

VIA ECFS

July 23, 2010

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *WT Docket No. 07-250*
Notice of *Ex Parte* Presentation of Research In Motion Limited

Dear Ms. Dortch:

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, Research In Motion Limited ("RIM"), by counsel, hereby notifies the Commission of an oral *ex parte* presentation in the above-referenced proceeding on July 22, 2010. In attendance were Jeffrey Steinberg, Deputy Chief, Spectrum and Competition Policy Division, John Borkowski, Assistant Division Chief for Spectrum Access, Saurbh Chhabra, Matthew White, and Karen Sprung, all of the Wireless Telecommunications Bureau; Praveen Goyal, Senior Director, Corporate and Government Relations, RIM; and the undersigned.

The parties discussed RIM's recommended alternative approach to the *de minimis* exception to the Commission's Hearing Aid Compatibility ("HAC") requirements, a copy of which is attached. RIM explained that, in its experience, the HAC *de minimis* rule has worked well and as the Commission intended – *i.e.*, by enabling manufacturers to timely introduce new innovative devices into the market, while simultaneously working to achieve HAC M3 and T3 ratings in advance of more widespread product offerings. Indeed, the *de minimis* exception helped facilitate RIM's own competitive entry into the device market for GSM (at both the 850 MHz and 1900 MHz bands), and also with respect to the offering of WCDMA and iDEN handsets. RIM is now compliant for GSM, and expects to remain compliant for WCDMA if or when it exceeds the *de minimis* exception. While the iDEN interface remains technically challenging, RIM has achieved an M3 rating for one of its iDEN handset models.

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RIM explained how the *de minimis* exception will remain important and relevant as manufacturers and wireless carriers begin introducing new innovative 4G devices and the deployment of advanced mobile broadband services, and that the Commission should not inadvertently undermine its critical broadband objectives by its actions in this proceeding. RIM's proposed approach helps to ensure that manufacturers will act to incorporate HAC functionalities into their devices from the outset of the design and product development process, thereby increasing the already wide availability of handsets usable by hearing aid users, without adversely affecting the ability of manufacturers and service providers to timely introduce new devices and services into the broadband marketplace.

Finally, RIM discussed the "Power Down" option for GSM 1900 MHz that Apple and HLAA proposed in their recent *ex parte* submissions. RIM noted that the Commission has previously sought to ensure that similarly situated devices and services are treated as such under its HAC rules, and GSM 850 MHz and iDEN have faced similar engineering challenges. Subsequent to yesterday's meeting, RIM technical personnel raised significant concerns for the implications of such an option on handset performance, as implementing a Power Down option will necessarily result in reduced network performance as reflected, for example, in increased dropped call rates. RIM still remains hopeful that such an approach might be applied in a competitively neutral manner and consistent with consumers' handset performance needs. Upon additional evaluation of the proposal by the company's technical experts, though, RIM believes that further record development is warranted.

Specifically, technical analysis of the impact on network performance in real-world configurations is needed before such a significant change in power requirements can be implemented properly – in a technically neutral manner, and without impacting network performance. RIM also believes that the emergency-calling scenario proposed by HLAA – powering-back up during emergency calls – requires further analysis as well. For example, it is to be expected that hearing-impaired consumers relying on a powered-down mode to use a particular handset may not be able to use the same handset in a powered-back up mode without interference, an extremely troubling possibility in light of the Commission's policies for 911 calling. Furthermore, a substantial customer education and disclosure effort may be warranted, insofar as customers may presume the availability of emergency calling capability from that device. Thus, a powered-up mode for emergency calling requires further study as well.

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Please contact the undersigned or Praveen Goyal at (202) 756-1321 if there are questions concerning this filing.

Respectfully submitted,

/s/

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Jane Jackson
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RESEARCH IN MOTION LIMITED
WT DOCKET NO. 07-250
PROPOSED ALTERNATIVE TO THE HEARING AID COMPATIBILITY
DE MINIMIS EXCEPTION

- ***For existing handset technologies the current de minimis exception should remain available to all manufacturers and service providers for at least two years after Federal Register publication of any modified rule.*** Ongoing product and portfolio development has relied on the current exemption. Manufacturers and service providers will need *at least two years* after the rule is promulgated to adapt their product design and marketing portfolios to help ensure compliance with the updated rules.
- ***For air interface protocols that have not yet been launched (e.g. LTE), and existing air interface protocols to which the C63.19 standard does not yet apply (e.g. WiMax), an appropriate trigger for the minimum two year period is warranted.*** Any time limit on the period during which a manufacturer or service provider may rely on the exception should apply *on a per air interface* basis. Additionally:
 - For devices with new air interface protocols, the two-year period should begin once a manufacturer or service provider offers a device with that new air interface protocol;
 - For an air interface protocol already on the market but to which the C63.19 standard does not yet apply, the two year period begins when an Order applying the C63.19 standard to that air interface protocol is adopted pursuant to 47 C.F.R. § 20.19(k).

Under either scenario, manufacturers will need sufficient time to incorporate product features (*e.g.* form factors, shielding, antenna placement, etc.) that facilitate a minimum M3 and T3 rating under a new standard, as well as test to the new standard.

Manufacturers and service providers alike will need time to begin introducing those devices into the marketplace through marketing channels, and modify their handset portfolios to ensure that the minimum handset requirements are maintained.

- ***Once the applicable two-year period has expired, RIM proposes that if three or fewer handsets are offered for an air interface, at least one must be HAC compliant.*** Once the *de minimis* exception expires after the applicable two-year period, RIM proposes that, if three or fewer models are offered for a given air interface, at least one must be fully HAC compliant; accordingly, if only one model continues to be offered in a given air interface then that model must be fully HAC compliant. This proposal addresses the concern that, under the current rules, a manufacturer offering only one or two models could remain *de minimis* in perpetuity.
- ***A limited exception should be retained after the two-year period for legacy handsets.*** All manufacturers and service providers will still need some mechanism to address potential “outlier” scenarios in which the *de minimis* exception would otherwise have provided relief. At minimum, some exception is necessary for legacy technologies being phased out of a portfolio.

- For example, if a manufacturer or service provider is phasing out a particular air interface but still offers two or three handsets for a particular air interface, absent the current *de minimis* exception or a similar provision it would be compelled (regardless of carrier or consumer demand) to either discontinue all of the models concurrently with the HAC model, or maintain the HAC model solely for the purposes of enabling it to continue offering the non-HAC model(s).
- To address this situation, RIM recommends that the Commission exempt a manufacturer's and carrier's handsets from the HAC rule in the following circumstances: If a manufacturer or service provider offers four or more handsets per air interface during a given calendar year (Year 1), in the next calendar year offers three or fewer handsets (Year 2), and in subsequent calendar years offers one or two of *those remaining handsets* (Years 3-onward), then during Years 3-onward the HAC rules would not apply to those handsets. RIM believes that this approach effectively targets air interface technologies that are being phased out of production or retail sales, and is reflective of the Commission's treatment of TDMA technology under the HAC rules and the current "product refresh" requirement.