

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

In the Matter of)	
)	
Revisions to Reporting Requirements Governing)	WT Docket No. 17-228
Hearing Aid-Compatible Mobile Handsets)	
_____)	

COMMENTS OF AT&T

AT&T provides these comments to the Notice of Proposed Rulemaking released by the Federal Communications Commission (“Commission”) on hearing air compatibility (“HAC”) reporting requirements for wireless providers.¹

I. INTRODUCTION AND SUMMARY

The Notice seeks comment on revising the Commission’s wireless HAC annual reporting requirements to provide relief to non-nationwide service providers where the benefits of the annual status report no longer outweigh the burdens placed on providers. AT&T supports this Commission effort to eliminate unnecessary regulatory burdens for wireless providers, but proposes extending this relief from HAC reporting obligations to all providers. Gathering and entering HAC information into the Form 655 HAC status report is extremely time consuming for all wireless providers. That burden now outweighs any benefits that status reports once may have provided.

The Commission adopted HAC reporting to provide information to the public, assist efforts to verify compliance, and monitor the general state of hearing aid-compatible handset

¹Revisions to Reporting Requirements Governing Hearing Aid-Compatible Mobile Handsets, WT Docket No. 17-228, *Notice of Proposed Rulemaking* (2017) (“*Notice*”).

deployment.² Commission efforts are no longer needed to accomplish these goals because of the substantial progress in the availability of HAC consumer information and HAC compliant handsets since the Commission initially adopted the HAC status report requirement in 2003. HAC educational information and ratings by handset are now available through multiple easily accessible websites that are more concise and understandable for consumers than the HAC status report. Further, HAC compliant handsets are now pervasive and the wireless industry has demonstrated its long-term commitment to providing HAC compliant handsets by agreeing to a path to greater HAC handset availability going forward. For these reasons, the benefits from HAC status reports no longer override the burdens of preparing and filing those reports, and the Commission should eliminate that outdated obligation on all wireless providers.

Alternatively, if the Commission determines that some or all wireless providers must continue to file Form 655 HAC status reports, reducing the amount of data that must be reported would minimize the current substantial burden. Providing handset specific HAC information by air interface, frequency band, and beginning and end handset availability dates provides minimal information to consumers, who just want their handset to work when they need it. Moreover, disclosing outreach requirements provide minimal value because of the significant amount of HAC information currently available online to educate consumers. For these reasons, this information should be removed from the Form 655. The Commission should also recognize that wireless providers rely on handset manufacturers for their handset specific HAC information and grant providers a safe harbor from enforcement action arising from any such data that turns out to be inaccurate.

² *Id* at 4, ¶ 9.

As referenced above, relief from the HAC status report obligation should extend to all wireless providers, which are impacted in the same manner as non-nationwide providers. As Commissioner Rosenworcel explains, “this rulemaking is about moving to a regime with less paperwork”³ and not about retreating from carriers’ obligations to make communications technologies and handsets accessible to persons with disabilities. Thus, all wireless providers will continue their commitments to serving persons with disabilities, including complying with the Commission’s HAC rules. This action would allow all wireless providers, not just those providing service on less than a nationwide basis, to reach the goal sought by Chairman Pai for small providers—“to put their resources where it matters most—towards investment and innovation that benefits their customers, instead of bureaucratic red tape.”⁴

II. ANALYSIS

A. HAC status reports are no longer the best means to meet the Commission’s goals.

The Commission adopted HAC reporting to provide information to the public, assist efforts to verify compliance, and monitor the general state of hearing aid-compatible handset deployment.⁵ Each of these goals are now (or can be) met through other, more efficient and effective means. The wireless industry has evolved and handsets are now increasingly available through non-traditional outlets that do not file HAC status reports, such as mass market retailers and web outlets. Yet, AT&T is unaware of mass complaints from consumers who wear hearing aids about the lack of education about the HAC status of handsets acquired through these channels. Eliminating the HAC reporting obligations for all wireless carriers would have minimal negative

³ *Id.*, Statement of Commissioner Jessica Rosenworcel at 22.

⁴ *Id.*, Statement of Chairman Ajit Pai at 19.

⁵ *Id.* at 4, ¶ 9.

implications for the public. Thus, the Commission should relieve all wireless providers of HAC reporting obligations.

1. HAC status reports from wireless providers are not the best source of information.

Wireless providers do not manufacture handsets or otherwise control the HAC status of a wireless handset. Yet, wireless providers are subjected to duplicative and unnecessary HAC status reporting obligations. Handset manufacturers are in the best position to certify to the HAC status of the wireless handsets they design and build, and file annual HAC status reports. It wastes wireless carrier and Commission resources to require wireless providers to file similar HAC status reports that are based solely on information from these same manufacturers. The public and the Commission can best gather information on the HAC status of various handsets by relying on the manufacturer filed status reports.

