

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
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Wireless Telecommunications Bureau ) WT Docket No. 06-203  
Seeks Comment on Topics to be Addressed )  
In Hearing Aid Compatibility Report )  
 )

To: Chief, Wireless Telecommunications Bureau

**REPLY COMMENTS OF THE BLOOSTON RURAL CARRIERS**

The Law Firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP, on behalf of its rural wireless carrier clients (hereinafter the “Blooston Rural Carriers”), hereby submits these reply comments in response to the Wireless Telecommunications Bureau’s (“Bureau”) *Public Notice* seeking public comment relevant to the Bureau’s forthcoming report to the Commission on issues relating to the Commission’s Hearing Aid Compatibility (“HAC”) rules. In brief, the Blooston Rural Carriers support comments filed by the Alliance for Telecommunications Industry Solutions’ HAC Incubator Solutions Program (“ATIS HAC Incubator”)<sup>1</sup> and AT&T Mobility LLC, d/b/a Cingular Wireless LLC (“Cingular”).<sup>2</sup> These comments demonstrate that, despite significant progress in enhancing interoperability and usability of wireless devices for consumers with hearing aids, technical issues remain that call into question whether GSM-based service providers will be able to achieve compliance with the FCC’s Fifty Percent Rule<sup>3</sup> by February 18, 2008. Moreover, semi-annual HAC implementation reports and waiver requests filed by Tier III wireless carriers in WT Docket No. 01-309

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<sup>1</sup> See Comments of the ATIS Incubator Solutions Program #4 – Hearing Aid Compatibility, WT Docket No. 06-203 (filed January 12, 2007).

<sup>2</sup> See Comments of Cingular Wireless, LLC, WT Docket No. 06-203 (filed January 12, 2007).

<sup>3</sup> See 47 C.F.R. §§ 20.19 (c)(1)(ii), (c)(2)(ii) and (c)(3)(ii).

show that, regardless of the air interface their networks use, smaller carriers of all types have little or no ability to affect the availability of HAC handsets from manufacturers. The Commission should recognize the special circumstances faced by small and rural wireless carriers, and revise its rules in a manner that is technology-neutral, and that enables all carriers to know well in advance, and with a greater degree of certainty, the exact number of HAC compliant wireless devices that would be required in February 2008 and thereafter.

Since the Spring of 2004, broadband PCS carriers and other digital CMRS providers have filed semi-annual reports with the FCC detailing their efforts to develop and offer a variety of handsets/devices designed to reduce interference with hearing aids. More recently, Tier III service providers offering more than two (2) wireless handset models to the public, and not otherwise exempt from the rule (*e.g.*, carriers providing data-only service) were required by September 16, 2005 to offer at least two (2) handsets for each air interface that meet the M3 performance level under the ANSI C63.19 standard and to offer at least two (2) handsets for each air interface that meet the T3 performance level under the ANSI standard by September 16, 2006. A significant number of Tier III wireless carriers were forced to seek limited waivers of this latter requirement due to the unavailability of HAC-compliant handsets before the regulatory compliance deadline.<sup>4</sup> While most of the carriers seeking relief are operators of GSM

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<sup>4</sup> The Commission can take official notice that more than *three dozen* Tier III wireless carriers were forced to file requests for temporary or limited waiver of the requirements contained in Rule Section 20.19 (d)(2) due to the unavailability of wireless handsets with a U3T rating. *See, e.g.*, SLO Cellular, Inc. & Entertainment Unlimited, Inc., Petition for Temporary Waiver or Temporary Stay (filed September 13, 2006);

networks, waiver requests were also filed by CDMA carriers,<sup>5</sup> manufacturers of wireless handsets,<sup>6</sup> and larger wireless carriers.<sup>7</sup> What is abundantly clear from all this is that as new industry standards and equipment capabilities are developed, additional time beyond the deadlines set for larger wireless carriers will be needed for Tier III carriers to secure an adequate number and variety of compliant wireless devices.

Looking forward, the Commission's HAC rules currently require all wireless carriers to ensure, by February 18, 2008 (i.e., in approximately one year), that 50% of their handset offerings meet at least an M3 rating for hearing aid compatibility (the "Fifty Percent Rule"). However, comments filed with the FCC recently by the ATIS HAC Incubator, handset manufacturers, and carriers such as Cingular Wireless have called into question the technical feasibility of the Commission's HAC requirements, and in particular, the Fifty Percent Rule. These commenters have pointed out that technical challenges that are unique to GSM make it more difficult for manufacturers to develop HAC-compliant devices for this air interface; and that strict compliance with the existing requirement will likely have the unintended effect of limiting the total number and variety of handsets and devices that all wireless carriers can market to their end users.

To be sure, ensuring compatibility between hearing aids and wireless devices is a laudable goal that no reasonable handset manufacturer or wireless carrier would question. However, assuming that these apparent technical barriers exist for GSM devices, and

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<sup>5</sup> See, e.g., North Dakota Network Co., Petition for Temporary Waiver or Temporary Stay (filed September 15, 2006); Leap Wireless International, Inc. Request for Limited Waiver and Brief Extension (filed September 15, 2006).

<sup>6</sup> See, e.g., Kyocera Wireless Corp., Request for Waiver of Section 20.19(d)(1) of the Commission's Rules, (filed September 15, 2006).

<sup>7</sup> See, e.g., Leap Wireless International, Inc. Request for Limited Waiver and Brief Extension (filed September 15, 2006); SunCom Wireless, Inc. Petition for Waiver of Section 20.19(d)(2) of the Commission's Rules (filed September 15, 2006).

assuming that all types of small wireless carriers will continue to have access to fewer of the latest HAC-compliant handset models, enforcement of the rules in their current form could actually *reduce* handset choices for consumers, as well as harm small carriers and their ability to compete in the wireless marketplace with larger and nationwide carriers.

In order to avoid the need for small wireless carriers *en masse* to file requests for waiver of the HAC Fifty Percent Rule (as they did last fall with respect to Rule Section 20.19(d)(2)), the Blooston Rural Carriers urge the Commission to initiate a proceeding to modify this requirement. In its recommendations as to further HAC requirements, the Wireless Telecommunications Bureau must recognize the need for small businesses and rural carriers to know well in advance and with a greater degree of certainty the number of HAC compliant wireless devices that would be required in February 2008 and thereafter.

**Conclusion**

The Blooston Rural Carriers urge the Commission to initiate a proceeding to eliminate or significantly modify the HAC Fifty Percent Rule. The Commission should recognize the special circumstances faced by small and rural wireless carriers and revise its rules in a manner that is technology-neutral, and that enables all carriers to know well in advance, and with a greater degree of certainty, the exact number of HAC compliant wireless devices that would be required in February 2008 and thereafter.

Respectfully submitted,

**The Blooston Rural Carriers**

By: /s/ \_\_\_\_\_  
D. Cary Mitchell  
John A. Prendergast  
Their Attorneys

Blooston, Mordkofsky, Dickens,  
Duffy & Prendergast, LLP  
2120 L Street, N.W.  
Suite 300  
Washington, D.C. 20037  
Tel: 202-828-5540

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