

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Comment Sought on 2010 Review of
Hearing Aid-Compatibility Regulations)
) **WT Docket No. 10-254**
)

To: Wireless Telecommunications Bureau (electronically filed)

REPLY COMMENTS OF THE HEARING INDUSTRIES ASSOCIATION

1. The Hearing Industries Association (“HIA”) hereby submits these Reply Comments in response to the Mobile Telecommunication Bureau’s Public Notice in the above-captioned proceeding, released December 28, 2010 (“Public Notice”).¹ HIA submitted initial Comments with the goal of ensuring that its customers who purchase hearing aids are able to use all telephone technologies to the greatest extent feasible.

2. In our initial Comments, HIA focused on: 1) the continued need for Commission oversight of technical information sharing between industry participants; 2) technical issues relating to acoustic coupling and input mode switching; 3) the importance of in-store handset testing and flexible return policies; and 4) the benefits of HAC consideration at the early stages of handset design.

3. The handset industry, on the other hand, seeks to declare victory and clear the field. Their comments do not acknowledge that there are remaining HAC problems, much less take any responsibility or commit to resolving them. Somewhat inconsistently, they suggest that any problems that do exist need to be remedied by the hearing aid

¹ *Comment Sought on 2010 Review of Hearing Aid Compatibility Regulations*, Public Notice, DA 10-2388 (rel. Dec. 28, 2010). HIA is the trade association of hearing aid manufacturers and represents manufacturers of some 85% of the hearing aids sold in the United States.

industry. As we will discuss, neither of these assertions stands up to scrutiny. Therefore, Commission involvement is demonstrably needed to facilitate technical cooperation between these two industries to realize the goals of HAC.

4. The comments from the consumer perspective also confirm HIA's point that Commission involvement is still needed. These comments indicate that hearing aid users continue to have difficulty finding suitable handsets, even if those handsets exist in the marketplace, because:

- Information about HAC mobile phones is not readily available;
- The task of finding and purchasing a HAC mobile phone is arduous; and
- Consumers often feel "stuck" with the mobile phones they purchase.²

We discuss the implications of these comments below.

1. Conclusions set forth by the mobile phone industry refuse to recognize consumer and technical issues.

5. Comments submitted by CTIA, the Telecommunications Industry Association ("TIA") and T-Mobile declare the existing HAC regime to be a notable success.³ Given the consumer feedback from hearing aid users (discussed in Part II) and the record of ongoing technical issues submitted by HIA, however, it is premature to

² Comments of the Hearing Loss Association of America, Docket 10-254, filed Feb. 14, 2011, at 5 ("HLAA Comments").

³ Comments of The Telecommunications Industry Association, Docket 10-254, filed Feb. 14, 2011, at 2 ("TIA Comments") (stating that HAC rules have been "enormously successful"); Comments of T-Mobile USA, Inc., Docket 10-254, filed Feb. 14, 2011, at 1 ("T-Mobile Comments") (stating that the implementation of section 710 has been "a notable success"); Comments of CTIA—The Wireless Association, Docket 10-254, filed Feb. 14, 2011, at 2 ("CTIA Comments") ("There is . . . strong evidence that consumers are able to find HAC-compliant handsets that meet their needs.").

declare victory. As HIA noted in its initial Comments, although there has been significant improvement in HAC over the years, there is still much to be done.

6. The comments confirm that technical compatibility issues, such as acoustic coupling,⁴ remain and will continue to arise. HLAA confirmed the importance of acoustic coupling to hearing aid users and documented the problems they continue to experience.⁵ Another commenter, Stephen D. Julstrom, flagged another technical issue: multiple simultaneous transmitters such as handsets with cellular, 4G at 2.5 GHz, satellite capability, wi-fi, and Bluetooth. He observed that while the new C63.19 standard may allow better prediction of interference through modeling, and therefore better HAC at an earlier design stage,⁶ the working group could not reach consensus on the issue of multiple simultaneous transmitters for the latest C63.19 revision, partly due to questions concerning what operating modes need to be tested and under what circumstances.⁷

7. These comments demonstrate that without direct Commission involvement, industry standard setting is not likely to be comprehensive enough to fulfill the purposes of the HAC statute. For example, the Commission must ensure that new technologies are not improperly or unnecessarily exempted from HAC under the new C63.19 standard, including by omission from the standard as well as any express

⁴ The need for more information about the performance characteristics of handset earpieces is an issue that has recently grown in importance, as users of sophisticated modern hearing aids seek more and more to be able to use handsets in the same way as persons who do not wear hearing aids.

⁵ HLAA Comments at 2 (reporting that 48% of respondents typically use the microphone setting on their hearing aid and 53% increase the volume control).

⁶ Comment on 2010 Review of Hearing Aid Compatibility Regulations, Stephen D. Julstrom, Docket 10-243, filed Jan. 19, 2011, at 1 (“Julstrom Comments”).

