

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	File No.: EB-10-SE-124
	)	
TelAlaska Cellular, Inc.	)	Acct. No.: 201332100001
	)	
	)	FRN: 0003740768
	)	

ORDER

Adopted: October 12, 2012

Released: October 12, 2012

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and TelAlaska Cellular, Inc. (TelAlaska). The Consent Decree resolves and terminates the Bureau’s investigation into TelAlaska’s compliance with Sections 20.19(c)(3) and 20.19(d)(3) of the Commission’s rules (Rules)<sup>1</sup> concerning the deployment of digital wireless hearing aid-compatible handsets.

2. The Bureau and TelAlaska have negotiated the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether TelAlaska possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Communications Act of 1934, as amended,<sup>2</sup> and Sections 0.111 and 0.311 of the Rules,<sup>3</sup> the Consent Decree attached to this Order **IS ADOPTED**.

<sup>1</sup> 47 C.F.R. § 20.19(c)(3), (d)(3).

<sup>2</sup> 47 U.S.C. §§ 154(i), 503(b).

<sup>3</sup> 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Brenda C. Shepard, Chief Executive Officer, TelAlaska Cellular, Inc., 201 E 56<sup>th</sup> Avenue, Anchorage, AK 99518, and to D. Cary Mitchell, counsel for TelAlaska Cellular, Inc., Blooston, Mordkofsky, Dickens, Duffy & Prendergast, 2120 L Street, NW, Suite 300, Washington, DC 20037.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison  
Chief, Enforcement Bureau

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TelAlaska Cellular, Inc.	)	
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**CONSENT DECREE**

The Enforcement Bureau of the Federal Communications Commission and TelAlaska Cellular, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into possible violations of Sections 20.19(c)(3) and 20.19(d)(3) of the Commission's rules<sup>1</sup> pertaining to the deployment of digital wireless hearing aid-compatible handsets.

**I. DEFINITIONS**

1. For the purposes of this Consent Decree, the following definitions shall apply:
  - (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
  - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (c) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
  - (d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
  - (e) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which TelAlaska is subject by virtue of its business activities, including but not limited to, the Hearing Aid Compatibility Rules.
  - (f) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 10.
  - (g) "Covered Employees" means all employees and agents of TelAlaska who perform, or supervise, oversee, or manage the performance of, duties that relate to TelAlaska's responsibilities under the Hearing Aid Compatibility Rules.

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<sup>1</sup> 47 C.F.R. § 20.19(c)(3), (d)(3).

- (h) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (i) “Hearing Aid Compatibility Rules” means Section 20.19 of the Rules and other Communications Laws governing digital wireless hearing aid compatibility, such as the Rules governing the design, selection, or acquisition of wireless handsets and the marketing or distribution of such handsets to consumers in the United States.
- (j) “Investigation” means the investigation commenced by the Bureau’s September 9, 2010 letter of inquiry<sup>2</sup> regarding TelAlaska’s deployment of digital wireless hearing aid-compatible handsets.
- (k) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by TelAlaska to implement the Compliance Plan.
- (l) “Parties” means TelAlaska and the Bureau, each of which is a “Party.”
- (m) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (n) “TelAlaska” means TelAlaska Cellular, Inc. and its predecessors-in-interest and successors-in-interest.

## II. BACKGROUND

2. In the 2003 *Hearing Aid Compatibility Order*, the Commission adopted several measures to enhance the ability of consumers with hearing loss to access digital wireless telecommunications.<sup>3</sup> The Commission established technical standards for radio frequency interference (the M rating) and inductive coupling (the T rating)<sup>4</sup> that digital wireless handsets

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<sup>2</sup> Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Robert. W. Dunn, Director of Regulatory Affairs, TelAlaska Cellular, Inc. (Sept. 10, 2010) (on file in EB-10-SE-124).

<sup>3</sup> The Commission adopted these requirements for digital wireless telephones under the authority of the Hearing Aid Compatibility Act of 1988, codified at Section 710(b)(2)(C) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 610(b)(2)(C). See *Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones*, Report and Order, 18 FCC Rcd 16753, 16787, para. 89 (2003); Erratum, 18 FCC Rcd 18047 (2003) (*Hearing Aid Compatibility Order*); Order on Reconsideration and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11221 (2005).

<sup>4</sup> As subsequently amended, Section 20.19(b)(1) provides that, for the period beginning June 6, 2008 and ending December 31, 2009, a newly certified wireless handset is deemed hearing aid-compatible for radio frequency interference if, at minimum, it meets the M3 rating associated with the technical standard set forth in either the standard document “American National Standard Methods of Measurement of Compatibility between Wireless Communication Devices and Hearing Aids,” ANSI C63.19-2006 (June 12, 2006) or ANSI C63.19-2007 (June 8, 2007). Beginning January 1, 2010, a newly certified handset must meet at least an M3 rating under ANSI C63.19-2007 to be considered hearing aid-compatible for radio frequency interference. 47 C.F.R. § 20.19(b)(1). Section 20.19(b)(2) provides that, for the period beginning June 6, 2008 and ending December 31, 2009, a newly certified wireless handset is deemed hearing aid-compatible for inductive coupling if, at minimum, it meets the T3 rating associated with the

must meet to be considered compatible with hearing aids operating in acoustic coupling and inductive coupling (telecoil) modes, respectively. For each of these standards, the Commission further established deadlines by which manufacturers and service providers were required to offer specified numbers or percentages of digital wireless handsets per air interface<sup>5</sup> that are compliant with the relevant standard.<sup>6</sup> In February 2008, as part of a comprehensive reconsideration of the effectiveness of the Hearing Aid Compatibility Rules, the Commission released an order that, among other things, adopted new compatible handset deployment benchmarks beginning in 2008.<sup>7</sup>

