

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

In the Matter of)	File Nos.: EB-SED-14-00013341 ¹
)	EB-SED-13-00008785 ²
ASUSTeK Computer Inc.)	NAL/Acct. No.: 201432100024
)	FRN: 0005821988

ORDER

Adopted: August 26, 2014

Released: August 26, 2014

By the Acting Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has resolved its investigations into whether ASUSTeK Computer Inc. (ASUSTeK) complied with certain rules governing the marketing of certain intentional radiators, such as the Eee Pad Slider SL101, a portable computer tablet, and certain wireless routers and related wireless products, such as Wi-Fi bridge/range extenders and wireless adapters. These important equipment marketing and authorization rules ensure that devices that emit radio frequency radiation comply with the Commission's technical requirements and do not interfere with authorized communications. ASUSTeK admits that its marketing of these intentional radiators violated the Commission's rules. To resolve the investigations, ASUSTeK will pay a civil fine of \$240,000 and implement a compliance plan that will extend for more than three years to ensure future compliance with the Commission's equipment marketing rules.

2. In this Order, we adopt the attached Consent Decree entered into between the Bureau and ASUSTeK. The Consent Decree resolves and terminates the Bureau's investigations into ASUSTeK's compliance with Section 302(b) of the Communications Act of 1934, as amended (Act),³ and Sections 2.803, 2.1043, 2.1093, 15.247, and 15.407 of the Commission's rules (Rules)⁴ pertaining to the marketing of the Eee Pad Slider SL101 and certain wireless routers and related wireless products.

3. The Bureau and ASUSTeK have negotiated the Consent Decree that resolves these matters. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

4. 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 investigations.

5. In the absence of material new evidence relating to these matters, we conclude that our investigations raise no substantial or material questions of fact as to whether ASUSTeK possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

¹ The investigation initiated under File No. EB-SED-13-00009942 was subsequently assigned File No. EB-SED-14-00013341. Any future correspondence with the FCC concerning this matter should reflect the new case number.

² The investigation initiated under File No. EB-SED-13-00008148 was subsequently assigned File No. EB-SED-13-00008785. Any future correspondence with the FCC concerning this matter should reflect the new case number.

³ 47 U.S.C. § 302a(b).

⁴ 47 C.F.R. §§ 2.803, 2.1043, 2.1093, 15.247, 15.407.

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Act,⁵ and Sections 0.111 and 0.311 of the Rules,⁶ the Consent Decree attached to this Order **IS ADOPTED**.

7. **IT IS FURTHER ORDERED** that the above-captioned investigations **ARE TERMINATED**.

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 Jonney Shih, Chairman, ASUSTeK Computer Inc., No. 15, Li-Te Road, Peitou, Taipei 112, Taiwan, Jonathan Tsang, Vice Chairman, ASUSTeK Computer Inc., No. 15, Li-Te Road, Peitou, Taipei 112, Taiwan; and to Donna A. Balaguer, Esq., Fish & Richardson P.C., Counsel for ASUSTeK Computer Inc., 1425 K Street, N.W., 11th Floor, Washington, DC 20005.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Acting Chief, Enforcement Bureau

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

⁶ 47 C.F.R. §§ 0.111, 0.311.

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

In the Matter of)	File Nos.: EB-SED-14-00013341 ¹
)	EB-SED-13-00008785 ²
ASUSTeK Computer Inc.)	NAL/Acct. No.: 201432100024
)	FRN: 0005821988

CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and ASUSTeK Computer Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigations into possible violations of Section 302(b) of the Communications Act of 1934, as amended,³ and Sections 2.803, 2.1043, 2.1093, 15.247, and 15.407 of the Commission's rules⁴ pertaining to the marketing of a computer tablet, the Eee Pad Slider SL101, and certain wireless routers and related wireless products, such as Wi-Fi bridge/range extenders and wireless adapters.

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) "ASUSTeK" means ASUSTeK Computer Inc. and its predecessors-in-interest and successors-in-interest.
 - (d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (e) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - (f) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which ASUSTeK is subject by virtue of its business activities, including but not limited to, the Equipment Marketing Rules.
 - (g) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 12.

¹ The investigation initiated under File No. EB-SED-13-00009942 was subsequently assigned File No. EB-SED-14-00013341. Any future correspondence with the FCC concerning this matter should reflect the new case number.

