

October 19, 2018

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Ex Parte Presentation, *Revisions to Reporting Requirements Governing Hearing Aid Compatible Mobile Handsets*, WT Docket No. 17-228

Dear Ms. Dortch,

The signatories here—collectively representing consumers with hearing loss, nationwide, rural, and regional wireless service providers, and wireless handset manufacturers—submit this consensus proposal to substitute the Federal Communications Commission’s (“Commission”) Form 655 requirements on mobile wireless service providers (“service providers”) for obligations to certify compliance with the Commission’s Hearing Aid Compatibility (“HAC”) rules and enhance consumer information through their websites about HAC-rated wireless handset offerings. This document reflects areas on which the signatories agree, but it is not intended to foreclose further productive discussion of other issues outside the scope of these commitments.

Since 2003, the Commission has required service providers and wireless handset manufacturers (“manufacturers”) to report their compliance with the Commission’s HAC rules, and since 2009 that reporting has been accomplished through submission of Form 655. These requirements were developed at a time when wireless handsets generally were “still relatively small in number,” and it was difficult for consumers to find HAC-rated wireless handsets.¹ Thus, the Commission adopted rules to encourage the development of, and information about, wireless devices to meet the needs of consumers with hearing loss.

In the more than 15 years since the Commission’s first HAC Order, service providers, manufacturers, and representatives of consumers with hearing loss continue to work collaboratively to deliver HAC-compliant wireless handsets to millions of wireless consumers. Today, the majority of available wireless handsets are HAC-rated—in fact, the Commission’s

¹ See Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, Report and Order, FCC 03-168, WT Docket No. 01-309 (rel. Aug. 14, 2003).

latest data suggests more than 80 percent of wireless handsets available in the market today are HAC-compliant.²

In addition, the signatories continue to work together to educate and inform consumers choosing a HAC-rated wireless handset.³ Through both FCC rules and voluntary efforts, consumers have the possibility of accessing a range of information to find and choose among hundreds of HAC wireless handset models that meets their needs.⁴ For example, service providers and manufacturers are required to provide consumers with this information through retail and online shopping experiences, including availability of in-store, “try before you buy” testing; handset packaging materials; and technical support and customer service call and service centers. When these consumer-facing disclosures are implemented, they help ensure that consumers who use hearing aid devices can find HAC-rated wireless handsets that meet their unique needs. If carriers consistently comply with these rules, consumers may find the information they need to ensure the wireless handsets they purchase are compatible with their hearing aid devices. Consumers have found value in providers’ compliance with FCC rules and voluntary industry commitments, including regarding in-store testing and call-out cards, and they look forward to identifying additional ways to ensure useful, timely, and complete information is made available about HAC offerings.

In addition, Form 655 was not intended primarily to provide consumer education. Instead, it was intended “to collect information on the status of compliance with the FCC’s hearing aid compatibility requirements by digital mobile service providers and manufacturers of devices used in the delivery of these services....The electronic form also provides the public with improved access to review the filed status reports.”⁵ As long as service providers and manufacturers are not required to provide 100% HAC offerings, consumers and the Commission need to be able to understand what HAC offerings are available. However, Form 655 is not the only way to achieve

² Per the FCC’s most recent reports, 88 percent of mobile wireless carrier-air interfaces offered by U.S. service providers meet the M-rating requirements, and 83 percent meet both the M- and T-rating requirements on an air interface basis. *See also Biennial Report to Congress as Required by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report, DA 18-1036, CG Docket No. 10-213, ¶ 11 (rel. Oct. 9, 2018) (noting that “the wireless industry continues to exceed the Commission’s minimum HAC requirements for wireless handsets”). Notably, just this month, we marked the first deadline presented by the landmark 2015 Consensus Proposal adopted by the Commission, requiring manufacturers to ensure at least 66 percent of their handsets are HAC compliant. And we continue to work toward assessing whether 100 percent HAC compliance is achievable, considering technical and market conditions. The Commission should continue to report on the aggregate percentage of HAC-compliant handsets in the marketplace as part of its findings for the Communications and Video Accessibility Act Biennial Report to Congress by, for example, using information from manufacturer Form 655 filings for as long as manufacturers continue to submit Form 655 reports.

³ *See, e.g.*, Access Wireless, <http://www.accesswireless.org>.

⁴ These efforts are in addition to the role that hearing aid manufacturers and audiologists, as the first contact with consumers, should play in educating consumers about HAC and the HAC ratings of hearing aid devices.

⁵ Instructions for Hearing Aid Compatibility Status Reporting Form (FCC Form 655), FCC, <http://wireless.fcc.gov/hac/FCCForm655Instructions.pdf>.

the goal of providing the Commission and consumers with complete, accurate, and timely information about HAC offerings. As this letter describes below, there are methods that allow the Commission to assess the status of compliance and provide consumers with information they need without the Form 655.

