

**Before the**

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

In the Matter of

Hearing Aid Compatibility Regulations

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WT Docket Nos. 07-250 and 10-254

**COMMENTS OF THE ALASKA TELEPHONE ASSOCIATION  
ON WIRELESS HEARING AID COMPATIBILITY REGULATIONS**

The Alaska Telephone Association (“ATA”) files Comments in this proceeding in response to the Notice of Proposed Rulemaking (“NPRM”) released November 20, 2015 which seeks comment on the merits of the Joint Consensus Proposal. ATA’s membership includes Non-Tier 1 carriers who provide wireless service throughout Alaska<sup>1</sup>. They provide essential mobility to their communities, often serving as lifelines in the most remote parts of Alaska. Despite many hurdles they continually work to meet the needs of their communities, including people with hearing loss.

ATA filed comments in response to the 2014 Refresh Public Notice describing the difficulty and cost of complying with the current hearing aid compatibility (“HAC”) fractional regime. We recommended elimination of the fractional enforcement regime, including the onerous Form 655 reporting process, and instead relying on the Twenty-First Century Communications and Video Accessibility Act (“CVAA”) standards which require documentation and certification of efforts to provide accessible services. Regarding a potential 100% compatibility requirement, we described our concerns about unintended consequences of limiting choice for consumers and raising costs for our carriers and advised caution in adopting a 100% requirement.

We continue to support eliminating the fractional regime. In earlier comments we noted that our carriers have paid significant fines due to inadvertent errors in reporting under this regime, errors which had no effect on consumers<sup>2</sup>. However, we do not support adoption of the 100% compliance standard as proposed in the Joint Consensus Proposal. Adopting the standard without a new exception

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<sup>1</sup> ATA member wireless companies include Arctic Slope Telephone Association Cooperative, Bristol Bay Telephone Cooperative, Copper Valley Wireless, Cordova Wireless, GCI Wireless, Ketchikan Public Utilities, MTA Wireless, OTZ Wireless, TelAlaska Cellular, and Windy City Cellular.

<sup>2</sup> Enforcement actions for immaterial shortfalls in the fractional regime which resulted in material forfeitures include: DA 13-1857, Cordova Wireless Communications, LLC; DA 11-1844, OTZ Telecommunications, Inc.; DA 14-405 and DA 11-2075, General Communication, Inc.; DA 12-1582, TelAlaska Cellular, Inc.; DA 10-77, ACS Wireless, Inc.

assumes all carriers have access to compatible handsets at reasonable costs. Our carriers have always struggled to access handsets and the problem is getting more difficult and expensive, not less.

Although the NPRM phases in the requirement over several years, meeting increasingly rigorous compliance benchmarks will force carriers to drop non-compliant handsets, limiting choice for all consumers<sup>3</sup>. As the NPRM states, Section 710 intends that any rulemaking include consideration of the costs and benefits to all telephone users, including people with and without hearing loss<sup>4</sup>. Forcing carriers to reduce choice is not beneficial to all users and should not be the result of a new compliance regime.

100 percent compatibility is a good goal. Ideally every handset would be hearing aid compatible and no carrier would have to worry about missing benchmarks. Unfortunately, that will not be the situation for our carriers in the foreseeable future. Handsets are expensive and difficult to obtain due to their lack of market power. A new HAC regime must recognize this reality and offer a realistic exception. Unfortunately the current *de minimus* exception threshold is too restrictive to provide relief. For example, carriers such as OTZ Telecommunications or ASTAC Wireless are miniscule by industry standards, yet they still do not meet the *de minimus* threshold because they've managed to cobble together a range of handsets that exceeds the limits of two or three devices operating over a particular air interface. We recommend a new exception based on a revenue threshold of \$500,000 in annual wireless equipment sales. This would acknowledge that the very smallest carriers are not able to affect the handset marketplace and free them to acquire the widest range of devices they can without risking future forfeitures if they cannot meet the benchmarks. This approach adopts the achievability approach

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<sup>3</sup> See comments of Alaska Telephone Association, Appendix A ASTAC Handsets, submitted in response to the 2014 Refresh Public Notice February 5, 2015 for a list of handsets which would have to be eliminated under a 100% compliance regime.

<sup>4</sup> See NPRM at 81.

of the CVAA. The CVAA recognizes that not all participants in the communications universe are equally able by including an achievability determination and defining it to mean, “with reasonable effort or expense, as determined by the Commission.”<sup>5</sup> The smallest carriers are meeting and probably even exceeding the “reasonable effort or expense” standard of achievability in their struggles to acquire handsets. We recommend the Commission acknowledge these efforts are sufficient by adopting a new exception based on revenue and not number of handsets.

Adopting a revenue-based exception would reduce the reporting burden associated with HAC compliance. Any carrier qualifying under the exception would provide annual notification to the Commission and would not file the Form 655. As required by CVAA, all carriers will continue to certify annually that they are maintaining records of the efforts they take to comply with accessibility requirements under the CVAA, efforts which obviously include providing hearing aid compatible handsets. This streamlined reporting would both save carriers’ resources and relieve them of the threat of disproportionate penalties.

The NPRM seeks comment on how to establish a new task force to evaluate whether and when 100 percent compatibility is achievable. It is very important that our carriers have a voice on the task force. Our situation is unique for many reasons and we are well-suited to speak to the feasibility of an eventual 100 percent compatibility regime in the most remote, expensive to serve areas.

In summary, ATA respectfully recommends the Commission adopt a revenue-based exception to the 100 percent regime, eliminate the Form 655 report and rely on a notification and CVAA compliance, and include the most remote carriers in any task force examining whether 100 percent compatibility is

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<sup>5</sup> See NPRM, 75-76.

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Comments on Wireless Hearing Aid Compatibility Regulations  
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achievable. Imposing a 100 percent HAC requirement without a realistic exception will increase costs and limit options for all consumers, including the hearing impaired.

Respectfully submitted,

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