

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 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™)	

**REPLY COMMENTS OF
CTIA – THE WIRELESS ASSOCIATION®**

CTIA – The Wireless Association® (“CTIA”)¹ submits these Reply Comments to the Commission’s November 7, 2007 *Notice of Proposed Rulemaking* in the above-referenced proceedings.² CTIA joins the nearly universal support in the initial comments urging the Commission to adopt the Joint Consensus Plan³ put forth by ATIS

¹ CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, and AWS, as well as providers and manufacturers of wireless data services and products.

² 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) (“*Notice*”).

³ See Comments of Hearing Loss Association of America and Telecommunications for the Deaf and Hard of Hearing, Inc., filed Dec. 11, 2007; Comments of Research in Motion, filed Dec. 21, 2007; Comments of T-Mobile, filed Dec. 21, 2007; Comments of AT&T, filed Dec. 21, 2007; Comments of Sony Ericsson Mobile Communications, filed Dec. 21, 2007; Comments of ATIS, filed Dec. 21, 2007; Comments of Nokia, filed Dec. 21, 2007; Comments of ANSI ASC C63, filed Dec. 21, 2007; Comments of Telecommunications Industry Association, filed Dec. 21, 2007; Comments of Motorola, filed Dec. 21,

Incubator Solutions Program #4 (“AISP.4-HAC”) as originally submitted (the “Joint Consensus Plan”),⁴ and to act as expeditiously as possible in light of the compliance dates contemplated in the Joint Consensus Plan and the *Notice*.

I. THE JOINT CONSENSUS PLAN IS AN IMPORTANT COLLABORATIVE EFFORT AND WILL SERVE THE PUBLIC INTEREST ONCE ADOPTED.

The Joint Consensus Plan was developed by a working group comprised of representatives of all interested stakeholders, including wireless carriers, manufacturers, consumer groups and disability advocates. It represents an effective solution for both industry’s and disability advocates’ concerns that have arisen regarding the Commission’s upcoming Hearing Aid Compatibility (“HAC”) requirements, and is consistent with the public interest and the Commission’s obligations under the Hearing Aid Compatibility Act. Commenting parties, including consumer groups such as the Hearing Loss Association of America (“HLAA”) and the Rehabilitation Engineering Research Center on Telecommunications Access (the “RERC”) all support it. CTIA urges the Commission to adopt the Joint Consensus Plan as submitted as expeditiously as possible.

In recent years, the wireless industry and other affected stakeholders have successfully developed (or are in the process of developing) technical and implementation solutions without the need for Federal government oversight to meet the needs and demands of consumers and government users of wireless services. These working groups benefit from the ability to draw on interested parties’ expertise in a non-adversarial environment to develop and bring to market solutions in a timely, expeditious

2007; Comments of the Rehabilitation Engineering Research Center on Telecommunications Access, filed Dec. 21, 2007.

⁴ See Supplemental Comments of ATIS, WT Docket No. 06-203 (filed on June 25, 2007).

manner consistent with the public interest. For example, wireless carriers have worked closely with the FCC and the Department of Homeland Security to develop technical solutions for the deployment of Wireless Priority Service (“WPS”) to implement the Commission’s WPS rules.⁵ In accordance with the Warning Alert and Response Network (“WARN”) Act, the Commercial Mobile Service Alert Advisory Committee recently issued comprehensive recommendations with respect to the provision of emergency alerts via wireless technologies.⁶ And wireless carriers and solutions providers have worked closely with law enforcement and the National Center for Missing and Exploited Children to deploy and provision the Wireless Amber Alerts™ initiative.⁷ The Joint Consensus Plan is another positive step in the direction of developing collaborative consumer, industry, and government solutions to existing public-interest issues.

The Joint Consensus Plan represents an important achievement. As with any joint effort involving parties of differing viewpoints, the Joint Consensus Plan reflects a careful balance and compromise of sometimes competing public interest and policy considerations. The outcome, if incorporated into the rules, unmistakably would advance the Commission’s statutory objective of “ensur[ing] reasonable access to telephone service by persons with impaired hearing,”⁸ while also ensuring that the requirements are technology-neutral and feasible. Moreover, Commission adoption of the Joint Consensus

⁵ See PSWAC, Final Report of the Public Safety Wireless Advisory Committee to the Federal Communications Commission and the National Telecommunications and Information Administration, Sept. 11, 1996 available at http://www.ntia.doc.gov/osmhome/pubsafe/PSWAC_AL.pdf (last accessed Jan. 5, 2008); see also In the Matter of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Communication Requirements Through the Year 2010, Establishment of Rules and Requirements For Priority Access Services, 15 FCC Rcd. 16720, ¶¶ 5-9 (2000).

