BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

In the Matter of Petition for Declaratory Ruling to Clarify That Part 15 Auditory Assistance Devices May Be Used in Support of Simultaneous Language Interpretation	ET Docket No. 10-26

REPLY COMMENTS OF WILLIAMS SOUND CORPORATION

WILLIAMS SOUND CORP.

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EXECUTIVE SUMMARY

The record in this proceeding overwhelmingly supports the Commission taking prompt favorable action on Williams Sound Corporation's Petition for Declaratory Ruling, which asks the agency to declare that its Part 15 rules permit auditory assistance devices to be used to provide auditory assistance in support of simultaneous language interpretation. Manufacturers, distributors, and users of auditory assistance devices explain that granting the Petition will provide communications assistance to individuals who need both sound amplification and language translation, and thereby promote wider availability of auditory assistance devices helping all individuals who are hard of hearing.

Commenters also agree with Williams Sound that the proposed clarification is fully consistent with FCC rules and decisions. The Part 15 definition of *auditory assistance device* expressly permits the use of the devices by *anyone* in a public gathering place, such as a church, theater or auditorium, which are the locations where simultaneous language interpretation is needed.[1] The Part 15 definition reflects the FCC's recognition that individuals who are not hearing impaired in quiet settings, such as homes, become temporarily impaired in high noise settings, such as factories, conference centers, theatres, and other public places. The Commission also recognizes that the use of auditory assistance devices in support of simultaneous language interpretation in public settings aids comprehension by those members of the public who require translation to understand the language of the presentation.

Thus, it is not at all surprising that when the FCC subsequently made available additional spectrum for auditory assistance devices under Part 95 of its rules – following the passage of the Americans with Disabilities Act – it defined *auditory assistance communications* to expressly

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[1] FCC Office of Engineering & Technology Knowledge Database Pub. No. 296588.

include communications with persons with disabilities (as the term is defined under the ADA), as well as simultaneous language translation, audio description for the blind, and use in educational settings by individuals who benefit from auditory assistance.

Accordingly, the FCC should interpret the Part 15 definition of *auditory assistance device* consistent with the Part 95 definition of *auditory assistance communications* that permits use in support of simultaneous language interpretation. Such an interpretation accurately reflects the multiple ways in which auditory assistance devices are used to provide auditory assistance to enhance communications in places of public assembly.

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REPLY COMMENTS OF WILLIAMS SOUND CORPORATION

Williams Sound Corporation ("Williams Sound")[2] respectfully submits these reply comments on the above-captioned matter asking the FCC to clarify promptly that Part 15 auditory assistance devices may be used to provide auditory assistance in support of simultaneous language interpretation. As the vast majority of commenting parties explain, the requested interpretation is needed to alleviate confusion in the industry as to which types of auditory assistance devices can be used to support simultaneous language interpretation; moreover, it is fully consistent with the Commission's Part 15 Rules.[3]

The Commission's Office of Engineering and Technology has stated that the Part 15 definition permits auditory assistance devices to be used by any individual in a public gathering

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[2] Williams Sound has been providing wireless auditory assistance devices for more than three decades. The company's mission is to enhance people's lives by providing quality hearing products and services. "Helping People Hear" is Williams Sound's business philosophy.

[3] *See, e.g.*, Comments of ProLingo (Feb. 24, 2010); Comments of Infinity Translation Services (Feb. 25, 2010); Comments of A Bridge Between Nations (Feb. 24, 2010); Comments of American Language Services (Feb. 24, 2010); Comments of Listen Technologies Corp. at 3-4 (Feb. 26, 2010).

place, such as a church, theater or auditorium.[4] This is because individuals who may not be hearing impaired in quiet conversational settings become temporarily hearing impaired in high noise environments and large public venues. Indeed, simultaneous language translation services, in general, are provided in places of public gathering where there often are individuals who require sound amplification and individuals who need language translation in order to comprehend the presentation. In fact, the two groups often overlap.[5] The use of auditory assistance devices in support of simultaneous language interpretation in public locations simply offers equal access to individuals who cannot understand the language spoken by the presenter, much like hard of hearing individuals who require sound amplification to understand the presentation.

