

**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: Wireless Communications Bureau and Office of Engineering and Technology

**COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®**

CTIA – The Wireless Association® (“CTIA”)<sup>1</sup> hereby submits these Comments in response to the above-captioned *Second Further Notice of Proposed Rulemaking (“NPRM”)*<sup>2</sup> released by the Commission’s Wireless Telecommunications Bureau (“WTB”) and Office of Engineering and Technology (“OET”) (the “Bureaus”), acting on delegated authority. The *NPRM* proposes to revise the Commission’s hearing aid compatibility (“HAC”) rules by incorporating the 2011 revision of American National Standards Institute (“ANSI”) technical standard C63.19 (the “2011 ANSI HAC Standard”)<sup>3</sup> into the rules, replacing the 2007 version of

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<sup>1</sup> CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, Advanced Wireless Service, 700 MHz, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

<sup>2</sup> *Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets, Second Further Notice of Proposed Rulemaking*, 26 FCC Rcd 14991 (WTB/OET 2011) (“*NPRM*”).

<sup>3</sup> Accredited Standards Committee C63® – Electromagnetic Compatibility, *American National Standard Methods of Measurement of Compatibility between Wireless Communications Devices and Hearing Aids*, ANSI C63.19-2011 (May 27, 2011) (“2011 ANSI HAC Standard”).

that standard (“2007 ANSI HAC Standard”).<sup>4</sup> Specifically, CTIA supports the adoption of the 2011 ANSI HAC Standard, which will extend HAC testing to new and innovative wireless handsets and, consistent with Commission precedent, urges the Bureaus to:

- Expressly state that wireless handsets already certified under the 2007 ANSI HAC Standard do not need to be recertified under the new standard going forward;
- Expressly state that service providers and manufacturers may count those already certified handsets as hearing aid-compatible even after the 2011 ANSI HAC standard becomes mandatory for new certifications; and
- Adopt a 24-month transition period that is necessary to account for the typical product cycle in the wireless handset market.

## **I. INTRODUCTION**

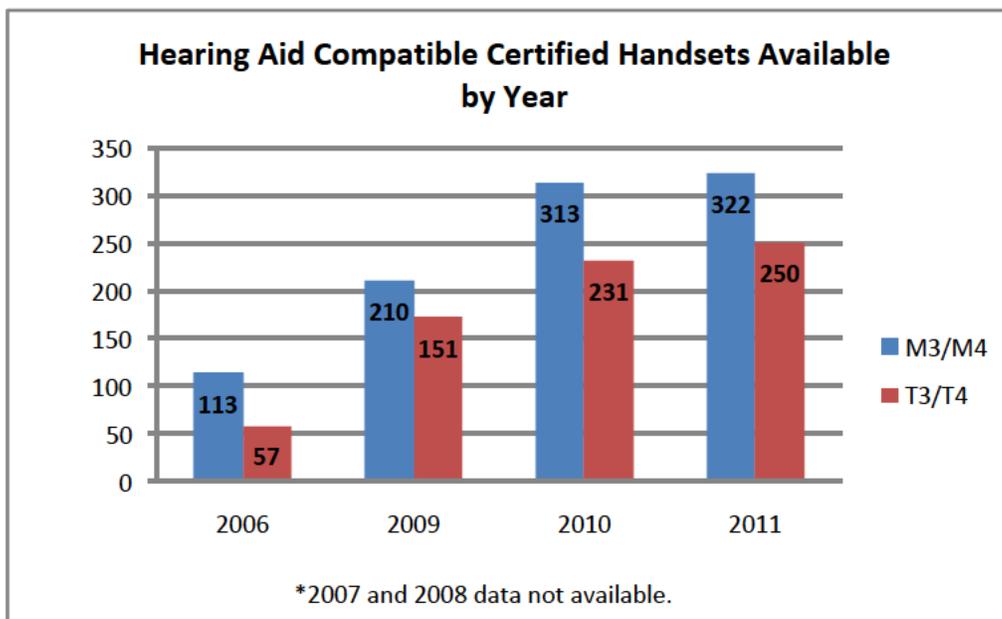
The HAC rules for digital wireless handsets have successfully contributed to the increased availability of hearing aid-compatible handsets, based in large part on the collaborative efforts of consumers, industry and the Commission. Adoption of the 2011 ANSI HAC Standard should help continue this success by updating, extending, and improving the technical standards for HAC testing of wireless handsets. In fact, the Twenty-First Century Communication & Video Accessibility Act (“CVAA”)<sup>5</sup> largely ratifies the Commission’s deliberative approach to wireless HAC compliance.<sup>6</sup>

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<sup>4</sup> Accredited Standards Committee C63® – Electromagnetic Compatibility, *American National Standard Methods of Measurement of Compatibility between Wireless Communications Devices and Hearing Aids*, ANSI C63.19-2007 (Jun. 8, 2007) (“2007 ANSI HAC Standard”). Accredited Standards Committee C63® – Electromagnetic Compatibility (“ASC C63®”) is the committee responsible for developing these standards.

