

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 )

To: Wireless Telecommunications Bureau &  
Consumer and Governmental Affairs Bureau

**REPLY COMMENTS  
OF  
CTIA–THE WIRELESS ASSOCIATION®**

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**REPLY COMMENTS OF CTIA–THE WIRELESS ASSOCIATION<sup>®</sup>**

**I. INTRODUCTION AND SUMMARY.**

CTIA–The Wireless Association<sup>®</sup> (“CTIA”) respectfully replies to comments filed regarding the *Public Notice* released by the Wireless Telecommunications Bureau and the Consumer and Governmental Affairs Bureau (collectively the “Bureaus”)<sup>1</sup> to update information about the Commission’s wireless hearing aid compatibility (“HAC”) rules.<sup>2</sup> The record demonstrates wireless service providers and handset manufacturers’ commitment to meeting the needs of consumers with hearing loss by offering a plethora of HAC-compliant wireless handsets and educating consumers about the HAC rating system. For this reason, the record demonstrates that no changes to the HAC rules are needed at this time.

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<sup>1</sup> See *Request For Updated Information And Comment On Wireless Hearing Aid Compatibility Regulations*, Public Notice, 29 FCC Rcd 13969 (WTB, CGB 2014) (“*Public Notice*”). CTIA filed initial comments on the *Public Notice*. In these reply comments, unless otherwise indicated, all comments are short-cited and refer to pleadings filed on or about February 5, 2015, in WT Docket Nos. 07-250 and 10-254.

<sup>2</sup> The HAC rules are codified in Section 20.19 of the Commission’s rules. See 47 C.F.R. § 20.19. The Commission adopted the HAC rules pursuant to Section 710 of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 610.

In particular, given that more than 80 percent of wireless handsets that service providers offer to consumers are HAC-compliant, the Commission’s inquiry to potentially increase the existing fractional benchmarks to a 100 percent regime addresses the wrong concern at the expense of alternative, concrete steps that could materially improve the ability of consumers to find HAC-compliant wireless handsets. Specifically, such a rule change will fail to address the persistent difficulties that consumers face in identifying hearing aids that work well with wireless handsets and understanding the Commission’s HAC rating system. Despite the wireless industry’s extensive efforts to educate consumers about the HAC rating system, the difficulties identified in the record are directly related to the significant issues involving consumer awareness about the HAC rating system and hearing aid devices compatibility with HAC-compliant wireless handsets.<sup>3</sup> These challenges create a chokepoint to greater adoption of HAC-compliant handsets that will not be ameliorated by increasing the required percentages of such handsets.

The Commission’s existing HAC rules already cover a broad scope of new technologies that are or may be used in wireless handsets to the benefit of all consumers.<sup>4</sup> Thus, CTIA believes that a change in the scope of devices covered based on a “technological neutrality” principle is both unnecessary and, in fact, unsupported by Section 710 of the Act.<sup>5</sup>

Rather than making the broad and unnecessary rule changes proposed in the *Public Notice*, the Commission should consider changes to its HAC approach that are more responsive to the very real issues raised in the record, such as more engagement by the hearing aid industry

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<sup>3</sup> See HLAA Comments at 4-5; CTIA Comments at 8, 13-14.

<sup>4</sup> See, e.g., 47 U.S.C. § 610(b)(1)(C) (discussing customer premises equipment (“CPE”) used with Advanced Communications Services).

<sup>5</sup> See *id.* § 610.

to educate their customers about the HAC rating system, and improved hearing aid device compatibility with HAC-compliant wireless handsets.

