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

In the Matter of

Access to Telecommunications Equipment And Services by Persons with Disabilities	)	**CG Docket No. 12–32**
Petition for Rulemaking File by the Telecommunications Industry Association Regarding Hearing Aid Compatibility Volume Control Requirements	)	**CG Docket No. 13-46**
Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets	)	**WT Docket No. 07-250**
Comments Sought on 2010 Review of Hearing Aid Compatibility Requirements	)	**WT Docket No. 10-254**

COMMENTS
OF
AMERICAN NATIONAL STANDARDS INSTITUTE
ACCREDITED STANDARDS COMMITTEE C63® SUBCOMMITTEE 8

ANSI ASC C63® Subcommittee 8 is pleased to offer these comments in response to proposed changes to the Commission's hearing aid compatibility requirements and other topics raised in this proceeding, released on October 30, 2015.[1]

[1] *Access to Telecommunications Equipment and Services by Persons with Disabilities; Petition for Rulemaking Filed by the Telecommunications Industry Association Regarding Hearing Aid Compatibility Volume Control Requirements; Amendment to the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets; Comments Sought on 2010 Review of Hearing Aid Compatibility Regulations, Notice of Proposed Rulemaking; CG Docket No. 12-32 et al. (rel. Oct. 30, 2015) ("NPRM").*

ANSI ASC C63® is the accredited standards development organization responsible for developing and maintaining ANSI C63.19, *American National Standard Methods of Measurement of Compatibility between Wireless Communications Devices and Hearing Aids*. ANSI ASC C63® Subcommittee 8 is responsible for ANSI C63.19 and in this role offers these comments. ANSI ASC C63® Subcommittee 8 is now engaged in development of the 5th edition of the ANSI C63.19 standard, using its consensus procedures that involves all stakeholders. We believe that the experience of being a consensus-building organization and our long engagement on this topic give us an important perspective.

We are pleased that the Commission has adopted the 2011 ANSI C63.19 Standard (which is the 4th edition of this standard) into its Part 20 Rules.[2] It is both our intention and hope that our future efforts continue to advance the goal of accessibility for people with hearing loss and prove useful to the Commission's own efforts in this area.

It is the responsibility of Subcommittee 8 to monitor the standards assigned to it and when appropriate revise them. We have determined that another revision to ANSI C63.19 is appropriate and accordingly have opened a project to that end. The project authorization lists the following reasons for this revision:

> A number of developments, relevant to ANSI C63.19, created a need to review the impact and consider the advisability of revising and updating the standard. Among these developments are issues with:
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> 1. Growing importance of VoIP and VoLTE for telephony services.
> 2. Hearing aid user satisfaction with HAC.
> 3. Adequacy of volume control.
> 4. Adequacy of T-Coil reception.
> 5. Harmonization with corresponding IEC 60118-13 and IEC 60601-2-66 standards.
> 6. Cover new technologies, particularly at TVWS devices and cellular at 600 MHz, 3.5 GHz and 5.0 GHz, which may include extending the lower boundary of the frequency range covered.
> 7. Use of software defined radio (SDR) and other new instrumentation in HAC measurements.
> 8. Simultaneous transmissions, particularly in smartphones.[3]

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[2] Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets, WT Docket No. 07-250, *Third Report and Order,* 27 FCC Rcd 3732, 3735, ¶ 9 (2012).

[3] ANSI Project Initiation Notification System Form for ANSI C63.19, dated November 9, 2015. Approved by ANSI ASC C63® on November 12, 2015.

We recognize that not all topics listed in our project authorization are relevant to this NPRM but we include them for completeness. It is our objective to keep this standard current, responsive to the needs of the FCC and effective in its role in providing hearing aid compatibility.

Beyond the development of standards, ANSI ASC C63® supports industry through training and issuing of interpretations of ANSI ASC C63® standards. We have issued interpretations of the ANSI C63.19 standard when such assistance is requested. For example, in May and June of 2012, several questions regarding this standard were brought to the committee. In response, the committee published four interpretations in the June-July 2012 timeframe.[4] We will continue to respond to requests for interpretation, as they are received.

Set forth below are ANSI ASC C63® Subcommittee 8's responses to specific questions the Commission has raised in this docket:

I. The 2012 ANSI Wireline Volume Control Standard Should be Adopted.

As we are a consensus body, committed philosophically but also by our by-laws to inclusion of all materially affected stakeholders in our standards development, we believe that consensus solutions are the preferred approach in complex issues such as hearing aid compatibility. We believe that ANSI accreditation provides significant value and safeguards in both the standards development process and the quality of the resulting standards. An important part of this process is that standards be kept technically current. All standards from ANSI-accredited standards development organizations are periodically reviewed and, when needed, revised, to keep them both technically current and also effective for their intended purpose. Normally the latest version of a standard should be used.

