

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

In the Matter of)	
)	
Section 68.4(a) of the Commission's Rules)	WT Docket No. 01-309
Governing Hearing Aid-Compatible Telephones)	RM-86-58

SPRINT COMMENTS

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December 1, 2003

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Summary

Sprint believes the Commission's *Hearing Aid Compatible Act Report and Order* ("HAC Order") may suffer implementation difficulties similar to those experienced with E911 Phase II implementation. Like E911 Phase II, HAC has been imposed without regard to technical feasibility, and it has not been imposed on all indispensable parties. Sprint urges the Commission to reconsider its decision to require carriers to begin selling in two years certain numbers of "U3" rated phones even though it is not known whether handset suppliers can meet this deadline, particularly considering that the C63.19 standard is in a state of flux.

The Commission's decision to impose more onerous requirements on "Tier 1" carriers is discriminatory, unexplained and could result in market distortion. As such, Sprint asks the Commission to eliminate the 25 percent rule to Tier 1 carriers only and simply provide two U3-rated phones and to give Tier II and III carriers additional time by which they can meet the requirement.

Sprint strongly urges the Commission to enforce its HAC Rules and to remove its delegation of enforcement authority to the states. To begin with, the Commission enforcement rules are flawed under the APA as no notice was given and the Commission's decision is unexplained and thus arbitrary and capricious. Moreover, as a policy matter, the Commission—not the states—is in the best position, particularly from a technical expertise standpoint, to determine appropriate enforcement action.

The Commission should clarify that the supplier de *minimis* exception applies on a "per air interface" basis. Sprint supports the arguments made by Research in Motion on this point and believes the Commission's "total activity" rule does not serve the public interest and may result in vendors withdrawing highly useful products from the market.

Sprint supports the Rural TDMA carriers petition requesting exemption of TDMA handsets from the HAC requirements. Due to the phase out of TDMA and the continued availability of analog handsets, Sprint believes that hearing aid users in rural areas can use wireless networks without interference.

Finally, Sprint urges the Commission to allow service providers to submit compliance reports after handset manufacturers submit their reports. Sprint believes that this modest change will permit a more orderly and meaningful process because service providers can simply reference their supplier's reports in their own compliance reports.

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SPRINT COMMENTS

Sprint Corporation, on behalf of its wireless division, Sprint Spectrum L.P., d/b/a Sprint PCS (“Sprint”), submits these comments in support of the reconsideration petitions that have been submitted in response to the Commission’s August 14, 2003 *Hearing Aid Compatible Act Report and Order* (“HAC Order”).¹

I. HAC MAY SUFFER IMPLEMENTATION DIFFICULTIES SIMILAR TO THOSE EXPERIENCED WITH E911 PHASE II IMPLEMENTATION

The Commission and the wireless industry have spent enormous resources on implementation of E911 Phase II service. Yet, seven years after the Commission’s first *Wireless E911 Order*, Phase II service is available to only a fraction of the nation’s 140 wireless customers. The reason for this is twofold. First, the Commission imposed implementation deadlines on carriers without regard to technical feasibility, and those deadlines not surprisingly proved to be unrealistic. The result: over the past several years, carriers and the Commission have spent an inordinate amount of time on the waiver process (with numerous additional waiver requests still pending) – resources that would have been more productively spent on Phase II implementation.

¹ See Section 68.4 of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, *Report and Order*, FCC 03-168 (Aug. 14, 2003), summarized in 68 Fed. Reg. 54173 (Sept. 16, 2003)(“HAC Order”). See also *Petitions for Reconsideration*, Report No. 2636, 68 Fed. Reg. 64625 (Nov. 14, 2003).

The second problem with E911 deployment was caused by the fact that, while the successful implementation of Phase II service requires the coordination of four parties (carriers, vendors, LECs and PSAPs), the Commission imposed requirements on only one of these parties. The current state of E911 deployment is not surprising given the co-dependencies inherent in E911. Sprint PCS' entire nationwide network has been Phase II capable for over 18 months. Although Sprint was Phase II ready before any other carrier, it has been unable to tell consumers of this achievement for fear that it would mislead them (because Phase II service is actually available to so few customers). The reason for the sparse availability of Phase II service today, as Dr. Hatfield has advised the Commission last year,² is because (a) LECs, not subject to any regulatory mandate, were slow to upgrade their networks to accommodate Phase II service, and (b) many PSAPs do not have the funding to upgrade their dispatch equipment.³

Sprint is concerned that similar problems will be encountered with implementation of the *HAC Order*. Specifically, the Commission has required carriers to begin selling in two years certain numbers of "U3 rated" phones even though it is not known at this time whether handset suppliers can meet this deadline. What makes the *Order* so perplexing is that these deadlines were established even though the Commission was aware that industry had established a "fast track" process to complete in six to nine months an assessment of the validity and usability of ANSI C63.19 standard and its rating system.⁴ If the experience with Phase II is any guide, the

² See Dale N. Hatfield, Ph.D., *A Report on Technical and Operational Issues Impacting the Provision of Wireless Enhanced 911 Services*, CC Docket No. 94-102 (Oct. 15, 2002).