To the extent that the Commission seeks to make changes to the current HAC regime, CTIA believes that the Commission must issue a detailed notice of proposed rulemaking (“NPRM”) to consider these issues in a more systematic, data-driven manner. While that NPRM is pending, the Commission should maintain the existing HAC rules, which provide the flexibility needed to encourage innovation and investment while serving the needs of consumers with hearing loss.<sup>6</sup>

## **II. THE RECORD DEMONSTRATES THAT THE COMMISSION’S HAC RULES HAVE SUCCESSFULLY ENSURED REASONABLE ACCESS TO WIRELESS TELEPHONE SERVICE BY PERSONS WITH HEARING LOSS WHILE AFFORDING INDUSTRY THE FLEXIBILITY NEEDED TO INNOVATE.**

The Commission’s current HAC rules have been highly effective in ensuring that a wide variety of HAC-compliant wireless handsets are available to the U.S. public, in numbers that continue to exceed significantly the applicable minimum thresholds. While the rules require at least **one-half** of total wireless handsets offered by Tier I service providers to meet the Commission’s radio frequency interference (M-rating) requirements, and at least **one-third** to meet the Commission’s inductive coupling (T-rating) requirements,<sup>7</sup> data released by the Commission this month show that over **83 percent** of the mobile handsets offered by service providers in the United States during 2014 meet the FCC’s M-rating requirements, including

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<sup>6</sup> See *Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, Policy Statement and Second Report and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 11167, 11174 ¶ 18 (2010) (“*2010 HAC Policy Statement*”) (To “ensure that all Americans, including Americans with hearing loss, will reap the full benefits of new technologies,” the Commission’s policies must “maximiz[e] conditions for innovation and investment” and to “provide industry ... the necessary flexibility for developing a range of solutions to meet consumers’ needs”).

<sup>7</sup> See 47 C.F.R. 20.19(c)(2) and (d)(2)

66% that meet both the M and T-ratings,<sup>8</sup> an increase of 4 percentage points from **79 percent** of HAC-compliant total handset offerings in 2013.<sup>9</sup> Moreover, the Mobile Manufacturers Forum (“MMF”) reports that almost **90 percent** of the U.S. devices listed in the Global Accessibility Reporting Initiative (“GARI”) database are HAC-compliant.<sup>10</sup>

This record evidence shows that the Commission’s existing HAC framework has provided the wireless industry the opportunity to generally exceed the Commission’s minimum HAC requirements. The wireless industry has taken full advantage of this opportunity to serve consumers with hearing loss while creating and deploying innovative products and services. Because the vast majority of wireless handsets in the market are HAC-compliant, consumers who use hearing aid devices have ample choices among wireless handsets with a variety of features and functions, in addition to being HAC-compliant.

As a practical matter, the overwhelming success of providing HAC wireless handsets to the American public means that the HAC rule changes being considered in the Public Notice – elimination of the current fractional benchmark system and a broadening of covered devices – will not address the issues raised by commenters in the record. As CTIA, the Telecommunications Industries Association (“TIA”), and MMF have demonstrated, the existing system has promoted the significant availability of innovative HAC wireless handsets, while the

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<sup>8</sup> See FCC Wireless Telecommunications Bureau, Service Provider Handset Totals by Air Interface, Reporting Period From: January 1, 2014 – December 31, 2014, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-331991A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-331991A1.pdf) (last visited Feb. 14, 2015).

<sup>9</sup> See FCC Wireless Telecommunications Bureau, Service Providers Summary of Unique Handsets by Air Interfaces and HAC Ratings, Reporting Period From: January 1, 2013 – December 31, 2013, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-326848A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-326848A1.pdf) (last visited Feb. 14, 2015).

<sup>10</sup> See MMF Comments at 5. The MMF’s GARI database has been adopted by the Commission and CTIA to provide consumers the ability to search for wireless handsets based on the handset’s accessibility features. See FCC, *Accessibility Clearinghouse*, [ach.fcc.gov](http://ach.fcc.gov) (last visited Feb. 17, 2015) and CTIA, *AccessWireless.Org*, [www.AccessWireless.Org](http://www.AccessWireless.Org) (last visited Feb. 17, 2015).

proposed changes will upset the careful balance that the existing regime strikes between HAC and innovation.<sup>11</sup>

### **III. THE RECORD DEMONSTRATES THAT ELIMINATING THE FRACTIONAL DEPLOYMENT BENCHMARKS WILL NOT MATERIALLY ADDRESS THE ISSUES RAISED BY COMMENTERS.**

A major consumer concern expressed in this proceeding is confusion over how covered wireless devices interact with hearing aids. The nub of this confusion appears to be that having a HAC-compliant wireless handset does not by itself ensure that the handset will function successfully with a consumer's hearing aid.<sup>12</sup> Especially with over 80 percent of current wireless handsets HAC-compliant, a 100 percent benchmark will not eliminate this confusion.