² The investigation initiated under File No. EB-SED-13-00008148 was subsequently assigned File No. EB-SED-13-00008785. Any future correspondence with the FCC concerning this matter should reflect the new case number.

³ 47 U.S.C. § 302a(b).

⁴ 47 C.F.R. §§ 2.803, 2.1043, 2.1093, 15.247, 15.407.

- (h) “Covered Employees” means all employees and agents of ASUSTeK who perform, or supervise, oversee, or manage the performance of, duties that relate to ASUSTeK’s responsibilities under the Equipment Marketing Rules, but excludes those employees or agents of ASUSTeK who perform factory labor associated with the manufacture and assembly of radio frequency devices, those solely involved in the sales and marketing of radio frequency devices for distribution outside the United States and its territories, and those agents of ASUSTeK who perform independent testing and certification of ASUSTeK’s radio frequency devices.
- (i) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (j) “Equipment Marketing Rules” means Section 302(b) of the Act;⁵ Sections 2.803, 2.1043, 2.1093, 15.247, and 15.407 of the Rules;⁶ and other Communications Laws governing the marketing of radio frequency devices within the United States and its territories.
- (k) “Investigations” means the investigations commenced by the Bureau upon receipt of (i) a referral from the Commission’s Office of Engineering and Technology regarding ASUSTeK’s marketing of the Eee Pad Slider SL101; and (ii) a complaint alleging that ASUSTeK was marketing certain wireless routers that did not comply with the Equipment Marketing Rules.
- (l) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by ASUSTeK to implement the Compliance Plan.
- (m) “Parties” means ASUSTeK 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.

II. BACKGROUND

2. Pursuant to Section 302(b) of the Act⁷ and Section 2.803 of the Rules,⁸ radio frequency devices may not be marketed in the United States unless the devices have been properly authorized and comply with the applicable technical standards. Section 2.803(a) of the Rules defines “marketing” as the “sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.”⁹ Certain portable devices,¹⁰ such as the Eee Pad Slider SL101 (SL 101) marketed by ASUSTeK, must be tested for compliance with the localized specific absorption rate (SAR) limit set forth in Section 2.1093 of the Rules.¹¹ Wireless routers, such as those also marketed by ASUSTeK, may support multiple WiFi

⁵ 47 U.S.C. § 302a(b).

⁶ 47 C.F.R. §§ 2.803, 2.1043, 2.1093, 15.247, 15.407.

⁷ 47 U.S.C. § 302a(b).

⁸ 47 C.F.R. § 2.803.

⁹ *Id.* § 2.803(a).

¹⁰ Section 2.1093(b) of the Rules defines a portable device as “a transmitting device designed to be used so that the radiating structure(s) of the device is/are within 20 centimeters of the body of the user.” *Id.* § 2.1093(b).

¹¹ *See id.* § 2.1093. SAR is a measure of the rate of energy absorption due to exposure to a radio frequency transmitting source. *See id.* § 2.1093(d).

protocols that require testing under multiple frequency bands governed by Sections 15.247 and/or 15.407 of the Rules.¹²

3. Intentional radiators,¹³ such as the devices at issue here, must be authorized pursuant to the Commission's certification procedures.¹⁴ Section 2.1043 of the Rules defines three classes of permissive changes that may be made to certified equipment without requiring a new application for and grant of certification.¹⁵ Pursuant to Section 2.1043(b)(2) of the Rules, a device that has undergone a Class II permissive change may not be marketed prior to acknowledgement by the Commission that the change is acceptable.¹⁶

4. ASUSTeK is a large international provider of consumer electronics, such as wireless routers, tablets, and laptop computers. In December 2012, Industry Canada notified the Commission's Office of Engineering and Technology (OET) that ASUSTeK was marketing in the United States a handheld computer tablet (i.e., the SL 101) which may not comply with the applicable SAR limit set forth in Section 2.1093 of the Rules.¹⁷ With the cooperation of ASUSTeK, OET tested a sample SL 101 and determined that the device did not comply with Section 2.1093. OET subsequently referred this matter to the Bureau for investigation. On April 23, 2013, the Bureau's Spectrum Enforcement Division (Division) directed ASUSTeK to respond to a series of questions relating to the company's marketing of the SL 101.¹⁸ In its response, ASUSTeK stated that the SL 101 was tested by an independent, accredited laboratory, which concluded that the device complied with Section 2.1093 of the Rules,¹⁹ and that those test results were reviewed by the accredited Telecommunications Certification Body that issued the equipment certification for the SL 101.²⁰

5. On July 18, 2013, the Division received a complaint that ASUSTeK was marketing two wireless routers that exceeded the maximum permitted output power applicable to such devices. The complainant enclosed test results from an independent testing laboratory concluding that the routers exceeded the maximum permitted output power, exceeded the power output previously reported by

¹² See *id.* §§ 15.247, 15.407.

