

**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 Filed by the Telecommunication 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
)	
Comment Sought on 2010 Review of Hearing Aid Compatibility Regulations)	WT Docket No. 10-254
)	

**Comments of
Hearing Loss Association of America
Telecommunications for the Deaf and Hard of Hearing
The National Association of the Deaf
Deaf/Hard of Hearing Technology RERC**

The Hearing Loss Association of America (“HLAA”), Telecommunications for the Deaf and Hard of Hearing (“TDI”), and the National Association of the Deaf (“NAD”) (collectively, the “Consumer Groups”) and the Deaf/Hard of Hearing Technology RERC (DHH Tech RERC) hereby submit comments in response to the Commission’s October 30, 2015 Notice of Proposed Rulemaking (“NPRM”) in the above-captioned dockets. Consumer Groups and the DHH Tech RERC applaud the Commission for taking action to spur the availability and affordability of accessible devices to all Americans, consistent with the Hearing Aid Compatibility Act and the Twenty First Century Communications and Video Accessibility Act. The Commission’s proposals, coupled with the Commission’s recent actions and

proposed actions in the HAC proceeding,¹ will have far reaching effects for the millions of Americans who live with hearing loss.

I. The Proposed Wireline Handset Rule Modifications Will Improve Accessibility for People with Hearing Loss, Provide Regulatory Certainty for Industry, and Comply with the Letter and Intent of the CVAA

Consumer Groups and the DHH Tech RERC support the Commission's proposed modifications to the wireline handset rules to incorporate the standard developed by the Telecommunications Industry Association (TIA) – ANSI/TIA-4965-2012 (2012 ANSI Wireline Volume Control Standard). Incorporating this standard will make it easier for consumers with hearing loss to compare handsets and to select telephones with volume control sufficient to meet their communication needs. Consumer Groups and the DHH Tech RERC agree that adoption of the TIA volume control standard will not interfere with the hearing aid compatibility rules in Part 68.

Consumer Groups and the DHH Tech RERC agree that the proposed Head And Torso Simulator (HATS) measurement would be helpful to people with hearing loss because it would reduce variability across devices and manufacturers. As Consumer Groups previously noted, the proposed new Conversational Gain standard uses an absolute measurement, where 0 dB means that the voice heard from the telephone sounds as loud as a face-to-face conversation in which the participants are one meter (3.28 feet) apart. Using an absolute measurement like "Conversational Gain" to measure HAC volume control, as opposed to the currently-referenced Receive Objective Loudness Rating ("ROLR") requirements, would greatly assist consumers in comparing devices, and ultimately finding devices that meet their needs.

Comparing a user's experience on different devices is complicated because individuals' hearing aids are programmed to fit each user's unique hearing needs. Consumer Groups and the DHH Tech RERC believe that because Conversational Gain is an absolute, rather than relative, measurement,

¹ See Improvements to Benchmarks and Related Requirements Governing Hearing Aid-Compatible Mobile Handsets, WT Docket No. 15-285, Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets, WT Docket No. 07-250, Fourth Report and Order and Notice of Proposed Rulemaking, 30 FCC Rcd 13845 (rel. Nov. 20, 2015).

individuals with hearing loss will be able to more easily compare volume control on different handsets (e.g., all telephones with a Conversational Gain of 18 dB), to see if a mass-marketed telephone meets their volume control requirements, or if a more specialized high-amplification device is required. In addition, telephones that offer better amplification will improve access to 911 and emergency services for individuals with hearing loss, especially for those who rely on “readily available [terminal equipment] to reach emergency services”. The use of an absolute, rather than relative, volume control measurement should also reduce consumer confusion and help consumers more easily identify devices that meet their individual hearing needs.

Improving Consumer’s Ability to Assess and Compare Terminal Equipment Prior to Purchase.

