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March 26, 2003

Marlene H. Dortch, Secretary
Federal Communications Commission
Washington, DC 20554

Re: Report of Oral *Ex Parte* Communication
WT Docket No. 01-309

Dear Ms. Dortch:

Pursuant to Section 1.1206(a)(2) of the Commission's Rules, this is to report that two *ex parte* meetings were held at the Commission on March 25, 2003, on behalf of the **Hearing Industries Association** ("HIA"), at which subject matter at issue in the above-captioned proceeding was discussed. The meetings were attended by the following persons:

Meeting #1:

Office of the Chairman	-	Bryan Tramont
Wireless Telecommunications Bureau	-	Catherine Seidel Mindy Littell Gregory W. Guice
Hearing Industries Association	-	Carole M. Rogin, Executive Director David E. Woodbury, Jr., Director of Government Relations Peter Tannenwald, Irwin, Campbell & Tannenwald, P.C., Counsel to HIA

Meeting #2:

- Wireless Telecommunications Bureau** - Mindy Littell
Patrick E. Forster
Joseph A. Levin
Gregory W. Guice
- Consumer and Governmental Affairs
Bureau - Disability Rights Office** - Thomas Chandler
- Hearing Industries Association - Ms. Rogin and Messrs. Woodbury
and Tannenwald (see above)

The principal subject of these meetings was the suitability of ANSI Standard 63.19 for evaluating the performance of wireless telephone handsets and hearing aids in terms of avoiding interference from handsets to hearing aids. HIA referred to its written *ex parte* submission of February 20, 2003, which indicated that going forward from the adoption of new rules, the hearing aid industry is prepared to provide hearing impaired individuals with hearing aids that are immune from most interference from handsets that achieve a U3, U3T, or better rating under ANSI Standard 63.19.

Compliance with HIA's commitment is assured by virtue of the fact that hearing aids may be dispensed only by licensed dispensers in virtually every state. As required in some jurisdictions, but as a matter of policy virtually everywhere, the hearing aid industry is willing to provide at least a 30-day trial period for new hearing aids and to take a hearing aid back with a full refund if it cannot be adjusted, re-manufactured, or replaced to satisfy the needs of a cell phone or PCS user.

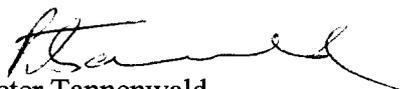
HIA further noted that aids are regulated by the Food and Drug Administration ("FDA") as a Class I Medical Device. FDA regulations require any label claiming a certain performance characteristic for a hearing aid must be justified by compliance by a very high threshold of units manufactured. In practice, only 80-85% of hearing aids comply with measurements under the ANSI C.63.19 standard when they first come off the production line, with variations caused by the unique design of the casing of each unit that is fitted to the shape of each individual user's ear. Although hearing aid dispensers can correct problems after initial delivery or can replace an aid with another model to achieve compatibility with wireless handsets, a label affixed prior to individual adjustment or replacement would risk "misbranding" under FDA regulations if that particular hearing aid did not work with a given cell phone. Sanctions on manufacturers may include the drastic remedy of closing down of the manufacturing plant. Moreover, for restricted Class I devices like hearing aids, advertising is considered the equivalent of labeling, so advertising claims must also achieve the same threshold of compliance. These requirements make labeling of

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hearing aids impractical, even though the end result of compatibility with U3/U3T compliant handsets is possible. In contrast, handsets are a uniform product, where testing of samples is has proved to yield consistent results with units of the same model.

In response to a question as to whether the ANSI 63.19 standard is a good one, HIA noted that all participants in the standard-setting process voted for it except HIA; and HIA voted against adoption only because of concerns about repeatability of test results with custom-designed hearing aids, not because of the merits of the standard. Engineers from handset manufacturers have supported the standard in the past, and it can be applied successfully in today's manufacturing environment. HIA has continued to refine testing processes over the years, while handset manufacturers have not undertaken the same degree of effort.

Respectfully submitted,



Peter Tannenwald
Counsel for the Hearing
Industries Association

cc: (by e-mail) all meeting participants