processing method approved in the *Nokia Order* and are manufactured for sale in the U.S. will meet the 17 second requirement.
- (d) Fourth, Nokia further agrees to retrain certain critical organizations in the Company, including those groups responsible for software development for multi-mode handsets being developed for sale in the U.S., on the 17 second requirement and the Commission regulations related to emergency call processing, including assuring alignment of specifications and regulatory requirements at early stages of new product development. This training will be done in accordance with a Compliance Program, the principles of which were previously submitted to the Wireless Telecommunications Bureau.⁷ The Compliance Program is outlined in Appendix A attached hereto and incorporated herein.⁸

10. Nokia agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that Nokia fails to satisfy any condition or Commission rule, in the absence of Commission alteration of the condition or rule, it will be deemed noncompliant and may be subject to possible enforcement action, including but not limited to revocation of the relief, a requirement to deploy an alternative call processing technology, letters of admonishment or forfeitures.

11. Nokia agrees to make a voluntary contribution to the United States Treasury in the amount of Sixty Thousand Dollars (\$60,000) within thirty days after the effective date of the Adopting

⁷ See Letter from Robert L. Pettit, Counsel for Nokia, Inc., to John B. Muleta, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (May 27, 2003) ("*Pettit Letter*").

⁸ The principles contained in the Compliance Program were approved in the *Muleta Letter* at 2.

Order. Nokia will make this contribution without further protest or recourse by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200332100005 and FCC Registration Number 0006-0770-51.

12. The Bureau agrees that it will not institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Nokia for any alleged violation of Section 22.921 in connection with its Model 6385 handset which occurred prior to the effective date of this Consent Decree except as consistent with the provisions of this Consent Decree. The Bureau also agrees that, in the absence of material new evidence related to this matter, it will not use the facts developed in this proceeding through the date of this Consent Decree 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 Nokia with respect to its basic qualifications, including the character qualifications, to be a Commission licensee. Nothing in this Consent Decree shall prevent the Bureau from instituting new investigations or enforcement proceedings against Nokia in the event of any alleged future misconduct for violation of this Consent Decree or for violation of Section 22.921 as consistent with the provisions of this Consent Decree.

13. Nokia 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 Adopting Order adopts the Consent Decree without change, addition or modification.

14. If either Party (or the United States on behalf of the FCC) brings a judicial action to enforce the terms of the Adopting Order, neither Nokia nor the FCC shall contest the continuing validity of the Consent Decree or Adopting Order. Nokia retains the right to challenge the Bureau interpretation of the Consent Decree or any terms contained therein.

15. Nokia agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters discussed in this Consent Decree.

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

17. The Parties agree that this Consent Decree does not constitute a factual or legal finding or determination regarding noncompliance with the requirements of the Act and the Rules, including Section 22.921 of the Rules. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, Nokia does not admit or deny any liability for violating Commission rules in connection with the matters that are the subject of this Consent Decree.

18. The Parties agree that the terms and conditions of this Consent Decree shall remain in effect for twenty four months from the effective date of this Consent Decree. The Parties further agree that any provision of the Consent Decree that would require Nokia to act in violation of a future rule or order adopted by the Commission will be superseded by such Commission rule or order.

19. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau

For Nokia Inc.

David H. Solomon
Chief, Enforcement Bureau

Richard W. Stimson
Vice President Legal Services, Americas

Date

Date

Appendix A: Summary of Model 6385 Compliance Program

Nokia, Inc. is committed to full and complete compliance with the 911 call processing rules and regulations of the Federal Communications Commission. To that end, Nokia will establish a program to help ensure compliance with these rules as outlined below. The program will be conducted by a Compliance Official, who will be appointed within 30 days of the Effective Date.

Within 60 days of the Effective Date, the Compliance Official, in conjunction with personnel from other units of Nokia, outside counsel and other professionals and consultants, as needed, will develop a specific written program for compliance with the *Nokia Order*⁹. The compliance program will address two areas: (1) training; and (2) review and monitoring.

(1) Training. In conjunction with personnel from other units of Nokia, outside counsel and other professionals and consultants, as needed, the Compliance Official will conduct training for appropriate Nokia personnel that are involved in the software and hardware design activities on handsets covered by the *Nokia Order*. The training will incorporate elements of the compliance program, will include written materials as appropriate, and will have two components:

First, in general, the training will review up to date general FCC requirements with regard to 911 call processing protocols and encourage Nokia personnel to take advantage of in-house and outside subject matter experts when compliance questions arise.

Second, the training will include instruction with specific regard to compliance with the *Nokia Order* regarding the manufacture (for distribution in the United States) of handsets that are capable of operating in an analog mode.¹⁰

The training will consist of written materials and oral presentations, as warranted, and will be conducted in the form that, in Nokia's judgment, best conveys the principles of compliance with the *Nokia Order* to the appropriate personnel. Nokia training will also review other 911 calling methodologies approved by the Commission that may be utilized in Nokia handsets. Nokia shall maintain a list of persons trained. The training will be completed within six months of the Effective Date.

(2) Review and Monitoring. The Compliance Official, in conjunction with outside counsel and other employees, professionals and consultants, as appropriate, will review and monitor FCC requirements for 911 call processing matters and will periodically update appropriate Nokia personnel on those requirements as necessary. The Compliance Official will further ensure that training and training materials are updated to reflect changes in FCC requirements, as appropriate.

⁹ *911 Call Processing Modes*, 15 FCC Rcd 1911 (Wireless Telecom. Bur. 2000).

¹⁰ Core principles of this training were presented to the Wireless Telecommunications Bureau in *Pettit Letter* at 2 and approved in *Muleta Letter* at 2.