Based on these views, we support standards developed by other ANSI-accredited organizations, such as the Telecommunications Industry Association (TIA). Further, in most

[4] Interpretations of C63 standards are found at: http://www.c63.org/documents/misc/posting/new_interpretations.htm.

cases, the most recent version of a standard should be used. Hence we support the change to the 2012 version of the standard on volume control.

II. Use of conversational gain should be adopted

For the same reasons we support use of the 2012 volume control standard, we also support the use of conversational gain. Conversational gain is a newer and better method, which is the reason it was developed to replace the older receive objective loudness rating (ROLR).

III. The Commission should adopt ANSI C63.19-2011

The Commission should adopt ANSI C63.19-2011, as proposed. Standards are revised to keep them current and make improvements, as experience and new technology make them possible. ANSI C63.19-2011 is the 4th edition of this standard. Each edition has responded to changes in technology used in the equipment involved and has incorporated insights arising from experience with previous editions. We have now announced the beginning of development of a 5th edition of this standard, which we believe will further enhance the usefulness of this standard.

We would observe that in the 2011 edition improved test methodology allowed us to directly measure certain parameters, in contrast to previous editions, which made conservative assumptions about them. The result is that removing these conservative assumptions and measuring these parameters directly make it easier for some devices, notably GSM handsets, to qualify for category 3 or above. It is the belief of the working group, unchallenged in the ballot process, that this was accomplished while continuing to provide the same level of performance to hearing aid users.

IV. The current ANSI process meets all the requirements of section 710(c)

We believe that current ANSI processes, and more specifically the ANSI ASC C63® operating procedures, address all the requirements of Section 710(c) of the Communications Act

of 1934 (47 U.S.C. 610(c)) and that no further requirements are needed. Most important, we believe in the importance and value of including all materially affected stakeholders and for hearing aid compatibility, the involvement of hearing aid users is critically important. We further note that our operating procedures and ANSI processes require that all materially affected parties be included. For hearing aid compatibility that specifically means that representatives of the hearing aid user community must and have been involved. Through the four editions of ANSI C63.19 representatives of the hearing aid user community have been regularly and influentially involved in the standards development process. Whenever barriers have been encountered to that participation, methods have been found to eliminate those barriers. The involvement of the hearing aid user community has been important and their insights have impacted the standard on a number of points. We therefore believe that both the intent and the specific requirements of Section 710(c) are fully addressed and no new requirements are needed. We further comment that should anyone believe that their views have not received full and fair consideration, those concerns can and should be brought to the attention of the ANSI ASC C63® leadership. Our appeals process are available to give concerns from any party a full, fair and neutral hearing.

In § 57 of this NPRM several specific questions are asked about the process followed by ANSI ASC C63® and TIA:

> Will this process afford such individuals the opportunity to comment on proposed new or revised standards prior to their adoption even if such individuals are not ANSI members? Have consumer groups or individuals representing hearing loss interests participated in such standards-setting efforts in the past, and if so, what has been their experience with this process? What would be the most effective role for consumer groups and individual consumers in the process of setting standards for hearing aid compatibility that are based on complex engineering issues? The process also includes an appeal mechanism. Does ANSI's appeal mechanism adequately protect consumer interests? To what extent do

> interested parties believe that the ANSI process will be capable of ensuring that revisions to technical hearing aid compatibility standards will meet the needs of all interested stakeholders?[5]

We believe that the answer to all these questions is that current ANSI ASC C63® procedures and ANSI requirements have and will continue to provide for the full and effective involvement of consumer groups and consumer representatives. All ANSI meetings are fully open. Anyone interested in a project is welcome to attend. After the working group completes their work, the draft enters a very carefully designed ballot process. The composition of the ballot group is reviewed by the secretariat for balance and representation of all materially affected stakeholder interests. Then, after ANSI ASC C63® completes its ballot ANSI puts the draft up for a 45 day public comment period during which anyone can comment on the draft. Any comments received are then addressed, with the process and final response to all comments reviewed by ANSI. TIA is a member of ANSI ASC C63® and we have spoken to them about this topic. We believe these answers are also true for TIA. Further, we share the same perspective that additional procedural requirements are not desirable.

