

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

In the Matter of	)	File No.: EB-10-SE-109
	)	
DOCOMO Pacific, Inc.	)	Acct. No.: 201332100008
	)	
	)	FRN: 0004242723
	)	

ORDER

Adopted: April 9, 2013

Released: April 9, 2013

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 DOCOMO Pacific, Inc. (DOCOMO). 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)<sup>1</sup> pertaining to the deployment of digital wireless hearing aid-compatible handset models.

2. The Bureau and DOCOMO 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 DOCOMO 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,<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**.

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

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

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

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

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 James W. Hofman, II, DOCOMO Pacific, Inc., 219 South Marine Corps Drive, Suite 206, Tamuning, GU 96913, and to Todd R. Slamowitz, Esq., Lucas, Nace, Gutierrez & Sachs, LLP, Counsel for DOCOMO Pacific, Inc., 8300 Greensboro Drive, Suite 1200, McLean, VA 22102.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison  
Chief, Enforcement Bureau

Before the  
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Washington, D.C. 20554

In the Matter of	)	File No.: EB-10-SE-109
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DOCOMO Pacific, Inc.	)	Acct. No.: 201332100008
	)	
	)	FRN: 0004242723

**CONSENT DECREE**

The Enforcement Bureau of the Federal Communications Commission and DOCOMO Pacific, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the 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 handset models.

**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 DOCOMO 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 9.
  - (g) “Covered Employees” means all employees and agents of DOCOMO who perform, or supervise, oversee, or manage the performance of, duties that relate to DOCOMO’s responsibilities under the Hearing Aid Compatibility Rules.
  - (h) “DOCOMO” means DOCOMO Pacific, Inc. and its predecessors-in-interest and successors-in-interest.
  - (i) “Effective Date” means the date on which the Bureau releases the Adopting Order.

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

- (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 wireless handsets and the marketing or distribution of such handsets to consumers in the United States.
- (k) “Investigation” means the Investigation commenced by the Bureau’s September 28, 2010, letter of inquiry<sup>2</sup> regarding DOCOMO’s deployment of digital wireless hearing aid-compatible handsets.
- (l) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by DOCOMO to implement the Compliance Plan.
- (m) “Parties” means DOCOMO and the Bureau, each of which is a “Party.”
- (n) “Rules” mean the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

## 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 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

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<sup>2</sup> Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to John Wu, Chief Operations Officer, DOCOMO Pacific, Inc. (Sept. 28, 2010) (on file in EB-10-SE-109).

<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 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 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. *Id.* § 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).

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 adopted new compatible handset deployment benchmarks.<sup>7</sup>

3. On January 15, 2010, DOCOMO submitted its annual hearing aid compatibility status report for the January 1, 2009, to December 31, 2009 reporting period.<sup>8</sup> On August 12, 2010, the Wireless Telecommunications Bureau referred DOCOMO's apparent hearing aid-compatible handset deployment violations to the Bureau for investigation and possible enforcement action. On September 28, 2010, the Bureau's Spectrum Enforcement Division issued a letter of inquiry (LOI) to DOCOMO, directing the company to submit a sworn written response to a series of questions related to its compliance with Sections 20.19(c)(3) and 20.19(d)(3) of the Rules.<sup>9</sup> DOCOMO responded to the LOI on October 29, 2010.<sup>10</sup> In its LOI Response, DOCOMO asserts that it was difficult to verify the hearing aid compatibility ratings of certain of its handset models, and that it obtained handset model ratings "from the resources at its disposal."<sup>11</sup> On December 21, 2012, DOCOMO submitted updated information regarding its handset offerings during the January 1, 2009, to December 31, 2009 reporting period.<sup>12</sup> The Bureau and DOCOMO entered into tolling agreements to toll the statute of limitations.<sup>13</sup>

### III. TERMS OF AGREEMENT

4. **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.

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<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); 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. See 47 C.F.R. § 20.19(e); 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> *DocomoPacific, Inc.*, Hearing Aid Compatibility Report, Docket No. 07-250 (Jan. 15, 2010) at [http://wireless.fcc.gov/hac\\_documents/100317/DOCOMO%20Pacific,%20Inc.\\_145.PDF](http://wireless.fcc.gov/hac_documents/100317/DOCOMO%20Pacific,%20Inc._145.PDF).

