

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Request for Updated Information and Comment	)	WT Docket No. 10-254
on Wireless Hearing Aid Compatibility	)	
Regulations	)	WT Docket No. 07-250
_____	)	

**COMMENTS OF THE ALASKA RURAL COALITION**

Shannon M. Heim  
Erik Levy  
Dykema Gossett  
4000 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402  
(612) 486-1586

*Counsel for Alaska Rural Coalition*

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## **I. Introduction.**

The Alaska Rural Coalition<sup>1</sup> (“ARC”) files its Comments in this proceeding pursuant to the Public Notice issued by the Wireless Telecommunications Bureau and the Governmental Affairs Bureau (collectively the “Commission”) on November 21, 2014 seeking comment on wireless hearing aid compatibility regulations.<sup>2</sup> The ARC strongly supports any efforts by the Commission to move away from fractional compliance and towards a system that is not as onerous on small, rural and remote carriers.<sup>3</sup> However, the ARC cautions that the Commission must consider all of the consequences of any decision to require universal HAC compliance.

The ARC membership consists of most of the rate of return incumbent rural local exchange carriers (“RLECs”) in Alaska, all of whom serve some of the highest cost areas of the nation. ARC members are generally small, rural telephone companies and cooperatives that serve tribal lands and endeavor to bring the highest quality of service possible to Alaskans. The current fractional compliance regime relies on conflicting

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<sup>1</sup> The ARC is composed of Adak Telephone Utility, Alaska Telephone Company, Arctic Slope Telephone Association Cooperative, Inc., Bettles Telephone, Inc., Bristol Bay Telephone Cooperative, Inc., Bush-Tell, Inc., Circle Telephone & Electric, LLC, City of Ketchikan dba Ketchikan Public Utilities, Copper Valley Telephone Cooperative, Cordova Telephone Cooperative, Inc., Inc., Interior Telephone Company, Inc., Matanuska Telephone Association, Inc., Mukluk Telephone Company, Inc., North Country Telephone Inc., Nushagak Electric and Telephone Company, Inc., OTZ Telephone Cooperative, Inc., and The Summit Telephone and Telegraph Company, Inc.

<sup>2</sup> Request for Updated Information and Comment on Wireless Hearing Aid Compatibility Regulations, WT Docket Nos. 10-254, 07-250, *Public Notice*, 79 Fed. Reg. 76944 - 76948 (Dec. 23, 2014) (“*Public Notice*”).

<sup>3</sup> See *Public Notice* at para. 2 (“Second, should the Commission consider moving away from the fractional compliance regime that exists today and implement a requirement that all mobile wireless devices must comply with the hearing aid compatibility rules?”).

databases and requires carriers to engage in unnecessarily complex and voluminous reporting.<sup>4</sup> The ARC has repeatedly stated to the Commission that rural and remote carriers do not have the budget or manpower for continued excessive compliance measures.<sup>5</sup>

## **II. The Commission Should Abandon the Fractional Compliance Regime in favor of a Simplified Annual Compliance Reporting.**

In the *Public Notice*, the Commission seeks comment “on the costs and benefits associated with requiring all handsets to be hearing aid compatible.”<sup>6</sup> The ARC believes that the benefits to abandoning the fractional compliance regime would far outweigh any costs. The fractional compliance regime is difficult and expensive for smaller, rural carriers that do not have the vast resources of large national carriers.<sup>7</sup> The fines that it has inflicted on ARC member companies are excessively punitive given the nature and size of these companies.<sup>8</sup>

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<sup>4</sup> See 47 C.F.R. § 20.19.

<sup>5</sup> See, e.g., *Comments of Alaska Rural Coalition, Connect America Fund, et al.*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45, WT Docket No. 10-208, before the FCC (Jan. 18, 2012)(“*ARC USF Comments*”) at 16 (“The burden on small, rural companies is already difficult to manage. There is simply no margin or budget for more paperwork.”).