⁶ See *In the Matter of The Commercial Mobile Alert System*, Notice of Proposed Rulemaking, PS Docket No. 07-287, FCC 07-214, App. B. (rel. Dec. 14, 2007).

⁷ See <https://www.wirelessamberalerts.org/index.jsp>.

⁸ See 47 U.S.C. § 610(a).

Plan is consistent with its statutory obligations.⁹ For these reasons, the Commission should not depart from the Joint Consensus Plan as submitted to the Commission.

II. THE COMMISSION SHOULD ADOPT THE JOINT CONSENSUS PLAN AS SUBMITTED.

The nearly universal support among commenters for the Joint Consensus Plan is illustrative of the Plan's well-reasoned result: a document that represents the interests of the myriad stakeholders who participated in the AISP.4-HAC process, and a means to achieve those interests. Prompt Commission approval of the Joint Consensus Plan, as submitted, reflects the most efficient and timely means of addressing both consumer and industry concerns in advance of the upcoming February 18, 2008 deadline.

Compliance Schedule. The Commission should adopt the Joint Consensus Plan's revised schedule for carriers and manufacturers to comply with the HAC handset offering requirements.¹⁰ This aspect of the plan both addresses the technical challenges carriers face *and* consumer and disability groups' concern that the availability of HAC-compliant handsets, including handsets meeting the T-coil/inductive coupling provisions, will continue to improve in the near future.

Phase-in of the 2007 ANSI Standard. Adoption of the proposed phase-in of the 2007 version of the ANSI ASC C63.19 standard is warranted as well. Such action will

⁹ Under the Hearing Aid Compatibility Act of 1988, "telephones used with public mobile services" are generally exempt from the statutory requirements, but the Commission may "limit" the scope of the exemption if it determines that all enumerated criteria concerning the public interest, the "adverse effect" of the exemption "on hearing-impaired individuals," technological feasibility, and the costs of compliance to consumers, have been met. *See* 47 U.S.C. § 610(b)(2)(A), (C). The Commission limited the scope of this exemption in Section 20.19 of the Commission's rules, 47 C.F.R. § 20.19, and must continue to meet and address these statutory criteria as it further scales back the statutory exemption.

¹⁰ *See Notice* at ¶¶ 42-48; AT&T Comments at 1-2; HLAA/TDI Comments at 2; Motorola Comments at 2-5; Nokia Comments at 2-4; RERC Comments at 4; TIA Comments at 2-4; T-Mobile Comments at 3-5.

address consumer groups' concern for certain aspects of the earlier versions of the standard while also providing certainty for the industry.¹¹

Product Refresh. CTIA also supports adoption of “product refresh” and tiering rules consistent with those proposed in the Joint Consensus Plan. These proposed requirements address consumer groups' concerns that HAC handset models not be restricted to older or lower tier handsets, while not unduly distorting the commercial marketplace for wireless handsets.¹²

Multi-Mode Handsets. CTIA agrees with the multiple commenting parties opposing the Commission's proposal that multi-mode handsets operating on spectrum bands without established HAC rules and standards be disqualified from HAC certification, including handsets that use Wi-Fi technology for voice calling.¹³ Such an uncompromising approach to handset certification is beyond the scope of – and could undermine – the Joint Consensus Plan. Indeed, this approach could prevent consumers from obtaining the most technologically advanced handsets that meet the statutory objectives and warrant certification.¹⁴

The Commission's contemplated approach also could inadvertently undermine recent action to promote innovation and competition in the market for devices,

¹¹ See Notice at ¶¶ 60-62; AT&T Comments at 5-6; HLAA/TDI Comments at 3; Motorola Comments at 3-4; Nokia Comments at 3; RERC Comments at 7, RIM Comments at 10; TIA Comments at 5-6; T-Mobile Comments at 10.

¹² See Notice at ¶¶ 54-57; AT&T Comments at 2; HLAA/TDI Comments at 3; Motorola Comments at 5; Nokia Comments at 4; RERC Comments at 6-7; RIM Comments at 9; Sony Ericsson Comments at 8; TIA Comments at 4-5; T-Mobile Comments at 6-7.

¹³ See Notice at ¶ 84; Motorola Comments at 7-8; Nokia Comments at 7-8; RIM Comments at 15-17; Sony Ericsson Comments at 5-7; TIA Comments at 6-7; T-Mobile Comments at 7-8.

