

**Before the  
Federal Communications Commission  
Washington, DC 20554**

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

**REPLY COMMENTS OF AT&T**

AT&T Services, Inc., on behalf of AT&T Mobility LLC and its wholly-owned and controlled wireless affiliates (collectively "AT&T"), files these Reply Comments in response to the Federal Communications Commission (the "Commission") Public Notice seeking updated information and comment on the wireless hearing aid compatibility ("HAC") rules.<sup>1</sup>

**I. INTRODUCTION AND SUMMARY**

AT&T supports HAC rules that meet consumer needs for an assortment of handsets that are compatible with hearing aids. The Commission's fractional deployment benchmarks have facilitated industry's effort to meet that need. In fact, handset manufacturers and service providers have introduced substantially more HAC compliant handsets than the minimum required by the Commission's benchmarks, demonstrating that, when feasible, manufacturers and service providers provide HAC compliant handsets. Some handsets are not HAC compliant because technical challenges remain.

Challenges continue to arise making HAC compliant those handsets operating with a Global System for Mobile Communications ("GSM") air interface on a 1900 MHz network and

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<sup>1</sup>Request for Updated Information and Comment on Wireless Hearing Aid Compatibility Regulations, *Public Notice*, WT Docket No. 07-250, WT Docket No. 10-254, 29 FCC Rcd 13969 (2014).

on Voice over Wi-Fi. Handsets with emerging technologies also present challenges to HAC compliance. Against this real-world environment, regulations requiring 100% HAC compliance would result not in more, but fewer, HAC compliant handsets for consumers, which would contravene the directive in the HAC Act that the Commission’s HAC regulations “encourage the use of currently available technology and [] not discourage or impair the development of improved technology.”<sup>2</sup> Thus, the Commission should retain the flexibility for handset manufacturers and service providers offered by the fractional deployment benchmarks and not transition to 100% HAC compliance regulations. Instead of new HAC rules, the Commission can facilitate improved compatibility between wireless handsets and hearing aids by opening and encouraging a dialogue between their manufacturers about ways to improve performance.

Nevertheless, if the Commission requires all wireless handsets to be HAC compliant, it should provide all manufacturers with the same flexibility to comply by using the GSM/1900 MHz power down option. In that event, the Commission could also reduce the administrative burdens on manufacturers, service providers and Commission staff by eliminating HAC deployment requirements on service providers and all HAC reporting obligations on manufacturers and service providers.

## **II. DISCUSSION**

### **A. The Fractional Deployment Benchmarks Provide Needed Flexibility.**

The fractional HAC deployment benchmarks have historically been the objective standard for HAC compliance for wireless handset manufacturers and service providers. Those fractional benchmarks serve a purpose—requiring manufacturers and service providers to offer handsets that are compatible with hearing aids while giving manufacturers the flexibility to

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<sup>2</sup> 47 U.S.C. §610(e).

design, develop, and offer cutting edge handsets, even if not HAC compliant when first introduced. That balance, which is fundamental to the HAC Act,<sup>3</sup> is still needed. For that reason, the fractional deployment benchmarks should remain the standard by which HAC compliance is judged.

While HAC compliance for *all* handsets is a worthy goal, it may be unrealistic in practice. The fact is that not all devices can be made HAC compliant in all forms. GSM/1900 MHz handsets have proven challenging to design in a form that meets the HAC testing requirements. In 2010, the Commission recognized the “special technical challenges of meeting [HAC] standards for handsets with certain desirable form factors operating over the legacy 2G GSM air interface in the 1900 MHz band” and adopted a power down option for small entities to meet the HAC requirements for those handsets.<sup>4</sup> Manufacturers still offer GSM devices, some of which are HAC compliant due only to the power down option. Consequently, a 100% HAC compliance requirement would likely force some manufacturers to cease developing, and service providers to cease offering, some GSM/1900 MHz devices.

While manufacturers and service providers are shifting from GSM to newer air interface technologies, it cannot be assumed that all newer technologies will easily meet the HAC standards. The Telecommunications Industry Association (“TIA”) states, “emerging technologies create new and previously unanticipated technical challenges.”<sup>5</sup> TIA further

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<sup>3</sup> 47 U.S.C. §610.

<sup>4</sup> Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets, *Policy Statement, Second Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 07-250, 25 11167, 11186 (2010).

<sup>5</sup> Comments of Telecommunications Industry Association, WT Docket Nos. 07-250 and 10-254 at 7 (filed Feb. 5, 2015).

explains that Voice over Wi-Fi presents unique technical challenges for HAC testing and asks the Commission to refrain from requiring HAC testing of IP Voice over Wi-Fi handsets until the Commission provides appropriate technical guidance.<sup>6</sup> This lack of certainty about HAC compliance for newer and emerging technologies merits retention of the fractional deployment benchmarks. One cannot simply assume that all future handsets with their varying form factors will be automatically or easily made HAC compliant.

We need only look back a few years for a prime example. In 2007, Apple introduced the iPhone, which was challenged to meet the HAC standards for all air interfaces and frequency bands. By all measures, the iPhone has been a tremendous success, providing substantial public benefits, including to persons with disabilities. Though Apple met the *de minimis* exception and thus, was not required to make the iPhone HAC compliant, it begs the question whether and when the iPhone would have made it to market if it had to be HAC compliant from day one. The fractional deployment benchmarks allow manufacturers and service to avoid these types of do or die decisions.