¹³ An intentional radiator is a "device that intentionally generates and emits radio frequency energy by radiation or induction." *Id.* § 15.3(o).

¹⁴ See *id.* §§ 2.803(b)(1), 15.201(b); see also *id.* §§ 2.1031–2.1060.

¹⁵ *Id.* § 2.1043.

¹⁶ *Id.* § 2.1043(b)(2). A Class II permissive change "includes those modifications which degrade the performance characteristics as reported to the Commission at the time of the initial certification." *Id.*

¹⁷ See *id.* § 2.1093. Industry Canada posted on its website a notice that the SL 101 did not comply with Industry Canada's radio frequency exposure limits. See ASUSTeK Computer Inc. Tablet PC - Model SL101, marketed as "Eee Pad," available at <http://www.healthycanadians.gc.ca/recall-alert-rappel-avis/hc-sc/2012/15903r-eng.php> (last visited June 24, 2014). Industry Canada noted, however, that "[w]hile test results exceeded the exposure limits . . . they were well below the threshold at which harmful health effects might occur." *Id.*

¹⁸ See E-mail from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Donna Balaguer, Counsel for ASUSTeK Computer, Inc. (Apr. 23, 2013, 14:59 EDT) (on file in EB-SED-13-00008785).

¹⁹ See E-mail from Donna Balaguer, Counsel for ASUSTeK Computer, Inc., to John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (June 6, 2013, 15:45 EDT) (on file in EB-SED-13-00008785). As a result of Industry Canada's findings, ASUSTeK released an over-the-air firmware update in November 2012 that lowered the Wi-Fi module transmitter power for devices located in North America to reduce the SAR value to compliant levels. *Id.*

²⁰ *Id.* ASUSTeK asserts that its testing laboratory and an independent expert in the field of SAR determined that the conflicting test results were due to the degree to which the tester compressed the SL 101 against a pad that simulates human tissue. *Id.*

ASUSTeK to the Commission, and used a different antenna configuration than previously reported by ASUSTeK to the Commission. In response to Division inquiries,²¹ ASUSTeK stated that upon its receipt of the complaint, the company engaged its own independent testing laboratory to retest its wireless routers and other related products, including Wi-Fi bridge/range extenders and wireless adapters.²² According to ASUSTeK, that independent laboratory found that a number of ASUSTeK's products had been modified without authorization.²³ ASUSTeK admitted that some of the modifications constituted Class II permissive changes subject to the requirements of Section 2.1043(b)(2) of the Rules, and that certain modified devices did not comply with the power limits set forth in Sections 15.247 and/or 15.407 of the Rules.²⁴ ASUSTeK states that, as a result of the laboratory's testing, the company brought all of the subject devices into compliance with FCC requirements, either by obtaining Class II permissive changes or by releasing corrective firmware updates that restored the devices' output power to approved levels.²⁵

III. TERMS OF AGREEMENT

6. **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.

7. **Jurisdiction.** ASUSTeK 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.

8. **Admissions of Liability.** ASUSTeK admits, solely for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 10 hereof, that (i) the circumstances described in paragraph 4 hereof constitute a violation of Section 302(b) of the Act and Sections 2.803 and 2.1093 of the Rules;²⁶ and (ii) the circumstances described in paragraph 5 hereof constitute violations of Section 302(b) of the Act and Sections 2.803, 2.1043, 15.247, and 15.407 of the Rules.²⁷

9. **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.

10. **Termination of Investigations.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to

²¹ See E-mail from Kathy Harvey, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, to Donna Balaguer, Counsel for ASUSTeK Computer, Inc. (May 2, 2014, 16:12 EDT) (on file in File No. EB-SED-14-00013341); see also E-Mail from Kathy Harvey, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, to Donna Balaguer, Counsel for ASUSTeK Computer, Inc. (May 23, 2014, 13:54 EDT) (on file in File No. EB-SED-14-00013341).

²² See E-mail from Donna Balaguer, Counsel for ASUSTeK Computer Inc., to John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (May 15, 2014, 23:36 EDT), Attachment (on file in File No. EB-SED-14-00013341).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.803, 2.1093.