Consumer Groups and the DHH Tech RERC agree that adopting the HATS and Conversational Gain standards will improve consumers’ “ability to assess and compare terminal equipment prior to purchase,” because manufacturers currently measure amplification differently. However, Consumer Groups and the DHH Tech RERC encourage the Commission and the industry to do more to educate consumers about the proposed HAC rule changes, and to expand consumers’ options for testing handsets prior to purchase. As Consumer Groups noted previously in this docket, often the only way a consumer can test a telephone for HAC is to order it, wait for delivery, test it, and return it, and start the process over again. The process is costly, time consuming, and frustrating for the customer. Consumer Groups and the DHH Tech RERC would also like to see additional information available on manufacturer websites about hearing aid compatibility and measurement. In addition, if adopted, we also urge the Commission to make this information available on the Commission’s Accessibility Clearinghouse.

Proposed Two-Year Phase-In

Consumer Groups continue to support a two-year phase in of the wireline volume control standard. Consumer Groups and the DHH Tech RERC note that the 2012 TIA standard references other technical standards, including HATS. As a result, the industry has already implemented many of the 2012 TIA standard’s requirements. Still, to ensure both large and small manufacturers will be able to

come into compliance, we continue to support a two-year phase in. The Commission seeks to allow the existing inventory and installed base of telephones that comply with the current version of section 68.317 to remain in place until retired. It's our understanding that the natural life span of wireline phones is currently averaging from 18 months to two years, which we believe is a reasonable time to phase in phones that comply with new standards. We believe the Commission should not allow indefinite grandfathering of noncompliant handsets.

Consumer Groups and the DHH Tech RERC support the Commission's proposal to "adopt a requirement that wireline telephone manufacturers engage in consultation with consumers and their representative organizations to assess the effectiveness of the revised standard." Such consultation is necessary to ensure that the industry's efforts and standards are meeting the needs of people with hearing loss. This is also consistent with current industry and consumer practice under the CVAA, which has resulted in much more frequent and fruitful dialog between industry and consumer groups. However, we do not feel that we need to be tied to a specific timeline or limited to the phase-in period. Rather, we suggest that consultation can occur at any time on an on-going basis through vehicles such as the TIA working group TR41.3.14 on Telephone Accessibility Performance. Their scope of work includes developing and maintaining standards for accessibility performance for user premises equipment used by people with disabilities, and currently involves consumer representation. A requirement to involve consumer organizations in this or similar working groups where consumers can provide input on a regular on-going basis, but no less than once a year, will have the desired effect of providing consumers an ability to provide feedback on the effectiveness of standards.

Metric Measurements

In Comments filed regarding the 2013 Wireline Volume Control PN², the Joint Consumer Commenters raised the concern that the "1 meter apart" standard occurs in two different contexts – one in the hearing aid compatibility rule (47 C.F.R. Section 20.19) and a second in the context of amplified telephones, which are used by people with hearing loss and are labeled to mirror the classification of a

² Joint Consumer 2013 Wireline Volume Control PN Comments at 4.

person's hearing loss (i.e., "mild, moderate, severe, and profound"). Consumer Groups and the DHH Tech RERC acknowledge that, in a change from its past advocacy, if the Commission adopts changes to the rule to require non-metric measurement, it has the potential to cause confusion. Specifically, we are concerned consumers may perceive that there is a major change in amplified telephone functionality, when in fact the only change is the units of measurement used to measure amplification. Therefore, Consumer Groups and the DHH Tech RERC recommend no changes to the units of measurement at this time.

Application of Inductive Coupling and Volume Control Requirements to Wireline VoIP Telephones

The Commission proposes to "apply the Commission's wireline telephone volume control and other hearing aid compatibility requirements to handsets used with VoIP services, pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA)." Section 102 of the CVAA requires the Commission to apply hearing aid compatibility requirements to customer premises equipment to advanced communications services that are "designed to provide 2-way voice communications via a built-in speaker intended to be held to the ear in a manner functionally equivalent to a telephone."³ As the Commission has acknowledged, VOIP services unequivocally meet the definition of "advanced communications services" in the CVAA.⁴ Consumer Groups and the DHH Tech RERC submit that the HAC requirements must extend to handsets used with VOIP services. Consumer Groups and the DHH Tech RERC note that the Commission itself has stated that "the purpose of the CVAA is to 'update the communications laws to help ensure that individuals with disabilities are able to

³ S. 3304, 111th Cong. sec. 102 (as signed by President, Oct. 8, 2010); see also S. 3828, 111th Cong. (as signed by President, Oct. 8, 2010).