<sup>5</sup> See *Twenty-First Century Communications and Video Accessibility Act of 2010*, § 102, Pub. L. No. 111-260, 124 Stat. 2751 (2010) (codified in several sections of Title 47 of the United States Code) (the “CVAA”). See also *Amendment of Twenty-First Century Communications and Video*

As seen in the chart below, the Commission’s HAC reports show that a wide range of HAC-compliant wireless handsets are increasingly available to consumers who use hearing aids. Over 300 handsets with an M3 or M4 rating and 250 handsets with a T3 or T4 rating were offered during 2010-2011 – an increase from 2009-2010 and up from over 200 M3/M4-rated handsets and over 150 T3/T4-rated handsets reported in July 2009.<sup>7</sup>




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*Accessibility Act of 2010*, Pub. L. No. 111-265, 124 Stat. 2795 (2010), making technical corrections to the CVAA and the CVAA’s amendments to the Communications Act of 1934.

<sup>6</sup> The CVAA (i) presumes a handset is HAC-compliant when it functions in accordance with a relevant technical standard and (ii) provides that such standards will be developed through a collaborative process of consumer and industry stakeholders. See CVAA § 102(b) (codified as 47 U.S.C. § 610(c)).

<sup>7</sup> See Summary Report, *Device Manufacturers Handset Totals by Air Interface* (Aug. 2011), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-309123A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-309123A1.pdf); Summary Report, *Device Manufacturers Handset Totals by Air Interface* (Jul. 2010), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-300597A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-300597A1.pdf); Summary Report, *Device Manufacturers Handset Totals by Air Interface* (Jul. 2009), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-295850A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-295850A1.pdf).

In contrast, in November 2006, manufacturers offered 113 models with an M3/M4 rating and 57 models with a T3/T4 rating.<sup>8</sup>

CTIA views the *NPRM* as proposing a meaningful step to keep the Commission's HAC rules current with new wireless technologies and testing methods.<sup>9</sup> While CTIA and our member companies support the Commission's adoption of the 2011 ANSI HAC Standard, CTIA continues to recommend that the Commission take a holistic approach to HAC with wireless handsets by considering issues concerning hearing aid device immunity with respect to any future rules and regulations. The Commission therefore should work with relevant federal agencies and other stakeholders to determine the compatibility and immunity capabilities that would be appropriate for hearing aid devices.<sup>10</sup>

## **II. CTIA SUPPORTS ADOPTION OF THE 2011 ANSI HAC STANDARD FOR WIRELESS HANDSETS CONSISTENT WITH THE COMMISSION'S LONGSTANDING APPROACH TO IMPLEMENTING THE HAC RULES**

### **A. The Commission Should Incorporate the 2011 ANSI HAC Standard into the Rules**

CTIA supports the *NPRM*'s proposal to adopt the 2011 ANSI HAC Standard into the HAC rules. Adoption of the 2011 ANSI HAC Standard as a technical standard for evaluating the hearing aid compatibility of wireless handsets will advance the public interest by updating the

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<sup>8</sup> *Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, Report on the Status of Implementation of the Commission's Hearing Aid Compatibility Requirements*, 22 FCC Rcd 17709, 17719–20, ¶ 21 (WTB 2007). *See also* Comments of CTIA, WT Docket No. 10-133 (filed Jul. 30, 2010) at 20 (reporting that at least 33 companies manufacture more than 630 unique devices for the U.S. market).

<sup>9</sup> CTIA recognizes that the *NPRM* is limited in scope and does not address all pending issues regarding hearing aid compatibility. *See NPRM* at 14994, ¶ 5.

<sup>10</sup> *See* Comments of CTIA, WT Docket No. 07-250 (filed Oct. 25, 2010) at 12-13.

Commission's rules consistent with advances in technology and bringing additional frequency bands and air interfaces into the Commission's HAC regime.<sup>11</sup>

The proposed adoption will provide greater certainty and flexibility to service providers and equipment manufacturers in determining compliance with the HAC rules. As the *NPRM* notes,<sup>12</sup> “[t]he operating frequency range for wireless devices covered by the 2011 ANSI HAC Standard has been expanded to 698 MHz - 6 GHz.”<sup>13</sup> In addition, in the new standard, the radio frequency (“RF”) interference level of wireless handsets to hearing aids is measured directly, which, with other new features of the standard, “allows testing procedures to be applied to operations over any RF air interface or protocol.”<sup>14</sup> Moreover, the 2011 ANSI HAC Standard exempts from RF emissions testing some lower power transmitters that are “unlikely to cause unacceptable RF interference to hearing aids.”<sup>15</sup> These transmitters are deemed to have an acceptable M4 rating. Considering these factors, CTIA agrees with standards committee ASC C63<sup>®</sup> that the improved tests in the 2011 ANSI HAC better measure the potential for hearing aid interference,<sup>16</sup> which will serve the interests of wireless consumers that use hearing aids.