In light of the overwhelming support for the Petition, the Commission should declare that Part 15 auditory assistance devices may be used in support of simultaneous language interpretation. Such action would be fully consistent with FCC regulations and decisions that reflect both the evolution of technology and different means by which auditory assistance devices enhance human communication.[6]

I. THE OVERWHELMING MAJORITY OF COMMENTERS IMPLORE THE FCC TO DECLARE THAT PART 15 AUDITORY ASSISTANCE DEVICES MAY BE USED TO PROVIDE AUDITORY ASSISTANCE IN SUPPORT OF SIMULTANEOUS LANGUAGE INTERPRETATION.

The vast majority of commenting parties encouraged the FCC to clarify promptly that auditory assistance devices, which operate under Part 15 of the Rules,[7] may be used to provide

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4 FCC Office of Engineering & Technology Knowledge Database Publication No. 296588 ("OET KDB Pub. No. 296588").

5 See Petition at 6, 13.

6 *See Id*. at 7-10.

7 *See* 47 C.F.R. §§ 15.3(a), 15.237(a).

auditory assistance in support of simultaneous language interpretation for the same reasons set out in the Petition. As summarized in this section, manufacturers, distributors, and users of auditory assistance devices agree that there is no sound reason to prohibit Part 15 auditory assistance devices from being used for auditory assistance in support of simultaneous language translation.

The requested interpretation is fully consistent with FCC rules. As Listen Technologies explains: "[B]y the very terms of the Commission's [Part 15] definition, the content of what is being transmitted over the auditory assistance device has no bearing on the classification of the device itself. So long as the equipment is providing auditory assistance in places of public gatherings or to 'handicapped' individuals in all other locations, the auditory assistance device is being used in a manner consistent with its authorization."[8] Indeed, in response to the question of whether Part 15 auditory assistance devices are limited to use only by the handicapped, the OET Laboratory stated that the devices "may *also* be used at places of public gatherings, *in addition to* providing auditory assistance to handicapped persons."[9] Using auditory assistance devices in support of simultaneous language interpretation in places of public gathering is fully consistent with Part 15.

Allowing simultaneous language interpretation provides for more efficient and effective communications. Such use allows all language groups to be together and affords an efficient means for providing a single presentation to listeners who speak different languages. The

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[8] Comments of Listen Technologies at 4. *See also* Amendment of Subpart G of Part 15 of the Commission's Rules and Regulations regarding Auditory Training Devices, *Report and Order*, 90 FCC 2d 1015, ¶ 8 (1982) (the "*1982 Auditory Assistance Order*") (permitting handicapped individuals unrestricted use of auditory assistance devices, but restricting general population use to places of public gatherings).

[9] FCC Office of Engineering & Technology Knowledge Database Publication No. 296588 ("OET KDB Pub. No. 296588") ("emphasis added").

presentation can be heard by all participants at the same time without the delay associated with consecutive interpretation.[10] As Pastor Victor Visotsky of the New Life Russian Church explains, it makes little sense that Part 15 auditory assistance equipment can be used today in support of sequential language interpretation where the English translation is transmitted to the congregation during pauses in the Russian presentation, but that simultaneous language interpretation ostensibly is not allowed.[11] Moreover, there is no sound basis for allowing such use at 216 MHz but not 72 MHz. Simultaneous language interpretation enables shorter presentations with more content, benefitting both the presenter and the audience – a clear win-win situation.

There is little to no risk of additional interference. Listen Technologies offers a 72 MHz system that, according to the website of translation equipment vendor International Conference Systems ("ICS"), has 57 channels in the 72 MHz band.[12] As ICS explains, "[t]his means you are sure to find a clear signal."[13] In fact, Pastor Visotsky, who has been using a 72 MHz auditory assistance system next door to a sanctuary that is using another 72 MHz system, has received no complaints of interference.

