

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP, INC.

The Rural Telecommunications Group, Inc. (“RTG”), by its attorneys and pursuant to Sections 1.415 and 1.419 of the Rules and Regulations of the Federal Communications Commission (“FCC” or “Commission”), hereby submits its comments in response to the Wireless Telecommunications Bureau’s (“WTB”) *Public Notice* regarding proposed rules governing hearing aid-compatible (“HAC”) mobile handsets¹ as well as a *Public Notice* regarding the effects of new legislation on said proposed rules.²

I. BACKGROUND

The Commission has proposed revisions to its HAC rules in three key areas. First, the Commission proposes a broad extension of its HAC rules to include customer equipment used to provide wireless voice communications over any type of network among members of the public or a substantial portion of the public. WTB seeks comment on whether considerations of technological feasibility or marketability prevent application of these requirements to any such

¹ Comment Cycle Established For Further Notice Of Proposed Rulemaking Regarding Rules Governing Hearing Aid-Compatible Mobile Handsets, WT Docket 07-250, *Public Notice*, DA 10-1702 (rel. September 8, 2010). *See also* Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets, WT Docket No. 07-250, *Policy Statement and Second Report and Order and Further Notice of Proposed Rulemaking*, FCC 10-145 (2010) (*Second Order and FNPRM*).

² Wireless Telecommunications Bureau Requests That Comments In Hearing Aid Compatibility Proceeding Address Effects Of New Legislation, WT Docket No. 07-250, *Public Notice*, DA 10-1936 (rel. October 12, 2010).

devices. Second, the Commission proposes to extend the requirement to offer consumers in-store testing of hearing aid-compatible handsets beyond retail stores owned or operated by service providers to some or all independent retail outlets. Third, the Commission proposes to allow user-controlled reduction of power as a means to meet the hearing aid compatibility standard for operations over the legacy GSM air interface in the 1900 MHz band.

In addition, WTB seeks comment on the Twenty-First Century Communications and Video Accessibility Act of 2010 (“Act”), which was signed into law on October 8, 2010.³ Among other things, the Act extends HAC requirements to customer premises equipment used with advanced communications services that is designed to provide two-way voice communications in the same manner as a telephone. WTB specifically seeks comment on the effect, if any, of the Act on the Commission’s aforementioned proposed HAC rules.

II. DISCUSSION

A. Extension of Hearing Aid Compatibility Rules to New Technologies and Networks.

The Commission proposes extending its HAC requirements to new technologies and networks, based in part on a finding that the scope of the HAC Act broadly encompasses devices used to provide voice communications regardless of other regulatory classifications or whether the services are commercial mobile radio services (“CMRS”), with the exception of certain non-interconnected systems used solely for internal communications (e.g., public safety or dispatch networks). RTG does not oppose the extension of the Commission’s HAC rules to technologies and networks beyond CMRS. However, RTG encourages the Commission to implement its expanded, non-CMRS HAC requirements in a measured and multi-phase manner, similar to how the Commission implemented its HAC requirements with CMRS carriers.

³ S. 3304, 111th Cong. sec. 102 (as signed by President, Oct. 8, 2010); *see also* S. 3828, 111th Cong. (as signed by President, Oct. 8, 2010).

Many of the same issues that existed with rural and smaller CMRS providers also exist with rural and smaller non-CMRS providers. As further discussed below, the Commission should provide a longer transition period for rural and small carriers. Furthermore, to ensure that small and rural providers have access to HAC-rated devices in a timely manner, the Commission should require manufacturers to provide HAC-rated devices directly to smaller providers.

1. Transition Period.

Rural carriers, including the members of RTG, have, at best, second-hand access to handsets and devices. When new handsets become available to large, nationwide (Tier I) carriers, such handsets generally do not become available to rural carriers until six months later or longer. Instead, rural and smaller carriers must rely upon third-party vendors that aggregate available “leftover” handsets. These handsets have spent several months in the market by the time they become available to rural and smaller carriers.

In several instances, certain new handsets are made available exclusively to large, nationwide carriers (e.g., Apple’s current iPhone models being made exclusive to AT&T Wireless’s network and Motorola’s current Droid models being made exclusive to Verizon Wireless’s network). Rural carriers, which lack significant numbers of subscribers, have no influence over handset manufacturers. FCC policy must take into account rural carriers’ lack of market clout and lack of handset options.

The Commission previously has recognized these circumstances when it established separate, tiered handset deployment benchmarks for nationwide (Tier I) carriers and medium and small (Tiers II and III) carriers:

Tier I wireless carriers have formidable means to drive manufacturers’ equipment development and deployment efforts... The largest carriers have a greater number of subscribers and place the largest orders for compliant equipment, and therefore easily become priority customers for manufacturers and vendors. In contrast to large carriers,

smaller wireless carriers may be disadvantaged when they seek to acquire location technologies, network components, and specialized handsets. ... The Commission, therefore, justified its decision to adopt a handset deployment benchmark for Tier I wireless carriers in light of the varied circumstances among individual wireless carriers, and pursuant to Congress' mandate that it ensure the orderly and efficient implementation of the hearing aid compatibility requirements.⁴

In 2008, the Commission continued to recognize this discrepancy when it adopted new benchmarks and deadlines regarding deployment of handsets rated M3 or higher for RF interference reduction and handsets rated T3 or higher for inductive coupling capability and provided a three-month extension of deadlines for meeting these benchmarks:

... [T]o ensure that all consumers will have options regardless of where they reside or from which carrier they obtain service, we adopt the same deployment benchmarks for all service providers, although we extend the compliance deadlines for service providers other than Tier I carriers in recognition of their more limited handset options and their difficulty obtaining the newest offerings.⁵

Furthermore, the Commission has granted waivers consistently to rural and smaller carriers that required additional time to meet deployment benchmarks for HAC-rated handsets.

