

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

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In the Matter of)	File No.: EB-IHD-16-00023247
)	Acct. No.: 201832080003
T-Mobile USA, Inc.)	FRN: 0004121760
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ORDER

Adopted: April 16, 2018

Released: April 16, 2018

By the Acting Deputy Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission has entered into a Consent Decree to resolve its investigation into whether T-Mobile USA, Inc. (T-Mobile) conveyed false ring tones on its customers' telephone calls, and whether it corrected problems with delivery of calls to consumers in rural areas.

2. Section 64.2201 of the Commission's rules¹ prohibit service providers from injecting false ring tones on any telephone calls. False ring tones cause callers to believe that the phone is ringing at the called party's premises when it is not. A caller may then hang up, thinking no one is available to receive the call. False ring tones also create a misleading impression that a caller's service provider is not responsible if the call fails. False ring tones are a problem on calls to rural areas and are a symptom of the problems of impaired quality and completion of calls to rural areas.

3. Rural call completion problems have significant and immediate public interest ramifications. They cause rural businesses to lose revenue, impede medical professionals from reaching patients in rural areas, cut families off from their relatives, and create the potential for dangerous delays in public safety communications.

4. To settle this matter, T-Mobile admits that it violated the Commission's prohibition against the insertion of false ring tones and that it did not correct problems with delivery of calls to certain rural areas. T-Mobile agrees to implement a compliance plan and to pay a \$40,000,000 civil penalty.

5. 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 into T-Mobile's compliance with Section 64.2201, and its compliance with Section 201(b) of the Communications Act of 1934, as amended (Act),² in connection with delivery of its calls to consumers in rural areas.

¹ 47 CFR § 64.2201.

² 47 U.S.C. § 201(b); see *Developing an Unified Intercarrier Compensation Regime, Declaratory Ruling*, 27 FCC Rcd 1351 (Wireline Comp. Bur. 2012).

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

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act and the authority delegated by Section 0.111 and 0.311 of the Commission's rules,⁴ the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

8. **IT IS FURTHER ORDERED** that the above-caption matter **IS TERMINATED**.

9. **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 David H. Solomon, Esq. and Russell P. Hanser, Esq. Attorneys for T-Mobile USA, Inc., Wilkinson Barker Knauer LLP, 1800 M Street, NW, Suite 800N, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Christopher L. Killion
Acting Deputy Chief
Enforcement Bureau

³ See 47 CFR § 1.93(b).

⁴ 47 CFR §§ 0.111, 0.311.

- (i) “Investigation” means the informal complaints referenced in paragraphs 7 and 9 below and the investigation commenced by the Bureau under File No. EB-IHD-16-00023247 regarding whether T-Mobile violated Sections 201(b) and 202(a) of the Act and Section 64.2201 of the Rules
- (j) “Intermediate Provider” has the meaning provided in the Rural Call Completion Rules.⁴
- (k) “OCN” means an Operating Company Number that is an alphanumeric code that uniquely identifies providers of local telecommunications service.⁵
- (l) “Operating Procedures” means the standard internal operating procedures and compliance policies established by T-Mobile to implement the Compliance Plan as described in this Consent Decree at paragraph 19.
- (m) “Parties” means T-Mobile and the Bureau, each of which is a “Party.”
- (n) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (o) “*Rural Call Completion Declaratory Ruling*” means the declaratory ruling captioned as *Developing an Unified Intercarrier Compensation Regime, et al.*, Declaratory Ruling, 27 FCC Rcd 1351 (WCB 2012). “*Rural Call Completion Enforcement Advisory*” or “*Advisory*” means the advisory captioned as *FCC Enforcement Advisory: Rural Call Completion, Long Distance Providers Must Take Consumer Complaints about Rural Call Completion Problems Seriously*, Public Notice, 28 FCC Rcd 10347 (EB 2013). “*Rural Call Completion Order*” means the order captioned as *Rural Call Completion, Report and Order and Further Notice of Proposed Rulemaking*, 28 FCC Rcd 16154 (2013), *modified in part on recon.*, 29 FCC Rcd 14026 (2014).
- (p) “Rural Call Completion Rules” means Sections 201(b) and 202(a) of the Act as interpreted in the *Rural Call Completion Declaratory Ruling*, Section 262 of the Act once the Commission’s implementing rules become effective, the Rules adopted in the *Rural Call Completion Order*, 47 CFR Sections 64.2101, 64.2103, 64.2105, 64.2107, 64.2109 and 64.2201, and other provisions of the Act, the Rules, and Commission orders related to Rural Call Completion, including those addressed in the *Rural Call Completion Enforcement Advisory*, and as may be modified by the Commission from time to time.
- (q) “T-Mobile” or “Company” means (i) T-Mobile USA, Inc., (ii) to the extent they use the T-Mobile USA, Inc, network, its United States subsidiaries and other United States entities controlled by T-Mobile USA, Inc., and (iii) its predecessors-in-interest and successors-in-interest.

