

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Amendment of the Commission's Rules) WT Docket No. 07-250
Governing Hearing Aid-Compatible Mobile)
Handsets)
)
Section 68.4 of the Commission's Rules) WT Docket No. 01-309
Governing Hearing Aid Compatible)
Telephones)
)
Petition of American National Standards)
Institute Accredited Standards Committee C63)
(EMC) ANSI ASC C63™)

To: The Commission

**COMMENTS OF AT&T INC.
IN SUPPORT OF JOINT CONSENSUS PLAN**

AT&T Inc., on behalf of AT&T Mobility LLC and its wholly-owned and controlled wireless affiliates (collectively "AT&T") hereby submits comments on the Commission's *Notice of Proposed Rulemaking* in the above-referenced proceedings.¹ As proposed in the *NPRM*, AT&T strongly supports prompt Commission adoption of the Joint Consensus Plan submitted by the Alliance for Telecommunications Industry Solutions ("ATIS").² Modification of the Commission's future wireless Hearing Aid Compatibility ("HAC") requirements as proposed in

¹ *In the Matter of Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets, Section 68.4 of the Commission's Rules Governing Hearing Aid Compatible Telephones, Petition of American National Standards Institute Accredited Standards Committee C63 (EMC) ANSI ASC C63™, Second Report and Order and Notice of Proposed Rulemaking, WT Docket Nos. 07-250 and 01-309, FCC 07-192 (rel. Nov. 7, 2007) ("Second Report and Order" or "NPRM," as applicable).*

² *See Supplemental Comments of ATIS in WT Docket No. 06-203 (filed June 25, 2007) ("Joint Consensus Plan").*

the Joint Consensus Plan will ensure that the Commission's rules remain consistent with the underlying statutory requirements. AT&T also addresses some additional issues raised in the *NPRM* which, while certainly important, should not delay expeditious adoption of the rule changes agreed to in the Joint Consensus Plan.

I. THE COMMISSION SHOULD PROMPTLY ADOPT AND INCORPORATE THE JOINT CONSENSUS PLAN INTO ITS RULES, AFFORDING MANUFACTURERS AND CARRIERS SUFFICIENT TIME TO COMPLY

AT&T strongly supports the Commission's tentative conclusion that it should amend its rules to incorporate the provisions of the Joint Consensus Plan.³ AT&T was actively involved in the development of the Joint Consensus Plan, which was the result of unprecedented collaboration between the disabilities community and the wireless industry. Implementation of the Joint Consensus Plan will ensure that the Commission's rules remain consistent with its statutory obligations to both "ensure reasonable access to telephone service by persons with impaired hearing,"⁴ and account for technical feasibility and other technology considerations in its regulations.⁵ In particular, AT&T expects that those provisions of the Joint Consensus Plan relating to product refresh and tiering will help ensure that carriers have a wider variety of HAC-compliant models to offer to their subscribers.⁶ The Commission should adopt the Joint Consensus Plan as expeditiously as possible to enable carriers and manufacturers to plan their

³ See *NPRM* at ¶¶ 5, 32-88.

⁴ See 47 U.S.C. § 610(a).

⁵ See *id.* § 610(b)(2)(C)(iii) (Commission must find compliance "technologically feasible" to revoke or limit exemption from Hearing Aid Compatibility Act 1988); *id.* § 610(e) (requiring that Commission regulations "encourage the use of currently available technology").

⁶ See *id.* at ¶¶ 54-57.

inventories and offerings accordingly.⁷ AT&T urges the Commission to ensure that its consideration of issues beyond the scope of the Joint Consensus Plan does not deter the Commission from taking such prompt action.

GSM/UMTS Technical Challenges. The Commission seeks comment on whether “the GSM or [CDMA] air interface have an advantage over the other in terms of rule compliance.”⁸ While the record in this proceeding underscores that GSM/UMTS service providers (like AT&T) and manufacturers face technology-specific compliance challenges under present circumstances, the Joint Consensus Plan addresses these difficulties, while also ensuring that hearing aid users have meaningful handset choices across competing wireless carriers.

