

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

In the Matter of

DOCOMO Pacific, Inc.

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File No.: EB-IHD-21-00032716
NAL/Acct. No.: 202332080030
FRN: 0004242723

ORDER

Adopted: June 27, 2023

Released: June 27, 2023

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau of the Federal Communications Commission (Commission) has entered into a Consent Decree to resolve its investigation into whether DOCOMO Pacific, Inc. (DPAC or Company) exceeded its previously approved foreign ownership limits. To settle this matter, DPAC admits that it exceeded its previously approved foreign ownership limits, will implement a compliance plan, and will pay a fifty thousand dollar (\$50,000) civil penalty.

2. 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 referenced investigation regarding DPAC’s compliance with the Commission’s foreign ownership limits in section 310(b)(4) of the Communications Act of 1934, as amended (Act)¹ and section 1.5004(f) of the Commission’s rules.²

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of DPAC’s basic qualifications to hold or obtain any Commission license or authorization.³

4. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act, 47 U.S.C. § 154(i), and the authority delegated by sections 0.111 and 0.311 of the Commission’s rules, 47 CFR §§ 0.111, 0.311, the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

¹ 47 U.S.C. § 310(b)(4).

² 47 CFR § 1.5004(f).

³ See 47 CFR § 1.93(b).

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by email to: Stephen Miller, Esq. (SMiller@hwglaw.com), Colleen Sechrest Esq. (CSechrest@hwglaw.com), and Paul Margie, Esq. (PMargie@hwglaw.com), Harris Wilshire and Grannis, LLP, 1919 M Street NW, Washington, DC 20036-3537.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

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DOCOMO Pacific, Inc.) File No.: EB-IHD-21-00032716
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CONSENT DECREE

1. The Federal Communications Commission (Commission) and DOCOMO Pacific, Inc. (DPAC or Company),¹ by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s (Bureau) investigation, as defined below into whether DPAC apparently violated section 310(b)(4) of the Communications Act of 1934, as amended (Act),² and section 1.5004(f) of the Commission’s rules (Rules).³ To resolve this matter, DPAC admits that it violated the provisions of the Act and the Commission’s Rules as described herein, agrees to implement a Compliance Plan, and pay a fifty thousand dollar (\$50,000) civil penalty.

I. DEFINITIONS

- 2. For the purposes of this Consent Decree, the following definitions shall apply:
(a) “Act” means the Communications Act of 1934, as amended.⁴
(b) “Adopting Order” means an order of the Commission 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 Company is subject by virtue of its business activities, including but not limited to section 310 of the Act and section 1.5004 of the Commission’s Rules.
(f) “Company” or “DPAC” means DOCOMO Pacific, Inc., and includes its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

¹ Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

² 47 U.S.C. § 310(b)(4).

³ 47 CFR § 1.5004(f).

⁴ 47 U.S.C. § 151 et seq.

- (g) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 14.
- (h) “Covered Employees” means all employees and agents of the Company who perform, supervise, oversee, or manage the performance of duties that relate to the Company’s responsibilities under the Communications Laws, including section 310(b) of the Act and section 1.5004 of the Commission’s Rules.
- (i) “Effective Date” means the date by both the Commission and the Company have signed the Consent Decree and the Commission has adopted it.
- (j) “Investigation” means the investigation commenced by the Bureau in EB-IHD-21-00032716.
- (k) “LOI” means the Letter of Inquiry issued by the Bureau to DPAC on September 28, 2021, in EB-IHD-21-00032716 in connection with the Company’s compliance with the Act and the Commission’s Rules.
- (l) “LOI Response” means the response to the letter of inquiry transmitted by Paul Margie, Colleen Sechrest and Helen Marie S. Berg, of HWG LLP, counsel for DPAC, to Jeffrey Gee, Chief, Investigations and Hearings Division, Enforcement Bureau dated October 29, 2021 (on file in EB-IHD-21-00032716).
- (m) “Operating Procedures” means the internal operating procedures and compliance policies established by the Company to implement the Compliance Plan.
- (n) “Parties” means the Company and the FCC, each of which is a “Party.”
- (o) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (p) “Section 310 Rules” means sections 310 of the Act and other provisions of the Act, the Rules, and Commission orders related to, *inter alia*, obtaining prior approval before making specified foreign ownership changes.