Thus, the undersigned agree that the Commission should no longer require service providers to submit Form 655 if—in place of the Form 655 obligations and to ensure consumers can more readily find HAC-rated wireless handsets—the Commission requires service providers to both annually certify compliance with the Commission’s HAC rules and enhance the information on their consumer-facing websites. These new obligations would be in addition to the existing HAC requirements.

In particular, as detailed in Appendix A, service providers should enhance the information on their public websites to include additional information in a timely manner to help consumers find a wireless handset that meets their unique needs. The Commission also should consider whether similar efforts might be made for manufacturers, while ensuring that consumers, industry, and the Commission continue to have access to all necessary information regarding HAC-compliant wireless handsets. Importantly, none of these proposals should undermine the enforceability of the Commission’s existing HAC rules related to in-store testing, labeling, and disclosure to consumers. In fact, the proposals in Appendix A should make it even easier for consumers to find and choose among the hundreds of HAC-rated wireless handsets available in the market today by aligning the Commission’s rules with the ways most consumers obtain information about wireless handsets—through online services—while enabling more real-time information than the Form 655 currently provides.

* * * * *

The landscape of HAC-rated wireless handsets has changed dramatically for consumers who use hearing aid devices since the Commission’s first HAC Order more than 15 years ago. Consumers today can choose from hundreds of HAC-compliant wireless handsets. They may find information on websites to determine which HAC-rated wireless handsets have the right mix of features, functions and prices for them. They may be able to go to a wireless service provider’s store to “try before you buy” to ensure a HAC-rated wireless handset will meet their unique needs. The Commission should be able to substitute service providers’ Form 655 requirements for obligations to certify compliance with the Commission’s HAC rules and enhance consumer information about HAC-compliant wireless handset offerings through their websites, so long as compliance with existing HAC requirements isn’t undermined. By doing so, the Commission can continue to have access to the status of compliance with the Commission’s HAC requirements, while at the same time enhancing consumers’ ability to make informed choices about HAC-rated

wireless handsets in ways that are more accessible, up-to-date, and user-friendly than the FCC Form 655.

Sincerely,

/s/ Courtney Neville

Courtney Neville
Associate General Counsel
Competitive Carriers Association

/s/ Kara Graves

Kara Graves
Director, Regulatory Affairs
CTIA

/s/ Lise Hamlin

Lise Hamlin
Director of Public Policy
Hearing Loss Association of America

/s/ Savannah Schaefer

Savannah Schaefer
Policy Counsel, Government Affairs
Telecommunications Industry Association

Appendix A: Overview of Service Provider Commitments

Below is an overview of existing FCC requirements for HAC information, including information on service providers' public websites, along with a list of new commitments services providers make to enhance their websites and certify compliance with the FCC's HAC rules.

Existing FCC Requirements for Service Providers

Under existing FCC rules and Orders, service providers must make available the following information to consumers regarding HAC and HAC-rated devices, outside the context of their public websites:

- A “try before you buy” testing experience in each retail store owned or operated by the provider, all of its HAC-compliant handset models;
- Device HAC ratings on each handset's packaging material;
- An explanation of the HAC rating system in each device's user manual or as an insert in the packaging material for the handset;
- A disclosure that the device may operate on newer technology that may not have been tested;
- Specific guidance requiring how to use the device if it was tested using the 1900 MHz power-down exception;
- A description of the compatibility features of the handset upon request;
- Usable customer support and technical support in call centers and service centers; and
- Contact methods for obtaining information about the accessibility and HAC features of the device in the general product information.

To the extent a wireless service provider or handset manufacturer has a public website, it must make available:

- Information about HAC models currently offered;
- The ratings of those models;
- An explanation of the HAC rating system so that consumers can find devices that meet their needs;
- Information regarding the level of functionality for each model; and
- An explanation of the methodology for designating the levels of functionality.

Proposed New Service Provider Website Requirements

In addition to the existing website disclosure requirements, which will not change under this proposal, the Commission should update its rules to enhance the website disclosure obligations to require service providers to:

- Include on their public websites the FCC identifier for all HAC-rated handsets made commercially available by the service provider;
- Include on their public website the marketing model/number(s) for all HAC-rated handsets made commercially available by the service provider; and
- Include on their public websites a link to the Global Accessibility Reporting Initiative (“GARI”) database, or, alternatively, a list of devices that may have been sold in the past two years but are no longer commercially available (so long as devices that are no longer available for purchase are clearly marked).

Proposed New Service Provider Recordkeeping and Certification Requirements

To ensure compliance with the Commission’s HAC percentage benchmarks, the Commission should also require the following new certification and recordkeeping requirements for service providers.