⁷ Julstrom Comments at 4.

exemption. Only by keeping a close eye on new services, facilitating structured, ongoing information exchange, and requiring HAC be taken into account early in product design can the Commission ensure meaningful HAC compliance.

8. Handset industry comments imply—somewhat inconsistently—that remaining compatibility problems arise from hearing aids more than cell phones.⁸ But they offer no facts, technical reasons, or marketplace analysis to support this conclusion. Their comments do not show any way in which hearing aid design fails to maximize opportunities for immunity to interference or how more regulatory intervention would result in improved hearing aid design. It is important to note that hearing aid manufacturers have every business motivation to ensure that their products will work well with wireless handsets. If they do not, the industry runs the risk of alienating its entire customer base. Therefore, contrary to allegations, the hearing aid industry could not be more “invested” in the outcome of collaborative efforts and in improvement of their products.⁹ In contrast, handset manufacturers and providers lack similar marketplace incentive, because hearing aid users are only a tiny fraction of their consumer base. Other concerns tend to prevail, such as who can put the newest feature or function on the street first. Lack of private incentive is why statutory and regulatory intervention with respect to handsets was necessary in the first place, and remains necessary now.

⁸ CTIA Comments at 5, 8-9; TIA Comments at 12; T-Mobile Comments at 5-6, 8.

⁹ See CTIA Comments at 3.

9. To the extent that handset industry comments demand “answers to questions” from the hearing aid industry¹⁰ or seek to ensure that it participate fully in HAC proceedings, HIA raises no objection. But the handset industry has not identified any information about hearing aid design that has been unable to get by just asking. In contrast, the handset industry is much less forthcoming with information about its product design, claiming constraint by competitive considerations. HIA has consistently sought, throughout this process, to share technical information with the handset industry and to remain fully engaged in the process of improving HAC. It remains committed to ongoing collaboration to this end, whether through standard-setting bodies, the Commission, private inter-industry discussions, or other forums. HIA continues to believe, particularly in view of the initial comments in this proceeding, that a Commission-facilitated forum is the best way to keep information exchange going in the future.

II. The data submitted by the Hearing Loss Association of America underscores the need by consumers for improved information, in-store testing and liberal return policies.

10. The fact that HAC issues remain significant, and the Commission must continue its efforts to improve HAC, is demonstrated by the initial Comments of the Hearing Loss Association of America (“HLAA”), which conducted a survey, tailor-made for this proceeding, of hearing aid and cochlear implant users regarding mobile handset use. The 728 responses¹¹ it received make it very clear that despite laudable HAC progress in recent years, to which both the handset and hearing aid industries have

¹⁰ TIA Comments at iii.

¹¹ HLAA Comments at 5.

contributed, consumers are remain stymied by the process of selecting, testing, activating, and returning HAC mobile telephones. Respondents had trouble: 1) understanding the ratings system¹²; 2) finding information on manufacturer or service provider websites¹³; 3) obtaining assistance at retail stores¹⁴; and 4) being able to test and return handsets.¹⁵

11. Based on this consumer feedback, HLAA makes several recommendations, including allowing penalty-free return of unsatisfactory handsets at the point of sale, a suggestion also made by HIA in its initial Comments.¹⁶

12. HIA's counsel has informally confirmed consumer observations that many service provider and manufacturer websites have minimal or hard to find HAC information. In fact, we note that even the screen prints contained in the exhibit attached by CTIA—The Wireless Association¹⁷ do not appear on a cursory examination to satisfy the disclosure requirements of 47 C.F.R. § 20.19(h). These deficiencies exist at both the service provider and manufacturer levels, thus indicating the undesirability of the suggestion of Blooston Rural Carriers (“Blooston”) that HAC compatibility should be addressed only at the manufacturing level, eliminating compliance review and reporting

¹² HLAA Comments at 3, 9.

¹³ HLAA Comments at 3, 8-9.

¹⁴ HLAA Comments at 3, 9-10.

¹⁵ HLAA Comments at 3-4, 11-12.

¹⁶ HLAA Comments at 3-4, 7, 10-11. Liberal return policies are also advocated in the Julstrom Comments at 2-3.

¹⁷ CTIA Comments at Exhibit I.

by service providers.¹⁸ HIA suggests that the Commission do research of its own into compliance with existing disclosure requirements.

III. *Conclusion*

13. The initial comments demonstrate a need for better industry information sharing and consumer disclosure. They also make clear that the handset industry is not willing to recognize that important HAC problems remain or to commit to fixing them. HIA hopes that the information now on record will change this perspective and encourage greater voluntary collaboration among stakeholders. However, active Commission involvement in finding solutions is essential if the statutory goals of true hearing aid compatibility are to be realized.

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¹⁸ Comments of the Blooston Rural Carriers, Docket 10-254, filed Feb. 14, 2011, at 2.

¹⁹ Admitted in Massachusetts and the District of Columbia only.