<sup>6</sup> *Public Notice* at para. 17.

<sup>7</sup> See *Comments of Rural Cellular Association*, 2010 Review of Hearing Aid Compatibility Regulations, WT Docket No. 10-254, before the FCC (Feb. 14, 2011)(“*RCA Comments*”) at 2-3 (“The Commission then compounds the harm of these anticompetitive agreements on RCA carrier members by subjecting these smaller carriers to essentially the same regulatory requirements as the Tier I carriers, despite the fact that they have a much smaller pool of HAC compliant handsets from which to choose.”).

<sup>8</sup> See, e.g., *In the Matter of Cordova Wireless Communications, LLC*, File No. EB-SED-13-00009239, Consent Decree, DA 13-1857, before the FCC (rel. Sep. 13, 2013) (Cordova was fined \$35,000 after mistakenly relying on the statements of its secondary market vendor); see

ARC companies are fully committed to providing their customers with multiple HAC handsets and the best support possible. The fractional compliance regime forces them to allocate their limited resources to micromanagement of inventory and regulatory compliance in order to file FCC Form 655. As the ARC has stated on several occasions, these companies would much rather focus on the challenges of supporting and expanding service in Alaska.<sup>9</sup> The benefits of removing the fractional compliance regime will be immediately felt by ARC members.

In particular, the ARC recommends that the Commission remove the Form 655 filing requirement for all Tier III carriers.<sup>10</sup> Removing this reporting requirement should not harm end consumers in any way, as manufacturers and larger Tier I and Tier II carriers would still be required to disclose their compliant and non-compliant handsets to the Commission.<sup>11</sup> The Commission could still continue to require Tier III carriers to file a simplified annual reporting of the compliant and non-compliant handsets offered, but without having to file the voluminous Form 655.<sup>12</sup> This would allow the Commission to

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*also In the Matter of OTZ Telecommunications, Inc.*, File No. EB-10-SE-115, Consent Decree, DA 11-1844, before the FCC (rel. Nov. 19, 2011) (Fining OTZ \$13,000).

<sup>9</sup> See, e.g., *Comments of the Alaska Rural Coalition, Connect America Fund, et al.*, WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-208, CC Docket No. 01-92, before the FCC (Aug. 8, 2014) at 22 (“However, the existing terrestrial middle mile network in Alaska that extends beyond the main road systems is inadequate or nonexistent to support the transport of 4GLTE to Remote Alaska.”).

<sup>10</sup> 47 C.F.R. § 20.19(i)(1), (3).

<sup>11</sup> 47 C.F.R. § 20.19(i)(3)(i-x).

<sup>12</sup> See *Comments of the Blooston Rural Carriers*, 2010 Review of Hearing Aid Compatibility Regulations, WT Docket No. 10-254, before the FCC (Jan. 22, 2013) (“*Blooston Comments*”) at 12 (“This would give the FCC staff and the public ready access to the same exact data as provided in the current Form 655, yet do so in a manner that is easier to read and

be better equipped to focus on bad actors without requiring small carriers to expend unnecessary resources on compliance.<sup>13</sup>

### **III. The Commission Must Carefully Examine the Unintended Consequences of Requiring Universal HAC Handset Compatibility.**

The Public Notice seeks comment on whether the Commission should “revise the hearing aid compatibility requirement to apply in a technologically neutral way to all mobile wireless devices that can be used for voice communications?”<sup>14</sup> While the ARC member companies are fully committed to supplying their customers with HAC compatible handsets, they are not in the same market position as national carriers. As noted in prior comments to the Commission, small rural carriers are frequently excluded from agreements made between manufacturers and the large national carriers.<sup>15</sup> These agreements mean that ARC member companies cannot gain direct access to the latest and most in-demand phones desired by their customers. Instead, they often have to contract with a third party vendor who purchases late model excess stock and resells it to the

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understand than a standard ‘fill in the blanks’ format that results (in many cases) in individual HAC reports that exceed 50 pages and are not alphabetized.”).

