

**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

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

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I. INTRODUCTION AND SUMMARY

CTIA – The Wireless Association® (“CTIA”) hereby replies to initial comments filed in response to the above-captioned *Second Further Notice of Proposed Rulemaking* (“NPRM”),¹ released by the Wireless Telecommunications Bureau (“WTB”) and Office of Engineering and Technology (“OET”) (the “Bureaus”). The record supports the *NPRM*’s proposal to revise the 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”)² into the rules, replacing the 2007 version of that standard (“2007 ANSI HAC

¹ *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”). The Bureaus will act upon the *NPRM* based on authority delegated in the Rules. See 47 C.F.R. § 20.19(k).

² 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”).

Standard”).³ However, in adopting the new standard, the Bureaus should carefully manage the transition process in order to realize the new standard’s full benefits for consumers who use hearing aid devices. In adopting the 2011 ANSI HAC Standard, the Bureaus should provide:

- An express statement that, consistent with the new standard, some lower power transmitters that are unlikely to cause unacceptable radio frequency (“RF”) interference to hearing aids will be deemed to have an acceptable “M4” rating under the HAC rules;
- A reasonable 24-month transition period for benchmark compliance by service providers and manufacturers that is consistent with Commission precedent;
- A 12-month transition period for testing compliance that allows manufacturers the ability to utilize the 2011 ANSI HAC Standard as soon as possible;
- An express statement that for multi-mode handsets that include future Voice over Long Term Evolution (“LTE”) technology (“VoLTE”), parties are permitted to use the 2011 ANSI HAC Standard to certify such handsets as HAC-compliant by testing the protocols that are covered by the new standard without testing VoLTE, until the Commission provides the guidance requested below;
- The general disclosure requirement proposed in the *NPRM*, rather than prescribed language; and
- An express statement that wireless handsets already certified under the 2007 ANSI HAC Standard do not need to be recertified and that service providers and manufacturers may continue to count those already-certified handsets as hearing aid-compatible.

The Bureaus should build on the success of the Commission’s HAC rules for digital wireless handsets by adopting the 2011 ANSI HAC Standard. As CTIA noted in our initial comments, adoption of the 2011 ANSI HAC Standard will have multiple benefits for consumers, service providers, and manufacturers.⁴ The Bureaus should not adopt some parties’ proposals to

³ 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”).

⁴ See Comments of CTIA at 1-2, 4-5. Unless otherwise noted, all comments cited herein are short-cited, and refer to comments filed on or about January 13, 2012, in WT Docket No. 07-250.

burden service providers and manufacturers with requirements more onerous than those proposed in the *NPRM* or justified under Commission precedent. In addition, CTIA continues to recommend that the Commission consider issues concerning hearing aid device immunity with respect to any future rules and regulations, and should work with relevant stakeholders to determine the compatibility and immunity capabilities that would be appropriate for hearing aid devices.⁵

II. THE RECORD SUPPORTS ADOPTION OF THE 2011 ANSI HAC STANDARD CONSISTENT WITH PRECEDENT AND THE *NPRM*

A. All Commenters Agree That the Commission Should Incorporate the 2011 ANSI HAC Standard into the Rules

All commenting parties support adoption of the 2011 ANSI HAC Standard as a technical standard for evaluating the hearing aid compatibility of wireless handsets.⁶ As discussed in the *NPRM*, the public interest benefits of adopting the 2011 ANSI HAC Standard are clear. The proposed adoption will provide greater certainty and flexibility to service providers and handset manufacturers in determining compliance with the HAC rules. As discussed below, the Bureaus should provide additional flexibility to the wireless industry in some areas and reject attempts by some commenters to unnecessarily burden service providers and manufacturers in specifying the rules governing transition to the 2011 ANSI HAC Standard and disclosure under that standard.

⁵ See Comments of CTIA at 4, *citing* Comments of CTIA in WT Docket No. 07-250 (filed Oct. 25, 2010) at 12-13.

⁶ See Comments of CTIA at 1-2, 4-5; Comments of Hearing Loss Association, *et al* (“Advocacy Groups”) at 1; Comments of Hearing Industries Association (“HIA”) at 1-2; Comments of Samsung Telecommunications America, LLC (“Samsung”) at 1-4; Comments of Sprint Nextel Corporation (“Sprint”) at 1-2; Comments of Telecommunications Industry Association (“TIA”) at 1, 2-3.

