UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeny

In the Matter of SONY COMPUTER ENTERTAINMENT AMERICA LLC, a limited liability company.	FILE NO. 122-3252 AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission has conducted an investigation of certain acts and practices of Sony Computer Entertainment America LLC, a limited liability company ("proposed respondent" or "SCEA"). Proposed respondent, having been represented by counsel, is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by and between Sony Computer Entertainment America LLC, by its duly authorized officers, and counsel for the Federal Trade Commission that:

1. Proposed respondent Sony Computer Entertainment America LLC is a Delaware limited liability company with its principal office or place of business at 2207 Bridgepoint Pkwy, San Mateo, California 94404. SCEA is a wholly-owned subsidiary of Sony Corporation of America, Inc., headquartered in New York, New York.

2. Proposed respondent neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in this order. Only for purposes of this action, proposed respondent admits the facts necessary to establish jurisdiction.

3. Proposed respondent waives:

   a. Any further procedural steps;

   b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

   c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondent's address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

6. Proposed respondent has read the draft complaint and consent order. It understands that it may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, "respondent" shall mean Sony Computer Entertainment America LLC, a limited liability company, its successors and assigns, and its officers, agents, representatives, and employees.

2. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

3. "Clearly and prominently" shall mean as follows:

   a. In textual communications (*e.g.*, printed publications or words displayed on the screen of a computer), the required disclosures are of a type, size, and location sufficiently noticeable for an ordinary consumer to read and comprehend them, in print that contrasts with the background on which they appear;

b. In communications disseminated orally or through audible means (*e.g.*, radio or streaming audio), the required disclosures are delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend them;

c. In communications disseminated through video means (*e.g.*, television or streaming video), the required disclosures are in writing in a form consistent with subparagraph (a) of this definition and shall appear on the screen for a duration sufficient for an ordinary consumer to read and comprehend them, and in the same language as the predominant language that is used in the communication. Provided, however, that, for communications disseminated through programming over which respondent does not have editorial control (*e.g.*, an endorser's appearance on a news program or talk show), the required disclosures may be made in a form consistent with subparagraph (b) of this definition;

d. In communications made through interactive media, such as the Internet, online services, and software, the required disclosures are unavoidable and presented in a form consistent with subparagraph (a) of this definition, in addition to any audio or video presentation of them; and

e. In all instances, the required disclosures are presented in an understandable language and syntax, and with nothing contrary to, inconsistent with, or in mitigation of the disclosures used in any communication of them.

4. "Eligible Purchaser" means any consumer who purchased the PlayStation Vita before June 1, 2012 and did not return it for a full refund.

5. "Handheld Game Console Product" means any handheld portable electronic device designed for and primarily used for playing video games that has its own screen, speakers and controls in one unit, including the PlayStation Vita ("PS Vita") and the PlayStation Portable ("PSP").

6. "Home Game Console Product" means any electronic device designed for and primarily used for playing video games on a separate television screen, including the PlayStation 3 ("PS3") and the PlayStation 4 ("PS4").

7. The term "including" in this order means "without limitation."

I.

IT IS ORDERED that respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Handheld Game Console Product, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, any material gaming feature or capability of such product when used as a standalone device to play video games.

II.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, partnership, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Handheld Game Console Product or Home Game Console Product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, about the material capability of the Handheld Game Console Product or Home Game Console Product to interact with, or connect to, any other Handheld Game Console Product during gaming, unless at the time it is made, respondent possesses and relies upon competent and reliable evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, partnership, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Handheld Game Console Product or Home Game Console Product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, about the material capability of any Handheld Game Console Product to interact with, or connect with, any Home Game Console Product during gaming, unless it discloses, clearly and prominently, and in close proximity to the representation, that consumers must purchase two versions of the same video game, one for the Handheld Game Console Product and one for the Home Game Console Product, if such is the case.

IV.

IT IS FURTHER ORDERED that respondent shall offer Eligible Purchasers a check or credit for twenty-five dollars ($25) or the alternative of a voucher (or entitlement) for merchandise, video games, and/or services with a retail value of fifty dollars ($50) or more. Respondent shall provide such redress to Eligible Purchasers as follows:

A. Within five (5) days after the date of service of this order, respondent shall provide a notice, via email, to each Eligible Purchaser whom it can reasonably identify. Respondent shall send the notice to the current or last known email address for each such Eligible Purchaser. The electronic notice shall be in the form set out in Appendix A. The subject line of the email required by this subpart shall read "Important: Sony Computer Entertainment America offering money back or merchandise to certain purchasers of PlayStation Vita." No additional information, other than that described in subpart IV.D. of this order, shall be included in or added to the notice (Appendix A) required by this subpart.