Wireless providers would continue to provide detailed HAC information on their publicly-available websites, including much of the same information included in the current HAC status report. These webpages would provide the public and the Commission with an easily accessible way to verify the overall HAC status of a wireless provider's handset inventory. Rather than search the Commission's website, consumers shopping for a preferred HAC compliant handset are much more likely to view the website of a handset manufacturer⁶ and/or wireless provider⁷ for all then-

⁶ See, e.g., <https://www.samsung.com/us/accessibility/mobile/> (last visited Nov. 6, 2017); <https://support.apple.com/en-us/HT202186> (last visited Nov. 6, 2017).

⁷ See, e.g., <https://www.att.com/esupport/article.html#!/wireless/KM1207494> (last visited Nov. 6, 2017); <http://www.verizon.com/about/accessibility/hearing-aid-compatibility> (last visited Nov. 6, 2017); <https://www.t-mobile.com/company/company-info/consumer/accessibility-policy.html> (last visited Nov. 6, 2017); https://www.sprint.com/content/dam/sprint/north-america/usa/en/services/accessibility/documents/hac_handsets_2017.pdf (last visited Nov. 6, 2017).

current handset information, including HAC status. In addition, manufacturer and wireless carrier websites provide information about the HAC status of available handsets that is more current than information available from HAC status reports, which may be outdated as soon as they are filed.

Moreover, other websites now make handset-specific HAC information available to consumers. As the Commission explains, the Global Accessibility Reporting Initiative (GARI) is designed to educate consumers about the accessibility features of mobile handsets and to help consumers identify handsets with the features that meet their particular needs.⁸ CTIA developed and maintains www.AccessWireless.org as a means for consumers to easily find information about HAC generally and wireless handsets that meet their needs, including for HAC compliance. The Hearing Loss Association of America provides links to websites to view HAC status, including the GARI and AccessWireless sites.⁹ Even some hearing aid handset distributors periodically make handset specific HAC information available to their customers.¹⁰ Consumers are much more likely to visit these publicly available websites when shopping for a wireless handsets than they are to visit and review extremely detailed, and potentially outdated, HAC status reports available via the Commission's website,¹¹ and this information is available without the need to impose the substantial burdens of current HAC status report obligations.

⁸ *Notice* at 5, ¶ 11.

⁹ <http://www.hearingloss.org/content/telephones> (last visited November 6, 2017).

¹⁰ *See, e.g.*, <https://www.mdhearingaid.com/en/blog/mobile-phones-compatible-with-hearing-aids/> (last visited November 6, 2017).

¹¹ More generally, consumers also can educate themselves about the HAC rating via information on the price card of handsets sold in AT&T retail locations.

2. HAC status reports are burdensome to compile and prepare.

Wireless providers must populate HAC status reports with incredibly detailed information about the handsets they sell, including manufacturer, name/number, FCC ID number, model, HAC rating, level of functionality, and whether those handsets were HAC compliant by air interface and by frequency band for each month in each year. More generally, the HAC status report requires information about handset complaints, retail availability, product labeling, and HAC outreach efforts. Compiling and submitting this information for the HAC status reports alone take multiples of the two and a half (2.5) hours, on average, that the Form 655 Instructions estimate it would take to compile this information.

Wireless carriers devote substantial time generally confirming HAC status with manufacturers directly upon receipt of a handset from the manufacturer and placing that information on their websites. But, for its part, AT&T spends substantially more time reconfirming the HAC specific data from manufacturer websites, compiling handset specific data by month for the report, tracking complaints and outreach efforts, validating issues with legal and regulatory resources, entering the data into the online Form 655, and dealing with frequent technical glitches during the entry process. By its own rough estimate, one AT&T employee spends approximately 50 hours annually performing these activities, but this does not include time spent by persons providing HAC data to this employee or by legal/regulatory personnel reviewing the draft report and dealing with issues relating to the HAC status report, such as who files the report following an acquisition of less than all of a business. Less frequent reporting without a corresponding reduction in the details required in the report would not significantly reduce this administrative burden because providers will still need to compile detailed handset specific HAC information by month for each data point.

These burdens are no long justified by the benefits derived from the HAC status reports filed by any wireless provider. As demonstrated above, better, more effective, and more efficient means are available for the public to derive information about handset HAC status and for the Commission to monitor HAC handset deployment. In addition, the Commission's HAC benchmarks have accomplished their purpose, as evidenced by the high proportion of handsets that are HAC compliant and by the path to their ubiquitous availability. This widespread availability of HAC compliant handsets eliminates the need for the Commission to continue monitoring and verifying HAC handset deployment by handset, by air interface, by frequency band, by month, availability start and end dates, etc.