⁴ 47 U.S.C. § 153(1)(A), (25), Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-151, 26 FCC Rcd 14557, 14569, ¶ 30 (2011).

fully utilize communications services and equipment”⁵ Extension of HAC rules to VOIP also fulfills the intent of the CVAA that individuals with hearing loss will be able to fully participate in society on landline telephones, including those using advanced technology.

II. Consumer Groups and the DHH Tech RERC support Commission adoption of a wireless volume control standard

Consumer Groups and the DHH Tech RERC fully support the Commission’s proposed rule adopting a standard for volume control for wireless handsets “to ensure more effective acoustic coupling between handsets and hearing aids or cochlear implants.” Consumer Groups and the DHH Tech RERC agree that such a rule is consistent with the goal of the HAC Act and CVAA to ensure that “to the fullest extent made possible by technology and medical science, [people who are deaf and hard of hearing] should have equal access to the national telecommunications network.” As Consumer Groups previously noted, volume control in wireless telephones would make them more usable to a person using a hearing aid without a telecoil, or a person with a slight hearing loss who does not use a hearing aid. The addition of volume control would also provide additional assistance to people with hearing loss when they need to make emergency calls and may be using someone else’s device, or not have access to their hearing aids. Consumer Groups and the DHH Tech RERC submit that the wireless volume control rule should apply to all wireless handsets, which will simplify device comparisons for people with hearing loss.

III. Consumer Groups and the DHH Tech RERC support requiring manufacturers to use the ANSI 2011 Wireless HAC standard because it will result in more wireless handsets tested and labeled for HAC and therefore available to people with hearing loss.

Consumer Groups and the DHH Tech RERC agree with the Commission’s proposal to require manufacturers to use exclusively the 2011 standard developed by the American National Standards Institute (ANSI) Accredited Standards Committee C63® (ASC C63®) - Electromagnetic Compatibility (EMC) – ANSI C63.19-2011 (2011 ANSI Wireless HAC Standard) to certify future handsets as hearing

⁵ Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010, Biennial Report to Congress As Required By The Twenty-First Century Communications and Video Accessibility Act of 2010, FCC CVAA Biennial Report, 27_ FCC Red 12204____, 12205 DA 12-1602 (2012).

aid compatible. The 2011 standard will make more wireless handsets usable to people with hearing loss by expanding the range of frequencies over which hearing aid compatibility can be tested. As a result, adoption of the 2011 ANSI Wireless HAC Standard should allow HAC rating and labeling to be applied to devices operating on frequencies between 698 MHz and 6 GHz, facilitating use by individuals with impaired hearing. The new standard measures RF interference to hearing aids directly, which allows testing to apply to any new RF air interface adopted by the Commission. Consumer Groups and the DHH Tech RERC support adoption of the new standard because it will expand the number of devices, particularly devices that operate on more recently allocated spectrum, that will be tested and labeled for use by people with hearing loss.

Power-Down Exemption for GSM Operation at 1900 MHz

Consumer Groups and the DHH Tech RERC support eliminating the power-down exemption for handsets certified on or after the date that the 2011 ANSI Wireless HAC Standard becomes the exclusive standard. We agree with the Commission that elimination will advance this purpose and ensure that consumers do not experience the drop off in function that can otherwise occur with handsets certified under the power-down exemption.

If, however, the Commission determines that the power-down exemption is still needed, Consumer Groups and the DHH Tech RERC urge the Commission to apply the exemption to all manufacturers. It should not be an exemption that benefits only one manufacturer. We also do not oppose grandfathering in GSM handsets that operate in the 1900 MHz band that were previously certified under the exemption.

