

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

In the Matter of)	
)	
TeleGuam Holdings, LLC,)	File No.: EB-10-SE-118
Successor-in-Interest to Pulse Mobile, LLC)	
)	Acct. No.: 201332100007
and)	
)	FRNs: 0012355764; 0012356218
Pulse Mobile, LLC)	
)	

ORDER

Adopted: June 21, 2013

Released: June 21, 2013

By the Acting 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), Pulse Mobile, LLC (Pulse), and its successor-in-interest, TeleGuam Holdings, LLC (TeleGuam). The Consent Decree resolves and terminates the Bureau's investigation into possible violations of Sections 20.19(c)(3) and 20.19(d)(3) of the Commission's rules (Rules)¹ pertaining to the deployment of digital wireless hearing aid-compatible handsets.

2. The Bureau, Pulse, and TeleGuam 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 Pulse 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), 4(j), and 503(b) of the Communications Act of 1934, as amended,² and Sections 0.111 and 0.311 of the Rules,³ the Consent Decree attached to this Order **IS ADOPTED**.

¹ 47 C.F.R. § 20.19(c)(3), (d)(3).

² 47 U.S.C. §§ 154(i), 154(j), 503(b).

³ 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 Robert Haulbrook, President and Chief Executive Officer, TeleGuam Holdings, LLC, and President and Chief Executive Officer, Pulse Mobile, LLC, 624 North Marine Corps Drive, Tamuning, Guam 96913, and to Eric J. Branfman, Esq., Bingham McCutchen LLP, Counsel for TeleGuam Holdings, LLC and Pulse Mobile, LLC, 2020 K Street, N.W., Washington, DC 20006-1806.

FEDERAL COMMUNICATIONS COMMISSION

Robert H. Ratcliffe
Acting Chief, Enforcement Bureau

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CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission, Pulse Mobile, LLC, and its successor-in-interest, TeleGuam Holdings, LLC,¹ 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 rules² 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 the Companies are subject by virtue of their business activities, including but not limited to, the Hearing Aid Compatibility Rules.

¹ On July 5, 2012, during the course of the Enforcement Bureau's investigation, Pulse Mobile, LLC and TeleGuam Holdings, LLC filed an application on FCC Form 603 (FCC Application for Assignments of Authorization and Transfers of Control) providing notification of the consummation of the *pro forma* assignment of the licenses held by Pulse Mobile, LLC to TeleGuam Holdings, LLC effective June 5, 2012. *See* ULS File No. 0005297441, filed by Pulse Mobile, LLC (Assignor) and TeleGuam Holdings, LLC (Assignee) (filed July 5, 2012).

² 47 C.F.R. § 20.19(c)(3), (d)(3).

- (f) “Companies” means, collectively, Pulse and TeleGuam.
- (g) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 10.
- (h) “Covered Employees” means all employees and agents of the Companies who perform duties, or supervise, oversee, or manage the performance of duties, relating to the Companies’ responsibilities under the Hearing Aid Compatibility Rules.
- (i) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (j) “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 digital wireless handsets and the marketing or distribution of such handsets to consumers in the United States and its territories.
- (k) “Investigation” means the investigation commenced by the Bureau’s September 8, 2010 letter of inquiry³ regarding Pulse’s deployment of digital wireless hearing aid-compatible handsets.
- (l) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by the Companies to implement the Compliance Plan.
- (m) “Parties” means Pulse, TeleGuam, and the Bureau, each of which is a “Party.”
- (n) “Pulse” means Pulse Mobile, LLC and its predecessors-in-interest and successors-in-interest.
- (o) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (p) “TeleGuam” means TeleGuam Holdings, LLC 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.⁴ The Commission established technical standards for radio frequency interference (the M rating) and inductive

³ Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Eric Votaw, Vice President of Regulatory, Pulse Mobile, LLC (Sept. 8, 2010) (on file in EB-10-SE-118).

⁴ 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 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).

coupling (the T rating)⁵ that digital wireless handsets 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 wireless service providers must offer specified numbers or percentages of digital wireless handsets per air interface⁶ that are compliant with the relevant standard.⁷ 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 2008.⁸

3. On January 15, 2010, Pulse submitted its annual hearing aid compatibility status report for the January 1, 2009 to December 31, 2009 reporting period.⁹ Based on that report, on August 13, 2010, the Wireless Telecommunications Bureau referred Pulse's apparent hearing aid-compatible handset deployment violations to the Bureau for investigation and possible enforcement action. On September 8, 2010, the Bureau's Spectrum Enforcement Division (Division) issued a letter of inquiry¹⁰ (LOI) to Pulse, directing the company to submit a sworn written response to a series of questions related to its compliance with the Hearing Aid Compatibility Rules. Pulse responded to the LOI on September 27, 2010.¹¹ In its LOI Response, Pulse acknowledged that it did not have hearing aid compatibility compliance procedures in place in 2009, but stated that it subsequently implemented such compliance

⁵ 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 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) 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).

⁶ 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).

⁷ *See Hearing Aid Compatibility Order*, 18 FCC Rcd at 16780, para. 65; 47 C.F.R. § 20.19(c), (d).

⁸ *See Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, First Report and Order, 23 FCC Rcd 3406 (2008), Order on Reconsideration and Erratum, 23 FCC Rcd 7249 (2008).

⁹ Pulse amended its status report on February 8, 2011. *See Pulse Mobile, LLC Hearing Aid Compatibility Report*, (Feb. 8, 2011) available at http://wireless.fcc.gov/hac_documents/100317/Pulse_0004093136.PDF.

¹⁰ *See supra* note 3.