3. On January 14, 2010, TelAlaska submitted its annual hearing aid compatibility status report for the January 1, 2009 to December 31, 2009 reporting period (2009 Report).<sup>8</sup> On August 12, 2010, the Wireless Telecommunications Bureau referred TelAlaska's apparent hearing aid-compatible handset deployment violations to the Bureau's Spectrum Enforcement Division (Division) for investigation and possible enforcement action. On September 9, 2010, the Division issued a letter of inquiry (LOI) to TelAlaska, which directed the company to submit a sworn written response to a series of questions related to its compliance with the Hearing Aid Compatibility Rules.<sup>9</sup>

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technical standard as set forth in ANSI C63.19-2006 or ANSI C63.19-2007, and beginning January 1, 2010, it is deemed hearing aid-compatible for inductive coupling if it meets at least a T3 rating under ANSI C63.19-2007. 47 C.F.R. § 20.19(b)(2). Grants of certification issued before June 6, 2008, under previous versions of ANSI C63.19 remain valid for hearing aid compatibility purposes. A recently adopted further amendment to Section 20.19(b) of the Rules will permit manufacturers to test handsets for hearing aid compatibility using the 2011 version of the ANSI standard (ANSI C63.19-2011) as an alternative to ANSI C63.19-2007. *See Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, Third Report and Order, 27 FCC Rcd 3732 (WTB/OET 2012).

<sup>5</sup> The term "air interface" refers to the technical protocol that ensures compatibility between mobile radio service equipment, such as handsets, and the service provider's base stations. Currently, the leading air interfaces include Code Division Multiple Access (CDMA), Global System for Mobile Communications (GSM), Integrated Digital Enhanced Network (iDEN), and Wideband Code Division Multiple Access (WCDMA) a/k/a Universal Mobile Telecommunications System (UMTS).

<sup>6</sup> *See Hearing Aid Compatibility Order*, 18 FCC Rcd at 16780, para. 65; 47 C.F.R. § 20.19(c), (d).

<sup>7</sup> *See Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, First Report and Order, 23 FCC Rcd 3406 (2008) (*Hearing Aid Compatibility First Report and Order*), Order on Reconsideration and Erratum, 23 FCC Rcd 7249 (2008). These handset deployment requirements do not apply to service providers and manufacturers that meet the *de minimis* exception. The *de minimis* exception provides that manufacturers or mobile service providers that offer two or fewer digital wireless handset models per air interface are exempt from the hearing aid compatibility requirements, and manufacturers or service providers that offer three digital wireless handset models per air interface must offer at least one compliant model. 47 C.F.R. § 20.19(e). Effective September 10, 2012, the *de minimis* exception will not be available to manufacturers or mobile service providers that do not meet the definition of a "small entity" beginning two years after their initial offerings. *Id.* § 20.19(e)(1)(ii); *see also Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, Policy Statement and Second Report and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 11167, 11180-89, paras. 35-59 (2010).

<sup>8</sup> *See TelAlaska Cellular, Inc.* Hearing Aid Compatibility Report, Docket No. 07-250 (Jan. 14, 2010) available at [http://wireless.fcc.gov/hac\\_documents/100317/TelAlaska%20Cellular,%20\\_213.PDF](http://wireless.fcc.gov/hac_documents/100317/TelAlaska%20Cellular,%20_213.PDF).

<sup>9</sup> *See supra* note 2.

4. TelAlaska responded to the LOI on September 28, 2010.<sup>10</sup> In its LOI Response, TelAlaska states that it commenced offering service in August 2009 and that as of December 2009 the company provided service to a total of 546 subscribers in six remote rural Alaska communities.<sup>11</sup> In addition, TelAlaska reports that it discovered its apparent violation of the hearing aid-compatible handset deployment requirements prior to the filing of its 2009 Report, that it immediately initiated efforts to correct those apparent violations, and that the company became compliant with these requirements prior to the Bureau's initiation of the Investigation.<sup>12</sup> The Bureau and TelAlaska entered into tolling agreements to toll the statute of limitations.<sup>13</sup>

### III. TERMS OF AGREEMENT

5. **Adopting Order.** 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 the Adopting Order.

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

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

8. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, TelAlaska agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against TelAlaska concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, 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 TelAlaska with respect to TelAlaska's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

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<sup>10</sup> See Letter from Marnie Brennan, Vice President Marketing, TelAlaska Cellular, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 28, 2010) (on file in EB-10-SE-124) (LOI Response).