- **Certification of Compliance with HAC Rules.**
 - Annual certification of compliance with the Commission’s rules, similar to the existing annual certification used for ensuring compliance with the Communications and Video Accessibility Act (“CVAA”) and implementing regulations.
 - The certification should include statements that the service provider complies with the FCC’s HAC rules, including the applicable benchmarks and consumer disclosures and the new and revised website disclosures discussed above.
 - The certification also could include input fields where service providers could indicate to the Commission the percentage of wireless handsets made available by the service provider to consumers that are HAC-compliant.
- **Enhanced Recordkeeping Requirements.** The Commission should include as part of the new annual certification an acknowledgement by the service provider that it will:
 - Retain records for the preceding two years (consistent with the recordkeeping obligations under the CVAA) regarding both HAC-rated and non-HAC-rated wireless devices that the service provider made available to consumers; and
 - Make that information available to the Commission at the Commission’s request.

Appendix B: Proposed Rules

Section 20.19 is revised as follows:

(h) *Web site requirements.*

(1) Beginning January 15, 2009, each manufacturer and service provider subject to this section that operates a publicly-accessible Web site must make available on its Web site a list of all hearing aid-compatible models currently offered, the ratings of those models, and an explanation of the rating system.

(2) Each service provider that operates a publicly-accessible Web site must also specify on its Web site information regarding HAC-compliant handsets:

(i) based on the levels of functionality that the service provider has defined, the level that each hearing aid-compatible model falls under; as well as

(ii) an explanation of how the functionality of the handsets varies at the different levels;

(iii) the marketing model name/number(s) and FCC identifier, as described in Section 2.926, for all HAC-rated handsets; and

(iv) a link to the Global Accessibility Reporting Initiative (“GARI”) database, or, alternatively, a clearly marked list of devices that may have been sold in the past two years but are no longer commercially available.

(i) *Reporting requirements*—(1) *Reporting dates.* Manufacturers shall submit reports on efforts toward compliance with the requirements of this section on January 15, 2009 and on July 15, 2009, and on an annual basis on July 15 thereafter. Service providers shall certify their ~~submit reports~~ compliance with the requirements of this section on an annual basis on _____. Information in the reports or that provides the basis for the certifications must be up-to-date as of the last day of the calendar month preceding the due date of the report.

(2) *Content of manufacturer reports.* The Wireless Telecommunications Bureau is delegated authority to approve or prescribe formats and methods for submission of these reports. Any format that the Bureau may approve or prescribe shall be made available on the Bureau’s Web site. Reports filed by manufacturers must include:

(3) *Content of service provider ~~certifications, reports.~~* Service provider certifications must be made by a knowledgeable executive of each provider and state:

(i) that the service provider complies with the HAC rules, including the applicable benchmarks and web site requirements;

(ii) that the service provider has retained records for the preceding two years regarding both HAC-rated and non-HAC-rated wireless devices that the service provider makes or has made available to consumers;

(iii) that the service provider will make that information available to the Commission at the Commission's request. A service provider may assert a statutory request for confidentiality for these records under 47 U.S.C. 618(a)(5)(C) and §0.457(c) of this chapter. All other information submitted to the Commission pursuant to this subpart or pursuant to any other request by the Commission may be submitted pursuant to a request for confidentiality in accordance with §0.459 of this chapter; and
(iv) the percentage of wireless handsets made available by the service provider to consumers that are HAC-compliant.

~~Reports filed by service providers must include:~~

- ~~(i) Compliant handset models offered to customers since the most recent report, identifying each model by marketing model name/number(s) and FCC ID number;~~
- ~~(ii) For each compliant model, the air interface(s) and frequency band(s) over which it operates, the hearing aid compatibility ratings for each frequency band and air interface under ANSI Standard C63.19, and the months in which the model was available since the most recent report;~~
- ~~(iii) Non-compliant models offered since the most recent report, identifying each model by marketing model name/number(s) and FCC ID number;~~
- ~~(iv) For each non-compliant model, the air interface(s) over which it operates and the months in which the model was available since the most recent report;~~
- ~~(v) Total numbers of compliant and non-compliant models offered to customers for each air interface over which the service provider offers service as of the time of the report;~~
- ~~(vi) Information related to the retail availability of compliant handset models;~~
- ~~(vii) The levels of functionality into which the compliant handsets fall and an explanation of the service provider's methodology for determining levels of functionality;~~
- ~~(viii) Status of product labeling;~~
- ~~(ix) Outreach efforts; and~~
- ~~(x) If the service provider maintains a public Web site, the Web site address of the page(s) containing the information regarding hearing aid-compatible handset models required by paragraph (h) of this section.~~

~~Note to paragraph (i)(3): For reports due on January 15, 2009, information provided with respect to paragraphs (i)(3)(i) through (i)(3)(iv) and (i)(3)(vi) through (i)(3)(viii) need be provided only for the six-month period from July 1 to December 31, 2008.~~

~~(4) *Format.* The Wireless Telecommunications Bureau is delegated authority to approve or prescribe formats and methods for submission of these reports. Any format that the Bureau may approve or prescribe shall be made available on the Bureau's Web site.~~