³ The irony with Phase II deployment is that Sprint, having been aggressive in deploying Phase II upgrades, is now being criticized for recovering its deployment costs because so few PSAPs have implemented Phase II service.

⁴ See ATIS Ex Parte Letter, WT Docket No. 01-309 (July 3, 2003) ("A report to the Commission regarding the validity and usability of ANSI C63.19 is to be completed within 6-9 months from the start of the Incubator."); ATIS Ex Parte Letter, WT Docket No. 01-309 (July 1, 2003) (May 20, 2003 ATIS-FCC meeting summarized). See also *FCC News*, Statement of FCC Chairman Michael K. Powell on Wireless Hearing Aid Compatibility Process (Sept. 4, 2003).

Commission should not be surprised if handset vendors (and, consequently, their carrier customers) must seek waivers of the deadlines established. What makes the *Order* even more perplexing is that it is generally acknowledged that the C63.19 standard will be modified in the next year, yet the new November 2005 U3 phone deadline will, as a practical matter, require suppliers to build to the current standard even though that 2001 standard will likely be replaced in the near future.

Second, the problem faced by consumers using hearing aids will be solved only with the cooperation and close coordination of the telecommunications industry and the hearing aid industry. Yet, as with the case with Phase II implementation, requirements were not imposed on all indispensable parties – with the Commission determining that hearing aid vendors, which had opposed the C63.19 standard,⁵ will be incented by market forces to produce U2-rated hearing aids.⁶ Again, if the experience with Phase II E911 is any guide, the Commission should not be surprised if hearing aid users find that their situation is not improved measurably when the telecommunications industry introduces U3-rated phones – because the hearing aid industry, not subject to any government requirements, has not met Commission expectations.

Sprint appreciates that the Commission was under pressure from consumer groups to “do something,” and it further appreciates that the Commission evidently has no regulatory authority over hearing aid vendors. But rather than adopt approaches that have not worked in the past, the Commission should have considered a different, more holistic approach (*e.g.*, a joint proceeding with the Food and Drug Administration).⁷ Nevertheless, having adopted the approach it did, the

⁵ See *HAC Order* at n.117.

⁶ See *id.* at ¶ 59 (“Market forces should provide a sufficient incentive for hearing aid manufacturers to honor their commitments” to the FCC).

⁷ See Sprint Comments, 01-309, at 20-21 (Jan. 11, 2002).

Commission should not be surprised if problems similar to E911 Phase II implementation arise in connection with the implementation of the *HAC Order*.

II. THERE IS NO BASIS IN LAW OR POLICY TO ADOPT DIFFERENT RULES BASED ON A CARRIER'S TOTAL SIZE

Under the new rules, beginning November 17, 2005, all wireless carriers must sell two U3-rated phones (assuming they sell at least four phones).⁸ However, the Commission has imposed a more onerous requirement on “Tier I” carriers: they must sell “at least two handset models or 25 percent of the total number of unique digital wireless handset models offered by the carrier nationwide.”⁹ The Commission’s decision to impose more onerous requirements on “Tier I” carriers is completely unexplained. Sprint agrees with Verizon Wireless that on reconsideration, the Commission should “delete this special rule so that implementation obligations are consistent for all wireless carriers”

[T]here is no legal or policy justification for the Commission to have incorporated into the HAC rules a different requirement based solely on carrier size that divides a competitive industry into two camps with disparate obligations.¹⁰

Ten years ago, the Commission modified the Communications Act to ensure that “services that provide equivalent mobile services are regulated in the same manner,” and Congress required the Commission “to review its rules and regulations to achieve regulatory parity among services that are substantially similar.”¹¹ Congress specifically found that “disparities in the current regulatory scheme could impede the continued growth and development of commercial mobile services.”¹²

⁸ See 47 C.F.R. § 20.19(c)(2).

⁹ *Id.* at § 20.19(c)(3).