Here, the Commission proposes to expand its HAC requirements to non-CMRS handsets, which the Commission recognizes have been heretofore outside the subset of CMRS that is currently covered by Section 20.19(a). The Commission should adopt a transition period of two years or longer, which would be consistent with the period that was afforded initially to comply with the original HAC requirements for acoustic coupling compatibility. Additionally, for reasons stated above, the Commission should extend any transition period it adopts by an additional year for rural and smaller carriers. As long as Tier II and Tier III carriers continue to rely on third-party vendors carrying inventory that may be outmoded by several months with

⁴ Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, *Order on Reconsideration and Notice of Proposed Rulemaking*, 20 FCC Rcd 11221, at ¶ 22 (2005).

⁵ 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[®], WT Docket No. 07-250, *First Report and Order*, FCC 08-68 at ¶ 27 (2008).

respect to HAC ratings, then it stands to reason that it would be infeasible for such carriers to meet deployment benchmarks for entirely new types of handsets on the same schedule as Tier I carriers.

2. Manufacturers and Tier II/III Carriers.

RTG acknowledges that every service provider, regardless of its size and handset offerings, has customers who need hearing aid-compatible phones. RTG's efforts to delay the application of the Commission's proposed expanded HAC rules to rural and smaller carriers reflect the limited handset options faced by such carriers. In order to ensure that small and rural providers are able to meet the needs of all customers in a timely manner, RTG urges the Commission to require manufacturers to provide HAC-rated devices directly to smaller providers.

B. In-Store Testing Requirement for Independent Retailers.

The Commission has proposed extending its in-store testing requirement to some or all independent retail outlets (i.e., those not owned or operated by service providers). RTG notes that independent retailers play a valuable role in selling inventory and that such "informal" retail locations should not be subject to the same stringent HAC requirements as providers as long as consumers are made aware that they can get "full service" HAC expertise and options at provider-based retail operations. Among other things, WTB seeks comment as to whether the Commission should extend the in-store testing requirement to all entities that sell handsets to consumers through physical locations or whether some of these retailers should be excluded from this requirement. Such a requirement would chill sales in informal retail locations such as kiosks. RTG encourages the Commission to continue to allow "informal" sales without required in-store testing provided that HAC-rated handsets are available at these settings along with

information regarding HAC capabilities and instructions that testing can be done at certain provider outlets.

C. GSM Operations at 1900 MHz.

In the order portion of the *Second Order and FNPRM*, the Commission held that it would permit companies offering handsets operating over a legacy GSM air interface in the 1900 MHz band and that no longer qualify for the *de minimis* exception to meet HAC requirements by installing software on such GSM handsets that enables customers to reduce power. Here, in light of this 2G GSM technology being supplanted by current 3G and emerging 4G technologies, the Commission proposes to treat such reduced-power GSM handsets as hearing aid-compatible for all purposes. Specifically, the Commission would relax the requirement to test such handsets at full power in order to facilitate the availability of compliant handsets to consumers. RTG supports this proposition and it encourages the Commission to allow GSM handsets to be considered HAC-rated if such hearing aid-compliant operations are achieved using reduced power software. For rural and smaller carriers that continue to operate on a GSM network in the 1900 MHz band, relaxing this requirement would facilitate compliance with current HAC standards.

D. Effects of the Twenty-First Century Communications and Video Accessibility Act of 2010 on Proposed HAC Rules.

The Twenty-First Century Communications and Video Accessibility Act of 2010 is a wide reaching law that aims to bring disability access to a new generation of equipment and devices. WTB seeks comment on what effect, if any, this new law would have on the Commission's proposed HAC rules. For HAC purposes, the Act amends the Communications Act of 1934 and authorizes the Commission to require HAC compliance by all customer premises equipment ("CPE"), is defined as: (1) all essential telephones (coin-operated

telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids); (2) all U.S telephones (other than for export) manufactured more than one year after the date of enactment of the Hearing Aid Compatibility Act of 1988 or imported for use in the United States more than one year after such date; and (3) all customer premises equipment used with advanced communications services that is designed to provide two-way voice communication via a built-in speaker intended to be held to the ear in a manner functionally equivalent to a telephone.

Though the Act will primarily impact CPE manufacturers, it will inevitably impact providers of advanced communications services, including rural and smaller carriers. As the demand for advanced communications continues to grow, rural and smaller carriers will have a continuing, if not greater, need for access to HAC-rated devices. If the availability of HAC-rated CPE contemplated in the Act mirrors the current availability of HAC-rated CMRS handsets, then the Commission will need to continue accommodating longer transition periods for rural and smaller carriers.

Respectfully submitted,

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