

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

In the Matter of)	
)	File No.: EB-SED-12-00005491
)	
Kyocera Communications, Inc.;)	NAL/Acct. No.: 201332100003
Kyocera Corporation)	
)	FRNs: 0004265831, 0017617366

ORDER

Adopted: April 11, 2014

Released: April 11, 2014

By the Deputy Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree to conclude its investigation into whether Kyocera Communications, Inc. (Kyocera) timely filed its digital wireless handset hearing aid compatibility status report due July 16, 2012. The Bureau's investigation revealed that Kyocera did not do so. The Commission's hearing aid compatibility rules serve to ensure that consumers with hearing loss have access to advanced telecommunications services. In the attached Consent Decree, Kyocera will implement a three-year plan to ensure future compliance with these important requirements.

2. The Bureau and Kyocera 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 into Kyocera's compliance with the digital wireless handset hearing aid compatibility status report filing requirements set forth in Section 20.19(i)(1) of the Commission's rules (Rules).¹

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 Kyocera 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 Act,² and Sections 0.111 and 0.311 of the Rules,³ the Consent Decree attached to this Order **IS ADOPTED**.

¹ 47 C.F.R. § 20.19(i)(1).

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

³ 47 C.F.R. §§ 0.111, 0.311.

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

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Yasuhiro Oishi, President, Kyocera Communications, Inc., 9520 Towne Centre Drive, San Diego, CA 92121, and to Mitchell Lazarus, Esq., Fletcher, Heald & Hildreth PLC., Counsel for Kyocera, 1300 North 17th St., 11th Floor, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

David B. Kolker
Deputy Chief, Enforcement Bureau

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CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Kyocera Communications, Inc.,¹ by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into an apparent violation of Section 20.19(i)(1) of the Commission's rules² pertaining to the digital wireless handset hearing aid compatibility status report filing requirements.

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 Kyocera Communications is subject by virtue of its business activities, including but not limited to, the Hearing Aid Compatibility Rules.
 - (f) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 10.
 - (g) "Covered Employees" means all employees and agents of Kyocera Communications who perform, or supervise, oversee, or manage the performance of duties that relate

¹ Kyocera Communications, Inc. is an indirect subsidiary of Kyocera Corporation. See Kyocera Corporation, *Corporate Profile*, http://global.kyocera.com/company/download/pdf/all_en.pdf (last visited Apr. 12, 2013). Kyocera Corporation manufactures mobile telephones and other electronic devices. *Id.* Kyocera Communications, Inc. "is the sales, marketing and service headquarters for Kyocera - and Sanyo-branded wireless products and accessories in the Americas." Kyocera Communications, Inc., *Kyocera Corporate Overview*, <http://www.kyocera-wireless.com/company-information/overview.htm> (last visited Apr. 12, 2013).

² 47 C.F.R. § 20.19(i)(1).

to Kyocera Communications's responsibilities under the Hearing Aid Compatibility Rules.

- (h) "Kyocera Communications" means Kyocera Communications, Inc. and its predecessors-in-interest and successors-in-interest.
- (i) "Effective Date" means the date on which the Bureau releases the Adopting Order.
- (j) "Hearing Aid Compatibility Rules" means Section 20.19 of the Rules and other Communications Laws governing digital wireless hearing aid compatibility, such as the Rules governing the design, selection, or acquisition of wireless handsets, the marketing or distribution of such handsets to consumers in the United States, and the annual filing of hearing aid compatibility status reports.
- (k) "Investigation" means the Investigation commenced by the Bureau upon a referral from the Commission's Wireless Telecommunications Bureau concerning Kyocera Communications's apparent failure to file a hearing aid compatibility status report for the July 1, 2011, through June 30, 2012, reporting period, which culminated in the issuance of the Notice of Apparent Liability for Forfeiture.
- (l) "Notice of Apparent Liability for Forfeiture" or "NAL" means *Kyocera Communications, Inc., Kyocera Corporation*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 5987 (Enf. Bur. rel. May 1, 2013).
- (m) "Operating Procedures" means the standard, internal operating procedures and compliance policies established by Kyocera Communications to implement the Compliance Plan.
- (n) "Parties" means Kyocera Communications and the Bureau, each of which is a "Party."
- (o) "Rules" means 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.³ The Commission established technical standards for radio frequency interference (the M rating) and inductive coupling (the T rating)⁴ that digital wireless handsets must meet to be considered compatible

³ The Commission adopted these requirements for digital wireless telephones under the authority of the Hearing Aid Compatibility Act of 1988, Pub. L. No. 100-394, 102 Stat. 976 (codified at 47 U.S.C. §§ 609 note, 610, 610 note). 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).