¹⁰ Verizon Wireless Petition at 3.

¹¹ H.R. REP. NO. 103-111, 103d Cong. 1st Sess., at 259 (1993).

¹² *Id.* at 260.

To be sure, Congress gave the Commission “some degree of flexibility to determine which specific regulations should be applied to each carrier,” but the Commission must find that “market conditions . . . justify differences in the regulatory treatment of some providers of commercial mobile services.”¹³ Nevertheless, as the Commission has recognized, “it is the purpose of the statute and the intent of the Commission to eliminate such disparities to the extent practical”:

The broad goal of this action is to ensure that economic forces – not disparate regulatory burdens – shape the development of the CMRS marketplace.¹⁴

In the past, the Commission has used carrier size to establish the dates by which carriers must comply with new FCC rules. For example, in last year’s *Small Carrier E911 Implementation Order*, the Commission gave smaller carriers additional time to become compliant with the Phase II rules because of their difficulty in obtaining from vendors needed handsets and/or network upgrades.¹⁵ But to Sprint’s knowledge, the Commission has never adopted different public interest mandates based on a carrier’s size. Indeed, only two weeks ago, the Commission rejected the request of smaller carriers that they be subjected to less rigorous Phase II accuracy standards than imposed on all other carriers, finding that “accurate location information is as important in rural areas as it is in urban areas.”¹⁶

Sprint submits that the “total carrier size” approach that the Commission adopted in its *HAC Order* is arbitrary and capricious in two respects. First, a carrier’s total size is not especially relevant to the issue here: the number of U3-rated phones that are made available to hear-

¹³ H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess., at 491 (1993).

¹⁴ *Third CMRS Report and Order*, 9 FCC Rcd 7988, 7994 ¶ 4, 8003 ¶ 24 (1993).

¹⁵ *See Small Carrier E911 Implementation Order*, 17 FCC Rcd 14841 (2002).

¹⁶ *Tier III E911 Accuracy Forbearance Denial Order*, WT Docket No. 02-377, FCC 03-297, at ¶ 18 (Nov. 19, 2003).

ing aid users. On a “total size” basis, Sprint PCS is twice the size of Alltel, having twice the number of customers.¹⁷ But, Sprint provides its services nationwide, while Alltel serves only certain regions of the country. Indeed, there are numerous markets where Alltel serves more customers than Sprint PCS. It is not apparent why Alltel, a larger carrier in certain markets, should be able to sell fewer U3-rated phones than Sprint in these markets.

Second, if the focus is on the number of options made available to hearing aid users, the Commission should impose more rigorous requirements on rural carriers. According to the Commission’s most recent data, 71 percent of the population can now choose among six or more wireless carriers.¹⁸ If each carrier in these metropolitan areas offers only two U3-rated phones, most consumers would have a choice of up to 12 different models. In contrast, only two cellular carriers serve many rural areas. For hearing aid users in these markets, their choice will be limited to four U3-rated models (and only two handsets if only one carrier provides service in the community).¹⁹

Smaller carriers may need additional time to obtain U3-rated handsets than larger carriers, and Sprint would not be opposed to the Commission giving smaller carriers additional time to become compliant (*a la* the E911 Phase II rules). But there is no basis in law or policy to apply less stringent compliance rules designed to promote the public interest based on the total size of a carrier. If any carrier cannot meet the uniform U3-rated requirements that the Commission adopts, that carrier can invoke the Commission’s waiver procedures.

¹⁷ According to RCR, at the end of 2002, Sprint PCS served 14.8 million customers while Alltel served 7.6 million customers. See RCR WIRELESS NEWS, *U.S. Carriers – First Tier*, at 8 (March 3, 2003); RCR WIRELESS NEWS, *U.S. Carriers – Second Tier*, at 20 (March 24, 2003);

¹⁸ See *Eight CMRS Competition Report*, 18 FCC Rcd 14783, 14828 ¶ 84 (2003).

¹⁹ The FCC notes that hearing aid users in rural areas can obtain additional U3-rated phones “from the roaming partner of a local wireless carrier or directly from a wireless hand manufacturer’s web site.”

The Commission should eliminate the “25 percent” special rule applicable to Tier I carriers. The Commission provided “no data, discussion or explanation” for the 25 percent rule.²⁰ The rule is blatantly discriminatory and could distort competition in markets where Tier I and Tier II/III carriers compete. The special rule is unnecessary because, as noted above, the sheer number of competing wireless carriers in most markets will ensure that hearing aid users will have a wide selection of U3-rated phones from which to choose. And finally, the special rule could have the perverse effect of requiring vendors to produce and carriers to sell phones based on a 2001 standard that will likely soon become antiquated.