II. BACKGROUND

3. *Legal Background.* Section 310(b)(4) of the Act establishes a 25 percent limit on ownership by foreign individuals, corporations, and governments in U.S.-organized entities that directly or indirectly control, *inter alia*, common carrier radio station licensees.⁵ Pursuant to section 310(b)(4), the Commission may permit higher levels of foreign equity or voting interest in a Commission licensee if it determines that such higher levels are consistent with the public interest, which includes assessing, with the assistance and expertise of the Executive Branch, whether approval of the increase is consistent with U.S. national security, law enforcement, foreign policy, and trade policy concerns.⁶ The Commission has adopted rules governing the procedures and setting the conditions for obtaining the Commission’s prior approval of transactions involving entities seeking to hold equity or voting interests exceeding the 25 percent limits.⁷ Commission approval must be obtained before direct or indirect aggregate foreign

⁵ 47 U.S.C. § 310(b)(4)

⁶ The Commission considers national security, law enforcement, foreign policy and trade policy concerns in its public interest review of an application and will seek input from the Executive Branch on these issues. *Foreign Participation Order* at 23918-21, paras. 61-66. *See also Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Report and Order, 35 FCC Rcd 10927 (2020) (*Executive Branch Review Order*).

⁷ 47 CFR §§ 1.5000-1.5004. *See Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licenses Under Section 310(b)(4) of the Communications Act of 1934 as Amended*, Second Report and Order, 28 FCC Rcd 5741 (2013) (*2013 Foreign Ownership Order*) (adopting rules for foreign ownership rulings for

(continued....)

ownership of a U.S.-organized entity that controls a common carrier radio station license exceeds 25 percent of the U.S. entity's equity interests and/or 25 percent of its voting interests. Further, even after a U.S.-organized entity controlling a licensee is granted a foreign ownership ruling to exceed the statutory limits in section 310(b)(4), prior Commission approval has been required since adoption of the *2013 Foreign Ownership Order* before any foreign individual or entity not previously approved by the Commission acquires, directly or indirectly, more than five percent of direct or indirect equity or voting interest in the entity.⁸

4. *Factual Background.* DPAC (formerly known as Guam Cellular and Paging, Inc.) is a Guam corporation which is wholly owned by DOCOMO Guam Holdings, Inc., also a Guam corporation.⁹ DOCOMO Guam Holdings, Inc. is, in turn, wholly owned by NTT DOCOMO, Inc. (NTT DOCOMO), a Japanese corporation.¹⁰ NTT DOCOMO is wholly owned by Nippon Telegraph and Telephone Corporation (NTT) which is also a Japanese Corporation. The Japanese government, through the Japanese Ministry of Finance (JMOF), holds a minority percentage of the voting and equity interests in NTT and is NTT's largest shareholder.¹¹

5. DPAC holds both a domestic and an international section 214 authorization, 84 wireless licenses, three submarine cable licenses, and an earth station satellite license.¹² In 2015, the FCC approved DPAC's application for its ownership structure to have 100 percent foreign ownership consisting of NTT (up to and including 65.15 percent of the equity and voting interests) and JMOF (up to and including 26.95 percent of the equity interests and 41.53 percent of the voting interests).¹³

6. On September 30, 2020, NTT commenced a tender offer for outstanding NTT DOCOMO shares. On November 24, 2020, NTT acquired the tendered shares, which increased its indirect ownership interests in DPAC to 91.46 percent.¹⁴ NTT acquired all shares of NTT DOCOMO's common stock held by the remaining minority shareholders as of December 29, 2020, and, as a result of this transaction, currently owns 100 percent of the equity and voting interests of DPAC. Additionally, as a result of these transactions, JMOF, indirectly held 33.93 percent equity and voting interests in DPAC resulting in a slightly higher equity interest and lower voting interest than previously approved in the 2015 Ruling.

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common carrier and aeronautical licensees); *see also* *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Report and Order, 31 FCC Rcd 11271 (2016) (*2016 Foreign Ownership Order*) (extending the foreign ownership Rules to broadcast licensees and moving the Rules to 47 CFR §§ 1.5000-1.5004). Before the adoption of Rules in the *2013 Foreign Ownership Order*, foreign ownership declaratory rulings were issued on a case-by-case basis with language and conditions specific to the particular petition.