Favorable FCC action on the Williams Sound Petition will encourage the deployment of auditory assistance equipment for use by the hearing impaired including those who require translation. As Infinity Translation Services and others have noted, despite the passage of the ADA and the need for auditory assistance devices in public facilities, many facilities operators

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10 *See, e.g.*, International Conference Systems ("ICS") website, Equipment description, *available at* http://www.simultaneousinterpretation.com/equipment.html (*last visited* Mar. 15, 2010).

11 *See* Comments of New Life Russian Church (Feb. 25, 2010).

12 *See, e.g.*, International Conference Systems ("ICS") website, Sales Overview, *available at* http://www.simultaneousinterpretation.com/sales.html (*last visited* Mar. 15, 2010).

13 *Id.*

have not recognized the need to install the devices, for they perceive it as only a benefit to a small population.[14] Once it is clear that auditory assistance in support of simultaneous language interpretation is permissible, the incentive to install such equipment will expand. When these systems are installed for either population, both groups benefit.

In addition, favorable action on the Petition will further encourage the installation of 72 MHz equipment on a more widespread basis because the equipment is generally less expensive than 216 MHz and infrared auditory assistance equipment. 72 MHz auditory assistance equipment costs less because it takes advantage of ubiquitous, low-cost FM radio receiver components.[15]

II. THE LONE DISSENTER – A VENDOR OF INFRARED TRANSLATION EQUIPMENT – OFFERS NO SOUND BASIS FOR DENYING THE PETITION.

The Petition is opposed by one, Keir Milan, who apparently is the owner of International Conference Systems ("ICS"),[16] which markets infrared communications equipment for use in supporting simultaneous language interpretation.[17] Each of his arguments is meritless.

First, Mr. Milan incorrectly asserts that 72 MHz auditory assistance equipment is limited to use by handicapped individuals. However, as Williams Sound, Listen Technologies, and virtually every other party that filed comments in this proceeding have explained, 72 MHz

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14 *See* Comments of Infinity Translation Services at 2; *and see* Comments of Pro Lingo; Comments of American Language Services.

15 *See id*. While both the 72 – 76 MHz band and the 216-217 MHz band are shared with other users, there is actually more spectrum (2 MHz) available for auditory assistance at 72 – 76 MHz than at 216 - 217 MHz (1 MHz).

16 *See* Comments of Stuart Smith (Feb. 25, 2010) (explaining that Mr. Milan, as the owner of ICS, is driven by the desire to sell "very expensive" infrared simultaneous interpretation equipment to the detriment of the public interest).

17 *See* ICS website, Simultaneous Interpretation Services, *available at* http://www.simultaneousinterpretation.com/simultaneous_interpretation.html *last visited* (Mar. 15, 2010). *See also* Comments of Keir Milan (Feb. 22, 2010).

auditory assistance equipment may be used by *any individual* in a place of public gathering.[18] This makes perfect sense, for persons in places of public gathering typically self-select whether to use auditory assistance devices and the operators of the venues need not decide who may benefit from the technology. Indeed, operators may not test whether individuals have a handicap such as a certain amount of hearing loss. Although the devices must be available in public gathering places for use by handicapped individuals, use of the devices need not be restricted to such individuals in those locations. And, as explained above, the interference potential of an auditory assistance device is unrelated to the number of users. Once the device is being used by a hearing impaired individual, including an individual who is hearing impaired and prefers to listen to the presentation in her native tongue, any number of additional individuals can benefit from the transmission with no increase in interference potential.

Second, in contract to Keir Milan's statements, Williams Sound never claimed that an individual who does not speak the language of the presenter is "suffering from an 'anomaly, defect, or other significant deviation."[19] Williams Sound simply explained that there is little difference between an individual who requires sound amplification to comprehend a presentation and an individual who requires language translation to comprehend the same presentation. As Listen Technologies also pointed out, there is no good reason to deem permissible under Part 15 devices that amplify a presentation or transcribe the spoken presentation into text while prohibiting the same devices from translating the presentation into a language the listener understands.[20]

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18 *See, e.g.*, Petition at 8-9; Comments of Listen Technologies at 2-6; *supra* at 3.