Future Requirements and M4/T4 Mandate. The Commission seeks comment on whether “additional deadlines or deployment milestones” such as “future M4 or T4 handset compliance requirements” should be adopted.⁹ The Joint Consensus Plan recommends that the Commission initiate a review of its rules in 2010, which AT&T supports – although the Commission’s proposal for a 2012 review, given the timing of the *NPRM*, has merit.¹⁰ Future requirements should be evaluated at that time, at which point AT&T can better determine whether M4/T4-rated handsets for AT&T’s air interface technology are technically feasible and commercially available. AT&T notes, though, that hearing aid compatibility is defined in terms of “effective use with hearing aids that are designed to be compatible with telephones which meet established

⁷ In staying the February 18, 2008 deadline, the Commission acknowledged “the need for certainty” and the interest in “provid[ing] appropriate notification to manufacturers and service providers as regards the hearing aid compatibility obligations” *See id.* at ¶ 99.

⁸ *NPRM* ¶ 43.

⁹ *See id.* at ¶ 49.

¹⁰ *See id.* at ¶ 86.

technical standards for hearing aid compatibility.”¹¹ Given the significant and continuing improvements in hearing aid technologies, the anticipated availability of hearing aids labeled with M- and T-ratings,¹² and the rule changes proposed in the Joint Consensus Plan relating to implementation of the 2007 version of the standard, such a requirement may prove unnecessary to meet the Commission’s statutory objectives.¹³

Staggered Deadlines. The Commission seeks comment on whether to impose staggered deadlines for manufacturers’ and service providers’ compliance with future HAC requirements.¹⁴ AT&T expects to meet the proposed February 18, 2008 deadline for Tier I carriers in the Joint Consensus Plan with regard to both M- and T-ratings, and thus does not anticipate a need for staggered deadlines for purposes of that initial compliance deadline. On a going forward basis, AT&T prefers a staggering of the compliance deadlines, given the lag time that occurs between the time a manufacturer offers a handset model to a carrier and when the carrier can make that model commercially available to its end user customers.

Staggered Reporting Requirements. The Commission also seeks comment on whether to adopt staggered deadlines for manufacturers’ and carriers’ compliance status reports.¹⁵ The rationale for staggered reporting deadlines is similar to that underlying staggered compliance

¹¹ 47 U.S.C. § 610(b)(1) (emphasis added).

¹² See *In the Matter of Section 68.4 of the Commission's Rules Governing Hearing Aid Compatible Telephones*, Report on the Status of Implementation of the Commission’s Hearing Aid Compatibility Requirements, WT Docket No. 01-309, DA 07-4151, ¶¶ 96-99 (WTB rel. Oct. 5, 2007) (describing Hearing Industries Association members’ voluntary provision of compatibility information and recommending that the Commission monitor the effectiveness of these efforts).

¹³ See *NPRM* at ¶¶ 54-57.

¹⁴ See *id.* at ¶ 51.

¹⁵ *Id.* at ¶¶ 67-69.

deadlines – the lag time between availability from vendors and commercial availability for end users. AT&T supports the Joint Consensus Plan approach in this regard, but cautions that the status reports will provide a limited snapshot of available handset offerings as of that date.¹⁶

Implementation of 2007 Version of Standard. The Commission seeks comment on incorporating the 2007 version of the ANSI C63.19 technical standard into its rules.¹⁷ AT&T is an Organizational Member of and has participated in balloting of C63.19 at ANSI ASC C63®, and has been actively involved in the ongoing development of the C63.19 standard.¹⁸ AT&T supported the 2007 version of the standard at ANSI ASC C63® as well as its incorporation into the Joint Consensus Plan proposal. AT&T strongly supports particular aspects of the revised standard, such as decoupling of the M and T ratings. AT&T remains concerned for some manufacturers’ ability to timely incorporate the 2007 standard into their product offerings, but anticipates that market forces, together with the phased-in approach and the product refresh requirement recommended in the Joint Consensus Plan (both of which AT&T supports), will address this concern.¹⁹ The Commission also inquires “whether at some point we should require handsets to be recertified under the 2007 standard in order to be considered compatible.”²⁰

¹⁶ The commercial availability of particular handset models, to carriers and consumers alike, constantly changes over time.

¹⁷ *NPRM* at ¶¶ 58-62.