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<sup>11</sup> See *NPRM* at 14994, ¶ 6.

<sup>12</sup> See *id.* at 14992, ¶ 3.

<sup>13</sup> See *id.*, citing 2011 ANSI HAC Standard at 13.

<sup>14</sup> See *NPRM* at 14993, ¶ 3, citing Supplemental Report and Comments of ANSI ASC C63<sup>®</sup>, WT Docket Nos. 07-250, 01-309, 06-150 (June 24, 2011), Annex A at ii (“ASC C63<sup>®</sup> Supplemental Report”); 2011 ANSI HAC Standard at 12, 14-15.

<sup>15</sup> See *NPRM* at 14993, ¶ 3, citing 2011 ANSI Standard at 12-13; ASC C63<sup>®</sup> Supplemental Report, Annex A at ii.

<sup>16</sup> See ASC C63<sup>®</sup> Supplemental Report at 3.

**B. The Commission Should Make Clear that Wireless Handsets Already Certified Under the 2007 ANSI HAC Standard Do Not Need Recertification and that Such Handsets Will Continue to Count as HAC Compliant.**

The *NPRM* appropriately offers manufacturers the flexibility to achieve certification under the 2007 ANSI HAC Standard if a handset is launched within the transition period to the adopted 2011 ANSI HAC Standard.<sup>17</sup> The proposed rules provide that for RF interference, a wireless handset submitted for equipment certification or for a permissive change relating to hearing aid compatibility must meet, at a minimum, the M3 rating associated with either the 2007 ANSI HAC Standard or the 2011 ANSI HAC Standard.<sup>18</sup> Similarly, for inductive coupling, a wireless handset submitted for equipment certification or for a permissive change relating to hearing aid compatibility must meet, at a minimum, the T3 rating associated with either the 2007 ANSI HAC Standard or the 2011 ANSI HAC Standard.<sup>19</sup>

To avoid confusion and to ensure consistency with Commission precedent in this proceeding,<sup>20</sup> the Bureaus should make clear that manufacturers and/or service providers are not required to recertify existing handsets under the new 2011 ANSI HAC Standard if those handsets have been certified under a standard that the Commission accepted at the time of certification. Recertification in these circumstances would introduce unnecessary and confusing compliance issues for wireless handset manufacturers and service providers.

Moreover, the Bureaus should state expressly that for purposes of compliance with the Commission's HAC benchmarks, service providers and manufacturers should be able to count

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<sup>17</sup> See *NPRM* at 14994–95, ¶ 7.

<sup>18</sup> See *NPRM* at 14999, Appendix A, proposed § 20.19(b)(1).

<sup>19</sup> See *id.*, proposed § 20.19(b)(2).

<sup>20</sup> See *Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets; Petition of American National Standards Institute Accredited Standards Committee C63 (EMC) ANSI ASC C63*<sup>®</sup>, First Report and Order, 23 FCC Rcd 3406, 3439, ¶ 81 (2008).

handsets previously certified under older standards that are offered after adoption of the 2011 ANSI HAC Standard. This approach will minimize handset manufacturer and wireless service provider concerns regarding complying with the Commission's HAC benchmarks while continuing to maximize the availability of HAC wireless handsets for consumers.

These express statements by the Bureaus would be consistent with prior Commission precedent in the HAC docket. In 2008, when adopting the 2007 ANSI HAC Standard as a replacement for earlier standards, the Commission made clear the following:

We further determine **not to require recertification of handsets previously certified** under one of the older standards, **but instead to continue recognizing such phones as hearing aid-compatible** even after the 2007 standard becomes mandatory for new certifications.<sup>21</sup>

The Bureaus should make similar determinations for service providers and manufacturers in this case and revise the proposed rules accordingly, to simplify the transition for service providers, manufacturers, and consumers.

**C. The Proposed Rule Changes Will Likely Maintain Existing Compliance Costs to Certify and Offer New HAC Wireless Handsets**

As the *NPRM* recognizes, wireless handsets operating in newly covered air interfaces are not expected to have technical difficulty meeting HAC ratings using the 2011 ANSI HAC Standard.<sup>22</sup> CTIA agrees that the adoption of the 2011 ANSI HAC Standard is also unlikely to impose any new or additional major compliance issues or impose materially greater obligations with respect to wireless handsets operating in newly covered frequency bands and air interfaces

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<sup>21</sup> *Id.* (emphasis added); *see also id.*, 23 FCC Rcd at 3440, ¶ 83 (“Grants of equipment certification previously issued under earlier versions of the standard will remain valid for hearing aid compatibility purposes, and if a permissive change is submitted for a reason not related primarily to a handset model’s hearing aid compatibility status, the analysis of the effect of that change on a phone’s compliance status may use the version of the ANSI C63.19 standard under which the hearing aid compatibility certification for that model was first made.”).