⁴ As subsequently amended, Section 20.19(b)(1) of the Rules provided 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

with hearing aids operating in acoustic coupling and inductive coupling (telecoil) modes, respectively. For each of these standards, the Commission further established deadlines by which manufacturers and service providers were required to offer specified numbers or percentages of digital wireless handsets per air interface⁵ that are compliant with the relevant standard.⁶ In February 2008, as part of a comprehensive reconsideration of the effectiveness of the Hearing Aid Compatibility Rules, the Commission released an order that, among other things, adopted new hearing aid-compatible handset deployment benchmarks that became effective beginning in 2008.⁷

3. The Commission also adopted reporting requirements to ensure that it could monitor the availability of hearing aid-compatible handsets and to provide valuable information to the public concerning the technical testing and commercial availability of these handsets.⁸ The Commission initially required manufacturers and digital wireless service providers to report every six months on efforts toward compliance with the hearing aid compatibility requirements for the first three years of implementation, and then annually thereafter through the fifth year of implementation.⁹ In its 2008 *Hearing Aid Compatibility First Report and Order*, the Commission extended these reporting requirements with certain modifications on an open-ended basis.¹⁰

4. Kyocera Communications failed to timely file its hearing aid compatibility status report for the period July 1, 2011, through June 30, 2012. The required report was due to be filed on July 16,

(June 8, 2007). Beginning January 1, 2010, a newly certified handset had to 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) provided that, for the period beginning June 6, 2008, and ending December 31, 2009, a newly certified wireless handset was deemed hearing aid-compatible for inductive coupling if, at minimum, it met 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 was deemed hearing aid-compatible for inductive coupling if it met 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 remained valid for hearing aid compatibility purposes. A recently adopted further amendment to Section 20.19(b) of the Rules permits 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).

⁵ 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).

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

⁷ *See Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, First Report and Order, 23 FCC Rcd 3406 (2008) (“Hearing Aid Compatibility First Report and Order”), Order on Reconsideration and Erratum, 23 FCC Rcd 7249 (2008).

⁸ *See Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3443, para. 91; *see also* 47 C.F.R. § 20.19(i).

⁹ *See Hearing Aid Compatibility Order*, 18 FCC Rcd at 16787, para. 89; *see also Wireless Telecommunications Bureau Announces Hearing Aid Compatibility Reporting Dates for Wireless Carriers and Handset Manufacturers*, Public Notice, 19 FCC Rcd 4097 (Wireless Tel. Bur. 2004).

¹⁰ *See Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3444–46, paras. 97–99, 101. The extensions of these reporting requirements became effective on December 13, 2011. *See* 76 Fed. Reg. 77,415 (Dec. 13, 2011). The Commission also made clear that these reporting requirements apply to manufacturers and service providers that meet the *de minimis* exception. *See Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3446, para. 99.

2012.¹¹ Staff from the Commission's Wireless Telecommunications Bureau (Wireless Bureau) notified Kyocera Communications of its failure to file the status report on July 24, 2012. The Wireless Bureau reopened the filing window on September 10, 2012, at which time Kyocera Communications filed its status report for the reporting period ending June 30, 2012.¹² The Wireless Bureau subsequently referred this matter to the Bureau for investigation and possible enforcement action. On May 1, 2013, the Bureau's Spectrum Enforcement Division issued the *NAL* against Kyocera Communications and Kyocera Corporation for their apparent willful and repeated violation of Section 20.19(i)(1) of the Rules by apparently failing to timely file the required hearing aid compatibility status report by July 16, 2012.¹³

III. TERMS OF AGREEMENT

5. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

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

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

8. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for terminating the Investigation, Kyocera Communications 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 this 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 Kyocera Communications 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 Kyocera Communications with respect to Kyocera Communications' basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

¹¹ Manufacturers are required to file their hearing aid compatibility status reports on July 15th of each year. *See* 47 C.F.R. § 20.19(i)(1). However, because July 15, 2012 fell on a Sunday, the report was due the next business day, July 16, 2012. *See id.* § 1.4(e)(1) (defining "holiday" to include Sunday); *Id.* § 1.4(j) (when a deadline falls on a holiday, the deadline is extended until the next business day); *see also* Hearing Aid Compatibility Status Reporting, <http://wireless.fcc.gov/hac>.

