

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Amendment of the Commission’s Rules) WT Docket No. 07-250
Governing Hearing Aid-Compatible Mobile)
Handsets)
)

To: The Commission

REPLY COMMENTS OF INMARSAT

Inmarsat, Inc. (“Inmarsat”) submits these reply comments in response to the *Further Notice of Proposed Rulemaking* in the above-referenced proceeding proposing to expand the scope of the wireless hearing aid compatibility (“HAC”) rules to cover a broader class of handsets used for wireless voice communications, including handsets used for mobile satellite service (“MSS”).¹ Although the comments reflect general support for expanding the scope of the HAC rules, no party addressed applying those rules to MSS handsets (one commenter addressed handsets with Ancillary Terrestrial Component (“ATC”) service capability).² Inmarsat submits these reply comments to explain the significant obstacles that HAC requirements would pose for Inmarsat’s MSS handsets and to urge the Commission to refrain from imposing the HAC rules on MSS handsets.

¹ *Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, Policy Statement and Second Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 07-250, 25 FCC Rcd 11167, at ¶¶ 87, 93 (2010) (“*Further Notice*”).

² See Comments of AT&T at 2-3.

I. Inmarsat’s GSPS Service is a Traditional MSS Offering Distinct From Consumer-Oriented Terrestrial CMRS

Inmarsat’s Global Satellite Phone Service (“GSPS”) is a new Inmarsat offering that was introduced in June 2010. It provides voice and low data capability via a handheld device to a specialized market, including government, critical infrastructure and other large enterprise users, such as military, public safety and energy exploration companies. It is not a mass-market consumer offering. Inmarsat’s GSPS – like other MSS services – has a more limited customer base than CMRS services, a far lower volume of handset sales, and significantly fewer choices of handsets as compared to terrestrial CMRS. GSPS, in fact, has just *one* handset on the market worldwide.

The development of Inmarsat’s GSPS device took years of effort in order to produce a handset with the special features needed to reliably access a satellite that is 22,000 miles away, from anywhere on the globe, including the most remote and inhospitable locations on earth. Every MSS system is unique, and therefore Inmarsat’s GSPS handset had to be “custom-designed” to ensure reliable and high-quality service using the Inmarsat I-4 satellite constellation.

In short, GSPS is not the mass-market, consumer-level retail offering that is the focus of the Commission’s HAC regulations for terrestrial CMRS. As discussed below, these facts are all relevant to a determination that HAC requirements should not be imposed on services and equipment offered by MSS providers like Inmarsat.

II. MSS Services and Devices Should Not be Subject to the HAC Requirements Under Section 710 of the Act

Under Section 710 of the Act (as recently amended by the Accessibility Act), the Commission must take into account the technical feasibility and product marketability issues in

any assessment of HAC applicability.³ As part of this assessment, the Commission must consider whether incorporating HAC capability “would increase costs to such an extent that the [handsets] could not be successfully marketed.”⁴ In the MSS context, the Commission should find that the answer is yes. These factors are particularly significant for traditional MSS, and the Commission cannot presume that its assessment of these factors for terrestrial CMRS devices is relevant to traditional MSS. MSS services and devices must be evaluated on their own merits.⁵

Requiring that all MSS handsets be HAC-compliant would have significant repercussions on the affordability and availability of new innovative MSS handsets to critical infrastructure, government and enterprise customers. As noted above, because of the specialized customer base, the volume of GPS handset sales is very limited compared to CMRS, as is the case for all MSS-only handsets. Moreover, because every MSS satellite system is unique, MSS devices must be designed differently for each MSS system, and thus are not able to take advantage of the economies of scale available to CMRS providers. In addition, an MSS handset typically is designed with unique technical requirements that are tailored to the specific environment and customer base it is intended to serve. In the case of a GPS handset developed over years for specialized users accessing the I-4 satellites, the cost of redesigning and reconfiguring these handsets to meet HAC requirements would be very significant. These costs cannot be spread across a large customer base or easily carried forward into new handset model offerings, which emerge far less frequently than for terrestrial CMRS, with the result that Inmarsat’s essential user customer base would have to bear these increased costs.