⁸ *2013 Foreign Ownership Order*, 28 FCC Rcd at 5786-87, para. 83; *see also* 47 CFR §1.5004(a)(1) ([T]he 100 percent aggregate allowance "is subject to the requirement that the licensee seek and obtain Commission approval before any foreign individual, entity, or 'group' not previously approved acquires, directly and/or indirectly, more than 5 percent of the U.S. parent's outstanding capital stock (equity) and/or voting stock, or a controlling interest[.]").

⁹ LOI Response at 1.

¹⁰ *Id.* at 1.

¹¹ *Id.* at 3-6.

¹² *Id.* at 8-11.

¹³ International Authorizations Granted, Rep. No. TEL-01744, Public Notice, DA 15-148, 30 FCC Rcd 7403, 7404 (2015).

¹⁴ *Id.* at 5; IBFS File No.: ISP-PDR-20210128-00002 at 4, <http://licensing.fcc.gov/myibfs/> (2021 PDR).

7. In January of 2021, DPAC took corrective action by filing a petition for declaratory ruling to allow NTT and JMOF to exceed their previously approved foreign ownership limits as a result of the aforementioned tender offer, and the then-International Bureau granted the petition on December 9, 2021.¹⁵ DPAC does not dispute that the acquisition of shares of its parent company pursuant to the November/December 2020 tender offer, without prior Commission approval, violated our foreign ownership requirements.

III. TERMS OF AGREEMENT

8. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Commission in an Adopting Order.

9. **Jurisdiction.** The Company agrees that the Commission has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

10. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

11. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Commission agrees to terminate the Investigation. In consideration for the termination of the Investigation, the Company agrees to the terms, conditions, and procedures contained herein. The Commission further 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 new proceeding, formal or informal, or take any action on its own motion against the Company concerning the matters that were the subject of the Investigation or to set for hearing the question of the Company's basic qualifications to be Commission licensees or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.¹⁶

12. **Admission of Liability.** The Company admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 11 herein, that the actions described above in paragraphs 4 through 7 violated section 310(b)(4) of the Act and associated Rules.

13. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, the Company shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a 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 Company 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 or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the foreign ownership provisions of section 310 of the Act, and section 1.5004 of the Rules prior to assuming his/her duties.

¹⁵ International Authorizations Granted, Rep. No. TEL-02150, Public Notice, DA 21-1531 (Dec. 9, 2021) (reciting current ownership and approving NTT to hold up to 100% indirect voting and equity interest and the Japanese Ministry of Finance to hold up to 49.99% indirect voting and equity interest in DPAC). As of April 11, 2023, the FCC underwent an internal reorganization splitting the former International Bureau to establish the Office of International Affairs and the Space Bureau. See Press Release, Federal Commc'ns Comm'n, FCC Space Bureau and Office of International Affairs to Launch Next Week (Apr. 7, 2023), <https://docs.fcc.gov/public/attachments/DOC-392418A1.pdf>.

¹⁶ See 47 CFR § 1.93(b).

14. **Compliance Plan.** For purposes of settling the matters set forth herein, the Company agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and submit to the Bureau a Compliance Plan designed to ensure future compliance with the foreign ownership rules and requirements in section 310 of the Act, and section 1.5004 of the Rules and with the terms and conditions of this Consent Decree. Any revision to the Compliance Plan shall be submitted to the Bureau within thirty (30) days of the effective date of such revision. The Compliance Plan and any revisions thereto, including any revisions to the Operating Procedures and Compliance Manual, shall be subject to the Bureau's objection. Any Bureau objection will be provided within thirty (30) calendar days from the date of submission to the Bureau. The Bureau's failure to object to the Compliance Plan or any revisions shall not be deemed to be an endorsement or approval of the Compliance Plan and does not waive the Bureau's authority to investigate and take enforcement action against any future apparent violation of the Act or the Commission's Rules.