<sup>13</sup> This would be consistent with the FCC’s recent decision to cease entertaining waivers regarding high cost deadlines. *See* Connect America Fund, *et al.*, WC Docket Nos. 10-90, 14-58, 14-192, *Report and Order*, before the FCC (Dec. 18, 2014) at para. 138 (“We will cease the practice of finding there is good cause for a waiver of high-cost filing deadlines in circumstances where an ETC has missed the deadline due to an administrative or clerical oversight and where that ETC has promised to revise its procedures to ensure future compliance...”).

<sup>14</sup> *Public Notice* at para. 2.

<sup>15</sup> *See Blooston Comments* at 8 (“The Blooston Rural Carriers note that Tier III carriers would be better positioned to provide more HAC-compliant handsets to their rural customers *if these devices were only available to them.*”); *see also RCA Comments* at 2 (“Non-Tier I carriers continue to face the same, if not worse, obstacles with regard to acquiring specialized handsets – most notably, the prevalent use of exclusive handset arrangements by the nation’s largest carriers.”).

carrier. As these phones are international, they are not required to comply with the HAC requirements. This presents the conundrum that small, rural carriers currently face: the only way to acquire the phones their customers demand is to purchase them from a source that will almost automatically guarantee they are not HAC compliant; in order to offer only HAC compliant phones, rural carriers cannot offer phones that their customers demand.<sup>16</sup>

Technology is rapidly improving to address the interference issue and although not yet perfect, time and regulatory encouragement to incorporate that technology may be the best path forward. Instead of changing a requirement that would deepen the digital divide between urban and rural consumers the ARC believes the Commission should consider requiring all phones to support Bluetooth-enabled assistive listening devices, commonly called “streamers.”<sup>17</sup> The use of a streamer offers several benefits to a consumer, including an improved listening experience, the ability to connect to multiple devices, and the use of the already well recognized Bluetooth technology.<sup>18</sup> The Commission can

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<sup>16</sup> See *Blooston Comments* at 10-11 (“Tier III wireless service providers typically do not have the size or the purchasing power needed to place equipment orders directly with handset manufacturers or to dictate handset features/specifications that are available through vendors that deal with small carriers (i.e. third party distributors). This has led to numerous instances where small service providers have had difficulty obtaining a reliable supply and adequate selection of hearing aid-compatible handsets, as well as confusion when HAC devices obtained from third party distributors are not consistently labeled or turn out to be ‘grey market’ phones that may or may not have the compatibility features sought.”).

<sup>17</sup> There is no currently available Bluetooth hearing aid. Instead, the hearing aid is paired with the streamer, and the streamer pairs with the phone or other device. See Mandy Mroz, *Hearing Aids and Bluetooth Technology*, <http://www.healthyhearing.com/help/hearing-aids/bluetooth>.

<sup>18</sup> *Id.*

then phase-down the HAC requirements so that individuals without Bluetooth-enabled hearing devices will still have access to mobile phones.

### **III. Conclusion.**

The ARC urges the Commission to take this opportunity to alleviate a burdensome compliance and reporting obligation which forces small, rural carriers to spend their limited resources on compliance instead of improving their networks. A simplified annual reporting obligation is more than satisfactory to ensure the Commission has information to investigate bad actors. The ARC also urges the Commission to carefully examine the consequences of a universal HAC requirement. Small carriers already have unnecessary costs and limited options for their customers; a universal HAC requirement would do nothing to alleviate their concerns.

Respectfully submitted on this 5<sup>th</sup> day, February 2015.

DYKEMA GOSSETT, PLLC  
Attorneys for the Alaska Rural Coalition

By: /s/ Shannon M. Heim  
Shannon M. Heim  
Erik Levy  
4000 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402  
Telephone: (612) 486-1586  
Facsimile: (855) 223-7059  
Email: sheim@dykema.com  
elevy@dykema.com