²⁷ 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.803, 2.1043, 15.247, 15.407.

terminate the Investigations. In consideration for the termination of the Investigations, ASUSTeK 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 Investigations 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 ASUSTeK concerning the matters that were the subject of the Investigations. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigations 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 ASUSTeK with respect to ASUSTeK's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

11. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, ASUSTeK 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 ASUSTeK complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to 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 Equipment Marketing Rules prior to assuming his/her duties.

12. **Compliance Plan.** For purposes of settling the matters set forth herein, ASUSTeK agrees that it shall within one hundred and twenty (120) 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 Equipment Marketing Rules, ASUSTeK shall implement the following procedures:

- (a) **Operating Procedures.** Within one hundred and twenty (120) calendar days after the Effective Date, ASUSTeK shall establish Operating Procedures that all Covered Employees must follow to help ensure ASUSTeK's compliance with the Equipment Marketing Rules. ASUSTeK's Operating Procedures shall include internal procedures and policies specifically designed to ensure that prior to the initiation of marketing (as such term is defined in Section 2.803 of the Rules²⁸), all radio frequency devices to be marketed by ASUSTeK comply with applicable technical standards, have been properly authorized (via the certification, verification, or declaration of conformity procedures, as applicable), and comply with the applicable administrative requirements relating to equipment labeling and consumer disclosure.²⁹
- (b) **Compliance Manual.** Within one hundred and twenty (120) 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 Equipment Marketing Rules, including the obligations to comply with the applicable technical requirements and to secure an equipment authorization from the FCC prior to marketing a radio frequency device, and set forth the Operating Procedures that Covered Employees shall follow to help ensure ASUSTeK's compliance with the Equipment Marketing Rules. ASUSTeK shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. ASUSTeK shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

²⁸ See *supra* note 9 and accompanying text.

²⁹ See 47 C.F.R. §§ 2.803, 15.19, 15.105.

- (c) **Compliance Training Program.** ASUSTeK shall establish and implement a Compliance Training Program on compliance with the Equipment Marketing Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of ASUSTeK's obligation to report any noncompliance with the Equipment Marketing Rules under paragraph 13 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 one hundred and 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 thirty (30) calendar days after the date such person becomes a Covered Employee. ASUSTeK 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.

13. **Reporting Noncompliance.** ASUSTeK shall report any noncompliance with the Equipment Marketing 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 ASUSTeK 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 ASUSTeK has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted on paper 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 Kathy Harvey at Kathy.Harvey@fcc.gov and JoAnn Lucanik at JoAnn.Lucanik@fcc.gov.

14. **Compliance Reports.** ASUSTeK shall file Compliance Reports with the Commission one hundred and twenty (120) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-eight (38) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of ASUSTeK's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Equipment Marketing Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of ASUSTeK, stating that the Compliance Officer has personal knowledge that ASUSTeK (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 13 hereof.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules 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 ASUSTeK, 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 ASUSTeK has taken or will

³⁰ See *id.* § 1.16.

take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that ASUSTeK 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 on paper 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 Kathy Harvey at Kathy.Harvey@fcc.gov and JoAnn Lucanik at JoAnn.Lucanik@fcc.gov.

15. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 11 through 14 of this Consent Decree shall expire thirty-eight (38) months after the Effective Date.

16. **Civil Fine.** ASUSTeK agrees that it will pay a civil fine to the United States Treasury in the amount of two hundred forty thousand dollars (\$240,000) within thirty (30) calendar days after the Effective Date. ASUSTeK shall also send electronic notification of payment to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov, Kathy Harvey at Kathy.Harvey@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³¹ 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 ASUSTeK 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 ASUSTeK 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.

17. **Waivers.** ASUSTeK waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. ASUSTeK 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 ASUSTeK nor the Commission shall

³¹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

contest the validity of the Consent Decree or the Adopting Order, and ASUSTeK shall waive any statutory right to a trial *de novo*. ASUSTeK hereby agrees to waive any claims it may have under the Equal Access to Justice Act³² relating to the matters addressed in this Consent Decree.

18. **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.

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

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

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

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

23. **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.

24. **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.

³² 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.

25. **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.

Travis LeBlanc
Acting Chief
Enforcement Bureau

Date

Jonathan Tsang
Vice Chairman
ASUSTeK Computer Inc.

Date