The question of how well a handset interacts with a consumer's hearing aid depends on multiple factors in addition to the handset's HAC rating, such as the immunity of the hearing aid device to radio frequency interference, a consumer's unique hearing loss experience, and consumer awareness about the HAC rating system to select a hearing aid device *and* wireless handset.

CTIA and our member companies have taken significant steps to educate consumers about the HAC rating system and the availability of HAC-compliant wireless handsets. Beyond service providers and manufacturers' compliance with the Commission's labeling and disclosure

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<sup>11</sup> See CTIA Comments at 6, 8, 10-12; TIA Comments at 8-11; MMF Comments at 4-5, 7-8, 14.

<sup>12</sup> Compare Wireless RERC Comments at 6 (noting that researchers found HAC ratings for **98 percent** of sampled phones (emphasis added)) *with id.* at 7 (finding that "substantial proportions" of hearing aid users report that their search for a HAC phone was "difficult or very difficult."); see also HIA Comments at 8 (acknowledging that a 100 percent benchmark would not address the fact that consumers cannot be fully confident of compatibility between handsets and hearing aids without testing); HLAA Comments at 4 ("The consumer may become frustrated and dissatisfied during the process of finding a wireless handset that is compatible with *their* hearing aid or cochlear implant." (emphasis added)).

requirements<sup>13</sup>, a five-part educational video series and FAQs about the Commission's HAC rating system were produced through a collaboration among CTIA and our member companies, HLAA, the Wireless RERC, Gallaudet University's Technology Access Program, and the Audiological Consultants of Atlanta.<sup>14</sup>

CTIA's AccessWireless.Org hosts the HAC educational videos and FAQs for public use and CTIA has displayed the complete, 25 minute educational video series for attendees of HLAA's annual convention since 2009. In addition, CTIA's AccessWireless.Org and the Commission's Accessibility Clearinghouse utilize the MMF's GARI to encourage consumers to "find a phone" based on accessibility features, such as HAC. In contrast, the record does not demonstrate the efforts that hearing aid manufacturers have taken to educate their customers about the HAC ratings of hearing aid devices or the Commission's HAC rating system that would help consumers find HAC-compliant wireless handsets.

Rather than changing the benchmark rules in ways that will affect innovation,<sup>15</sup> improving consumer awareness about the HAC rating system and educating consumers to select HAC-compliant wireless handsets at the time that consumers select new hearing aid devices would likely yield more tangible benefits to the public interest by directly addressing the customer confusion concerns raised in the record.<sup>16</sup> Without clarifying or improving hearing aid

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<sup>13</sup> See 47 C.F.R. 20.19 (f) and (h) (requiring service providers and handset manufacturers to disclose the HAC rating of a wireless handset on the device packaging and list all HAC-compliant wireless handsets on their websites).

<sup>14</sup> See CTIA, AccessWireless.Org, <http://accesswireless.org/Disability-Categories/Hearing.aspx> (last visited Feb. 18, 2015).

<sup>15</sup> See CTIA Comments at 10-11 (explaining that a 100 percent compliance regime could impact the availability of handsets with advanced features, including advanced accessibility features).

<sup>16</sup> See Wireless RERC Comments at 12 (describing MFi program, in which a handset manufacturer and hearing aid manufacturers partner to produce devices that are designed to work together; compliant hearing aids are listed on the handset manufacturer's website).

device manufacturers' efforts to address consumer awareness about the Commission's HAC rating system and improving hearing aid device compatibility with HAC-compliant wireless handsets, these issues will continue to challenge consumers' ability to find and utilize HAC wireless handsets regardless of whether a wireless handset complies with the Commission's mandatory M and/or T ratings.

