

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

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

**To: The Commission**

**REPLY COMMENTS OF SOUTHERNLINC WIRELESS**

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless ("SouthernLINC Wireless"), through its undersigned counsel, respectfully submits these Reply Comments in response to the *Notice of Proposed Rulemaking* in the above-captioned matter,<sup>1</sup> pursuant to section 1.415 of the Federal Communications Commission's ("FCC") rules.<sup>2</sup> Although SouthernLINC Wireless commends the FCC on its efforts "to ensure that hearing aid users will continue to benefit from the convenience and features offered by the newest wireless communications systems,"<sup>3</sup> the FCC should rely primarily on market-based forces to reach this objective with respect to Tier III carriers. If the FCC must impose new hearing aid compatible

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<sup>1</sup> In re Amendment of the Commission's Governing Hearing Aid-Compatible Mobile Handsets, WT Docket No. 07-250, *Second Report and Order and Notice of Proposed Rulemaking*, 22 FCC Rcd 19670 (2007) ("*NPRM*").

<sup>2</sup> 47 C.F.R. § 1.415 (2006).

<sup>3</sup> *NPRM*, 22 FCC Rcd 19670 ¶ 1.

("HAC") handset deployment, reporting, or outreach requirements, Tier III carriers should *not* be subject to the same requirements as Tier I carriers.

## **I. BACKGROUND**

SouthernLINC Wireless is a wholly owned subsidiary of Southern Company, which is a registered holding company under the Public Utility Holding Company Act of 1935. As a Commercial Mobile Radio Service ("CMRS") provider, SouthernLINC Wireless operates a digital 800 MHz Specialized Mobile Radio ("SMR") system using Motorola's proprietary Integrated Digital Enhanced Network ("iDEN") technology to provide dispatch, interconnected telephony, data, text messaging, and other wireless services over the same handset.

SouthernLINC Wireless provides these services to approximately 300,000 subscribers in a 128,000 square mile service area covering Georgia, Alabama, southeastern Mississippi, and the panhandle of Florida. Although SouthernLINC Wireless is a Tier III carrier,<sup>4</sup> it offers comprehensive geographic coverage in Alabama and Georgia, serving the extensive rural territory within its footprint as well as major metropolitan areas and highway corridors. While SouthernLINC Wireless is currently in compliance with the HAC requirements, the proposed requirements would impose burdensome and unnecessary obligations.

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<sup>4</sup> The FCC recently described Tier III carriers as "non-nationwide wireless radio service providers with 500,000 or fewer subscribers." In re Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, *Memorandum Opinion and Order*, 22 FCC Rcd 7171, 7172 ¶ 1 n.1 (2007).

## II. THE FCC SHOULD RELY ON MARKET-BASED FORCES TO ENSURE THE DEPLOYMENT OF HAC HANDSETS BY TIER III CARRIERS

SouthernLINC Wireless agrees with many commenters that the FCC should not adopt any new HAC handset deployment requirements for Tier III carriers.<sup>5</sup> In the *NPRM*, the FCC sought comment on "whether there is anything inherent in the characteristics of Tier II and Tier III carriers . . . that would prevent them from meeting either the RF interference reduction or inductive coupling-capable handset numbers and percentages set out . . . for Tier I carriers."<sup>6</sup>

The FCC recognized the inherent differences between Tier I and Tier III carriers when promulgating the HAC rules. Section 20.19(c) establishes more stringent handset deployment requirements for Tier I carriers than for Tier III carriers.<sup>7</sup> To justify these disparate requirements, the FCC explained that "Tier I wireless carriers have formidable means to drive manufacturers' equipment development and deployment efforts . . . [because they] have a greater number of subscribers and place the largest orders for compliant equipment."<sup>8</sup> The FCC concluded that Tier I carriers "easily become priority customers for manufacturers and vendors."<sup>9</sup> By contrast, the FCC found that "smaller wireless carriers may be disadvantaged when they seek to acquire location technologies, network components, and specialized handsets."<sup>10</sup>

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<sup>5</sup> *E.g.*, Comments of MetroPCS Comments, WT Docket No. 07-250 at 3 ("*MetroPCS Comments*").

<sup>6</sup> *NPRM*, 22 FCC Rcd 19670 ¶ 50.