¹⁸ AT&T remains a member of the ATIS HAC Incubator (AISP.4-HAC) and participates in all of its active working groups. Notably, AT&T has contributed to the Working Group 4 (“WG-4”) Test Plans, and maintains a leadership role in Working Group 6 (“WG-6”) Labeling. AT&T also maintains a leadership role in ATIS HAC Incubator Working Group 11 (“WG-11”) Volume Control and Tele-coil, which was created in accordance with the Joint Consensus Plan and is tasked with developing a recommendations to address concerns from the hearing aid user community related to the adequacy of current wireless handset acoustics, and with regard to the decoupling of M and T ratings based on the findings from WG-11’s testing.

¹⁹ *NPRM* at ¶ 62.

²⁰ *Id.*

AT&T submits that expeditious adoption of the Joint Consensus Plan approach, which essentially allows pre-2007 models to be phased out of circulation through marketplace attrition, strikes a reasonable balance.²¹ A similar transition approach should also be afforded to post-2007 amendments to or versions of the standard, as the Commission approves such changes.

De Minimis Exception. The Joint Consensus Plan retains the *de minimis* exception of the Commission's current rules.²² AT&T supports the current rule, as it enables service providers to more efficiently transition new innovative technologies into their inventories and to discontinue legacy technologies.²³

Volume Control. As explained in the *NPRM*, the Joint Consensus Plan recommended that parties "specifically look into adding volume controls to wireless handsets."²⁴ AT&T holds a leadership role on ATIS HAC Incubator Working Group 11 ("WG-11"), which was tasked with studying the audio output and volume control recommendations of the Joint Consensus Plan. These efforts are ongoing, and WG-11 has established June 2008 for recommendations. AT&T is hopeful that a consensus approach can be reached by that time, at which point the Commission may consider the issue anew. The desirability of improving volume control features for wireless handsets should not, however, distract the Commission from promptly adopting the Joint Consensus Plan's other recommendations.

²¹ As the Commission explains, "beginning on January 1, 2010, [it] would only permit use of the 2007 version of the standard for obtaining new grants of equipment authorization, while continuing to recognize the validity of existing grants under previous versions of the standard." *Id.* at ¶ 61.

²² See *id.* at ¶ 85; Joint Consensus Plan at 10.

²³ See Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, Report and Order, 18 F.C.C.R. 16753, ¶ 69 (2003), clarified and *aff'd* in relevant part, Order on Reconsideration and Further Notice of Proposed Rulemaking, 20 F.C.C.R. 11221, ¶ 53 (2005), *aff'd*, *Second Report and Order* at ¶ 31.

II. EMERGING TECHNOLOGIES

The Commission seeks comment on whether to modify its HAC rules “to address new technologies being used and offered by manufacturers and providers in their wireless handsets and networks,” particularly in relation to the Commission’s legal authority to impose HAC requirements on Wi-Fi technologies.²⁵ The Commission also seeks comment on whether to impose HAC requirements on manufacturers of open platform devices and applications, notably with respect to the Upper 700 MHz Band C Block.²⁶

As the Commission acknowledges, these provisions of the *NPRM* raise a number of important threshold issues regarding the Commission’s statutory authority, including regulatory classification issues that could have implications beyond the HAC context.²⁷ These are complex issues, and parties may be restricted in the extent to which they may discuss them in relation to the 700 MHz band given the anti-collusion requirements governing auction participation. The Commission should therefore consider these issues more thoroughly at a later date, such as the contemplated 2010 review of its HAC regulations, and focus its immediate efforts on implementation of the Joint Consensus Plan.

²⁴ *NPRM* at ¶ 87.

²⁵ *Id.* at ¶¶ 89-94.

²⁶ *Id.* at ¶¶ 95-97.

²⁷ For example, to what extent are unlicensed Wi-Fi offerings a “public mobile service” or commercial mobile radio service in the first instance for purposes of the Commission’s rules and the Communications Act? *See* 47 U.S.C. §§ 332(d), 610(b)(2)(A)(i). To what extent are such offerings a “telephone service” for statutory purposes? *See* 47 U.S.C. § 610(a). To the extent that an “open platform” model applies to particular wireless spectrum, is the regulatory paradigm currently applicable to wireline manufacturers under the Commission’s Part 68 rules more appropriate?

III. CONCLUSION

For the foregoing reasons, the Commission should act expeditiously to incorporate the Joint Consensus Plan into its rules and address other issues raised in the *NPRM* at a later date.

Respectfully submitted,

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