Manufacturers are making and wireless carriers offer HAC compliant handsets at rates that far exceed the Commission's minimum fractional deployment benchmarks, demonstrating that manufacturers have taken the needed steps to incorporate HAC features into the design of their wireless handsets and service providers demand handsets that meet HAC standards. As the Commission observes, even most small and regional providers already meet 66% and 85% HAC benchmarks that do not apply to them for many years in the future.¹² Consequently, it is not surprising that the "status reports in recent years have reflected near universal compliance with hearing aid compatibility requirements."¹³ This trend toward widespread availability of HAC compliant handsets will continue because manufacturers and providers are committed to higher benchmarks.

As an alternative to Commission use of HAC status reports to verify HAC compliance, wireless providers could annually certify their compliance to the Commission. Precedent for such

¹² *Notice* at 3 fn. 14.

¹³ *Notice* at 3 ¶ 6.

a certification in the accessibility context already exists. Currently, wireless providers certify annually to their compliance with accessibility requirements imposed pursuant to Section 717 of the Communications Act. A HAC compliance certification combined with this existing Section 717 certification would continue to place an affirmative obligation on wireless providers to confirm compliance with HAC obligations, while avoiding the need to create new processes and new administrative burdens.

B. Alternatively, modifying the HAC reporting obligations on wireless providers would streamline their regulatory burdens.

AT&T has demonstrated above how the purpose of the HAC status report requirement—to provide information to the public, assist with efforts to verify compliance, and monitor the deployment of HAC handsets—can be met without imposing undue burdens on wireless providers. Nevertheless, if the Commission determines that the cost/benefit balance warrants less than the full elimination of HAC status reports for wireless providers, modifications to the existing HAC status report process could reduce those burdens.

First, the Commission could significantly reduce the time required to compile information for and enter information in the Form 655 by allowing providers to certify to the HAC status of a handset based on its overall functionality, rather than by air interface and frequency band, and without having to provide device availability start and end dates (e.g., “During the last year, service provider has complied with all of the Commission’s performance benchmarks for the provision of hearing aid compatible handsets.”) AT&T spends hours checking and cross checking the HAC ratings for each air interface and frequency within a handset, confirming the dates that the handsets were sold, and entering this information into the Form 655, a level of detail that is lost on consumers, which just want to know that the handset will work for them regardless of the air interface or frequency used. Wireless providers would still need to meet the HAC benchmarks for

covered handsets in each air interface and frequency band, and could still provide FCC ID, marketing name, and HAC rating, but would be relieved of the most onerous reporting requirements.¹⁴

Second, listing the HAC outreach efforts is no longer necessary. As explained above, a substantial amount of HAC related information is now available to consumers on the websites of handset manufacturers, wireless providers, GARI, CTIA, hearing aid distributors, as well as on the websites of the Commission,¹⁵ the U.S. Food and Drug Administration,¹⁶ and associations that support persons with hearing disabilities.¹⁷ Thus, HAC information is much more accessible to consumers than when the outreach reporting obligation was initially imposed. And, removing this field from the report will not reduce the amount of outreach conducted by service providers, which already conduct outreach without any specific regulatory obligation to do so. Moreover, consumers can still visit a wireless provider store to test the performance of specific HAC compliant handsets with their hearing aids. For these reasons, the outreach description in a

¹⁴ AT&T is hopeful that reducing the amount of data that must be entered would also reduce the number of errors generated by the system when data is submitted.

¹⁵<https://www.fcc.gov/consumers/guides/hearing-aid-compatibility-wireline-and-wireless-telephones> (last visited November 6, 2017).

¹⁶<https://www.fda.gov/MedicalHandsets/ProductsandMedicalProcedures/HomeHealthandConsumer/ConsumerProducts/HearingAids/ucm181478.htm> (last visited November 6, 2017).

¹⁷ See, e.g., <http://www.betterhearing.org/hearingpedia/hearing-aid-compatible-cell-phones> (last visited November 6, 2017); <http://www.hearingloss.org/content/telephones> (last visited November 6, 2017); <https://www.asha.org/public/hearing/Hearing-Aids-and-Cell-Phones/> (last visited November 6, 2017); <https://www.healthyhearing.com/help/assistive-listening-handsets/hearing-aid-compatible-phones> (last visited November 6, 2017); <http://columbiamohearingcenter.com/2011/09/hearing-aid-compatible-cell-phones/> (last visited November 6, 2017).

wireless provider's HAC status report is of little value and could be eliminated with no reduction in consumer education.

Third, the Commission should adopt a safe harbor from enforcement for wireless providers that rely on the HAC ratings provided by handset manufacturers. As stated above, the information that wireless providers provide in their Form 655 submissions is derived in good faith from handset manufacturers. Wireless providers can confirm that the data they enter into the Form 655 accurately repeats the manufacturer provided HAC information but they are in no position to independently evaluate (or even if they could independently evaluate, to second guess) that information. Manufacturers design and construct the handsets and they, not wireless providers, are in the best position to know the handset capabilities. Thus, wireless providers that rely on manufacturer provided HAC information and accurately represent that information on their Form 655 should be insulated from enforcement action from inaccuracies in the information. Enforcement against a provider in that scenario would be pointless.

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