II. BACKGROUND

3. In 2012, the Commission’s Wireline Competition Bureau (WCB) issued a declaratory ruling that addressed a “pattern of call completion and service quality problems on long distance calls to certain rural areas.”⁶ The *Rural Call Completion Declaratory Ruling* observed that these “problems

⁴ 47 CFR § 64.2101.

⁵ See Alliance for Telecommunications Industry Solutions, *ATIS Telecom Glossary*, <http://www.atis.org/glossary/definition.aspx?id=8448> (last visited Apr. 9, 2018).

⁶ See *Rural Call Completion Declaratory Ruling*, 27 FCC Rcd at 1351, para. 1.

appear to be occurring particularly in rural areas served by rate-of-return carriers where the costs that long distance providers incur to complete calls are generally higher than in non-rural areas.”⁷ WCB explained that the symptoms of rural call completion problems include calls that do not complete when dialed, calls with “poor call quality, as well as ... calls that ring for a prolonged period for the caller but that do not ring, or ring on extremely delayed basis, on the receiving end.”⁸ The *Rural Call Completion Declaratory Ruling* concluded that “a carrier that knows or should know that calls are not being completed to certain areas, and that engages in acts (or omissions) that allow or effectively allow these conditions to persist, may be liable for a violation of section 201 of the Act.”⁹ Moreover, “it is an unjust and unreasonable practice in violation of section 201 of the Act for a carrier that knows or should know that it is providing degraded service to certain areas to fail to correct the problem or to fail to ensure that intermediate providers, least-cost routers, or other entities acting for or employed by the carrier are performing adequately. This is particularly the case when the problems are brought to the carrier’s attention by customers, rate-of-return carriers serving rural areas, or others, and the carrier nevertheless fails to take corrective action that is within its power.”¹⁰

4. In 2013, the Enforcement Bureau issued an advisory to providers warning them to take informal consumer complaints about rural call completion problems served on them by the Commission seriously.¹¹ The *Rural Call Completion Enforcement Advisory* directed that, with respect to such complaints, “providers must address consumer complaints about rural call completion or explain why they are unable or refuse to do so.”¹²

5. In February 2013, the Commission issued a notice of proposed rulemaking concerning rural call completion problems, and specifically proposed adopting a rule that, in accordance with “long-established telephony signaling practice (and end-user expectation),” would prohibit sending an audible ring tone “to the calling party until the terminating provider has signaled that the called party is being alerted to an incoming call, such as by ringing.”¹³ In November 2013, the Commission released the *Rural Call Completion Order*, which codified a prohibition of false audible ringing,¹⁴ commonly referred to as “false ring tone.”¹⁵ This rule became effective in January 2014.¹⁶ Originating providers like T-Mobile,

⁷ *Id.* at 1354, para. 7.

⁸ *Id.* at 1351-52, para. 2.