In summary, Sprint asks the Commission to take two actions on reconsideration: (1) eliminate the special 25 percent rule applicable to Tier I carriers only, and simply require all carriers to provide two U3-rated phones;²¹ and (2) give Tier II and III carriers additional time (*e.g.*, six months) by which they can meet the “two U3-rated phone: requirement. The alternative would be to maintain the existing November 2005 compliance date for all carriers, but then entertain individualized waiver requests for those carriers unable to meet this deadline.

III. THE FCC, NOT THE STATES, SHOULD ENFORCE FCC HAC RULES

Sprint agrees with CTIA and Verizon Wireless that the Commission should reconsider its decisions delegating to states the authority to enforce the HAC rules as applied to wireless carri-

HAC Order at ¶ 69. If these are viable options for users in rural areas, they are also viable options for users in urban and suburban areas.

²⁰ See CTIA Petition at 8-9.

²¹ Vendors/carriers are also required to sell two U3T-rated phone by November 2006. See 47 C.F.R. § 20.19(d). As the FCC is aware, there are significant flaws with the current version of C.63.19 and its UT testing specifications. See, *e.g.*, Motorola Ex Parte Letter, WT Docket No. 01-309 (July 3, 2003). Sprint anticipates this subject will be addressed in the pending “Incubator” meetings, and it hopes there is time that recommendations can be submitted to the FCC before a reconsideration decision on the U3T mandate becomes necessary.

ers and their handset suppliers and extending to wireless service providers its Part 68 rules applicable to manufacturers of landline telephones.²²

At the outset, the *HAC Order* regarding enforcement contains two fatal flaws under the Administrative Procedures Act (“APA”): (1) the Commission provided no APA notice that it was considering extending to wireless service providers rules that on their face apply to LEC equipment manufacturers only; and (2) the Commission’s decision to delegate enforcement authority to the states is completely unexplained and thus arbitrary and capricious. Because the Commission can rectify these procedural defects in its reconsideration order, Sprint will instead focus below on why, as a matter of policy, the Commission should not delegate to the states enforcement of HAC rules as applied to wireless carriers.

The most common consumer complaint under the HAC rules undoubtedly will be: “I purchased a U3-rated handset, and I still get buzzing with my hearing aid.” But such an allegation does not mean that the handset is not C63.19 compliant. User tests conducted by Motorola showed no correlation between a handset’s “U” rating and the level of interference hearing aid users encountered; in fact, in this test, hearing aid users found that nearly 70% of their calls with a U3-rated handset were “annoying” or “very annoying,” while less than 30 percent of their calls with a U2-rated handset were “annoying” or “very annoying.”²³ And in this regard, the Commission has itself acknowledged that the C63.19 standard is “not a perfect tool for ensuring that any given hearing aid will work with a particular digital wireless phone.”²⁴

²² See CTIA Petition at 14-17; VZW Petition at 6-10.

²³ See Motorola Ex Parte, WT Docket No. 01-309 (Jan. 31, 2003), attachment, Digital Wireless Phones and Hearing Aids: Interference Issues at 14 and 16. The FCC did not reference this test when it made its statement that use of ANSI C63.19 will be “highly predictive” of the usability of handsets and hearing aids and that use of a U3-rated handsets would “likely result in formal performance” for hearing aid users. See *HAN Order* at ¶¶ 43 and 56.

²⁴ *HAC Order* at ¶ 55.

Thus, the only way that a state commission can determine whether a particular handset complies with the FCC rules and the U3 C63.19 standard would be to have the handset manufacturer prove that its handset model meets the U3 rating category. Under the new rules, handset vendors are now required to conduct C63.19 compatibility tests as a condition for obtaining equipment authorization,²⁵ so a handset supplier could submit its test results to the state commission. But what is a state commission, which has no expertise in radio technology, supposed to do with these test results? Will a state commission determine that these tests are inadequate or that the vendor must somehow provide additional information showing that the test results are accurate? One point should be uncontested: state regulators lack the authority to require handset vendors to conduct different tests or meet different requirements.²⁶

Another consumer complaint might be that a carrier is selling an insufficient number of U3-rated handsets. Data concerning available handset models will be documented in the compliance reports that carriers submit to the Commission, so carriers will send to the state regulator a copy of its FCC compliance reports. What is the state regulator then supposed to do once it receives this compliance report? Will the state regulator require a wireless carrier to provide additional information to “prove” that the facts contained in the report are accurate?

