Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Section 68.4(a) of the Commission's Rules	)	
Governing Hearing Aid-Compatible Telephones	)	WT Docket No. 01-309

Comments of Self Help for Hard of Hearing People (SHHH)
To Notice of Proposed Rulemaking Regarding the Proposed Elimination of The Exemption of Public Mobile Service Phones from the Hearing Aid Compatibility Act of 1988

Introduction

Self Help for Hard of Hearing People (SHHH) submits these comments in response to the Notice of Proposed Rulemaking for WT Docket Number 01-309, In the Matter of Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, FCC 01-320, released November 14, 2001.

*S*HHH is a national educational organization representing people with hearing loss. Its members are people of all ages and degrees of hearing loss. Through a national office, eight state associations and a network of 250 chapters and groups across the country, SHHH members consistently work towards increasing communication access to enable people with hearing loss to continue to function in mainstream society. Access to

telecommunications is integral to being able to actively participate in today's world.

It is estimated that one in ten of the population has some degree of hearing loss. This number is on the increase as a result of the noise that we are exposed to and the aging of our society. The incidence is even higher for people over 65 years of age, of whom one in three has some degree of hearing loss. In the United States today approximately 6 million people use hearing aids and 20,000 people have cochlear implants.

Summary of Position

SHHH strongly requests that the Commission remove the existing exemption and require that all digital wireless telephones be compatible with hearing aids. SHHH supports a ruling whereby wireless services are required to be accessible to hearing aid users compatible with the same level of service that hearing customers enjoy. Such a ruling would benefit people with hearing loss, serve the public good, and reflect the use of existing compatible technology. Because there currently exist several models of digital wireless telephones which are either compatible or have very limited interference with hearing aids, it is clear that it is technologically feasible to make and sell digital wireless telephones which are compatible with hearing aids, in this marketplace. Customers with hearing loss must be able to use

the full range of existing and potential features (i.e. text messaging, voicemail, caller ID, etc.) without interference to a hearing aid, with the use of a telecoil. Requiring that all digital wireless technology be compatible with hearing aids would not make manufacturers uncompetitive, as current sales show. If necessary, full compatibility of multiple products could be phased in over a two-year period to minimize any potential disruption in the marketplace.

Background

The telephone is integral to our daily lives and to not have access to it is unimaginable for most people. Congress recognized this when it passed the Hearing Aid Compatibility Act of 1988 (HAC Act)[1]. At that time Congress stated "to the fullest extent made possible by technology and medical science, hard of hearing persons should have equal access to the national telecommunications network. " (Pub.L. 100-394, Section 2 (1988)).

Under the HAC Act virtually all telephones were required to be hearing aid compatible, including new telephones and telephones associated with a new technology or service. Telephones used with public mobile services and private radio services were exempt. However, Congress

[1] 47 U.S.C. §610.

directed the FCC to periodically review these exemptions.[2] In response to this directive in 1989, the FCC announced that it would review these exemptions at least every five years. These exemptions have never been reviewed to date since the initial promulgation of the HAC Act. Not a single review has been undertaken since the initial promulgation of the HAC Act.

Ultimately, hearing aid users are being denied access to an increasingly vital technology. Personal Communication Service (PCS) devices are no longer a novelty or a high-end product. Nor are they primarily used for emergency situations. They have become commonplace and consumers are relying on them more and more. Increasingly, however, alternative options, such as analog service, are harder to find and more expensive than digital service, so digital service must be made compatible with hearing aids.

Discussion

In the instant Notice of Proposed Rulemaking (hereinafter NPRM), the FCC frames four questions, which are especially relevant to people with hearing loss[3].

1. Whether revoking or limiting the exemptions is in the public interest.[4]

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[2] 47 U.S.C. §610 (b) (1) (C).

[3] Notice of Proposed Rulemaking, WT Docket No. 01-309, pp. 9-13.

[4] 47 U.S.C. § 610(b)(2)(C)(i).

SHHH believes that a significant issue facing its members and all people with hearing loss is access to digital telecommunications technology. Currently digital wireless telephones are not required to be compatible with hearing aids, even as digital technology is coming to dominate the marketplace. SHHH encourages the Commission to require that all public mobile service telephones be compatible with hearing aids.

According to CTIA over 106 million people in the U.S. (November 29, 2000) are digital telephone subscribers. That is more than 40% of the population. Two major concerns for our constituency are detailed in the FCC's own report adopted August 3, 2000. The "Fifth Report" or the "Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services," speaks to the continued rise of digital services and the growing trend toward abandoning landlines for digital services. "The combined effect - the doubling of digital subscribers and the first report of a decline in analog subscribers - was that at the end of 1999, digital subscribers made up 51% of the industry total." (PP13, 14, "Fifth Report," before the FCC, adopted August 3 and released August 18, 2000.)

The same report also details the "Wireless/Wire line Competition" where service providers are marketing digital PCS devices to replace

traditional wire line services at a very competitive price. "For example, in early 1999, Chase Telecommunications Holdings Inc. began offering a mobile telephone service in Chattanooga, Tennessee, designed to compete with wire line local telephone service." (p. 14.) In this case, hearing aid and cochlear implant users are forced to rely on obsolete technology that is being phased out more and more rapidly while digital technology remains inaccessible. This is the nightmare that our members will face unless intervention occurs quickly. Accordingly, the public interest is served by revoking the exemption for digital wireless telephones and services and requiring that they be compatible with hearing aids.