B. The Bureaus Should Adopt the 2011 ANSI HAC Standard’s Treatment of Low Power Devices Deemed to Have an M4 Rating

CTIA opposes the attempt of the Hearing Industries Association (“HIA”) to modify the 2011 ANSI HAC Standard’s treatment of low power devices when incorporating that standard into the rules. As the *NPRM* recognizes, 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.” The standard deems these transmitters to have an acceptable M4 rating.⁷ HIA expresses concern about such devices being deemed to have an acceptable M4 rating under the new standard, and argues that they should not be “[a]utomatically [e]xempt from HAC [c]ompliance.”⁸ CTIA opposes HIA’s proposal.

The Bureaus should not alter the incorporated standard or otherwise amend the HAC rules as HIA proposes. Rather, the Bureaus should expressly state that, consistent with the new standard, some lower power transmitters that are unlikely to cause unacceptable RF interference to hearing aids will be deemed to have an acceptable M4 rating under the HAC rules.

HIA provides no factual basis for its proposal other than claims of a vague concern expressed by “some hearing aid design engineers.”⁹ In contrast, the 2011 ANSI HAC Standard represents a voluntary, consensus-oriented approach that reflects significantly more sophisticated testing and design principles than the 2007 ANSI HAC Standard. To effectively modify the 2011 ANSI HAC Standard in this regard would be to nullify a significant portion of the utility of adopting the standard. Specifically, the Commission’s adoption of the 2011 ANSI HAC

⁷ See *NPRM* at 14993, ¶ 3, *citing* 2011 ANSI Standard at 12-13; ASC C63[®] Supplemental Report, Annex A at ii.

⁸ See Comments of HIA at 4 (heading to Section II).

⁹ *Id.* at 4.

standard is likely to increase the number of available HAC wireless handsets to consumers who use hearing aid devices while HIA's proposal would be more likely to substantially constrain the number of handsets that may be certified HAC. As the *NPRM* recognizes, the 2011 ANSI HAC Standard is designed to advance the public interest by updating the Commission's rules consistent with advances in technology and bringing additional frequency bands and air interfaces into the HAC regime.¹⁰ The M4 rating deemed to be satisfied for the low-power transmitters defined in the 2011 ANSI HAC Standard is a prime example of how such updating is consistent with advances in technology and can increase the availability of HAC wireless handsets for consumers who use hearing aid devices.

C. The Bureaus Should Adopt an Appropriate 24-Month Transition Period for Benchmark Compliance, Consistent With Industry Realities and Commission Precedent

CTIA and other parties demonstrated in their initial comments that a 24-month transition period is necessary, appropriate and consistent with Commission precedent¹¹ for benchmark compliance for all covered service provider and manufacturing entities.¹² The Bureaus should reject the comments of the Advocacy Groups and HIA, which argue for shorter phase-in periods,¹³ and provide a 24-month transition period for benchmark compliance.

A 24-month transition for HAC benchmark compliance by service providers and manufacturers under the new standard is consistent with the Commission's recent phase-in

¹⁰ See *NPRM* at 14994, ¶ 6.

¹¹ See Comments of CTIA at 8-9; Comments of Sprint at 1-2; Comments of TIA at 4. The 24-month phase-in for benchmark compliance should commence on the date of Federal Register publication of the rules adopting the 2011 ANSI HAC Standard. See Comments of CTIA at 8.

¹² See *NPRM* at 14995, ¶ 8. This transition period is for compliance with the benchmarks of Sections 20.19(c)-(d) of the Rules, 47 C.F.R. § 20.19(c)-(d).

¹³ See Comments of Advocacy Groups at 2; Comments of HIA at 2-3.

periods for accessibility rules under the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”). In two CVAA-related rulemakings within the last four months, the Commission selected a 24-month phase-in period as being suitable for implementation of technically complex accessibility rules, specifically with respect to (i) the new accessibility rules for service providers and manufacturers for Advanced Communications Services (“ACS”), released October 7, 2011,¹⁴ and (ii) the device rules for closed captioning of video programming delivered over Internet Protocol (“IP captioning”), released January 13, 2012.¹⁵ As noted below, the shorter periods proposed by the Advocacy Groups and HIA could considerably and unnecessarily complicate the ability of manufacturers and service providers to offer handsets tested with the 2011 ANSI HAC Standard within the typical product cycle period to consumers who use hearing aid devices.