B. Within five (5) days after the date of service of this order, respondent shall post a notice on its website informing Eligible Purchasers who were not provided with the notice described in subpart IV.A. above, how they can obtain redress. A

prominent link to this notice shall be posted on the first page of the PlayStation Vita section of its website, and shall read "Important: Sony Computer Entertainment America offering money back or merchandise to certain purchasers of PlayStation Vita." This notice shall include access, by way of a link or other means, to a form set out in Appendix B to this order, asking these consumers to provide sufficient credible evidence that they qualify as Eligible Purchasers. No additional information, other than that described in subpart IV.D. of this order, shall be included in or added to Appendix B. Any consumer whom respondent does not notify under subpart IV.A. of this order, and who contacts respondent or the Commission in any manner regarding this Part, shall be directed to this notice. Respondent may decline a request for redress made under subparts IV.A. or IV.B. if it has a reasonable good faith belief based on the evidence that the request is not from an Eligible Purchaser or is fraudulent.

C. Respondent shall honor requests for redress from Eligible Purchasers who submit the appropriate forms, pursuant to subparts IV.A. or IV.B., within ninety (90) days after the date of service of this order ("Redress Period"). The period for fulfillment of redress requests is set forth in subpart IV.E. of this order.

D. In the notices required by subparts IV.A. and IV.B., respondent shall provide, clearly and prominently, all information necessary for Eligible Purchasers to evaluate this offer before making a decision between the cash payment and the alternative of a voucher (or entitlement) for merchandise, video games, and/or services, and all information necessary to redeem the offer.

E. Respondent shall send all twenty-five dollar ($25) checks promptly through the U.S. Postal Service or shall, at the discretion of the Eligible Purchaser, promptly provide a twenty-five dollar ($25) credit to the Eligible Purchaser's PSN account. Respondent shall promptly provide secure vouchers (or entitlements) for merchandise, video games, and/or services, redeemable through PSN accounts, to all Eligible Purchasers who choose this alternative. For the purposes of this order, "promptly" shall mean within sixty (60) days after the end of the Redress Period.

F. For a period of one hundred eighty (180) days after the date of service of this order, respondent shall provide, and adequately staff during ordinary business hours, a toll-free telephone number to answer questions about this program.

G. Within two hundred ten (210) days after the date of service of this order, respondent shall provide the Commission with a report, in writing, setting forth in detail the manner and form of its own compliance with this Part.

V.

IT IS FURTHER ORDERED that respondent SCEA and its successors and assigns shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and, upon reasonable notice and request, make available to the Federal Trade Commission for inspection and copying:

A. All advertisements and promotional materials containing the representation;

B. All materials that were relied upon in disseminating the representation; and

C. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

VI.

IT IS FURTHER ORDERED that respondent SCEA and its successors and assigns shall deliver a copy of this order to all current and, for the next five (5) years, all future Vice Presidents of Marketing and Directors of Marketing ("Personnel") having primary responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent and its successors and assigns shall deliver this order to current Personnel within thirty (30) days after the date of service of this order, and to future Personnel within thirty (30) days after the person assumes such position or responsibilities.

VII.

IT IS FURTHER ORDERED that respondent SCEA and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, with the subject line: In the Matter of Sony Computer Entertainment America LLC, FTC File Number 122-3252. Provided, however, that, in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of such notices is contemporaneously sent to the Commission at Debrief@ftc.gov.

VIII.

IT IS FURTHER ORDERED that respondent SCEA and its successors and assigns shall, within sixty (60) days after the date of service of this order, file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, they shall submit additional true and accurate written reports.

IX.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any Part in this order that terminates in less than twenty (20) years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

SONY COMPUTER ENTERTAINMENT AMERICA LLC

Date: _____ By: _____
SHAWN LAYDEN
President and Chief Executive Officer

Date: _____ _____
RONALD URBACH, ESQ.
Davis & Gilbert, LLP
Attorney for Respondent

Date: _____

_____
LINDA K. BADGER
MATTHEW D. GOLD
Counsel for the Federal Trade Commission

APPROVED:

_____
THOMAS N. DAHDOUH
Regional Director
Western Region

_____
JESSICA L. RICH
Director
Bureau of Consumer Protection

APPENDIX A

CASH BACK OR MERCHANDISE OFFER FROM
SONY COMPUTER ENTERTAINMENT AMERICA LLC

Dear [NAME]

Our records show that you purchased a PlayStation Vita handheld game console prior to June 1, 2012. The Federal Trade Commission has alleged that some SCEA advertisements for the PlayStation Vita during this period were deceptive. Although SCEA neither admits nor denies liability in connection with this matter, SCEA has agreed to settle the dispute with the Federal Trade Commission by offering either cash back (or credit on your PSN account) or merchandise to customers who purchased a PlayStation Vita before June 1, 2012, and who have not returned the product for a full refund.