⁹ *Id.* at 1355, para. 11. Section 201(b) of the Act provides that “[a]ll charges, practices, classifications, and regulations for and in connection with [interstate and foreign] communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful.” 47 U.S.C. § 201(b).

¹⁰ *Rural Call Completion Declaratory Ruling*, 27 FCC Rcd at 1355–56, para. 12 (footnote omitted). The *Declaratory Ruling* noted that injecting false ring tones on calls could constitute an unreasonable practice. *See id.* at 1355, para. 12 & n.35.

¹¹ *FCC Enforcement Advisory: Rural Call Completion, Long Distance Providers Must Take Consumer Complaints about Rural Call Completion Problems Seriously*, Public Notice, 28 FCC Rcd 10347 (EB 2013) (*Rural Call Completion Enforcement Advisory*).

¹² *Id.* at 10348.

¹³ *See Rural Call Completion*, Notice of Proposed Rulemaking, 28 FCC Rcd 1569, 1582, paras. 40-41, 1588-89 (proposed rule 64.2201) (2013) (*2013 Rural Call Completion NPRM*).

¹⁴ *See Rural Call Completion*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 16154, 16200, para. 112 & 16202, para. 115 (2013) (*Rural Call Completion Order*); 47 CFR § 64.2201; *2013 Rural Call Completion NPRM*, 28 FCC Rcd at 1588-89.

¹⁵ *Rural Call Completion*, Second Further Notice of Proposed Rulemaking, 32 FCC Rcd 6047, 6048 para. 2 (2017).

¹⁶ *See Federal Communications Commission, Rural Call Completion, Notice of Final Rule*, 78 Fed. Reg. 76218

are prohibited from “convey[ing] a ringing indication to the calling party until the terminating provider has signaled that the called party is being alerted to an incoming call, such as by ringing.”¹⁷ As explained in the *Rural Call Completion Order*, “false audible ringing”:¹⁸

[O]ccurs when an originating or intermediate provider prematurely triggers audible ring tones to the caller before the call setup request has actually reached the terminating rural provider. That is, the calling party believes the phone is ringing at the called party’s premises when it is not. An originating or intermediate provider may do this to mask the silence that the caller would otherwise hear during excessive call setup time. As a result, the caller may often hang up, thinking nobody is available to receive the call. False audible ringing can also make it appear to the caller that the terminating rural provider is responsible for the call failure, instead of the originating or intermediate provider.¹⁹

6. As relevant here, T-Mobile is a wireless telecommunications carrier and a “covered provider” under the Commission’s rural call completion rules.²⁰

7. Beginning in June and continuing through the summer of 2016, the Commission received complaints from three rural incumbent LECs in Wisconsin. These complaints, which were filed in the Commission’s rural call completion e-mail box, alleged over 40 incidents in which T-Mobile customers were unable to complete calls to consumers served by these three rural providers. Many of the complaints reported that the calling party heard ring tones on call attempts that failed to reach the rural customers. The Enforcement Bureau (Bureau) served these complaints on T-Mobile and requested that the Company contact the complainants, investigate and resolve the problems, and submit reports of its investigations to the Bureau. In two instances, the Bureau pointed out to T-Mobile that the Commission’s rules prohibit sending ring tones to the calling party before the called party is alerted to an incoming call.

8. T-Mobile subsequently filed with the Bureau reports of its investigations of the complaints. In each instance, T-Mobile reported that it had handed the call off to an intermediate provider for delivery, and that any reported problems had been “resolved.” T-Mobile stated that it believed that the actions taken by intermediate providers in response to each complaint had remedied all problems and did not specifically address the ring tone issue raised in some of the complaints.

9. In addition to the rural carrier complaints filed in the rural call completion e-mail box, in August 2016, three T-Mobile customers filed informal complaints against the Company with the Commission’s Consumer and Governmental Affairs Bureau (CGB). CGB served these informal complaints on T-Mobile pursuant to Section 208 of the Act and Section 1.717 of the Commission’s Rules. All three complaints described ongoing problems reaching landline phones in a particular exchange. Records subsequently obtained from T-Mobile show that, in addition to filing complaints, together, these consumers called T-Mobile at least 13 times between June 5 and August 18. T-Mobile subsequently replicated call failures through test calls.