State commission enforcement of FCC HAC rules as applied to wireless carriers and their suppliers is not only inefficient, but also completely unnecessary. Filing a complaint, the Commission’s web site notes correctly, “Is EASY.”²⁷ Consumers can file complaints “electronically,

²⁵ See 47 C.F.R. §§ 2.1033(d), 20.19(b)(3).

²⁶ The FCC long ago preempted states from regulating technical issues pertaining to mobile wireless services. See *Domestic Public Cellular Radio Communications Services*, 86 F.C.C.2d 469 ¶ 84 (1981), *aff’d on recon.*, 89 F.C.C.2d 58 ¶ 82 (1982).

²⁷ See www.fcc.gov/cgb/complaints.html.

by e-mail, by postal mail or by fax.”²⁸ Commission staff has the technical expertise to address HAC complaints, and unlike the state commissions, has ready access to all relevant data needed to evaluate complaints (*e.g.*, compliance reports, testing data).

Sprint acknowledges that Congress specified in the 1988 HAC Act that the Commission “shall delegate to each State commission the authority to enforce” FCC implementing rules “conditioned upon the adoption of enforcement of such regulations by the State commission.”²⁹ But this statute must be read in the context in which it was enacted: wireless handsets were exempted from HAC, and states have traditionally played a large role in the regulation of landline telephone services. Additionally, at the time Congress enacted this statute, the Commission had already preempted states over technical issues involving mobile wireless services and equipment.

This statute must also be read in conjunction with later Congressional enactments, including the 1993 Budget Act, where Congress directed the Commission “to establish a Federal regulatory framework to govern the offering of all commercial mobile services,” which “by their nature, operate without regard to state lines as an integral part of the national telecommunications infrastructure.”³⁰ The 1998 HAC Act must also be read in conjunction with Section 255 of the Communications Act, which gives the Commission “exclusive jurisdiction with respect to any complaint” alleging that a phone, including a wireless handset, is not “usable by individuals with disabilities.”³¹ Sprint submits that Congress did not intend the Commission to adopt an inefficient procedure, especially when states have little or no legal authority over the technical aspects of wireless services and equipment.

²⁸ *See id.*

²⁹ 47 U.S.C. § 610(h).

³⁰ *See* H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess, at 490 (1993); H.R. REP. NO. 103-111, at 260 (1993).

³¹ *See* 47 U.S.C. §§ 255(b) and (f).

Sprint therefore encourages the Commission to amend new Rule 20.19(g) by removing the delegation to state commissions and clarifying that complaints against service providers will be brought pursuant to the Commission's general complaint Rules in Part 1, Subpart E, rather than the Part 68 rules that are designed for manufacturers of landline customer premises equipment.

IV. THE COMMISSION SHOULD CLARIFY THAT THE SUPPLIER *DE MINIMIS* EXCEPTION APPLIES ON A "PER AIR INTERFACE" BASIS

The Commission has adopted a *de minimis* exception for vendors and service providers that sell a small number of handset models. Specifically, a vendor/carrier that offers one or two handset models is exempt from the HAC rules, while a vendor/carrier offering three models must make only one U3-rated model.³² The Commission could have applied this rule on a "total activity" basis (total number of handsets sold in the U.S.) or on a "per interface" basis. The Commission, without explanation, chose the latter.³³

Research In Motion ("RIM") sells nine of its BlackBerry devices in the U.S. – seven GSM/GPRS models, one CDMA model, and one iDEN model.³⁴ RIM is not eligible for the *de minimis* exception under the "total activity" rule, because it sells a total of nine BlackBerry devices. However, RIM does not meet the Commission's requirement that it produce "at least two handsets for each air interface in its product line."³⁵ RIM thus faces a stark choice in order to

³² See *HAC Order* at ¶ 69.

³³ See *HAC Order* at ¶ 65 ("We require, within two years, that each digital wireless handset manufacturer . . . make commercially available at least two handsets *for each air interface in its product line* (i.e., CDMA, TDMA, GSM, and iDEN) which meet the U3 performance level (acoustic coupling) under ANSI C63-19.") (emphasis added). See also *id.* at ¶ 53 ("[W]e require each digital wireless phone manufacturer to make available to carriers . . . at least two handset models *for each interface it offers.*") (emphasis added).

³⁴ See RIM Petition at 1.

