

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

In the Matter of)	
)	File No. EB-06-SE-147
)	NAL/Acct. No. 200732100020
T-Mobile USA, Inc.)	FRN # 0006945950

ORDER

Adopted: March 28, 2007

Released: March 30, 2007

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau and T-Mobile USA, Inc. (“T-Mobile”). The Consent Decree terminates the Enforcement Bureau’s investigation into whether T-Mobile failed to timely deploy Enhanced 911 (“E911”) Phase II services in northern Yavapai County, Arizona, in violation of the Order and Consent Decree released on July 17, 2003.¹

2. The Enforcement Bureau and T-Mobile have negotiated the terms of a Consent Decree that would resolve this matter and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. We conclude that, in the absence of new material evidence, no substantial or material questions of fact exist with respect to this matter as to whether T-Mobile possesses the basic qualifications, including those related to character, to hold or obtain any FCC license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree and terminating the Enforcement Bureau’s investigation.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,² and Sections 0.111 and 0.311 of the Rules,³ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the Enforcement Bureau’s investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that T-Mobile USA, Inc. will make a voluntary contribution to the United States Treasury in the amount of seventy-five thousand dollars (\$75,000) within 30 calendar days after the Effective Date of the Adopting Order. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street,

¹ *T-Mobile USA, Inc.*, Order and Consent Decree, 18 FCC Rcd 15123 (2003).

² 47 U.S.C. § 154(i).

³ 47 C.F.R. §§ 0.111, 0.311.

Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

8. **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 Thomas J. Sugrue, Vice President, Government Affairs, T-Mobile USA, Inc., 401 9th Street, N.W., Suite 550, Washington, D.C. 20004, and to John T. Nakahata, Esq., Harris, Wiltshire & Grannis, LLP, 1200 18th Street, N.W., Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

CONSENT DECREE

The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (“Commission”) and T-Mobile USA, Inc. (“T-Mobile”) hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether T-Mobile failed to timely deploy Enhanced 911 (“E911”) Phase II services in northern Yavapai County, Arizona in violation of the Order and Consent Decree released on July 17, 2003¹ (“2003 T-Mobile Consent Decree”).

I. BACKGROUND

1. On September 19, 2005, T-Mobile received a request to implement E911 Phase II services on behalf of five Public Safety Answering Points (“PSAPs”) located in northern Yavapai County, Arizona. Under the requirements of the 2003 T-Mobile Consent Decree, T-Mobile was required to deploy service to 50 % of the coverage area or population of these five PSAPs by March 20, 2006, and 100 % of these PSAPs’ coverage area or population by December 20, 2006, provided the PSAP requests were valid under the requirements of Section 20.18(j) of the Commission’s Rules.

2. The Arizona Department of Administration State 9-1-1 Office filed an informal complaint against T-Mobile alleging that T-Mobile had failed to deploy E911 Phase II services by the required date. On April 20, 2006, the Enforcement Bureau issued a letter of inquiry (“LOI”) to T-Mobile. T-Mobile responded to the LOI on June 1, 2006. T-Mobile stated that it had deployed Phase II service to 100 % of these PSAPs’ coverage area or population by April 27, 2006.

II. DEFINITIONS

3. 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 and conditions of this Consent Decree;
- (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission;
- (d) “Commission” or “FCC” means the Federal Communications Commission;
- (e) “Effective Date” means the date the Adopting Order is released by the Bureau;
- (f) “Investigation” means the Investigation initiated by the Bureau’s April 20, 2006 LOI;
- (g) “Parties” means T-Mobile and the Bureau;
- (h) “Rules” means the Commission’s Rules found in Title 47 of the Code of Federal Regulations;
- (i) “T-Mobile” means T-Mobile USA, Inc., its subsidiaries, affiliates and any successors and assigns; and
- (j) “2003 T-Mobile Consent Decree” means *T-Mobile USA, Inc.*, Order and Consent Decree, 18 FCC Rcd 15123 (2003).

III. TERMS OF AGREEMENT

4. 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.

¹ *T-Mobile USA, Inc.*, Order and Consent Decree, 18 FCC Rcd 15123 (2003).

5. The Parties agree that this Consent Decree shall become binding on the Parties on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other final order of the Commission and any violation of the terms or conditions of this Consent Decree shall constitute a violation of a Commission order.

6. T-Mobile acknowledges that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

7. The Parties waive any rights they may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided that the Adopting Order adopts the Consent Decree without change, addition, modification or deletion.

8. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination of any compliance or noncompliance with the Act or the Rules. The Parties further agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, T-Mobile does not admit or deny any liability for violating the Rules in connection with the matters that are the subject of this Consent Decree.

9. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of scarce public resources, the Bureau agrees to terminate its Investigation at such time as both Parties sign this Consent Decree and the Bureau adopts this Consent Decree.

10. T-Mobile has implemented certain administrative changes for Phase I and Phase II trunk orders, as more fully described in the Compliance Plan attached hereto. T-Mobile has also supplemented the resources used to track and monitor Phase I and Phase II deployments for its GSM network to facilitate timely deployments. Further, while this Investigation was solely with respect to Phase II implementations, T-Mobile has agreed, on a voluntary basis, to apply these same changes to Phase I deployments. T-Mobile reserves the right to modify this attached plan as necessary to better ensure continuing compliance with the Commission's rules and Orders.

11. The Parties agree that T-Mobile's obligations set forth in paragraph 10 will remain in effect for eighteen (18) months from the Effective Date.

12. The Parties agree that this Consent Decree supplements and does not modify the terms of the 2003 T-Mobile Consent Decree.

13. The Parties acknowledge and agree that this Consent Decree shall constitute a final and binding settlement between T-Mobile and the Bureau regarding the possible violations of the 2003 T-Mobile Consent Decree concerning T-Mobile's deployment of E911 Phase II service in northern Yavapai County, Arizona. In consideration for termination by the Bureau of its Investigation and in accordance with the terms of this Consent Decree, T-Mobile agrees to the terms set forth in this Consent Decree.

14. The Bureau agrees that, in the absence of new material evidence, it will not institute, on its own motion, any new investigation or enforcement proceeding, formal or informal, take any action on its own motion, or recommend to the Commission any forfeiture or other sanction, against T-Mobile for the possible violations of the T-Mobile Consent Decree in connection with the northern Yavapai County PSAP requests. 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 to initiate on its own motion, or recommend to the Commission, any proceeding, formal or informal, or take any action on its own motion against T-Mobile with respect to T-Mobile's basic qualifications to hold Commission licenses or authorizations. Nothing in this Consent Decree shall prevent the Bureau from instituting investigations or

enforcement proceedings against T-Mobile in the event of any other alleged misconduct that violates this Consent Decree, the T-Mobile Consent Decree or any other provision of the Act or the Rules.

15. The Parties agree that any provision of this Consent Decree which conflicts with any subsequent rule, order of general applicability or other decision of general applicability adopted by the Commission will be superseded by such Commission rule, order or other decision.

16. T-Mobile agrees that it will make a voluntary contribution to the United States Treasury in the amount of seventy five thousand dollars (\$75,000) within 30 calendar days after the Effective Date of the Adopting Order. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. The payment should reference the NAL/Acct. and FRN No. referenced above.

17. 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 T-Mobile nor the Commission shall contest the continuing validity of the Consent Decree or Adopting Order. The Parties agree to comply with, defend and support the validity of this Consent Decree and the Adopting Order in any proceeding seeking to nullify, void, or otherwise modify the Consent Decree or the Adopting Order.

18. The Parties agree that in the event that any court of competent jurisdiction renders this Consent Decree invalid, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

19. T-Mobile waives any rights it may have under any provision of the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Supplemental Consent Decree.

20. This Consent Decree cannot be modified without the advance written consent of both Parties except as indicated in paragraph 10.

21. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau:

Kris Anne Monteith
Chief, Enforcement Bureau

Date

For T-Mobile USA, Inc.:

Thomas J. Sugrue
Vice President, Government Affairs

Date

COMPLIANCE PLAN**Summary of T-Mobile USA, Inc. Administrative Changes**

As part of its effort to ensure compliance with the Communications Act of 1934, as amended, the FCC's rules and regulations, and T-Mobile's Phase II E911 Consent Decree, adopted July 14, 2003, T-Mobile has developed and implemented, and will continue to implement and oversee, the following administrative changes to its implementation of E911 Phase II requests on its GSM network. T-Mobile will also voluntarily apply these changes to Phase I requests on its GSM network.

1. Designate an employee, in addition to T-Mobile's PSAP Liaisons, to monitor the status of 911 projects, to ensure that T-Mobile's electronic project management system is updated in a timely manner.
2. Have a supervisor review project status, at a minimum, on a monthly basis.
3. Provide contact escalation information to requesting PSAPs at the time T-Mobile confirms to the PSAP receipt of the Phase I or Phase II request, including levels from PSAP Liaison to supervisor, with name, phone number (office and mobile) and address, to permit notification to T-Mobile management of any deployment concerns.
4. Provide automated e-mail notification to the PSAP Liaison and the supervisor with status of pending requests assigned to that PSAP Liaison when the projected due date is within 35 days.