(Dec. 17, 2013) (announcing January 31, 2014 effective date for 47 CFR § 64.2201).

¹⁷ 47 CFR § 64.2201.

¹⁸ See *2013 Rural Call Completion NPRM*, 28 FCC Rcd at 1581, para. 39 (“A major complaint by rural representatives regarding call termination problems is ‘false audible ringing,’ in which the long-distance caller hears prolonged ringing—and so finally hangs up—before the rural phone he called has rung at all.”).

¹⁹ *Rural Call Completion Order*, 28 FCC Rcd at 16200, para. 111 (footnotes omitted).

²⁰ See 47 CFR §§ 64.2101, 64.2201(a)(2) (rule provisions apply to providers of commercial mobile radio service as defined in § 20.3).

10. On December 27, 2016, the Bureau issued a Letter of Inquiry (LOI) to the Company.²¹ The purpose of the LOI was to investigate whether T-Mobile violated the Commission's Rules governing rural call completion, including whether the Company may have provided degraded telephone service on calls placed to rural areas and conveyed false ring tones to its customers.²² The Bureau issued a Supplemental LOI on April 3, 2017, to clarify responses provided by the Company.²³

11. With respect to ring tones, T-Mobile reported that in 2007 it began using servers that included a "Local Ring Back Tone" (LRBT) for calls from certain customers that took more than a certain amount of time to complete.²⁴ The Company further reported that in 2013, as it migrated to different servers, it began using the LRBT only for the out-of-network calls from its customers that were routed via Session Initiation Protocol (SIP) trunks and that took more than a certain amount of time to complete, and that it continued its practice of using the LRBT on such calls (and expanded the LRBT to cover such calls on additional SIP routes) after the FCC rule prohibiting the practice went into effect in January 2014.²⁵ Because T-Mobile applied this practice to out-of-network calls from its customers on SIP routes that took more than a certain amount of time on a nationwide basis and without regard to time of day, the LRBT was likely injected into hundreds of millions of calls each year.²⁶

12. In response to an LOI inquiry requesting details of any complaints received in 2016 regarding problems with T-Mobile customer calls completing to rural areas that the Company had received from sources independent of the Commission, T-Mobile submitted a list of complaints that had been made directly to it by its customers and rural carriers related to problems with calls placed on behalf of its customers completing to rural areas, some which involved concerns addressed by the Rural Call Completion Rules.²⁷ T-Mobile later supplemented this list.²⁸ The Enforcement Bureau sorted these complaints by the individual rural incumbent LEC Operating Company Numbers (OCNs) that are published in the annual NECA list.²⁹ In evaluating the complaint data, the Bureau found patterns of

²¹ Letter of Inquiry from Jeffrey J. Gee, Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to John J. Legere, President and Chief Executive Officer, T-Mobile USA, Inc. (Dec. 27, 2016) (on file in EB-IHD-16-00023247) (LOI).

²² *See id.* at 1-2.

²³ Supplemental Letter of Inquiry from Jeffrey J. Gee, Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to David H. Solomon and Russell P. Hanser, Attorneys for T-Mobile USA, Inc. (Apr. 3, 2017) (on file in EB-IHD-16-00023247) (Supplemental LOI).

²⁴ First Response to Supplemental Letter of Inquiry from David H. Solomon and Russell P. Hanser, Attorneys for T-Mobile USA, Inc., to Kalun Lee, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau at 3, (July 13, 2017) (on file in EB-IHD-16-00023247) (First Response to Supplemental LOI).

²⁵ *See id.* at 3-4.

²⁶ *See id.* at 5.