<sup>7</sup> By September 16, 2005, the FCC required (1) Tier I carriers to offer M3 capability on four handset models or twenty-five percent of the total number of handset models; and (2) non-Tier I carriers to offer M3 capability on two handset models. 47 C.F.R. § 20.19(c)(2), (3) (2006).

<sup>8</sup> In re Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, *Order on Reconsideration and Notice of Proposed Rulemaking*, 20 FCC Rcd 11221, 11233 ¶ 22 (2005).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

Several commenters also observed that Tier III carriers are substantially different from Tier I carriers and should not be subject to any new deployment requirements. For example, MetroPCS noted that new deployment requirements would have a disproportionate effect on Tier II/III carriers because "most Tier II/III service carriers do not carry anywhere near as many different handsets as Tier I carriers."<sup>11</sup> Because of the limited number of handsets, the adoption of new deployment requirements could require Tier II/III carriers to divert capital from system expansion in order to "expand their handset lines and have a greater percentage of hearing-aid compatible handsets than the Tier I carriers."<sup>12</sup> Tier III carriers also could have to include in their portfolios handsets that have minimal market demand. Alternatively, if a Tier II/III carrier could not divert its capital, MetroPCS, RCA, and Chinook Wireless stated that the carrier would need to reduce the total number of handsets offered to consumers.<sup>13</sup>

MetroPCS and Chinook Wireless also confirmed that Tier II/III carriers have more difficulty securing HAC-compliant handsets because of marketplace realities.<sup>14</sup> While MetroPCS stated that Tier II/III carriers have "considerably less ability to dictate what handsets and features are available,"<sup>15</sup> Chinook Wireless accused manufacturers of reserving HAC-compliant handsets for Tier I carriers.<sup>16</sup> Furthermore, RCA and Chinook Wireless stated that

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<sup>11</sup> *MetroPCS Comments* at 3.

<sup>12</sup> *Id.*

<sup>13</sup> *MetroPCS Comments* at 3; *Comments of Rural Cellular Association*, WT Docket No. 07-250 at 2-4 ("*RCA Comments*"); *Comments of MTPCS, LLC d/b/a Chinook Wireless*, WT Docket No. 07-250 at 2 ("*Chinook Wireless Comments*").

<sup>14</sup> *MetroPCS Comments* at 4; *Chinook Wireless Comments* at 1, 2.

<sup>15</sup> *MetroPCS Comments* at 4

<sup>16</sup> *Chinook Wireless Comments* at 1.

manufacturers produce an insufficient number of HAC-compliant handsets to satisfy demand.<sup>17</sup> MetroPCS also warned that the adoption of new handset deployment requirements would increase the FCC's administrative burden by requiring it to consider numerous waiver requests from Tier II/III carriers.<sup>18</sup>

Based on these inherent differences, the FCC should instead allow the market to determine the number of HAC-compliant handsets offered by Tier III carriers. MetroPCS noted that competition already provides Tier II/III carriers with the necessary incentive to match the offerings of Tier I carriers.<sup>19</sup> "If these Tier I carrier offerings are not being matched, it is due to the fact that smaller and regional carriers are having problems obtaining compliant handsets from manufacturers in a timely manner."<sup>20</sup>

### **III. TIER III CARRIERS SHOULD NOT BE SUBJECT TO THE SAME HANDSET DEPLOYMENT BENCHMARKS AS TIER I CARRIERS**

If the FCC were to impose new handset deployment requirements on Tier III carriers, SouthernLINC Wireless joins RCA and MetroPCS in recommending the adoption of separate benchmarks from Tier I carriers.<sup>21</sup> Specifically, SouthernLINC Wireless agrees with RCA that the FCC should cut the Tier I handset deployment requirements approximately in half and extend the deadlines by one year.<sup>22</sup> Tier III carriers should choose between ensuring that at least

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<sup>17</sup> *RCA Comments* at 2; *Chinook Wireless Comments* at 1.

<sup>18</sup> *MetroPCS Comments* at 4.

<sup>19</sup> *Id.* at 5.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 5-7; *RCA Comments* at 4-5.