- (a) **Compliance Processes.** Within thirty (30) days after the Effective Date, the Company shall develop appropriate measures to monitor all changes in ownership of the Company.
- (b) **Operating Procedures.** Within thirty (30) calendar days after the Effective Date, the Company shall establish Operating Procedures that all Covered Employees must follow to help ensure the Company's compliance with the foreign ownership provisions in section 310 of the Act and sections 1.5004 of the Rules. The Company's Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Company complies with the foreign ownership provisions of section 310 of the Act and section 1.5004 of the Rules. The Company shall also develop a Compliance Checklist that describes the steps a Covered Employee must follow to ensure compliance with the foreign ownership provisions of section 310 of the Act and section 1.5004 of the Rules. With regard to any mergers and acquisitions, and/or disposition of any assets or entities involving FCC authorizations or licenses, DPAC will include in its standard due diligence checklist a review for FCC authorizations and licenses, filing of necessary FCC applications, consultation with outside counsel at least thirty (30) days prior to closing any such transaction, and confirmation that it has received FCC consent for the transfer or assignment of FCC authorizations or licenses prior to closing the transaction.
- (c) **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 Commission's foreign ownership Rules and requirements and set forth the Operating Procedures that Covered Employees shall follow to help ensure the Company's regulatory compliance. The Company shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. The Company shall distribute any final revisions to the Compliance Manual promptly to all Covered Employees.
- (d) **Compliance Training Program.** The Company shall establish and implement a Compliance Training Program on compliance with the foreign ownership provisions of section 310 of the Act and sections 1.5004 of the Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of the Company's obligation to report any regulatory noncompliance as required by paragraph 15 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 ninety (90) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained

within thirty (30) calendar days after the date such person becomes a Covered Employee. The Company shall repeat 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.

15. **Reporting Noncompliance.** The Company shall report any noncompliance with the foreign ownership provisions in section 310 of the Act and section 1.5004 of the 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 Company 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 the Company has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted by U.S. mail and electronically to Kalun Lee, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20554, with copies submitted electronically to EnforcementBureauHD@fcc.gov, Kalun.Lee@fcc.gov, and William.Knowles-Kellett@fcc.gov

16. **Compliance Reports.** The Company shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, thirty-six (36) months after the Effective Date, and forty-eight (48) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of the Company's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the foreign ownership provisions of section 310 of the Act and section 1.5004 of the Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that the Company: (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 15 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.¹⁷
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Company, 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 Company 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 the Company 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 by U.S. mail and electronically to Kalun Lee, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20554,

¹⁷ 47 CFR § 1.16.

with a copy submitted electronically to EnforcementBureauIHD@fcc.gov; Kalun.Lee@fcc.gov, and William.Knowles-Kellett@fcc.gov.

17. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 13-16 of this Consent Decree shall expire forty-eight (48) months after the Effective Date.

18. **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 Act¹⁸ against the Company 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 complaint 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 Company with the Communications Laws.

- **Civil Penalty.** The Company will pay a civil penalty to the United States Treasury in the amount of \$50,000 within thirty (30) days of the Effective Date. DPAC acknowledges and agrees that upon execution of this Consent Decree, the civil penalty payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).¹⁹ Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. DPAC shall send electronic notification of payment to EnforcementBureauIHD@fcc.gov, Kalun.Lee@fcc.gov, and William.Knowles-Kellett@fcc.gov on the date said payment is made. Payment of the civil penalty must be made by credit card using the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts civil penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected: Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159²⁰ or printed CORES form²¹ must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).²² For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would

¹⁸ 47 U.S.C. § 208.

¹⁹ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

²⁰ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

²¹ Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

²² Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.

- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

19. **Event of Default.** DPAC agrees that an Event of Default shall occur upon the failure by DPAC to pay the full amount of the civil penalty on or before the due date specified in this Consent Decree.

20. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the civil penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the civil penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys’ fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by DPAC.

21. **Waivers.** As of the Effective Date, DPAC 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. DPAC 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 Consent Decree or the Adopting Order, neither DPAC nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and DPAC shall waive any statutory right to a trial *de novo*. DPAC hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act²³ relating to the matters addressed in this Consent Decree.

22. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

23. **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.

24. **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 DPAC does not expressly consent) that provision will be superseded by such Rule or order.

²³ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

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

26. **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 regarding any compliance or noncompliance with the requirements of the Communications Laws. This Consent Decree shall not be used as evidence or precedent in any action or proceeding, except an action to enforce this Consent Decree.

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

28. **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.

29. **Authorized Representative.** Each Party represents and warrants to the others that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

30. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Loyaan A. Egal
Chief
Enforcement Bureau

Date

James Hofman
Chief Legal Officer
DOCOMO Pacific, Inc.

Date