²⁷ Response to Letter of Inquiry from David H. Solomon and Russell P. Hanser, Attorneys for T-Mobile USA, Inc., to Kalun Lee, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau at Exhibit 2 (Feb. 9, 2017) (on file in EB-IHD-16-00023247). Among other things, T-Mobile's response revealed 71 customer complaints about problems with calls completing between June 9 and October 5, 2016, to one of the Wisconsin LECs that had filed complaints directly with the Commission. *See id.*; *see also* First Response to Supplemental LOI at Exhibit 1.

²⁸ *See* First Response to Supplemental LOI at Exhibit 1; Second Response to Supplemental Letter of Inquiry from David H. Solomon and Russell P. Hanser, Attorneys for T-Mobile USA, Inc., to Kalun Lee, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau at Exhibits 2, 3 (Aug. 2, 2017) (on file in EB-IHD-16-00023247).

²⁹ *See Rural Call Completion Order*, 28 FCC Rcd at 16187-88, para. 73; *see also Wireline Competition Bureau Announces Updated List of Rural and Nonrural OCNs for Rural Call Completion Reporting*, Public Notice, 29 FCC Rcd 14441 (WCB 2014).

complaints alleging the failure of T-Mobile to complete calls to numbers within at least seven rural OCNs, in addition to the three Wisconsin OCNs that had been the subject of the complaints filed with the Commission by rural carriers and consumers during the summer of 2016.

III. TERMS OF AGREEMENT

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

14. **Jurisdiction.** T-Mobile agrees that the Bureau has jurisdiction over the Company and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

15. **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.

16. **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, and to avoid further expense, uncertainty, and litigation, T-Mobile agrees to the terms, conditions, and procedures contained herein. The Bureau 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 T-Mobile 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 to set for hearing the question of T-Mobile's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.

17. **Admission.** T-Mobile admits for the purpose of this Consent Decree and for civil enforcement purposes in connection with this Consent Decree, and in express reliance on the provisions of paragraph 16 herein, that it: (a) violated Section 64.2201's prohibition against the insertion of false ring tones; and (b) did not correct problems with its Intermediate Providers' delivery of calls to consumers in certain rural OCNs.

18. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, T-Mobile 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 taking steps to help promote T-Mobile's compliance with the terms and conditions of the Compliance Plan and this Consent Decree, including the investigation and resolution of rural call completion complaints. 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 Rural Call Completion Rules prior to assuming his/her duties.

19. **Compliance Plan.** T-Mobile agrees that it shall, within ninety (90) calendar days after the Effective Date, develop and implement a Compliance Plan designed to help promote future compliance with the Rural Call Completion Rules and with the terms and conditions of this Consent Decree. As such, T-Mobile will implement, at a minimum, the following procedures:

(A) Operating Procedures. Within ninety (90) calendar days after the Effective Date, T-Mobile shall establish Operating Procedures that all Covered Employees must follow as relevant to their responsibilities to help promote T-Mobile's compliance with the Rural Call Completion Rules and this Consent Decree. T-Mobile's Operating Procedures shall include internal procedures and policies specifically designed to help ensure that T-

Mobile will timely investigate evidence of potential rural call completion problems about which it knows or should know, based upon complaints of rural call completion issues from the FCC or other regulatory agencies, customers of T-Mobile or their agents, consumers, rural carriers, or other sources and, if T-Mobile's investigation reveals a rural call completion problem, that the Company will take appropriate steps to attempt to resolve the problem. T-Mobile shall also develop Compliance Checklists that describe the steps that a Covered Employee must follow to help promote compliance with the Rural Call Completion Rules.

(B) Dedicated Contact for Rural Call Completion Complaints. Within ninety (90) calendar days after the Effective Date, T-Mobile shall establish and publicize a dedicated contact within the Company for rural carriers to contact concerning call completion difficulties with T-Mobile phone numbers. The contact information shall be listed in the Service Provider Directory maintained by the Alliance for Telecommunications Industry Solutions (ATIS), which is used for carrier-to-carrier communications concerning the resolution of technical problems, including rural call completion problems.

