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July 2, 2003

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

**Re: *Written Ex Parte* Communication  
WT Docket No. 01-309**

Dear Ms. Dortch:

This letter is filed on behalf of the Hearing Industries Association ("HIA") and follows up on a meeting held with Bryan Tramont of the Chairman's Office and other Commission Staff members on June 19, 2003.

HIA has stated throughout this proceeding that the labeling of individual hearing aids with respect to their performance under ANSI Standard C63.19 is impractical because of the custom configuration of individual hearing aids, and labeling would place hearing aid manufacturers at serious jeopardy under Federal Drug Administration regulations if an individual hearing aid did not in fact perform as labeled.

After further discussions, it appears that it may be possible to include information in literature supplied with hearing aids that addresses the anticipated performance of a particular class of circuitry or circuit design as opposed to the performance of an individual hearing aid. An example of such information is as follows:

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**NOTICE ABOUT INTERFERENCE FROM CELLULAR  
AND PCS TELEPHONE HANDSETS**

Cellular and PCS wireless telephone handsets can cause interference that impairs the performance of your hearing aids when you are trying to use the handset. To minimize the likelihood of such interference, please read the following.

The basic circuitry in these hearing aids has been designed to achieve performance consistent with rating of at least U2 under a measurement standard known as "ANSI Standard C63.19." If you use a cellular or PCS telephone, please tell your hearing health professional

Marlene H. Dortch, Secretary  
July 2, 2003  
Page 2

which make and model you use, and if you have your handset owner's manual, please show it to your health professional. You should use a cellular or PCS handset that also carries an ANSI Standard C63.19 rating. The sum of your hearing aid and handset "U" ratings should be at least 5 to minimize the likelihood of interference. For example, it should be possible to use hearing aids with a rating of U2 together with a handset with a rating of U3, but hearing aids with a rating of U2 and a handset with a rating of U2 would be less likely to work well together.

Because your hearing aids are custom made to fit your ears, the rating of your basic model under the ANSI standard will not always reflect the interference immunity of your individual hearing aids, and you may still receive interference when using a telephone handset.

If you use a cellular or PCS handset with a rating of U3 or greater and you still experience interference to your hearing aids, the manufacturer of this product will either remake your hearing aids to reduce the interference to an acceptable level or will apply the full price of your hearing aids to the purchase of a different model that will work with your telephone handset. In the unusual situation where no solution can be found, and if you do not wish to purchase a different cellular or PCS handset that is more compatible with your hearing aids, the full amount of your hearing aid purchase price will be refunded.

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HIA remains concerned about full compliance with hearing aid regulations of the Food and Drug Administration. HIA is confident that it can commit its members to providing consumers with the type of information described above only to the extent that each manufacturer is satisfied, based on its own judgment, that the FDA would not consider the information to be an advertising or performance claim that would justify sanctions if an individual hearing aid did not comply with the "U" rating assigned to the basic circuitry used in that hearing aid.

Individual hearing aid manufacturers are likely to limit the time period during which they will remake or exchange hearing aids. Any such time limits will be consistent with both state regulations mandating minimum trial periods and the manufacturer's exchange/refund time periods for other user problems. The typical period for a customer to make known his or her dissatisfaction with a hearing aid product exceeds 30 days.

The success of efforts to ensure compatibility between hearing aids and telephone handsets depends on knowing the "U" rating of a customer's handset model. The customer is not likely to know the rating and often will no longer have the handset user manual. Hearing aid dispensers and manufacturers should not be responsible for obtaining a handset model's rating if it is not labeled on the handset itself or made readily available on an Internet website.

Marlene H. Dortch, Secretary  
July 2, 2003  
Page 3

While HIA is committed to cooperating in the solution of the hearing aid/handset compatibility problem and is making every effort to ensure that hearing aid users are able to enjoy the full use of cellular and PCS telephones, HIA does not by this letter intend to signify its agreement that the FCC has legal jurisdiction to regulate the information provided by hearing aid manufacturers to their customers or the performance of hearing aid products.

Respectfully submitted,



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Counsel to the Hearing  
Industries Association

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