Accordingly, we are pleased to offer you the opportunity to receive a check for $25 (or a $25 credit on your PSN account). Alternatively, you are eligible to receive a merchandise voucher [or entitlement] that you can use to select from a list of merchandise, video games and/or services. The selection of merchandise, video games and/or services that are available through this offer has a retail value of $50 or more.

You are eligible to receive either a check for $25 (or a $25 credit on your PSN account) or a merchandise voucher [or entitlement], but not both. For details of each offer and to make your choice of the $25 check (or credit) or the merchandise voucher [or entitlement], please click here [link].

You MUST complete and submit the information requested in the above link by [Insert date equal to 90 days from service of this order] to be eligible to receive the $25 check (or $25 credit on your PSN account) or merchandise voucher [or entitlement] worth $50 or more. Please be assured that your acceptance of this offer does not obligate you to purchase anything.

For more information on our settlement with the Federal Trade Commission, please visit www.ftc.gov and search for "Sony Computer Entertainment America."

If you have any questions, please call Sony Computer Entertainment America claims administration at 1-800-xxx-xxxx.

[CLICK-THROUGH PAGE]

Use this form to choose between a check for $25 (or a $25 credit on your PSN account) or a merchandise voucher [or entitlement] worth $50 or more.

I certify that the information I am providing below is true and accurate, and agree to the provisions as set out below.

<u>Check</u> Next to Each of the Below If It Is True and Accurate:

I certify that I purchased a PlayStation Vita before June 1, 2012. _____
I certify that I have not returned my PlayStation Vita for a full refund. _____
I certify that I have neither already redeemed this offer, nor made any other consumer redress request for the PlayStation Vita from Sony Computer Entertainment America. _____

Required information:

My PSN ID is _____ (Your PSN ID is the email address where you received this notice.)

Optional Information:

The following information is not required, and will not affect your eligibility to receive either a check (or credit) or a merchandise voucher [or entitlement]. To help facilitate the administration of your request, please provide one of the following (both if you have them):
The SIRIS number _____ or SERIAL number _____ of the PlayStation Vita that you purchased before June 1, 2012. (The SIRIS number and the SERIAL number are found on the bottom edge of your PlayStation Vita product. The SIRIS number is left of the connector port and the SERIAL number is right of the connector port. These numbers are also found on the side panel of the PlayStation Vita package.)

Selection of Consumer Redress Offer:

Please select ONE of the following three Consumer Redress Offers. Additional information describing each offer is available by clicking <u>here</u> [pop-up window or link].

1. _____ I select a $25 check. Please send the check to me at the following mailing address:

   [Fields for entering mailing address]

OR

2. _____ Instead of the $25 check, I select a $25 credit to be applied to my PSN account. Additional information describing this offer is available by clicking here [pop-up window or link].

OR

3. _____ I select the Merchandise Voucher [or Entitlement] good for $50 or more in value of merchandise, video games and/or services. Additional information describing this offer is available by clicking here [pop-up window or link].

I understand that by submitting this request and accepting a refund of cash (or credit) or a merchandise voucher [or entitlement] issued through this program, I agree to waive any present or future claims I may have against Sony Computer Entertainment America LLC in connection with the advertising, labeling, promotion, offering for sale or sale of the PlayStation Vita for which I received consumer redress.

To Submit Your Request and Agree to the Above

CLICK HERE

APPENDIX B

CASH BACK OR MERCHANDISE OFFER FROM
SONY COMPUTER ENTERTAINMENT AMERICA LLC

Dear Customer:

If you purchased a PlayStation Vita handheld game console before June 1, 2012, you may be eligible to receive cash back (or credit on your PSN account) or merchandise worth $50 or more. The Federal Trade Commission has alleged that some SCEA advertisements for the PlayStation Vita during this period were deceptive. Although SCEA neither admits nor denies liability in connection with this matter, SCEA has agreed to settle the dispute with the Federal Trade Commission by offering either cash back (or credit on your PSN account) or merchandise to customers who purchased a PlayStation Vita before June 1, 2012, and who have not returned the product for a full refund.