¹¹ Letter from Eric Votaw, Vice President of Regulatory, Pulse Mobile, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 27, 2010) (on file in EB-10-SE-118) (LOI Response).

procedures in an effort to comply with the hearing aid-compatible handset deployment requirements on a going forward basis.¹²

4. On November 3, 2010, Pulse voluntarily disclosed to the Division that it apparently did not comply with the hearing aid-compatible handset deployment requirements during the January 1, 2010 to December 31, 2010 reporting period. On March 21, 2011, the Bureau issued Pulse a second letter of inquiry,¹³ to which Pulse responded on March 30, 2011.¹⁴ In its Second LOI Response, Pulse indicated that it reported the hearing aid compatibility ratings of certain of the handset models it offered based on its interpretation of ratings information provided by the manufacturer and/or distributor of those handsets.¹⁵ The Bureau and Pulse entered into tolling agreements to toll the statute of limitations,¹⁶ and negotiated the terms of this Consent Decree.¹⁷ On June 5, 2012, pursuant to a corporate restructuring, Pulse and TeleGuam consummated the *pro forma* assignment of the licenses held by Pulse to TeleGuam.¹⁸

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.** The Companies agree that the Bureau has jurisdiction over them 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.

¹² LOI Response at 2.

¹³ Letter from Ricardo M. Durham, Acting Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Eric Votaw, Vice President of Regulatory, Pulse Mobile, LLC (Mar. 21, 2011) (on file in EB-10-SE-118).

¹⁴ Letter from Eric N. Votaw, Vice President of Regulatory, Pulse Mobile, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 30, 2011) (on file in EB-10-SE-118) (Second LOI Response).

¹⁵ *Id.* at 2.

¹⁶ *See e.g.*, Tolling Agreement Extension, File No. EB-10-SE-118, executed by and between John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, and Eric J. Branfman, Counsel for Pulse Mobile, LLC (Apr. 20, 2012) (on file in EB-10-SE-118).

¹⁷ The Bureau analyzed Pulse's possible violations of Sections 20.19(c)(3) and 20.19(d)(3) of the Rules consistent with the new base forfeiture calculation methodology set forth in the Commission's recent T-Mobile decision (*see T-Mobile USA, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 4405 (2012)) and applied the statutory factors set forth in Section 503(b)(2)(E) of the Act. We also took into consideration the fact that the Bureau and Pulse had engaged in lengthy and productive settlement negotiations over the terms of this Consent Decree prior to the release of the T-Mobile decision.

¹⁸ *See supra* note 1.

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, the Companies agree 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 Pulse 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 Pulse with respect to its basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

9. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, the Companies 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 person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Companies comply 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, the Companies agree that they 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 and with the terms and conditions of this Consent Decree. With respect to the Hearing Aid Compatibility Rules, the Companies shall implement the following procedures:

- (a) **Operating Procedures on Hearing Aid Compatibility.** Within sixty (60) calendar days after the Effective Date, the Companies shall establish Operating Procedures that all Covered Employees must follow to help ensure the Companies' compliance with the Hearing Aid Compatibility Rules. The Companies' Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Companies offer the requisite number or percentage of hearing aid-compatible digital wireless handset models to consumers as required by the Hearing Aid Compatibility Rules. The Companies 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 the Companies' compliance with the Hearing Aid Compatibility Rules. The Companies shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth

therein remains current and complete. The Companies shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

- (c) **Compliance Training Program**. The Companies 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 the Companies' 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. The Companies 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**. The Companies 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 the Companies have taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that the Companies have 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, DC 20554, with a copy submitted electronically to Kathy Harvey at Kathy.Harvey@fcc.gov and to Pamela Hairston at Pamela.Hairston@fcc.gov.

12. **Compliance Reports**. The Companies 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 the Companies' 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 the Companies, stating that the Compliance Officer has personal knowledge that the Companies (i) have established and implemented the Compliance Plan; (ii) have utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) are 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 Rules¹⁹ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.

¹⁹ 47 C.F.R. § 1.16.

- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Companies, 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 the Companies have taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that the Companies have 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, Room 3-C366, 445 12th Street, S.W., Washington, DC 20554, with a copy submitted electronically to Kathy Harvey at Kathy.Harvey@fcc.gov and to Pamera Hairston at Pamera.Hairston@fcc.gov.

13. **Termination Date.** Unless stated otherwise, the requirements of 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 the Companies or their 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 the Companies with the Communications Laws.

15. **Voluntary Contribution.** The Companies agree to make a single voluntary contribution to the United States Treasury in the amount of two hundred and eighty thousand dollars (\$280,000) (Voluntary Contribution) within thirty (30) calendar days after the Effective Date. The Companies are jointly and severally liable for the payment of the Voluntary Contribution. The Companies shall also send electronic notification of payment to Kathy Harvey at Kathy.Harvey@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.²⁰ 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

²⁰ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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 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.** The Companies waive any and all rights they 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. The Companies shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither the Companies nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and the Companies shall waive any statutory right to a trial *de novo*. The Companies hereby agree to waive any claims they may have under the Equal Access to Justice Act²¹ 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 the Companies do not expressly consent) that provision will be superseded by such Rule or Commission order.

19. **Successors and Assigns.** The Companies agree that the provisions of this Consent Decree shall be binding on their 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 the 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 TeleGuam represents and warrants that he is authorized by TeleGuam to execute this Consent Decree and

²¹ 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 – 1.530.

to bind TeleGuam to the obligations set forth herein. The individual signing this Consent Decree on behalf of Pulse represents and warrants that he is authorized by Pulse to execute this Consent Decree and to bind Pulse to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

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.

Robert H. Ratcliffe
Acting Chief
Enforcement Bureau

Date

Robert Haulbrook
President and Chief Executive Officer
TeleGuam Holdings, LLC

Date

Robert Haulbrook
President and Chief Executive Officer
Pulse Mobile, LLC

Date