¹² *See Kyocera Communications, Inc.*, Hearing Aid Compatibility Report (Sept. 10, 2012), http://wireless.fcc.gov/hac_documents/120928/7058833_23.PDF.

¹³ 47 C.F.R. § 20.19(i)(1).

9. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Kyocera Communications 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 Kyocera Communications complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Hearing Aid Compatibility Rules prior to assuming his/her duties.

10. **Compliance Plan.** For purposes of settling the matters set forth herein, Kyocera Communications 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, Kyocera Communications shall implement the following procedures:

- (a) **Operating Procedures on Hearing Aid Compatibility.** Within sixty (60) calendar days after the Effective Date, Kyocera Communications shall establish Operating Procedures that all Covered Employees must follow to help ensure Kyocera Communications's compliance with the Hearing Aid Compatibility Rules, including the timely filing of annual hearing aid compatibility status reports. Kyocera Communications's Operating Procedures shall include internal procedures and policies specifically designed to ensure that Kyocera Communications 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 timely submitted annual hearing aid compatibility status reports. Kyocera Communications 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 Kyocera Communications's compliance with the Hearing Aid Compatibility Rules, and shall set forth procedures for timely submittal of hearing aid compatibility status reports. Kyocera Communications shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. Kyocera Communications shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Kyocera Communications 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 Kyocera Communications's obligation to report any noncompliance with the Hearing Aid Compatibility Rules under paragraph 11 of this Consent Decree and shall be

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

11. **Reporting Noncompliance.** Kyocera Communications shall report any future 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 Kyocera Communications 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 Kyocera Communications 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 Jason Koslofsky at Jason.Koslofsky@fcc.gov and to Pamela Hairston at Pamela.Hairston@fcc.gov.

12. **Compliance Reports.** Kyocera Communications 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 Kyocera Communications'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 Kyocera Communications, stating that the Compliance Officer has personal knowledge that Kyocera Communications (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; (iii) has timely filed any required annual hearing aid compatibility status report coming due since the last Compliance Report; and (iv) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 11 hereof.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules¹⁴ 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 Kyocera Communications, 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 Kyocera Communications has taken or will take to remedy such noncompliance, including the schedule on which

¹⁴ 47 C.F.R. § 1.16.

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

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

13. **Termination Date.** Unless stated otherwise, the requirements of paragraphs 9 through 12 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

14. **Voluntary Contribution.** Kyocera Communications agrees that it will make a voluntary contribution to the United States Treasury in the amount of twelve thousand dollars (\$12,000) within thirty (30) calendar days after the Effective Date. Kyocera Communications shall also send electronic notification of payment to Jason Koslofsky at Jason.Koslofsky@fcc.gov, Pamera Hairston at Pamera.Hairston@fcc.gov, and to 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 FRNs referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹⁵ 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 Kyocera Communications should follow based on the form of payment it selects:

- 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 Kyocera Communications has questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

15. **Waivers.** Kyocera Communications 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

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

defined herein. Kyocera Communications 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 Kyocera Communications nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and Kyocera Communications shall waive any statutory right to a trial *de novo*. Kyocera Communications hereby agrees to waive any claims it may have under the Equal Access to Justice Act¹⁶ 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 Kyocera Communications does not expressly consent) that provision will be superseded by such Rule or Commission order.

18. **Successors and Assigns**. Kyocera Communications 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.

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 Kyocera Communications represents and warrants that (i) Kyocera Communications has ultimate authority and control over, and responsibility for, compliance with the Hearing Aid Compatibility Rules with respect to handset models offered within the United States that are manufactured by Kyocera Communications, Kyocera Corporation, and any other subsidiary or related company within Kyocera Corporation's corporate structure; and (ii) he/she is authorized by Kyocera Communications to execute this Consent Decree and to bind Kyocera Communications to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

¹⁶ 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.

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.

David B. Kolker
Deputy Chief
Enforcement Bureau

Date

Yasuhiro Oishi
President
Kyocera Communications, Inc.

Date