D. A 12-month Transition Period for Testing Compliance Will Support the 24-month Compliance Period for Benchmark Compliance

Separate from and within the 24-month transition period for benchmark compliance discussed above, CTIA agrees with Samsung that a 12-month transition period is appropriate for testing compliance by manufacturers, except with respect to VoLTE, as discussed below.¹⁶

¹⁴ 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) (“ACS Order”) (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”).

¹⁵ See *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order, MB Docket No. 11-154, FCC 12-9, ¶ 122 (rel. Jan. 13, 2012).

¹⁶ See Comments of Samsung at 4-5, *citing NPRM* at 14994-95, ¶ 7.

CTIA supports Samsung and the proposal of the *NPRM* that during this testing transition period, manufacturers will be able to choose either the 2011 ANSI HAC Standard or the 2007 ANSI HAC Standard for testing of a particular handset, thereby providing a reasonable time to prepare for those manufacturers and Telecommunications Certification Bodies (“TCBs”) not yet ready for the new standard.¹⁷ The proposed 12-month transition period for testing compliance is consistent with the Commission’s existing rules.¹⁸

A 12-month transition period for testing compliance will support the smooth deployment of new wireless handsets within the 24-month period for benchmark compliance requested above. The 12-month transition period for testing will help ensure that handsets tested under the 2011 ANSI HAC Standard will be available to service providers and manufacturers so that they can be offered to consumers within the 24-month benchmark compliance period. This situation is analogous to the dual phase-in periods that the Commission recently adopted in the ACS rulemaking, which consist of a 12-month phase-in period for the ACS recordkeeping requirement and a 24-month phase-in for the ACS accessibility rules.¹⁹

E. The Bureaus Should Carefully Manage the Treatment of Multi-Mode Handsets That Include VoLTE Because, as a Nascent Air Interface with Developing Standards and Services, Future LTE Services May Not be Fully Addressed By the 2011 ANSI HAC Standard

Consistent with Samsung’s comments, CTIA urges the Bureaus to clarify the treatment of HAC compliance for multi-mode handsets that support VoLTE services, because the 2011 ANSI HAC Standard may not specifically address HAC testing for all future LTE services.²⁰ For

¹⁷ See *NPRM* at 14994-95, ¶ 7.

¹⁸ See *id.*, citing 47 C.F.R. §20.19(b).

¹⁹ See *ACS Order*, 26 FCC Rcd at 14601-02, ¶ 107.

²⁰ See Comments of Samsung at 5.

multi-mode handsets that support VoLTE, CTIA urges the Bureaus to state expressly that such handsets may be certified as HAC-compliant if they otherwise satisfy the 2011 ANSI HAC Standard for air interfaces covered by the new standard (such as GSM, UMTS, and CDMA).²¹ In this case, VoLTE, which is not specifically addressed by the new standard due to the nascent nature of VoLTE services, would not be tested until OET provides to the public specific HAC testing guidance under the 2011 ANSI HAC Standard for LTE. Service providers and manufacturers would disclose the absence of testing for VoLTE on multi-mode handsets consistent with the general disclosure requirement proposed in the *NPRM* and Commission precedent.²²

The requested clarification for multi-mode handsets with respect to LTE is in the public interest because it will permit manufacturers and service providers to realize the benefits of using the 2011 ANSI HAC standard to test the technologies on multi-mode handsets that are covered by the new standard. This narrow clarification will likely increase the availability of HAC wireless handsets without limiting access to innovative digital wireless handsets to consumers who use hearing aid devices because VoLTE and other LTE applications are still in development and not widely available to consumers.²³ A general disclosure requirement for the relevant

²¹ The proposed rules are unclear on this point. *See NPRM*, App. A, §§ 20.19(b)(3)(i)-(ii), (f)(2)(i)-(ii). However, CTIA endorses the language of proposed Section 20.19(b)(3)(ii) to the extent it provides that a handset tested under the 2007 ANSI HAC Standard may be certified HAC for the frequency bands covered by that standard, rather than the 2011 ANSI HAC Standard's frequency bands.