Accordingly, if you qualify as an Eligible Purchaser and properly submit the required form and provide certain information and materials, you will be entitled to receive a check for $25 (or a $25 credit on your PSN account). Alternatively, you will be eligible to receive a merchandise voucher [or entitlement] that you can use to select from a list of merchandise, video games and/or services. The selection of merchandise, video games and/or services that are available through this offer has a retail value of $50 or more.

Please note that PlayStation Vita owners who purchased their Vitas before June 1, 2012, and who registered their Vitas, should be receiving emails to their PSN accounts with full details about this offer. If you have received such an email, please follow the instructions in the email to claim your $25 cash (or credit) or merchandise voucher [or entitlement].

Please also note that you may be eligible to receive either the merchandise voucher [or entitlement] or a check for $25 (or a $25 credit on your PSN account), but not both. For details on each offer and to make your choice of the $25 check (or credit) or the merchandise voucher [or entitlement], please complete and submit the form below.

You MUST complete, sign and return the below form, and provide the requested materials and information, by [Insert date equal to 90 days from service of this order] to be eligible to receive your $25 check (or $25 credit on your PSN account) or merchandise voucher [or entitlement] with a retail value of $50 or more. Please be assured that your acceptance of this offer does not obligate you to purchase anything.

For more information on our settlement with the Federal Trade Commission, please visit www.ftc.gov and search for “Sony Computer Entertainment America.”

If you have any questions, please call Sony Computer Entertainment America claims administration at 1-800-xxx-xxxx.

COMPLETE, PRINT OUT, AND RETURN
THIS FORM WITH ALL REQUIRED MATERIALS

As part of the process to qualify the recipient of this form as an Eligible Purchaser of a PlayStation Vita purchased before June 1, 2012, I have read the below, certify that the information and accompanying materials are true and accurate, agree to the provisions, and confirm my selection of consumer redress.

Check next to each of the below if it is true and accurate:

I certify that I purchased a PlayStation Vita before June 1, 2012. _____
I certify that I have not returned my PlayStation Vita for a full refund. _____
I certify that I have neither already redeemed this offer, nor made any other consumer redress request for the PlayStation Vita from Sony Computer Entertainment America _____

Required information:

Name: _____
Home Address: _____
_____
_____

To help facilitate the administration of your form, and ensure that Eligible Purchasers meet the qualifications, please provide EITHER the SIRIS number _____ OR the SERIAL number _____ of the PlayStation Vita that you purchased before June 1, 2012. (The SIRIS number and the SERIAL number are found on the bottom edge of your PlayStation Vita product. The SIRIS number is left of the connector port and the SERIAL number is right of the connector port. These numbers are also on the side panel of the PlayStation Vita package, which you may submit in lieu of writing them on this form.)

Required materials:

Please supply ONE of the following:

(i) a store receipt showing purchase of the PlayStation Vita before June 1, 2012;

OR

(ii) a side panel of the PlayStation Vita package that shows the UPC code, SERIAL or SIRIS numbers;

OR

(iii) other information and materials that reasonably prove that you are an Eligible Purchaser of the PlayStation Vita before June 1, 2012.

Optional Information:

My PSN ID is _____ (Your PSN ID is the email address that you used and provided when you opened a PSN account.)

Selection of Consumer Redress Offer:

Please select ONE of the following three Consumer Redress Offers by circling or checking ONLY ONE offer. Additional information describing each offer is available by clicking here [pop-up window or link].

1. _____ I select a $25 check. Please send the check to me at the mailing address noted on this form.

   OR

2. _____ Instead of the $25 check, I select a $25 credit to be applied to my PSN account. Additional information describing this offer is available by clicking here [pop-up window or link].

   OR

3. _____ I select the Merchandise Voucher [or Entitlement] good for $50 or more in value of merchandise, video games and/or services. Additional information describing this offer is available by clicking here [pop-up window or link].

I understand that by submitting the request and accepting a refund of cash (or credit) or merchandise voucher [or entitlement] issued through this program, I agree to waive any present or future claims I may have against Sony Computer Entertainment America LLC in connection with the advertising, labeling, promotion, offering for sale or sale of the PlayStation Vita for which I received consumer redress.

To Submit Your Request and Agree to the Above
COMPLETE, PRINT OUT, AND MAIL THIS FORM TO ADDRESS BELOW. MAKE SURE YOU INCLUDE ALL REQUIRED MATERIALS:

Claims Administration
Sony Computer Entertainment America LLC
[address]

_____
(Print Name)

_____
(Signature)

_____
(Date)