<sup>22</sup> *See NPRM* at 14996, ¶ 9.

than those already imposed under Commission rules.<sup>23</sup> Nevertheless, service providers or manufacturers may find that compliance costs significantly increase under the new HAC rules given the expanded scope of covered frequency bands and air interfaces. Consistent with the Commission's HAC policy to account for technical feasibility, marketability and provide the industry flexibility to meet consumers' needs, the Commission should expeditiously revise the rules to address any significant increase to compliance costs to ensure that Americans with hearing loss will reap the full benefits of new wireless technologies as they are introduced into the marketplace.<sup>24</sup>

**D. CTIA Supports an Appropriate 24-Month Transition Period Consistent with Commission Precedent**

CTIA believes a 24-month transition period is necessary and appropriate for benchmark compliance for all covered service provider and manufacturing entities, commencing on the date of Federal Register publication of the rules adopting the 2011 ANSI HAC Standard.<sup>25</sup> While, as noted above, CTIA is optimistic that adoption of the 2011 ANSI HAC Standard will not cause significant new or additional costs beyond existing costs to comply with the Commission's HAC rules, manufacturers and service providers will need a reasonable opportunity to integrate the new standard into typical product development, testing, certification and deployment cycles.

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<sup>23</sup> See *id.* at 14994, ¶ 6.

<sup>24</sup> See *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, 25 FCC Rcd 11167, 11174, ¶18 (2010) ("*Policy Statement and Second Report and Order and Further Notice*").

<sup>25</sup> See *NPRM* at 14995, ¶ 8.

A 24-month transition period is consistent with the Commission’s approach to implementing the de minimis exception to the HAC rules,<sup>26</sup> as well as its recent implementation of Advanced Communications Services (“ACS”) provisions of the CVAA, which acknowledge usual industry product cycles.<sup>27</sup> As the *NPRM* explains, the Bureaus have authority delegated by the Commission to adopt a 24-month transition period and CTIA believes such a period is both necessary and consistent with Commission precedent.<sup>28</sup>

#### **E. CTIA Supports the *NPRM*’s Proposal Regarding Disclosure**

Consistent with the Commission’s existing HAC disclosure requirements, CTIA supports the *NPRM*’s proposed approach for handsets introduced within 12 months of *Federal Register* publication of rules adopting the 2011 ANSI HAC Standard that meet HAC criteria “under previously covered air interfaces, but that have been tested and found not to meet such criteria under one or more newly covered air interfaces.”<sup>29</sup> The *NPRM* proposes, for such handsets, “to rely on a general disclosure requirement backed by case-by-case resolution in the event of

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<sup>26</sup> See *Policy Statement and Second Report and Order and Further Notice* at 11185-11186, ¶¶ 49-50 (establishing a 24-month transition period for various aspects of the HAC *de minimis* rule); *id.*, 25 FCC Rcd at 11199, ¶ 92 (noting that the initial benchmarks for acoustic coupling capability became effective “only two years” after the relevant Commission order).

<sup>27</sup> See *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission’s Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557, 14602-03, ¶ 110 (2011) (establishing a 24-month phase-in period of the ACS rules to “give all covered entities the time to incorporate their new obligations into their development processes.”)

<sup>28</sup> See *NPRM* at 14993–94, ¶ 4 & n. 19, *citing* 47 C.F.R. § 20.19(k)(1) (codifying timeframes permitted under delegated authority).

<sup>29</sup> See *NPRM* at 14996, ¶ 9.

disputes.”<sup>30</sup> This approach is reasonable and protects consumers’ interests as well as those of service providers and manufacturers.

### III. CONCLUSION

For the reasons stated above, CTIA supports the *NPRM*’s proposal to incorporate the 2011 ANSI HAC Standard into the Commission’s rule. The Bureaus should state expressly that handsets already certified under the 2007 ANSI HAC Standard do not need to be recertified under the new standard going forward, and that service providers and manufacturers can count those handsets as hearing aid-compatible even after the 2011 ANSI HAC Standard becomes mandatory for new certifications. The Bureaus also should adopt a 24-month transition period for compliance with the HAC benchmarks, as proposed in the *NPRM*.

Respectfully submitted,

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<sup>30</sup> *See id.* The Bureaus propose to promulgate rules to ensure adequate disclosure. *Id.*