²² *See NPRM* at 14996, ¶ 9.

²³ *See* Michelle Donegan, *VZ Plans Nationwide VoLTE in 2013*, LIGHT READING, Jan. 19, 2012, http://www.lightreading.com/document.asp?doc_id=216534& (reporting that Verizon Wireless plans to roll out VoLTE services nationwide in the U.S. in early 2013) *and* Phil Goldstein, *Report: Verizon to Launch Nationwide VoLTE in Early 2013*, FIERCE WIRELESS, Jan. 19, 2012, <http://www.fiercewireless.com/story/report-verizon-launch-nationwide-volte-service-early-2013/2012-01-19> (reporting that Verizon Wireless plans to deploy VoLTE in 2013, MetroPCS

multi-mode handsets would help ensure that consumers are aware that VoLTE functions may not be tested under the 2011 ANSI HAC Standard.

The requested clarification regarding multi-mode handsets with VoLTE is necessary because of missing guidance from the Commission to TCBs based on the 2011 ANSI HAC Standard²⁴ regarding both M-ratings and T-ratings for VoLTE, as follows:

M-Ratings for VoLTE: For VoLTE RF testing (“M-ratings”), OET must provide guidance to TCBs on how to set up an LTE base station simulator (“call box”) to simulate an LTE call appropriately.²⁵ CTIA anticipates that OET should be able to provide this guidance relatively quickly after consulting with LTE experts.

T-Ratings for VoLTE: This is a more substantial challenge. For VoLTE magnetic coupling testing (“T-ratings”), the call box must insert simulated human speech at a conversational volume (*e.g.*, not shouting or whispering) into the call, which produces a response in the handset’s earpiece, which the T-coil hearing aid detects. The 2011 ANSI HAC Standard does not specify the appropriate conversational volume level for T-testing for VoLTE.²⁶ CTIA anticipates that further consultation will be necessary between OET, industry, TCBs, and other stakeholders to determine the proper level.²⁷

continues to test VoLTE technology for launch in 2012, and AT&T Mobility has targeted 2013 for VoLTE deployment).

²⁴ In addition, CTIA agrees with Samsung that the availability of other guidelines provided by the Commission for protocols covered by the 2011 ANSI HAC Standard will be a gating factor with respect to the use of the standard by manufacturers. *See* Comments of Samsung at 5.

²⁵ This includes resource block allocation, call connection type, modulation scheme and bandwidth size.

²⁶ *See* 2011 ANSI HAC Standard at 46, Table 7.1 (not listing LTE among the covered standard transmission protocols).

²⁷ In addition, LTE call boxes used by TCBs do not yet support the insertion of simulated human speech for purposes of T testing.

Given the evolving nature of wireless technologies, the Commission can appreciate that the 2011 ANSI HAC Standard is not absolutely comprehensive and future-proof – the new standard represents an admirably broad stakeholder effort to address a complex subject that will have significant public benefits.²⁸ The Commission addressed similar issues when it adopted the 2007 ANSI HAC Standard to replace earlier standards. The narrow clarification that CTIA requests for VoLTE on multi-mode handsets is similar to the interim rule adopted with respect to Wi-Fi by the Commission in the *First HAC Report and Order* in this docket.²⁹ As noted, CTIA does not believe the lack of testing capabilities for VoLTE will inhibit the ability of consumers who use hearing aid devices to access multi-mode wireless handsets due to the extremely nascent deployment of VoLTE. Therefore, the Commission should adopt the 2011 ANSI HAC standard with the requested clarification.

F. CTIA Supports the NPRM’s Proposal to Require General Disclosure about Untested or Non-Compliant Air Interfaces

CTIA agrees with TIA³⁰ in supporting the NPRM’s proposed disclosure approach for handsets that (i) are introduced within 12 months of *Federal Register* publication of rules adopting the 2011 ANSI HAC Standard, and (ii) meet HAC criteria “under previously covered air interfaces, but that have been tested and found not to meet such criteria under one or more

²⁸ The Advocacy Groups request that the Commission encourage the C63.19 working group to address some other issues in the new standard. See Comments of Advocacy Groups at 1-2. Those issues should not deter the Bureaus from adopting the 2011 ANSI HAC Standard consistent with CTIA’s recommendations in its comments and this reply.

