



July 29, 2010

Ex Parte

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Notice
Hearing Aid Compatible Mobile Handsets
WT Docket No. 07-250

Dear Ms. Dortch:

On July 29 2010, I spoke via telephone with Karen Strauss, Deputy Bureau Chief, Consumer & Governmental Affairs Bureau on the topic of hearing aid compatibility ("HAC"). I made the following points related to the HAC *de minimis* exception:

In comments submitted in December 2007 and August 28, 2008 HLAA addressed the *de minimis* exemption. HLAA's position remains unchanged. We believe the Commission should eliminate the *de minimis* exemption. That action would negate potential abuse and have the benefit of expediting full access by those with hearing loss.

We again assert that if the Commission does not eliminate the *de minimis* exemption, that focus should be on competition; namely, whether the hearing aid compatibility requirements impede the competitiveness of manufacturers and service providers that have a "small presence in the market." Our concern is with large businesses that have the resources to fully comply with the hearing aid compatibility requirements and compete effectively in the marketplace. We proposed in our comments, and still believe the existing automatic *de minimis* exemption apply **only** to small business concerns that qualify under the Small Business Administration's size standards for this industry. Small business concerns that manufacture or offer two or fewer handsets will almost necessarily have a small presence in the market. With more limited financial and logistical resources, these concerns should be entitled to the protection of the *de minimis* exemption to effectively compete. This approach would be consistent with, and thus require no modifications of, the regulatory flexibility analysis supporting the existing rule. Also, such a bright line approach would be easy to enforce and administer.

We have reviewed the Ex Parte filed by today, July 29, 2010 by RIM. We appreciate RIM's concerns, their commitment to providing HAC handsets and their willingness to develop and propose a compromise that attempts to address both the needs of the consumer and manufacturers. However we also have some concerns.

RIM suggests: "For an air interface protocol a manufacturer service provider already offers but to which the C63.19 standard does not yet apply, the two year period would begin when an Order applying the C63.19 standard to that air interface protocol is adopted pursuant to 47 C.F.R. § 20.19(k)."



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HLAA is concerned that standards making bodies often take years to develop a standard. Manufactures are often represented on these bodies and are well aware of the direction these bodies are moving in. If the *de minimis* exemption is in place, as RIM suggests, for two years after a standard is adopted, there could be years in which no HAC handsets are offered.

RIM also suggests that "A limited exception would apply after the applicable two-year period for legacy handsets, as follows: 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."

Manufacturers clearly would prefer to phase out the least popular handsets first, taking off the market the most popular handsets last, whether or not that handset is HAC. However, HLAA is concerned that if the Commission adopts RIM's suggestions in their totality, consumers may be faced with a situation where a manufacturer is claiming *de minimis* on both legacy and a new air interface, with few options for HAC handsets available that are compatible with their hearing aids.

We ask that the Commission address our concerns. We also ask that however the Commission acts, any change in the rules be revisited and reviewed again in a timely manner by the Commission to see what impact they have in the real world.

HLAA readily admits that we do not have all the answers to all these complex questions. We appreciate the concerns of the Industry, and their willingness to work with us. We seek to work with the Industry and look forward to a revitalized ATIS incubator working group where service providers, manufacturers and consumers can once again sit down and work together to find solutions on these and other questions on hearing aid compatible mobile phones as they arise.

Sincerely,

A handwritten signature in black ink that reads "Lise Hamlin".

Lise Hamlin
Director of Public Policy

Cc: Karen Peltz Strauss