- IV. The Commission should allow industry to use new or revised technical standards to achieve hearing aid compatibility compliance, as long as the process for adopting such standards includes meaningful participation from representatives of people with hearing loss.

Consumer Groups and the DHH Tech RERC support Commission adoption of rules implementing each of the provisions of section 710(c) added by the CVAA, whereby a wireline telephone or other customer premises equipment or a wireless handset may be considered hearing aid compatible if it “is

compliant with relevant technical standards developed through a public participation process and in consultation with interested consumer stakeholders (designated by the Commission for the purposes of this section) . . . until such time as the Commission may determine otherwise,” subject to appropriate public consultation requirements to ensure consultation with the public includes people with hearing loss.

Designating Consumer Stakeholders and Defining the Consumer Consultation Process

Consumer Groups and the DHH Tech RERC support the Commission’s proposed definition of “in consultation with interested consumer stakeholders” as “a process in which consumer stakeholders designated by the Commission are allowed to participate from the start and throughout the standards development process.” Consumer Groups and the DHH Tech RERC also support the Commission’s proposal that the Consumer and Governmental Affairs Bureau consider recommendations from the Disability Advisory Committee in making designations regarding “interested consumer stakeholders.”

Consumer Groups and the DHH Tech RERC also support the Commission’s proposal that standards adopted through this process will become the new technical HAC standard, but such support is conditioned on meaningful participation by consumer groups in the standard setting process through direct participation of consumer representatives in working groups and/or standards-making bodies as well as regular consultation and feedback with organizations representing consumers as well as directly with consumers who use these devices. Consumer Groups and the DHH Tech RERC encourage the Commission to adopt reasonable, inexpensive safeguards that will ensure that consumer groups are not just permitted to, but will be able to, actively participate in the standard-setting process.

In particular, Consumer Groups and the DHH Tech RERC note that they and similarly situated public interest consumer groups have resource constraints that other standard-setting participants do not. In some cases, those resource constraints will make it difficult to participate the standard-setting process. For example, a consumer group may not have the personnel or budget to attend a standard setting meeting in person. Therefore, Consumer Groups and the DHH Tech RERC request that attendees have the option of attending meetings of standard-setting bodies by conference call or web-based technology that is

accessible via remote Communication Access Realtime Translation (CART) or other appropriate accommodation that allows for real-time participation. Consumer Groups and the DHH Tech RERC suggest that assisted listening technology, CART and/or sign language interpreters as appropriate be available for on-site meetings to facilitate input from representatives of the hearing loss community. Since the standards that are developing are designed to assist people with hearing loss, the procedures for adopting new standards must make input from the hearing loss community as simple and inexpensive as possible. Toward that end, Consumer Groups and the DHH Tech RERC also request that the minutes of such meetings be made available, in a timely manner and at no cost, to interested consumer groups so that proposals can be reviewed if a consumer group is not able to attend a meeting in real time. In addition, Consumer Groups and the DHH Tech RERC request that interested consumer groups have access to draft standards that are circulated among members of standards-setting organizations, and be provided a meaningful opportunity to respond to such draft standards.

With respect to voting, Consumer Groups and the DHH Tech RERC note that membership in working groups of certain standards-setting organizations is free but paid membership is required at the highest level in order to vote on a final standard. Consumer Groups and the DHH Tech RERC encourage the Commission to adopt a requirement that at least one designated consumer stakeholder be invited to serve as a voting member of relevant standards development committees. If such a proposal is not feasible, Consumer Groups and the DHH Tech RERC encourage the Commission to ensure that designated consumer groups are invited to participate in relevant subcommittees and working groups, since it may be their only opportunity to participate in the standard-setting process.

Commission Review of Standards

Consumer Groups and the DHH Tech RERC support the Commission's proposal to request public comment on whether the Section 710 standard of public participation is met as soon as ANSI185 publishes a new or revised hearing aid compatibility standard. Such a process is the only way to ensure that people for whom the standard is designed have the opportunity to participate in the process in an effective manner.

Thank you for this opportunity to provide these Comments.

Respectfully submitted,

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