19 *See* Comments of Keir Milan at 2 (Feb. 22, 2010).

20 *See* Comments of Listen Technologies at 3. *See 1982 Auditory Assistance Order* at ¶ 5 (permissible uses of 72 MHz auditory assistance devices "go beyond the mere amplification of

Finally, Williams Sound strongly objects to Mr. Milan's statements that the company engaged in "a willful attempt to mislead the agency" in citing the Supreme Court's *Lau* case and engaged in "deception" in citing the Clinton era documentation. Williams Sound included that material in the Petition for the same reason that it included the FCC's *TRS Order on Reconsideration*[21] – to show that the federal government has routinely recognized the need to support communications with all members of American society, which includes providing for language translation services. As the Commission explained in the *TRS Order on Reconsideration*, it "should be taking actions to enhance, not reduce communications between deaf people and Americans who speak Spanish. Denying [such access] violates the ADA goals of improving the independence, productivity, and integration of relay users."[22]

For these reasons, the FCC should disregard the misdirected comments of Keir Milan and find – in accordance with the recommendations of every other party who has filed comments in this proceeding thus far – that Part 15 auditory assistance devices may be used in support of simultaneous language interpretation.

III. THE REQUESTED INTERPRETATION MAKES COMMON SENSE.

It defies common sense that a Part 15 auditory assistance device can be used for consecutive (or sequential) interpretation where a translator standing near the presenter translates words just spoken when the presenter pauses, yet it remains an open question as to whether the

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sounds" and "include *any aural assistance* that may be given to a handicapped person") (emphasis added).

[21] *See* Petition at 12-15.

[22] *See* Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, *Order on Reconsideration*, 20 FCC Rcd 13140, ¶ 24 (2005) ("*TRS Order on Reconsideration*").

same technology cannot be used for the near real-time translation of the presenter's words. (Hence, the filing of the Petition.)

It also makes little sense that although English-speaking handicapped individuals in places of public gathering can use Part 15 auditory assistance devices, handicapped individuals who only understand French or Spanish may not. Assuming that an appropriate interpreter is present, individuals who do not understand the presenter should be able to listen to simultaneous language interpretation via an auditory assistance device. As noted above, simultaneous language translation allows the presenter to complete the presentation in less time and cover additional material in the same amount of time. It also improves the auditory experience of those who do not need to hear the translation. As many commenters have noted, once a transmitter is legally operating for the benefit of a handicapped listener, there is no harm in allowing others to listen in as well.

Williams Sound and other auditory assistance device manufacturers have been offering 72 MHz, 216 MHz, 915 MHz, and infrared solutions for years. While they can endeavor to educate the users about certain use restrictions, ultimately they do not control how the equipment is put to use; see, for example, the successful use of a 72 MHz simultaneous language interpretation system by Pastor Visotsky. Each of these solutions offers trade-offs such that the most desirable approach is best dictated by circumstances. Williams Sound submits that the FCC should let consumers decide which wireless option works best. A regulatory barrier based on an implicit interpretation should not stand in the way.

CONCLUSION

For the foregoing reasons, the FCC should promptly clarify that the Part 15 rules governing auditory assistance devices permit use in support of language interpretation. Such a

clarification would create consistency between the Part 15 and Part 95 rules that govern auditory assistance devices and eliminate the confusion within the industry over the permissible uses of FCC-regulated auditory assistance devices.

The Commission's goal should be to promote accessibility to all individuals who require auditory assistance, including those who benefit from simultaneous language translation. As the FCC stated in the *1996 Auditory Assistance Order*: "Expanding the scope of the [Part 95 Low Power Radio Service] to include uses other than the amplification of sound for the hard of hearing is consistent with our goal of facilitating public access to telecommunications technologies."[23] Reading the Part 15 auditory assistance device rules consistent with the Part 95 rules for the same devices will go far in facilitating such access by allowing devices authorized under Section 15.237 of the Rules to provide auditory assistance in support of simultaneous language interprepretation.

Respectfully submitted,

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[23] *1996 Auditory Assistance Order* at ¶ 15.

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