³ See 47 U.S.C. §§ 610(b)(2)(C)(iii)-(iv), (e).

⁴ See 47 U.S.C. § 610(b)(2)(C)(iv).

⁵ While not directly applicable under Section 710 of the Act, the Accessibility Act requires that the assessment of whether an accessibility feature is achievable for a product must be limited to the product in question. See 47 U.S.C. § 617(g). Inmarsat submits that such an approach is appropriate here with respect to terrestrial CMRS and traditional MSS.

Such considerations of product marketability dictate that the Commission should not impose HAC requirements on all MSS handsets at this time. Finally, given the type of enterprise or government users that are the focus of the traditional MSS customer base, and in light of the technical and economic challenges described above, revoking or limiting the public mobile services exemption for traditional MSS is clearly not in the public interest for purposes of Section 710 of the Communications Act.⁶

Should the Commission, despite these serious issues, choose to extend HAC requirements to handsets used with traditional MSS offerings, it must acknowledge that significantly different transition periods will be necessary for different services. Product development takes years of effort for a very low volume of MSS handsets, which must access satellite constellations that are different for every provider. Indeed, given the marketplace realities facing MSS, the *de minimis* exception available to small entities is warranted for MSS providers as well, regardless of size.⁷ In any event, while the two-year period proposed in the *Further Notice* may be feasible in other contexts, it would be inadequate for MSS, as the Satellite Industry Association (“SIA”) has previously indicated earlier in this proceeding.⁸

⁶ See 47 U.S.C. § 610(b)(2)(C)(i).

⁷ Inmarsat notes that prior to the recent *Second Report and Order*, the Commission’s *de minimis* exception provided an outright exemption for a service provider’s offering of two or fewer handset models and Inmarsat’s single GSPS handset model would therefore have been exempt regardless of the company’s size. The *de minimis* exemption was scaled back to address hearing aid users’ concerns regarding handset models that – unlike GSPS – enjoy high market penetration and broad retail consumer appeal (such as the Apple iPhone).

⁸ See *Further Notice* at ¶ 93, n.198 (noting SIA’s recommended three-year transition period).

III. Inmarsat Supports Other Proposals in the *Further Notice*

The Commission rightly proposes to limit the scope of any new rules to equipment for voice communications “via a built-in speaker where the equipment is typically held to the ear”⁹ The Accessibility Act similarly precludes the Commission from imposing HAC requirements on devices not “intended to be held to the ear in a manner functionally equivalent to a telephone”¹⁰ This is an important clarification for MSS broadband services such as Inmarsat’s Broadband Global Area Network (“BGAN”) service, which can be used for a voice connection but uses a laptop-like terminal to communicate with the satellite. Also, as a provider of a broadband Internet access service offering to its retail distributors, Inmarsat agrees with other commenters that service providers and manufacturers should not be liable for VoIP functions that are downloaded by the customer.¹¹ Inmarsat also agrees with the Commission and commenters that devices configured for non-interconnected services should remain exempt, as many specialized enterprise offerings may continue to be configured in that manner.¹²

IV. Conclusion

Inmarsat respectfully requests that the Commission apply its HAC rules and the provisions of Section 710 of the Communications Act consistent with these reply comments. The Commission should continue to exempt traditional MSS offerings such as Inmarsat’s from

⁹ See *Further Notice* at ¶ 77.

¹⁰ 47 U.S.C. § 610(b)(1)(C).

¹¹ See *e.g.*, Comments of CTIA – The Wireless Association® at 9-11; Comments of Motorola at 9-10; Comments of the Telecommunications Industry Association at 5-6.

¹² See *Further Notice* at ¶ 82; Motorola Comments at 6-7; TIA Comments at 4-5.

the wireless HAC rules, and in all events ensure that MSS-specific technical feasibility and marketability issues are accounted for in any new regulations.

Respectfully submitted,

/s/ _____

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November 22, 2010