³⁵ *HAC Order* at ¶ 65.

comply with the *HAC Order*: (1) produce more CDMA and iDEN BlackBerry device models, whether or not there is market demand for additional models; or (2) abandon the CDMA and iDEN market altogether.

Sprint submits that the public interest is not served when the Commission adopts rules that may result in vendors withdrawing highly useful products from the market – action that could distort competition among service providers using different air interfaces. Sprint therefore joins RIM and CTIA in urging the Commission to replace its “total activity” *de minimis* exception with a “per interface” *de minimis* exception.

V. THE COMMISSION SHOULD GRANT THE RURAL TDMA PETITION

Rural TDMA carriers are in various stages of planning and installing CDMA or GSM networks to replace their current TDMA networks. These carriers ask the Commission to exempt TDMA handsets from HAC requirements.³⁶ Sprint, while not directly impacted by this issue, supports this request.

The Commission recognized over a year ago that TDMA “is being phased out” and that the TDMA trade group has been dissolved.³⁷ As the rural TDMA petitioners note, it is unlikely that TDMA handset vendors will devote their finite resources towards making their TDMA handset models U3-compliant,³⁸ and in any event, the Commission should do everything it can to ensure that finite vendor resources are focused on designing and producing as many U3-rated CDMA and GSM handset models as possible. If vendors do not make U3-rated TDMA handsets available, it would appear that to comply with the HAC rules, the rural TDMA petitioners may have no choice but to shut down their TDMA networks prematurely, action that would adversely

³⁶ See Public Service Cellular *et al.* Petition.

³⁷ See *Seventh CMRS Annual Competition Report*, 17 FCC Rcd 12985, 13010-11 (2002).

effect hundreds of thousands of customers.³⁹ Clearly, the public interest would not be served by the premature closure of a digital network.

Importantly, grant of rural TDMA carrier request should have minimal affect on hearing aid users in rural areas. Under the new rules, the rural TDMA petitioners will be required to offer U3-rated handsets once their new CDMA or GSM networks are activated. In addition, Sprint suspects that most of the rural TDMA carriers are 800 MHz cellular licenses, in which case they also offer analog services, which generally cause no interference problems for hearing aid users.⁴⁰ Under the *Analog Sunset Order*, cellular carriers are required to maintain their analog networks until January 22, 2008.⁴¹ Between the analog sunset period and the rural TDMA petitioners' activation of new CDMA or GSM networks, the Commission can have confidence that hearing aid users in rural areas can use wireless networks without interference.

VI. SERVICE PROVIDERS SHOULD BE PERMITTED TO SUBMIT THEIR COMPLIANCE REPORTS AFTER THE SUPPLIER REPORTS

The HAC rules are principally rules designed for handset manufacturers; after all, service providers can only sell what suppliers make. Currently, service providers and handset vendors are required to submit their reports on the same date, and the Commission has encouraged manufacturers and service providers to submit joint reports to minimize the reporting burden on all involved.⁴²

³⁸ See Public Service Cellular *et al.* Petition at 2 and 4.

³⁹ See Public Service Cellular *et al.* Petition at 4-5.

⁴⁰ See *HAC Order* at ¶ 6.

⁴¹ *Analog Sunset Order*, 17 FCC Rcd 18401 (2002), summarized in 67 Fed. Reg. 78193 (Dec. 23, 2002). Still pending is AT&T Wireless' petition for reconsideration asking the FCC to shorten the analog sunset period. See AT&T Wireless Petition for Reconsideration, WT Docket No. 01-108 (Jan. 16, 2003).

⁴² See *HAC Order* at ¶ 89.

Joint manufacturer/service provider reports may be unrealistic. Manufacturers ordinarily sell their products to multiple service providers that compete with each other. Service providers often obtain handsets from several suppliers, so a joint report with one vendor would not relieve the carrier of the burden of filing its own compliance report. Because the vendor reports will contain critical C63.19 test data concerning their respective handset models, Sprint recommends that the service provider reports be due 45 days after the manufacturer reports. Sprint submits that such a procedure will permit a more orderly process for all involved, including Commission staff, because service providers can simply reference their suppliers' reports in their own compliance reports.

Because the first set of HAC compliance reports are due on May 17, 2004,⁴³ Sprint asks the Commission to act promptly on this request.

⁴³ The effective date of the *HAC Order* is November 17, 2003. See 68 Fed. Reg. 54173 (Sept. 16, 2003).

VII. CONCLUSION

For foregoing reasons, Sprint Corporation respectfully requests that the Commission take actions consistent with the views expressed above.

Respectfully submitted,

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