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October 19, 2018

**VIA ELECTRONIC FILING**

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

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

Dear Ms. Dortch,

Hearing Loss Association of America (HLAA), representing consumers with hearing loss and Rehabilitation Engineering Research Center on Technology for the Deaf and Hard of Hearing, Gallaudet University (DHH-RERC), providing technical guidance and research, submit this letter proposing revisions to 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.

HLAA and DHH-RERC have joined with industry members, CTIA, CCA, and TIA, in working to reach consensus on how to move forward if Form 655 is no longer required. We are pleased to report that we worked hard to find areas that we can agree on and the result is a consensus letter that is also filed in this docket.

However, HLAA and DHH-RERC wish to provide the Commission with additional comments from the consumer perspective on what we see would be most beneficial for consumers seeking to gain information about HAC offerings, while at the same time providing the Commission with complete, timely and accurate information they can rely on to ensure compliance with the rules that Form 655 has provided for years.

The most recently updated HAC rules require Tier I carriers to ensure that at least 66% of the handset models they offer comply with the rules beginning April 3, 2019. Until that time they are only required to have 50% of their models HAC. For other carriers, the date to reach 66% is

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April 3, 2020. Smaller carriers, those that don't have the purchasing power of the Tier I carriers, may only be able to reach the minimum number of HAC offerings required under the rules. That would mean in some areas of the country, consumers will have only 50% HAC models available to them until 2020, if those carriers comply with the rules. The real life result is that many consumers will still struggle to find HAC handsets. In fact, until we reach the point that all service providers have 100% HAC offerings, consumers cannot be assured that when they walk into provider stores they will be able to find a model that is HAC that meets their needs.

We do give credit to an industry that has made strides in providing greater numbers of HAC mobile devices. By adhering to FCC rules and by the voluntary efforts of service providers, consumers have the possibility of accessing a range of information to find and choose among HAC wireless handset models that meets their needs.<sup>1</sup> For example, carriers and manufacturers are required under CFR 20.19 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. In addition, providers for some time voluntarily included information about M and T ratings of each model on their "call out" cards. When these consumer-facing disclosures are implemented, and when providers go above and beyond the basic requirements under the rules, they help ensure that consumers who use hearing aid devices can find HAC-rated wireless handsets that meet their unique needs.

If all carriers consistently comply with HAC rules, consumers may find the information they need to ensure the wireless handset they purchase is compatible with their hearing device. However, recently, consumers are finding that, for example, in-store testing is not universally available, call-out cards no longer carry information about HAC ratings, and websites may or may not have useful, timely and complete information about HAC offerings. Even when information is available on these websites, HAC information may be buried in a way that cannot be easily found. In short, it's still a struggle to find the information a consumer needs, either on-line or in the store, to ensure the offerings available are HAC.

Form 655 was introduced "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

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<sup>1</sup> 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.

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provides the public with improved access to review the filed status reports.”<sup>2</sup> As long as service providers and manufacturers are not required to provide 100% HAC offerings, the Commission must have access to complete, accurate and timely information by providers about HAC offerings.

However, consumers agree with industry that Form 655 is not the only way to achieve the goal of providing the Commission with complete, accurate and timely information about HAC offerings and may not be the best way to provide consumers information about HAC offerings. If a method can be established that not only allows the Commission to have access to the status of compliance with the Commission’s hearing aid compatibility requirements, and at the same time can provide consumers with the information they need to purchase a handset, then it may well be that Form 655 will not be needed by the Commission or by consumers.

Thus, consumers are not opposed to the Commission determining that the requirement for service providers to submit Form 655 is no longer needed, 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 and the Commission continues to enforce all the Commission’s hearing aid compatibility 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 and allows the Commission access to information that will help ensure compliance with the rules. 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.