#### **IV. THE EXISTING HAC RULES ARE SUFFICIENTLY BROAD TO COVER NEW WIRELESS HANDSET TECHNOLOGIES.**

The record demonstrates that the public will continue to benefit if the Commission adheres to Section 710's careful delineation of the scope of covered devices, which applies to equipment that is designed for two-way voice communication via a built-in speaker "intended to be held to the ear in a manner functionally equivalent to a telephone."<sup>17</sup> For this reason, there is no need, and no legal basis, to broaden the scope of the HAC rules based on a concept of "technological neutrality."<sup>18</sup> Rather, the existing rules will cover a broad scope of new wireless handset technology while properly implementing and balancing the statutory goals that "regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of improved technology."<sup>19</sup>

Specifically, the ANSI C63.19-2011 HAC standard ("2011 ANSI Standard")<sup>20</sup> already has increased the effective coverage of devices under the existing HAC rules.<sup>21</sup> Pursuant to the

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<sup>17</sup> See 47 U.S.C. § 610(b)(1).

<sup>18</sup> See *Public Notice*, 29 FCC Rcd at 13972-13973, ¶¶ 7-12.

<sup>19</sup> 47 U.S.C. § 610(e).

<sup>20</sup> See Accredited Standards Committee C63<sup>®</sup> – Electromagnetic Compatibility, *American National Standard Methods of Measurement of Compatibility between Wireless Communications Devices and Hearing Aids*, ANSI C63.19-2011 (May 27, 2011) ("2011 ANSI Standard").

<sup>21</sup> See *Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, Third Report and Order, 27 FCC Rcd 3732, 3734 ¶ 5(WTB, OET 2012) ("2011 ANSI Standard Order") (noting that, among other things, the 2011 ANSI Standard expands the operating frequency range for covered devices).

Commission’s adoption of the 2011 ANSI standard in the *2011 ANSI Standard Order*,<sup>22</sup> the Office of Engineering and Technology (“OET”) has provided specific guidance for HAC compliance by VoLTE and Wi-Fi-enabled VoIP devices.<sup>23</sup>

Indeed, the record indicates that recent technical studies regarding near-field emissions levels of wireless handsets may also simplify testing under the existing standard.<sup>24</sup> This potentially means that a revision of the 2011 ANSI standard, without changing the rules, could make it easier to test for HAC compliance under the existing rules. Moreover, handsets that are HAC-compliant under the existing rules generally are HAC-compliant if used in private or internal networks that conform to public network requirements.<sup>25</sup>

Although some commenters encourage the Commission to adopt a “technological neutrality” approach to expand the scope of devices to be covered by the HAC rules, their positions fail to conform with Section 710, which explicitly defines the types of devices to be covered by the rules. For example, in advocating a broad “to the ear” rule that could cover more devices than wireless handsets, the Hearing Industries Association (“HIA”) fails to recognize Sections 710’s careful treatment of different types of devices. HIA selectively quotes Section 710(b)(1)(C) in claiming that Congress directed that “devices that ‘provide 2-way voice communications via a built-in speaker intended to be held to the ear in a manner functionally

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<sup>22</sup> See *id.* at 3736 ¶ 10.

<sup>23</sup> See FCC Office of Engineering and Technology Laboratory Division, Guidance for Performing T-Coil tests for Air Interfaces Supporting Voice over IP (e.g., LTE and Wi-Fi) to support CMRS based Telephone Services, 285076 D02 T-Coil testing for CMRS IP v01r01 (Oct. 31, 2013), <https://apps.fcc.gov/kdb/GetAttachment.html?id=unTjPJBfcYUxDO2czc1S8g%3D%3D>. See also ASLHA Comments at 2 (“[T]oday wireless calls can be made on a wireless handset that attaches to a 3G LTE, Wi-Fi, or VoIP network.”).

<sup>24</sup> See DHH-RERC Comments at 3-4.