¹⁴ The Commission is required to “establish or approve such technical standards as are required to enforce” its HAC Act obligations, which require that telephones subject to the statute “provide internal means for effective use with hearing aids that are designed to be compatible with telephones which meet established technical standards for hearing aid compatibility.” 47 U.S.C. §§ 610(b)(1), (c). Neither these statutory provisions nor the Commission's relevant Part 2 equipment authorization rule, 47 C.F.R. § 2.1033(d), appears to require such a draconian approach.

applications and services. Specifically, such an approach could impact the handset market in a negative way, particularly when considering recent announcements by wireless carriers to adopt more open handset attachment rules and the Commission's "open platform" rules for the 700 MHz C Block. Both policies are intended to allow handset makers and application developers to make new and innovative use of wireless spectrum and networks. Adoption of a multi-mode handset HAC rule would place unnecessary restrictions on these recently adopted policies. Under the Commission's proposed multi-mode handset approach, industry standards and its Part 2 equipment approval processes would take precedence over consumer needs or demands in some circumstances, contrary to the Commission's stated policy aims of promoting competitive wireless handset offerings.

De Minimis Exception. CTIA agrees with ATIS's views regarding the current *de minimis* exemption to the HAC rules: that it is important to ensure that the HAC rules (1) do not deter innovation and the introduction of new competitive offerings, and (2) facilitate the economic discontinuance of older technologies.¹⁵ CTIA thus supports those commenting parties urging that the exemption be left intact.¹⁶ Contrary to the views expressed by HLAA/TDI and the RERC,¹⁷ the exemption was adopted not only to protect small entities but also to ensure that the HAC rules do not restrict technological progress or limit competition.¹⁸ Moreover, the instant proceeding is not the appropriate

¹⁵ See Joint Consensus Plan at 10.

¹⁶ See AT&T Comments at 6; Nokia Comments at 5-6; RIM Comments at 17-19; Sony Ericsson Comments at 7-8; TIA Comments at 9-10; T-Mobile Comments at 10.

¹⁷ See Notice at ¶ 85; HLAA/TDI Comments at 6; RERC Comments at 11-14.

¹⁸ See In the Matter of Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, Report and Order, 18 FCC Rcd. 16753, ¶ 69 (2003) (concern for "disproportionate impact on ... those that sell only a small number of digital wireless handsets in the United States"), *aff'd. on reconsideration*, 20 FCC Rcd. 11194, ¶¶ 51-53 (2005) (concerned that HAC rules not "have the effect of retarding technological progress and limiting competition.").

time or forum to consider changes to the rule. The Commission reaffirmed the *de minimus* exception rule concurrently with the *Notice*.¹⁹

III. THE COMMISSION SHOULD NOT MANDATE NEW PUBLIC OUTREACH REQUIREMENTS, BUT INSTEAD SHOULD PROVIDE FOR FLEXIBILITY AND ENCOURAGE CONTINUED COLLABORATIVE EFFORTS.

The wireless industry is keenly aware of the need to provide consumers with HAC information and is committed to doing so. CTIA worked closely with consumer and disability advocates to produce a brochure entitled “Hearing Aid Compatibility with Wireless Phones and Services” to aid in consumer education.²⁰ This brochure is available online, and CTIA also has provided this information to state and local chapters of organizations for individuals with hearing loss, as well as audiologists, to improve the access to the information for those who need it most. Consumer groups HLAA and RERC also support wide dissemination of the brochure through a variety of channels.²¹ CTIA cautions, however, that prescriptive rules on the dissemination of the brochure should not be mandated, as carriers employ different marketing/retail methods and are best equipped to determine how best to keep their customers informed.

Additionally, wireless carriers, handset manufacturers and CTIA have made significant efforts to ensure that information on HAC compliant handsets is available to the public in a timely and efficient manner online. CTIA maintains carrier and manufacturer links and other HAC information at its www.accesswireless.org website to facilitate access to information on products that meet a wide range of disability needs. While the www.accesswireless.org website is not the sole location for all device- or

¹⁹ See *Notice* at ¶¶ 28-31 (*Second Report and Order* affirming the *de minimus* exemption).

²⁰ This brochure and other information is available at CTIA’s www.accesswireless.org website via the following URL: <http://www.accesswireless.org/hearingaid/brochures.cfm>.

²¹ See HLAA/RDI Comments at 4-5; RERC Comments at 9.

carrier/manufacturer-specific regulatory compliance information, it is a useful tool to enable consumers to locate available information from manufacturers and carriers. CTIA would welcome the Commission providing a link to the www.accesswireless.org website on www.fcc.gov in order to further the industry's outreach efforts. Finally, consumers can gain information and practical hands-on experience via carriers' "try before you buy" policies and existing website information. In light of these existing resources and ongoing industry efforts to educate consumers, additional regulations are premature.

IV. CONCLUSION

For the reasons described above, CTIA respectfully requests that the Commission adopt the Joint Consensus Plan as submitted and to take such action as expeditiously as possible.

Respectfully submitted,

CTIA – THE WIRELESS ASSOCIATION®

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