

**BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.**

In the Matter of	)	
	)	
Kyocera Wireless Corporation Request for	)	
Waiver of Section 20.19(d)(1) of the Rules	)	
	)	WT Docket No. 01-309
Section 68.4 of the Commission's Rules	)	
Governing Hearing Aid Compatible Telephones	)	
	)	
	)	

To: The Commission

**KYOCERA WIRELESS CORPORATION REQUEST FOR WAIVER  
OF SECTION 20.19(D)(1) OF THE COMMISSION'S RULES**

By this filing, Kyocera Wireless Corporation (“Kyocera”), pursuant to Sections 1.3 and 1.925 of the Commission’s rules,<sup>1</sup> requests a waiver of the requirement of Section 20.19(d)(1) that Kyocera offer two handsets that comply with the requirements of Section 20.19(b)(2) by September 16, 2006.<sup>2</sup> Kyocera requests a waiver of the rule until it receives certification and is prepared to deliver to service provider customers its two U3T-compliant handsets. For the reasons discussed below, grant of the instant waiver request is consistent with the public interest. Furthermore, Kyocera submits that this is a very limited waiver request, as it expects to receive certification and be able to offer U3T-compliant handsets in the very near future.

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<sup>1</sup> 47 C.F.R. §§ 1.3, 1.925.

<sup>2</sup> *Id.* § 20.19(d)(1).

Kyocera has undertaken significant good faith efforts to address its Hearing Aid Compatibility Act (“HAC Act”) obligations, and is committed to compliance with the HAC Act and the Commission’s rules promulgated thereunder. To that end, Kyocera clearly met the Commission’s initial requirement set out in Section 20.19(c)(1) that manufacturers offer two handsets rated at least M3 by a Telecommunications Certification Body (“TCB”) by September 16, 2005. Today, Kyocera offers six CDMA handsets that are TCB certified as M3- or M4-rated.<sup>3</sup> These handsets offer a variety of features, increasing the likelihood that hard-of-hearing consumers will be able find a handset that suits their particular needs. Furthermore, Kyocera has been an active participant in industry-based working groups and other committees to ensure that Kyocera remains informed about the latest developments and changes to the relevant technologies and standards.

Despite Kyocera’s best efforts, it is likely that Kyocera will be unable to offer the two handsets that it has developed to meet the Commission’s Section 20.19(b)(2) requirements before the deadline set out in the Commission’s rules. These two handsets, the K323<sup>4</sup> and the K325<sup>5</sup>, have both received their equipment authorizations from the Commission’s Office of Engineering and Technology. Further, after extensive testing at an independent lab, these two handsets have already been submitted to the American Telecommunications Certification Body (“ATCB”) for the appropriate certification. The K323 was submitted to the ATCB for certification on August 10, 2006. After experiencing some initial delays during the testing phase, the K325, the second handset, was submitted to the ATCB for certification on September

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<sup>3</sup> See <http://www.kyocera-wireless.com/accessible-solutions/hearing-aid-compatibility.htm>.

<sup>4</sup> FCC ID No. OVFKWC-K24B.

<sup>5</sup> FCC ID No. OVFKWC-K24-2J0.

13, 2006. Kyocera is confident that both handsets meet the Commission's requirements, and expects to receive the necessary certification in the near future.

Kyocera submits that granting this waiver would be consistent with the Commission's waiver standard. As the Commission has noted, a waiver may be granted "in instances where the particular facts make strict compliance inconsistent with the public interest if applied to the petition and when the relief requested would not undermine the policy objective of the rule in question."<sup>6</sup> Granting this waiver will not undermine the policy objectives of the Commission's rules because Kyocera has already done all it can do to bring to market the types of handsets that the Commission envisioned in the timeframe that the Commission set forth. Further, Kyocera's past record of compliance and its efforts to bring these and other HAC-compliant handsets to market as quickly as possible lend themselves strongly in favor of granting the waiver.<sup>7</sup> Finally, the fact that Kyocera seeks only limited relief -- a limited amount of time for the certification process to be carried out -- also lends itself in favor of granting the request for waiver.

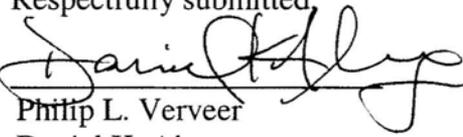
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<sup>6</sup> *Hearing Aid Compatible Telephones, Order on Reconsideration and Further Notice of Proposed Rulemaking*, 20 FCC Rcd. 11221, ¶ 50 n. 158 (2005), citing *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

<sup>7</sup> *See Telephone Number Portability; NOW Licenses, LLC Request for Temporary Partial Waiver of Section 52.31 of the Commission's Rules Pertaining to the Porting In of Numbers*, 19 FCC Rcd 8851 (2004) (citing the good faith efforts of the petitioner as a basis for granting the waiver).

For the foregoing reasons, Kyocera respectfully requests that the Commission waive Section 20.19(d)(1) of the rules until Kyocera receives certification and a purchase order for and is prepared to deliver to service provider customers its two U3T-compliant handsets.

Eric P. Deller  
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Respectfully submitted,  
  
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September 15, 2006

**EXHIBIT A: DECLARATION OF C.K. Li**

I, C.K. Li, an authorized representative of Kyocera Wireless Corporation ("Kyocera"), with personal knowledge of the representations provided in the attached Request for Waiver of Section 20.19(d)(1) of the Commission's Rules, do hereby declare that the representations made therein are truthful and accurate to the best of my knowledge, information, and belief.

  
C. K. Li

September 15, 2006