We would specifically report that when ANSI C63.19 was first developed, there were membership fees for working group members. Those were waived for representatives of consumer groups. However, several years ago, ANSI ASC C63® decided to take that even further and changed its procedures to waive all membership fees for working group members. Today there are no membership or working group fees for working group participants.

V. The Commission SHOULD NOT designate consumer representatives.

We believe that the proposal for the Commission to designate consumer representatives is ill-advised and should not be adopted.[6] There are multiple reasons why it is ill-advised for

5 FCC 15-144 §57.

any government agency to decide who represents any group of citizens. Most fundamentally, citizens should and have chosen their own representatives. A fundamental characteristic of fairness is impartiality. Partiality toward any party results in a process that is unfair for ALL parties. Should the Commission take extra measures to protect the participation of consumer representatives but not take similar measures to protect the participation of other key stakeholders, the result would be unbalanced and therefore unfair.

In this context, ANSI requires that all of its accredited standards development organizations include all materially affected parties in their process and routinely audits compliance with this and all ANSI requirements. In the specific case of ANSI ASC C63® Subcommittee 8, we are philosophically committed to the importance of including consumer representatives in our process and believe we have a long and successful history of doing so. Further, our by-laws and ANSI accreditation require that we do so. We believe that our procedures have assured successful inclusion of representatives of the consumer community and that ANSI audits and oversight have confirmed this success.

We further note that informal processes motivated by good-will are often more effective than rigid, formal, mandatory requirements. On many occasions, officers and members of ANSI ASC C63® have taken extra measures to understand and include consumer views. At one time, in response to an exchange of E-mails, the working group chair went so far as to make an appointment and enjoy a glass of tea in the home of a hearing aid wearer with a profound hearing loss. The discussion and insights received were very useful. On several occasions, officers and representatives of the working group have meet with HLAA (formerly SHHH) leaders in their office and, when invited, spoken at their conventions. Joint research has been conducted, on occasion, during the HLAA convention. None of these actions were mandated. They were undertaken from a shared belief that involvement of hearing aid users is both important and

[6] FCC 15-144 §53, "…in consultation with interested consumer stakeholders (designated by the

valuable. We believe that having representatives formally appointed consumer by the Commission would make the process more rigid and have a dampening effect on informal processes in the future.

We believe that there is not a problem in this area. Because current processes are working, changes and new requirements are not needed and further have the risk of unintended consequences that could work against the very goals they are seeking to achieve.

VI. Implementing a partial standards development management and quality system is dangerous and should not be done by the Commission.

In § 57-62 of this NPRM, a number of other procedures are contemplated. We would observe that taken together these form a partial management and quality system for standards development. However, in contrast to this partial system ANSI ASC C63® is accredited and supervised by ANSI under a full standards development management and quality system. The ANSI system has the benefit of a long and successful history of standards development. We believe that implementation of a partial system by the Commission to address only specific items is dangerous. It creates special requirements that only apply to certain kinds of standards and opens up the process to a wide variety of unintended consequences. A better alternative is to use the current ANSI process. If there are concerns with it, those should be made known so that they can be addressed. The process is rigorous and requires that any such feedback be fully and fairly addressed.

We observe that the Commission's newly formed Disability Advisory Committee (DAC) seems to have already fallen victim to such an unintended consequence. A vital stakeholder, representation from the hearing industries, is not represented on this committee. The attention given to consumer representation seems to have resulted in the Commission neglecting to

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Commission for the purposes of this section) . . ."

include a vital stakeholder. This illustrates the danger of not using a complete management system and quality system. A focus in one area can result in important oversights in another.

VII. The recently revised OMB Circular A-119 provides adequate guidance on the involvement of US government agencies in the standards development process

On January 27, 2016 the White House Office of Management and Budget (OMB) issued a revised version of OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities."[7] OMB circular A-119 and the National Technology Transfer and Advancement Act (NTTAA) of 1995 instruct U.S. federal agencies to consider using private-sector voluntary consensus standards instead of government-unique standards whenever possible. According to OMB, the revision was initiated "in light of changes that have taken place in the world of regulation, standards, and conformity assessment since the Circular was last revised in 1998."[8]

OMB Circular A-119 has a significant history of successfully guiding the involvement of US federal agencies in private-sector voluntary consensus standards. Its recent revision keeps it current and reflective both of changes and government policy in this area. In announcing the revision the White House stated:

> The revised Circular reflects and supports the regulatory policies and principles set out in relevant executive orders. OMB notes, in particular, the requirements of four executive orders, three of which were issued after 1998:
> - Executive Order 12866 ("Regulatory Planning and Review") states that regulations must be consistent with law; regulations must identify the nature and significance of the problem; agencies must identify and assess alternatives to address the problem along with the costs and benefits of each alternative; and the approach selected should maximize net benefits to society;
> - Executive Order 13563 ("Improving Regulation and Regulatory Review") emphasizes that the U.S. regulatory system "must protect public health, welfare, safety, and [the] environment while promoting economic growth, innovation, competitiveness, and job creation," and stresses the importance of public participation and careful consideration of both benefits and costs;

7 OMB Circular A-119 is available from the US Government Publishing Office at: https://www.gpo.gov/fdsys/granule/FR-2016-01-27/2016-01606

8 https://www.ansi.org/news_publications/news_story.aspx?menuid=7&articleid=ac43f290-8922-45f8-98c4-792d28fcafe7

- Executive Order 13609 ("Promoting International Regulatory Cooperation") directs Federal agencies to better coordinate U.S. priorities and positions with respect to international regulatory cooperation efforts across U.S. Federal agencies. This includes promoting good regulatory practices both in the United States and internationally, as appropriate, and considering reforms that address unnecessary differences in regulatory requirements between the United States and its major trading partners; and
- Executive Order 13610 ("Identifying and Reducing Regulatory Burdens") institutionalizes the retrospective review mechanism set out in Executive Order 13563 and calls on agencies to reduce the cumulative effects, including the cumulative burdens, of regulation.[9]

It is the view of this Subcommittee that the combination of ANSI processes and the White House OMB Circular A-119 provides sufficient guidance to safeguard the standards development process and that additional requirements are not needed or advisable.

VIII. The current process for recognition of new editions of ANSI C63.19 should be continued

The Commission has established a process for recognition of new editions of ANSI C63.19. In 47 C.F.R. § 20.19(k) states:

> **(k) Delegation of rulemaking authority.**
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> (1) The Chief of the Wireless Telecommunications Bureau and the Chief of the Office of Engineering and Technology are delegated authority, by notice-and-comment rulemaking, to issue an order amending this section to the extent necessary to adopt technical standards for additional frequency bands and/or air interfaces upon the establishment of such standards by ANSI Accredited Standards Committee C63™, provided that the standards do not impose with respect to such frequency bands or air interfaces materially greater obligations than those imposed on other services subject to this section. Any new obligations on manufacturers and Tier I carriers pursuant to paragraphs (c) through (i) of this section as a result of such standards shall become effective no less than one year after release of the order adopting such standards and any new obligations on other service providers shall become effective no less than 15 months after the release of such order, except that any new obligations on manufacturers and service providers subject to paragraph (e)(1)(ii) of this section shall become effective no less than two years after the release of such order.
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> (2) The Chief of the Wireless Telecommunications Bureau and the Chief of the Office of Engineering and Technology are delegated authority, by notice-and-comment rulemaking if required by statute or otherwise in the public interest, to issue an order amending this section to the extent necessary to

9 https://www.whitehouse.gov/sites/default/files/omb/inforeg/revised_circular_a-119_as_of_1_22.pdf

> approve any version of the technical standards for radio frequency interference or inductive coupling adopted subsequently to ANSI C63.19–2007 for use in determining whether a wireless handset meets the appropriate rating over frequency bands and air interfaces for which technical standards have previously been adopted either by the Commission or pursuant to paragraph (k)(1) of this section. This delegation is limited to the approval of changes to the technical standard that do not raise major compliance issues. Further, by such approvals, the Chiefs may only permit, and not require, the use of such subsequent versions of standard document ANSI C63.19 to establish hearing aid compatibility.
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Our experience with this process finds it to be entirely satisfactory. We therefore recommend no changes be made to it. The Commission should continue to delegate authority to the Chief of the Wireless Telecommunications Bureau and the Chief of the Office of Engineering and Technology to recognize new editions of the ANSI C63.19 standard without any change to that guidance.

IX. Summary

We thank the Commission for this opportunity to provide them an update on the issues discussed herein. We intend to communicate to the Commission the status of our revision effort and related efforts as they develop.

Respectfully submitted,

ANSI ASC C63® Subcommittee 8

/s/ Mr. H. Stephen Berger
Chairman, ANSI ASC C63® Subcommittee 8

February 25, 2016