²⁹ 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[®]*, First Report and Order, 23 FCC Rcd 3406, 3432-33, ¶¶ 66-67 (2008) (“*First HAC Report and Order*”).

³⁰ See Comments of TIA at 6.

newly covered air interfaces.”³¹ For such handsets, the *NPRM* proposes “to rely on a general disclosure requirement backed by case-by-case resolution in the event of disputes.”³² This approach is reasonable and protects consumers’ interests as well as those of service providers and manufacturers. In fact, adopting this approach is consistent with the *First HAC Report and Order*.³³

The Bureaus should adopt the proposal in the *NPRM* for a general disclosure requirement rather than prescribe specific language as proposed by the Advocacy Groups and HIA³⁴ or specifying formats and locations for such disclosures as proposed by the Advocacy Groups.³⁵ As a general matter, the proposals of these parties are inconsistent with the industry/consumer consensus principles in the *Multi-Band Principles* presented to the Commission in 2008.³⁶ Moreover, adoption of the 2011 ANSI HAC Standard will lessen the need for prescribed disclosures because the new standard more comprehensively applies to covered air interfaces, for which no disclosure at all would be necessary. As the *NPRM* notes, the benefits of the 2011 ANSI HAC Standard include its expansion of the operating frequency range for covered wireless devices and its exemption from RF emissions testing for some lower power transmitters that are unlikely to cause unacceptable RF interference to hearing aids.³⁷

³¹ See *NPRM* at 14996, ¶ 9.

³² See *id.* The Bureaus propose to promulgate rules to ensure adequate disclosure. *Id.*

³³ See *First HAC Report and Order*, 23 FCC Rcd at 3433, ¶ 67 (2008).

³⁴ See Comments of Advocacy Groups at 2-3; Comments of HIA at 5.

³⁵ See Comments of Advocacy Groups at 3.

³⁶ See *Multi-Band General Principles Regarding Hearing Aid Compatibility*, at 2-3 (Sept. 10, 2008) (“*Multi-Band Principles*”), attached to Letter from Thomas Goode, General Counsel, ATIS, and Deirdre Y. Cheek, Attorney, ATIS, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 07-250 (Sept. 11, 2008).

³⁷ See *NPRM* at 14992-93, ¶ 3.

CTIA therefore opposes adoption of the disclosure language proposed by the Advocacy Groups and HIA.³⁸ Such a prescription is less flexible and ultimately less effective than the more flexible general disclosure requirement proposed in the *NPRM*. Similarly, CTIA believes that a general disclosure requirement should be sufficient to address the specific situation involving T-testing of VoLTE described by Samsung.³⁹

G. The Record Supports An Express Statement That Wireless Handsets Already Certified Under The 2007 ANSI HAC Standard Do Not Need Recertification And Will Continue To Count As HAC Compliant

Sprint agrees with CTIA that to avoid confusion and to ensure consistency with Commission precedent in this proceeding,⁴⁰ 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.⁴¹ The Bureaus also should state expressly that for purposes of compliance with the HAC benchmarks, service providers and manufacturers should be able to count handsets previously certified under older standards that are offered after adoption of the 2011 ANSI HAC Standard.⁴² As Sprint and CTIA have explained, this approach would be consistent with Commission precedent in the HAC docket.⁴³ To simplify the transition for

³⁸ See Comments of Advocacy Groups at 2-3; Comments of HIA at 5.

³⁹ See Comments of Samsung at 5.

⁴⁰ See *First HAC Report and Order*, 23 FCC Rcd at 3439, 3440, ¶¶ 81, 83 (2008).

⁴¹ See Comments of Sprint at 2.

⁴² See *id.*

⁴³ See *id.*; see also Comments of CTIA at 7, citing *First HAC Report and Order* at 3439, ¶ 81 (holding, when adopting the 2007 ANSI HAC Standard, that “[w]e 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.”); see also *id.* at 3440, ¶ 83.

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

III. CONCLUSION

CTIA urges the Bureaus to incorporate the 2011 ANSI HAC Standard into the Commission's rules consistent with these reply comments and CTIA's initial comments on the *NPRM*.

Respectfully submitted,

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