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

<sup>10</sup> See Letter from David A. LaFuria, Lukas Nace Gutierrez & Sachs LLP, Counsel to DOCOMO Pacific, Inc., to Jennifer Burton, Spectrum Enforcement Division, FCC Enforcement Bureau (Oct. 29, 2010) (LOI Response) (on file in EB-10-SE-109).

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

<sup>12</sup> See Declaration of James W. Hofman, II, General Counsel, DOCOMO Pacific, Inc. (Dec. 21, 2012) (on file in EB-10-SE-109).

<sup>13</sup> See, e.g., Tolling Agreement Extension, File No. EB-10-SE-109, executed by and between John D. Poutasse, Acting Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, and Jay R. Shedd, Chief Executive Officer, DOCOMO Pacific, Inc. (Feb. 9, 2012) (on file in EB-10-SE-109).

5. **Jurisdiction.** DOCOMO 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.
6. **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.
7. **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, DOCOMO 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 DOCOMO 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 DOCOMO with respect to DOCOMO's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.
8. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, DOCOMO 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 DOCOMO 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.
9. **Compliance Plan.** For purposes of settling the matters set forth herein, DOCOMO 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 and with the terms and conditions of this Consent Decree. With respect to the Hearing Aid Compatibility Rules, DOCOMO shall implement the following procedures:
- (a) **Operating Procedures on Hearing Aid Compatibility.** Within sixty (60) calendar days after the Effective Date, DOCOMO shall establish Operating Procedures that all Covered Employees must follow to help ensure DOCOMO's compliance with the Hearing Aid Compatibility Rules. DOCOMO's Operating Procedures shall include internal procedures and policies specifically designed to ensure that DOCOMO offers the requisite number or percentage of hearing aid-compatible digital wireless handset models to consumers as required by the Hearing Aid Compatibility Rules, and accurately reports its handset offerings in annual hearing aid compatibility status reports. DOCOMO 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 DOCOMO's compliance with the Hearing Aid Compatibility Rules. DOCOMO shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. DOCOMO shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** DOCOMO 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 DOCOMO's obligation to report any noncompliance with the Hearing Aid Compatibility Rules under paragraph 10 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. DOCOMO 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.

10. **Reporting Noncompliance.** DOCOMO 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 DOCOMO 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 DOCOMO 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, DC 20554, with a copy submitted electronically to Jennifer Burton at Jennifer.Burton@fcc.gov and to Pamela Hairston at Pamela.Hairston@fcc.gov.

11. **Compliance Reports.** DOCOMO 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 DOCOMO'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 DOCOMO, stating that the Compliance Officer has personal knowledge that DOCOMO (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 10 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 DOCOMO, 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 DOCOMO has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that DOCOMO 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 Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554, with a copy submitted electronically to Jennifer Burton at Jennifer.Burton@fcc.gov and to Pamera Hairston at Pamera.Hairston@fcc.gov.

12. **Termination Date.** Unless stated otherwise, the requirements of paragraphs 8 through 11 of this Consent Decree shall expire twenty-four (24) months after the Effective Date.

13. **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 DOCOMO 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 DOCOMO with the Communications Laws.

14. **Voluntary Contribution.** DOCOMO agrees that it will make a voluntary contribution to the United States Treasury in the amount of sixty five thousand dollars (\$65,000) within thirty (30) calendar days after the Effective Date. DOCOMO shall also send electronic notification of payment to Jennifer Burton at Jennifer.Burton@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:

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<sup>14</sup> 47 C.F.R. § 1.16.

<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>.



- 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 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.

15. **Waivers.** DOCOMO 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. DOCOMO 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 DOCOMO nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and DOCOMO shall waive any statutory right to a trial *de novo*. DOCOMO 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.

16. **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.

17. **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 DOCOMO does not expressly consent) that provision will be superseded by such Rule or Commission order.

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

19. **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.

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

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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.

21. **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.

22. **Authorized Representative.** The individual signing this Consent Decree on behalf of DOCOMO represents and warrants that he is authorized by DOCOMO to execute this Consent Decree and to bind DOCOMO 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.

23. **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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James W. Hofman, II  
General Counsel  
DOCOMO Pacific, Inc.

\_\_\_\_\_  
Date