<sup>22</sup> The FCC should institute a twelve-month interval between the deadline for manufacturers and Tier I carriers and the deadline for Tier III carriers. This staggered deadline is necessary because Tier III carriers are often unable to obtain HAC-compliant handsets for at least six to

(continued...)

twenty-five percent of their handset models per air interface meet an M3 or better rating for RF interference reduction by February 18, 2009, or to provide an increasing number of handsets by the following dates: (1) February 18, 2009: four M3-rated (or higher) handset models; and (2) February 18, 2010: five M3-rated (or higher) handset models.<sup>23</sup>

SouthernLINC Wireless also concurs with RCA that the FCC permit Tier III carriers to meet the lesser of the following requirements: (1) February 18, 2009: fifteen percent of digital wireless handset models are T3-rated (or higher); or (2) the following schedule: (a) February 18, 2009: three T3-rated (or higher) handsets; (b) February 18, 2010: four T3-rated (or higher) handset models; and (c) February 18, 2011: five T3-rated (or higher) handset models.<sup>24</sup>

#### **IV. THE FCC SHOULD NOT ADOPT ANY BURDENSOME REPORTING OR OUTREACH REQUIREMENTS FOR TIER III CARRIERS**

SouthernLINC Wireless joins the Rural Cellular Association in opposing the imposition of burdensome new reporting and outreach requirements on Tier III carriers. In the *NPRM*, the FCC sought comment on its tentative conclusion to require service providers to include additional information in their regular HAC reports, such as the handset model's FCC ID number, frequency band, and feature tiering.<sup>25</sup> The FCC also asked whether to require the submission of less information by Tier III carriers, develop a standardized reporting format, or delay the reporting schedule for Tier III carriers by eighteen to twenty-four months.<sup>26</sup>

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twelve months after they become commercially available to Tier I carriers. *Chinook Wireless Comments* at 2.

<sup>23</sup> *RCA Comments* at 5.

<sup>24</sup> *Id.*

<sup>25</sup> *NPRM*, 22 FCC Rcd 19670 ¶¶ 67, 68.

<sup>26</sup> *Id.* ¶¶ 68, 69, 71.

The FCC should exercise caution in adopting new content requirements for Tier III carriers. In particular, the FCC should not assume that all carriers, regardless of size, have the available resources to provide all of the requested information. SouthernLINC Wireless concurs with RCA that frequency band information "is difficult to obtain and verify" and that feature tier reporting should be voluntary.<sup>27</sup> Tier III carriers also should not be responsible for the technical accuracy of the information. Thus, without a mechanism to ensure that handset information is readily available from manufacturers, the FCC should not impose additional content requirements on Tier III carriers.

SouthernLINC Wireless agrees with RCA that the FCC also should not promulgate any other burdensome reporting or outreach obligations for Tier III carriers. For example, the FCC should not develop a standardized reporting format for collecting information. Tier III carriers should retain the flexibility to present the information in their own formats, especially if Tier I carriers are subject to additional content requirements. The FCC also should not require Tier III carriers to include specific HAC information on their websites.<sup>28</sup>

Finally, the FCC should adopt a delayed reporting schedule for Tier III carriers. A delayed schedule is in the public interest because (1) the preparation of reports is time-consuming, (2) a Tier III carrier's handset offerings would not fluctuate much over eighteen or twenty-four months, and (3) the FCC would have enough information from manufacturers and Tier I providers to satisfy its goals of monitoring the progress of handset deployment and publicizing information regarding the testing and availability of handsets.<sup>29</sup>

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<sup>27</sup> *RCA Comments* at 7.

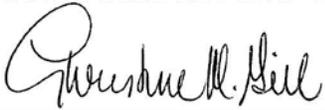
<sup>28</sup> *Id.* at 8.

<sup>29</sup> *NPRM*, 22 FCC Rcd 19670 ¶ 66; *see RCA Comments* at 7-8.

**WHEREFORE, THE PREMISES CONSIDERED**, SouthernLINC Wireless respectfully requests that the FCC consider these Reply Comments and proceed in a manner consistent with the views expressed herein.

Respectfully submitted,

SOUTHERN COMMUNICATIONS SERVICES,  
INC. D/B/A SOUTHERNLINC WIRELESS

By: 

Christine M. Gill  
Keith A. McCrickard  
MCDERMOTT WILL & EMERY LLP  
600 Thirteenth Street, N.W.  
Washington, D.C. 20005  
202.756.8000

Michael D. Rosenthal  
Director of Legal and External Affairs  
SouthernLINC Wireless  
5555 Glenridge Connector, Suite 500  
Atlanta, Georgia 30342  
678.443.1500

Its Attorneys

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