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<sup>2</sup> Federal Communications Commission. Instructions for Hearing Aid Compatibility Status Reporting Form (FCC Form 655) <http://wireless.fcc.gov/hac/FCCForm655Instructions.pdf>

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In our consensus letter, we found both providers and consumers can agree on several points. In addition to those, consumers urge the Commission to ensure the following requirements part of the rules if Form 655 is abandoned or changed:

- Include on their public websites the 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;
- Update the HAC information on their public websites within 30 days of any relevant changes;
- The information provided on the HAC list should be clearly dated on the web page;
- HAC ratings should be posted as follows:
  - o tested and found to be hearing aid compatible
  - o tested and found not to be hearing aid compatible
  - o not tested for hearing aid compatibility;
- Where specifications for each model of handset is provided, include the HAC rating for each model should appear as part of the specifications;
- Include on their public websites a link to the Commissions' HAC Fact Sheet providing an outline of the rules on HAC handsets at <https://www.fcc.gov/consumers/guides/hearing-aid-compatibility-wireline-and-wireless-telephones> or wherever the Commission posts that fact sheet, as well as a listing of at least the following components of the rules:
  - o Packages containing hearing-aid compatible handsets must be explicitly labeled and must include detailed information in the package or product manual.
  - o Wireless service providers must offer a means for consumers to test hearing-aid compatible handsets in their retail stores.
  - o Manufacturers and service providers are required to post information about their hearing-aid compatible handset offerings on their websites; and
- Include on their public websites a link to the Commission's consumer complaints center, consumer complaints center <https://consumercomplaints.fcc.gov/hc/en-us>;

Requirements to file Form 655 were established to help enable the "Commission fulfill its responsibilities in monitoring the status of access to hearing aid-compatible handsets and verifying compliance with the rules, and to ensure that the public has additional useful



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information on compatible handsets.”<sup>3</sup> Because the information from the reports filed under Form 655 are publically available, consumers have had access to the same information. HLAA and DHH-RERC support moving away from Form 655, so long as the providers enhance their website as suggested in Appendix A, and if they also certify compliance with the Commission’s HAC rules annually.

Sincerely,

/s/ Lise Hamlin

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<sup>3</sup> See ¶96, *Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Telephones*, Report and Order, FCC 08-68, WT Docket No. 07-250 (rel. Feb. 28, 2008).

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## **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's 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.



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### **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;
- Include on their public websites the 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;
- Update the HAC information on their public websites within 30 days of any relevant changes. The information provided on the HAC list should be clearly dated on the web page; HAC ratings should be posted as follows:
  - tested and found to be hearing aid compatible
  - tested and found not to be hearing aid compatible
  - not tested for hearing aid compatibility;
- Where specifications for each model of handset is provided, include the HAC rating for each model as part of the specifications;
- 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);
- Include on their public websites a link to the Commissions’ HAC Fact Sheet providing an outline of the rules on HAC handsets at <https://www.fcc.gov/consumers/guides/hearing-aid-compatibility-wireline-and-wireless-telephones>, and a listing of the following components of the rules:
  - Packages containing hearing-aid compatible handsets must be explicitly labeled and must include detailed information in the package or product manual.
  - Wireless service providers must offer a means for consumers to test hearing-aid compatible handsets in their retail stores.
  - Manufacturers and service providers are required to post information about their hearing-aid compatible handset offerings on their websites; and
- Include on their public websites a link to the Commission’s consumer complaints center, consumer complaints center <https://consumercomplaints.fcc.gov/hc/en-us>;

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### **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.
  - 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 by, for example, using information from manufacturer Form 655 filings for as long as manufacturers continue to submit Form 655 reports.
- **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.



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## Appendix B: Proposed Rules

Section 20.19 is revised as follows:

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(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. Each manufacturer and service provider must update this within 30 days of any relevant changes. The information provided on the HAC list should be clearly dated on the Web page.

(i) HAC ratings should be posted as follows:

- o tested and found to be hearing aid compatible
- o tested and found not to be hearing aid compatible
- o not tested for hearing aid compatibility

(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;

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

(iii) 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;

(iv) Where specifications for each model of handset is provided, include the HAC rating for each model as part of the specification;

(3) Each service provider that operates a publicly-accessible Web site must provide information about the requirements under the HAC rules, including information about requirements for labeling, in-store testing, and posting about HAC offerings; and

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(4) Each service provider that operates a publicly-accessible Web site must provide a link to the Commission's Web site that provides a Fact Sheet regarding HAC regulations, and a link to the Commission's Consumer Complaint Center.

(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 January 15. 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:

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

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

(ii) 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; and

(iii) 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.

~~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;~~

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- ~~(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.~~