Moreover, regulations imposing a 100% HAC compliance requirement may violate the HAC Act, which requires the Commission to “ensure” that its HAC regulations “encourage the use of currently available technology and do not discourage or impair the development of improved technology.”<sup>7</sup> The record in this docket describes the challenges associated with HAC compliance for handsets operating over GSM/1900 MHz, Voice over Wi-Fi, and emerging technologies. In light of that record, it seems likely that a 100% HAC compliance mandate would discourage, rather than encourage, the used of currently available GSM/1900 MHz

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<sup>6</sup> *Id.* at 6.

<sup>7</sup> 47 U.S.C. §610(e).

technology and discourage (or at best impair) the development of improved Voice over Wi-Fi and other emerging technologies due to uncertainty about (or difficulty) meeting the HAC requirements.

**B. Providers have Exceeded the HAC Benchmarks.**

A 100% HAC compliance regime would deliver little additional public benefit over the current HAC rules because, as expressed by the Mobile Manufacturers Forum (“MMF”), “the industry is not simply ‘doing the minimum,’ but in fact has brought to market a substantially larger number of HAC compliant devices to meet the needs of consumers.”<sup>8</sup> The numbers speak for themselves. CTIA explains that “service providers reported that 79% of their handset offerings were HAC compliant during the January 2013–December 2013 reporting period,” compared to the 71% HAC compliance rate in 2011, and that “handset manufacturers reported that 81% of the handsets they offered were HAC compliant.”<sup>9</sup> TIA observes that “82 percent of wireless CMRS handsets are HAC-rated.”<sup>10</sup> And, the Mobile Manufacturer’s Forum (“MMF”) calculates that the Global Accessibility Reporting Initiative (“GARI”) lists 272 of the 306 handsets currently offered in the United States as HAC compliant, an 89% rate.<sup>11</sup> These HAC compliance rates far exceed the minimum fractional deployment benchmarks, demonstrating clearly that, when feasible, manufacturers are already taking steps to incorporate HAC into the design of their wireless handsets and service providers are already demanding handsets that meet

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<sup>8</sup> Comments of Mobile Manufacturers Forum, WT Docket Nos. 07-250 and 10-254 at 5-6 (filed Feb. 5, 2015).

<sup>9</sup> Comments of CTIA—The Wireless Association, WT Docket Nos. 07-250 and 10-254 at 4 (filed Feb. 5, 2015).

<sup>10</sup> Comments of TIA at 4.

<sup>11</sup> Comments of MMF at 5.

HAC standards. While complete harmony between handsets and hearing aids is the eventual goal, just enacting a rule requiring that harmony does not make it so.

Disability rights advocates push for 100% HAC compliance ostensibly to make it easier for hearing aid users to find compatible handsets.<sup>12</sup> AT&T supports this goal. But, as the MMF opines, requiring compliance for all handsets would not necessarily make it easier for consumers: “[I]rrespective of compliance with the HAC rules, other key aspects are not being considered, *e.g.*, an individual’s particular hearing profile and the quality of their hearing aid. These two additional elements play a key part in the overall assessment of whether a given handset is suitable for that individual’s needs.”<sup>13</sup> These factors are beyond the control of the handset manufacturer and service provider, but exert a significant influence over the hearing aid user’s experience. Consequently, even with a 100% HAC compliance regime, hearing aid users will still need to research the best handsets, test those handsets, and select the handset that is most compatible with their hearing aid. Instead of enacting 100% HAC compliance rules following the issuance of a Public Notice, the Commission should open a collaborative effort between handset manufacturers and hearing aid manufacturers to discuss technical details and ideas about the respective devices they manufacture and ways to make those devices compatible.

### **C. Commission Actions if All Devices Must be HAC Compliant.**

As explained above, AT&T believes that it is in the public interest to continue measuring HAC compliance based upon meeting fractional deployment benchmarks. However, if the Commission nevertheless imposes a 100% HAC compliance regime, HAC handset deployment

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<sup>12</sup> See Comments of Hearing Loss Association of America, the Association of Late-Deafened Adults, the Deaf and Hard of Hearing Consumer Advocacy Network, the National Association of the Deaf, and Telecommunications for the Deaf and Hard of Hearing, Inc., WT Docket Nos. 07-250 and 10-254 at 3-5 (filed Feb. 5, 2015).

<sup>13</sup> Comments of MMF at 6.

and reporting requirements on service providers will no longer be needed and should be eliminated. Likewise, manufacturer HAC handset reporting requirements would be superfluous and have no value. Eliminating reporting requirements would reduce the administrative burdens on manufacturers, service providers, and the Commission, all of which could cease tracking HAC compliant handsets. Yet, AT&T agrees that certain rule requirements on service providers should be maintained, such as the allowing for handset testing and providing HAC information for each handset.

Further, if the Commission requires all devices to be HAC compliant, the Commission should retain the power down option for all manufacturers of GSM/1900 MHz devices. As referenced above, some of those devices will still struggle to meet HAC standards, regardless of the size of the manufacturer.

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Respectfully submitted,



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