<sup>11</sup> *Id.* at 6.

<sup>12</sup> *Id.* at 2-3.

<sup>13</sup> See, e.g., Tolling Agreement Extension, File No. EB-10-SE-115, executed by and between John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, and Brenda Shepard, Chief Executive Officer, TelAlaska Cellular, Inc. (May 1, 2012).

9. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, TelAlaska shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that TelAlaska complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Hearing Aid Compatibility Rules prior to assuming his/her duties.

10. **Compliance Plan.** For purposes of settling the matters set forth herein, TelAlaska agrees that it shall within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws, including the Hearing Aid Compatibility Rules, and with the terms and conditions of this Consent Decree. The Compliance Plan shall include, without limitation, the following components:

- (a) **Operating Procedures on Hearing Aid Compatibility.** Within sixty (60) calendar days after the Effective Date, TelAlaska shall establish Operating Procedures that all Covered Employees must follow to help ensure TelAlaska's compliance with the Hearing Aid Compatibility Rules. TelAlaska's Operating Procedures shall include internal procedures and policies specifically designed to ensure that TelAlaska offers the requisite number or percentage of hearing aid-compatible digital wireless handset models to consumers as required by the Hearing Aid Compatibility Rules. TelAlaska also shall develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure that the inclusion of a new handset model, or discontinuance of an existing handset model offering, will not result in a violation of the Commission's digital wireless hearing aid-compatible handset deployment requirements. At a minimum, the Compliance Checklist shall require Covered Employees to verify the hearing aid compatibility rating of each existing and proposed handset model offering using the Commission's equipment authorization database.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Hearing Aid Compatibility Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure TelAlaska's compliance with the Hearing Aid Compatibility Rules. TelAlaska shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. TelAlaska shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** TelAlaska shall establish and implement a Compliance Training Program on compliance with the Hearing Aid Compatibility Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of TelAlaska's obligation to report any noncompliance with the Hearing Aid

Compatibility Rules under paragraph 11 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. TelAlaska shall repeat the compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

11. **Reporting Noncompliance.** TelAlaska shall report any noncompliance with the Hearing Aid Compatibility Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that TelAlaska has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that TelAlaska has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W. Washington, D.C. 20554, with a copy submitted electronically to Kevin Pittman at Kevin.Pittman@fcc.gov and to Pamela Hairston at Pamela.Hairston@fcc.gov.

12. **Compliance Reports.** TelAlaska shall file Compliance Reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date.

- (a) Each compliance report shall include a detailed description of TelAlaska's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Hearing Aid Compatibility Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of TelAlaska, stating that the Compliance Officer has personal knowledge that TelAlaska (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 11 hereof.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules<sup>14</sup> and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of TelAlaska, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully (i) each instance of noncompliance; (ii) the steps that TelAlaska has taken or will take to remedy such noncompliance, including

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<sup>14</sup> 47 C.F.R. § 1.16.



the schedule on which proposed remedial actions will be taken; and (iii) the steps that TelAlaska has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.

- (d) All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Kevin Pittman at Kevin.Pittman@fcc.gov and to Pamera Hairston at Pamera.Hairston@fcc.gov.

13. **Termination Date.** The obligations set forth in paragraphs 9 through 12 of this Consent Decree shall expire twenty-four (24) months after the Effective Date.

14. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to Section 208 of the Act against TelAlaska or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by TelAlaska with the Communications Laws.

15. **Voluntary Contribution.** TelAlaska agrees that it will make a voluntary contribution to the United States Treasury in the amount of fifty-five thousand dollars (\$55,000) within thirty (30) calendar days after the Effective Date. TelAlaska shall also send electronic notification of payment to Kevin Pittman at Kevin.Pittman@fcc.gov, Pamera Hairston at Pamera.Hairston@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>15</sup> When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications

<sup>15</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

16. **Waivers.** TelAlaska 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 Bureau issues an Adopting Order as defined herein. TelAlaska shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither TelAlaska nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and TelAlaska shall waive any statutory right to a trial *de novo*. TelAlaska hereby agrees to waive any claims it may have under the Equal Access to Justice Act<sup>16</sup> relating to the matters addressed in this Consent Decree.

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

18. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which TelAlaska does not expressly consent) that provision will be superseded by such Rule or Commission order.

19. **Successors and Assigns.** TelAlaska agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

20. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

21. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

22. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

23. **Authorized Representative.** The individual signing this Consent Decree on behalf of TelAlaska represents and warrants that he or she is authorized by TelAlaska to execute this Consent Decree and to bind TelAlaska to the obligations set forth herein. The FCC signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

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<sup>16</sup> Equal Access to Justice Act, Pub L. No. 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501-1.1530.

24. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

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P. Michele Ellison  
Chief  
Enforcement Bureau

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Date

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Brenda C. Shepard  
Chief Executive Officer  
TelAlaska Cellular, Inc.

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Date