2. Whether the continuation of the exemptions without revocation or limitation would have an adverse effect on people with hearing disabilities?[5]

Currently, persons with hearing aids are unable to use most digital wireless phones, as the equipment is generally incompatible. There is currently no good interface to solve that problem. Market forces and the desire of service providers to maximize the number of subscribers are leading to an inevitable decrease in analog service provision. Given the explosive growth of digital services, the growing customer base and the

[5] 47 U.S.C.§ 610 (b)(2)(C)(ii).

variety of available services, it would be unrealistic to expect that analog services would long survive in a completely unrestricted marketplace.

Hard of hearing consumers are no different from the general population in recognizing the benefits of digital telecommunications services. PCS devices offer a range of equipment that is capable of voice, data, and video transmission and reception. These portable devices have increased mobility in society, and have extended the freedom of choice and the capabilities of the individual citizen. That is for those who can use them and for whom they are accessible. For most people who use hearing aids, they are still out of reach. Hard of hearing consumers have no desire to be stuck in an analog technology "ghetto." Efforts to date by manufacturers have failed to produce digital equipment and services that are fully accessible to consumers with hearing loss. Consumers with hearing loss want digital equipment and the full panoply of digital services that are available to hearing consumers, to be compatible with hearing aids. Until then, consumers must continue to use the best means available to obtain access to the telecommunications revolution, however limited those current services may be. It has never been the intention or policy of the FCC that persons with disabilities be denied access.

People with hearing loss need access to the telecommunications revolution. Without hearing aid compatible digital wireless telephones, we will be held hostage to outmoded analog technology which is being marginalized in the marketplace.

3. Whether compliance with the requirements of the hearing aid compatibility rule is technologically feasible for the telephones to which the rule applies?

The legislative history of the HAC Act defines technological infeasibility as "impossible" or "undoable."[6] Currently there are several digital telephones offered in the marketplace today that cause limited to no interference with hearing aids[7]. Producing a digital wireless telephone which is compatible with hearing aids is being done now. It is technically feasible. It must be noted, however, that phones which are currently compatible only if they are used with a neck loop ignore the fact that a "hands free" adaptor must be an integral part of the phone. A telephone is not compatible if a consumer has to purchase and wear separate adaptors, loops, or other equipment to make it work. The solution must be integral to the telephone. The experience of consumers using the Samsung products bears this out.

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[6] 47 S. Rep. 100-391 at 11 (Comm.on Commerce, Science and Transportation) (1988).

[7] Samsung SCH-N300 and the LGTM 510, offered by Verizon Wireless (www.verizonwireless.com) as well as several models offered by Sprit PCS (www.sprintwireless.com).

4. Whether complying with the requirements of the rule would increase costs to such an extent that the telephones to which the exemption applies could not be successfully marketed.[8]

The Commission seeks comments on the costs and benefits to all telephone users, including persons with and without hearing disabilities; as well as ways in which the Commission can encourage the use of currently available technology and not discourage or impair the development of improved technology.[9] As stated above, major service providers such as Verizon and Sprint PCS currently offer digital wireless telephones which have proven, experientially, to be functionally compatible with hearing aids.[10] Comparable models made by Samsung, such as the SCH-3500 and 6100 are successfully marketed at discounted prices under $120, which indicates that they can be sold at reasonable prices.

Hard of hearing and deaf consumers recognize and acknowledge that market forces play a significant part in the telecommunications arena, so the implementation of hearing aid compatible digital wireless telephones could be done on a graduated schedule. Two years for phased-in compliance is more than reasonable, especially given that voluntary compatibility has been an issue since 1988, and the current exemption has been in effect for six years.

[8] 47 U.S.C. §610(b)(2)(C)(iv); 47 C.F.R. § 68.4(a)(4)(iv).

Consumers want a variety of choices in digital wireless telephones. This variety presumes varying features and associated costs of the products. Just as manufacturers recognize that their profits depend on their ability to make large quantities of inexpensive telephones, consumers with hearing loss, who represent 10% of the population of the United States, recognize that a variety of compatible products, in varying price ranges and functions is optimal to a healthy marketplace. A graduated implementation schedule would allow consumers to get existing functionally compatible digital wireless telephones immediately, with two years for industry to continue developing additional new compatible digital wireless product lines.

Conclusion

For all of the foregoing reasons, SHHH urges the Commission to revoke the exemption currently in place for digital wireless telephones and require that they must be compatible with hearing aids. Such an action would benefit people with hearing loss, serve the public good by increasing access to telecommunications for all Americans, be technologically feasible, and be competitive in the marketplace. Persons with hearing loss want access and a variety of choices, just like everyone else.

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[9] 47 U.S.C. § 610(e).
[10] See at www.verizonwireless.com, Samsung SCH-N300 and LG TM510.

If the interests of people with hearing loss are to be safeguarded, and access to telecommunications is to be preserved, the Commission must revoke the exemption for digital wireless telephones and technology, and require that they MUST be compatible with hearing aids.

Respectfully submitted,

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