(C) Compliance Manual. Within ninety (90) 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 Rural Call Completion Rules and set forth the Operating Procedures that Covered Employees shall follow to help promote T-Mobile's compliance with the Rural Call Completion Rules and this Consent Decree. T-Mobile shall periodically review and revise the Compliance Manual as necessary to help ensure that the information set forth therein remains current and accurate. T-Mobile shall distribute any revisions to the Compliance Manual promptly to all Covered Employees. With respect to third parties that employ Covered Employees, T-Mobile shall distribute a Compliance Manual tailored to their rural call completion responsibilities (and any revisions), and instruct the third party to distribute the Compliance Manual (and any revisions) accordingly.

(D) Compliance Training Program. T-Mobile shall establish and implement a Compliance Training Program on compliance with the Rural Call Completion Rules and the Operating Procedures as they affect the relevant employees. As part of the Compliance Training Program, Covered Employees shall be advised of T-Mobile's obligation to report any noncompliance with the Rural Call Completion Rules under paragraph 20 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 as relevant to their responsibilities within one hundred twenty (120) 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 sixty (60) calendar days after the date such person becomes a Covered Employee. T-Mobile shall repeat compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary with the goal that it remains current and complete and to enhance its effectiveness. With respect to third parties that employ Covered Employees, T-Mobile shall instruct each such third party to provide such training in accordance with the Compliance Training Program.

20. **Reporting Noncompliance.** Beginning one hundred twenty (120) days after the Effective Date, T-Mobile shall report in writing any material noncompliance with the Rural Call Completion Rules and with the terms and conditions of this Consent Decree within thirty (30) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that T-Mobile 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 T-

Mobile has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov and Robert Krinsky at Robert.Krinsky@fcc.gov.

21. **Compliance Reports.** T-Mobile 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, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of T-Mobile's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Rural Call Completion Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of T-Mobile, stating that the Compliance Officer has personal knowledge that T-Mobile: (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 material noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 20 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.³⁰
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of T-Mobile, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of material noncompliance; (ii) the steps that T-Mobile 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 T-Mobile has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov and Robert Krinsky at Robert.Krinsky@fcc.gov.

22. **Termination Date.** The requirements set forth in paragraphs 18 through 21 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

23. **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 Act³¹ against T-Mobile 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

³⁰ 47 CFR § 1.16.

³¹ 47 U.S.C. § 208.

Commission from investigating new evidence of noncompliance by T-Mobile with the Communications Laws.

24. **Civil Penalty.** T-Mobile will pay a civil penalty to the United States Treasury in the amount of forty million dollars (\$40,000,000) within thirty (30) calendar days of the Effective Date. T-Mobile shall send electronic notification of payment to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov and Robert Krinsky at Robert.Krinsky@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 Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³² 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 that should be followed based on the form of payment selected:

- 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.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

25. **Waivers.** As of the Effective Date, T-Mobile 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. T-Mobile 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 Consent Decree or the Adopting Order, neither T-Mobile nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and T-Mobile shall waive any statutory right to a trial *de novo*. T-Mobile hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act³³ relating to the matters addressed in this Consent Decree.

26. **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.

³² An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/forms#159.pdf>.

³³ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

27. **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.

28. **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 T-Mobile does not expressly consent) that provision will be superseded by such Rule or Order. Nothing in this Consent Decree shall be construed to affect T-Mobile's duties under the Rural Call Completion Rules, including those concerning its Intermediate Providers.

29. **Successors and Assigns.** T-Mobile agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

30. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

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

32. **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.

33. **Authorized Representative.** Each Party represents and warrants to the other 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.

34. **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.

Christopher L. Killion
Acting Deputy Bureau Chief
Enforcement Bureau

Date

Kathleen O'Brien Ham
Senior Vice President, Government Affairs
T-Mobile USA, Inc.

Date