<sup>25</sup> See HLLA Comments at 2 (Wireless devices “may be attached to different networks ... including ... a private or internal network.”).

equivalent to a telephone’ should be hearing aid compatible.”<sup>26</sup> HIA neglects to acknowledge that Section 710(b)(1)(C)<sup>27</sup> applies specifically to customer premises equipment used with “advanced communications services,” a defined term added to the Act by the Twenty-First Century Communications and Video Accessibility Act of 2010.<sup>28</sup> Section 710 expressly focuses on differences among forms of CPE, rather than imposing uniformity on them.

Several parties demonstrate the validity of existing exemptions from the HAC rules for specialized devices, which the Commission should not endanger by attempting to broaden the rules’ coverage. For example, Motorola Solutions explains the need for the exemption for “public safety or dispatch networks,”<sup>29</sup> while Inmarsat and Iridium demonstrate the need for the exemption for standalone MSS devices.<sup>30</sup>

Rather than focusing on a concept of “technological neutrality” that may conflict with the statute’s explicit focus on specific forms of CPE, CTIA believes that the current definition of covered devices in Section 20.19 of the rules best satisfies the requirements of Section 710(e) and will ensure that consumers with hearing loss have access to the most innovative wireless handsets. As the Alaska Rural Coalition and the Alaska Telephone Association note, requiring universal HAC compliance for handsets could also have negative public interest impacts by harming consumers and small service providers.<sup>31</sup>

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<sup>26</sup> HIA Comments at 4 and note 7.

<sup>27</sup> See 47 U.S.C. § 610(b)(1)(C).

<sup>28</sup> Pub. L. No. 111-260, § 101, 124 Stat. 2751, 2752 (2010) (codified at 47 U.S.C. § 153(1)).

<sup>29</sup> See Motorola Solutions Comments at 6-8

<sup>30</sup> See Inmarsat Comments at 1-7; Iridium Comments at 1-7.

<sup>31</sup> See Alaska Rural Coalition (“ARC”) Comments at 5-6; Alaska Telephone Association (“ATA”) Comments at 4-5.

**V. BEFORE ADOPTING RULES, CTIA BELIEVES THAT THE COMMISSION MUST ISSUE A NOTICE OF PROPOSED RULEMAKING TO ADDRESS IN DETAIL THE ISSUES THAT COMMENTERS RAISE IN THIS PROCEEDING.**

Although the *Public Notice* is narrowly focused on the two proposals discussed above, commenters raise multiple HAC issues that are not directly related to those proposals. For example, the Wireless RERC goes so far as to say that the Commission “might consider revising the HAC Act requirements to specify the desired outcome from a user-experience perspective rather than technical specifications for radio interference.”<sup>32</sup> The varied and far-reaching comments in the record demonstrates that interested parties should have an opportunity to examine the HAC regime comprehensively before the Commission makes any rule changes.

Given the breadth of issues raised in response to the *Public Notice*, if the Commission were to consider significant changes to the HAC rules at this time, CTIA believes that the Commission must initiate a new rulemaking proceeding in order to examine fully the existing HAC regime. An NPRM should consider:

- Eliminating the multiple requirements associated with the current fractional deployment benchmarks, including the:
  - Annual status reports on hearing aid compatibility;
  - Product refresh rule; and
  - “Different levels of functionality” rule;
- Permitting all manufacturers and service providers to use the 1900 MHz GSM power down to achieve a compliant M-rating;
- Engaging the Food and Drug Administration and hearing aid manufacturers to ensure that consumers are aware of the immunity levels and telecoil capabilities of their hearing aid devices;

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<sup>32</sup> Wireless RERC Comments at 12. *See also, e.g.*, HLAA Comments at 3 nn.1-2 (mentioning changes to substantive requirements and de minimis exception); ATA Comments at 3 (elimination of Form 655); ARC Comments at 6 (use of Bluetooth “streamers”).

- Adopting a streamlined waiver process for individual models; and
- Simplifying the disclosure requirements now in Section 20.19 of the rules.

**VI. CONCLUSION.**

To continue the success of the current HAC regulatory regime for consumers and industry participants alike, the Commission should act consistently with CTIA's recommendations above.

Respectfully submitted,

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