

**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)	
)	
Section 68.4(a) of the Commission's Rules)	
Governing Hearing Aid Compatible)	WT Docket No. 01-309
Telephones)	
)	
Petition of American National Standards)	
Institute of Accredited Standards Committee)	
C63 (EMC) ANSI ASC C63 TM)	
)	
)	

**COMMENTS OF THE ALLIANCE FOR TELECOMMUNICATIONS
INDUSTRY SOLUTIONS (ATIS)**

December 21, 2007

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Summary

The Alliance for Telecommunications Industry Solutions' ("ATIS") Incubator Solutions Programs #4- Hearing Aid Compatibility ("AISP.4-HAC") commends the Commission for proposing to substantially adopt the Joint Consensus Plan proposals. These proposals, which address the technical complexities inherent in making wireless handset devices hearing aid compatible ("HAC") across all technology platforms, present a win-win solution for all interested parties and, if fully adopted, will achieve improved wireless services for consumers with hearing loss through increased access to hearing aid compatible handsets.

ATIS supports the Commission's proposals to adopt the components of the Joint Consensus Plan. In particular, AISP.4-HAC fully supports the Commission's adoption of the deployment benchmarks for M-rated as well as T-rated handsets as recommended by the Joint Consensus Plan. AISP.4-HAC also supports the annual unified deadline of February 18 set forth in the Joint Consensus Plan, but would not be opposed to the imposition of a staggering deadline that allows a short interval of six weeks between manufacturers and service providers.

AISP.4-HAC also supports without modification the manufacturer product refresh requirement recommended in the Joint Consensus Plan. However, AISP.4-HAC does not support having the FCC define "tiering" for Tier I carriers. While AISP.4-HAC supports the offering of HAC devices with a broad array of services, we recommend that the demarcation of tiers should not be made by the Commission but should be left to the industry in order to address the differences among product lines offered by different carriers and manufacturers.

AISP.4-HAC strongly supports the Commission's tentative conclusion to adopt the 2007

version of the C63.19 standard while phasing out the 2006 version by the end of 2009, and also supports the new reporting requirements for carriers and manufactures as set forth in the Joint Consensus Plan. AISP.4-HAC supports the Commission's proposal that additional information be reported by carriers and manufacturers in their HAC filings and the use of a standardized reporting form, such as the one that has been offered by ATIS on a complimentary basis for use by its members and by others in the industry.

AISP.4-HAC notes that the FCC's tentative conclusion that multi-mode phones should not be counted as HAC in any mode if they operate over air interfaces for which technical standards have not been established is beyond the scope of the Joint Consensus Plan and individual members may offer comments on this question separately.

AISP.4-HAC is pleased with the Commission's decision to retain the current *de minimis* exception for carriers and manufacturers. Additionally, AISP.4-HAC supports a further review of the HAC rules in 2010, as recommended by the Joint Consensus Plan, and also supports the examination of volume controls in wireless handsets.

Finally, AISP.4-HAC is pleased to support the Commission's stay of the current February 18, 2008, HAC requirements for 60 days, until April 18, 2008, and urges the Commission to take quick action to address the issues in the *NPRM* in order to provide the industry with the appropriate lead time to meet its HAC obligations.

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**COMMENTS OF THE ALLIANCE FOR TELECOMMUNICATIONS
INDUSTRY SOLUTIONS (ATIS)**

The Alliance for Telecommunications Industry Solutions (“ATIS”), on behalf of its Incubator Solutions Program #4 - Hearing Aid Compatibility (“AISP.4-HAC”), submits these comments in response to the *Second Report and Order (“SR&O”) and Notice of Proposed Rulemaking (“NPRM”)* released November 7, 2007, in the above-referenced docket.¹ AISP.4-HAC applauds the Federal Communications Commission (“Commission” or “FCC”) for “tentatively conclud[ing] substantially to adopt the provisions of the Joint Consensus Plan” filed by AISP.4-HAC.² AISP.4-HAC is pleased to see that the work of ATIS, including hundreds of hours of discussions and negotiations involving wireless handset manufacturers, service

¹ *Second Report and Order and Notice of Proposed Rulemaking*, WT Docket No. 07-250 (released Nov. 7, 2007).

² *NPRM* at ¶ 4.

providers and consumer advocates to develop a comprehensive consensus proposal has been embraced by the Commission.

AISP.4-HAC believes that the actions taken by the FCC in the *SR&O* and *NPRM* address the significant technical complexities experienced by manufacturers and service providers in implementing existing HAC requirements, while simultaneously ensuring that the consumers with hearing loss receive the full benefit of wireless communication services. These complexities and the need to address the needs of service providers, manufacturers and consumers with hearing loss have resulted in a complex, but effective set of proposed rules. As the Commission itself acknowledges, the Joint Consensus Plan proposals “are based on an interconnected set of rule changes” that “were developed through significant investigation and negotiations by the working group and its members.”³ Due to the complex and interconnected nature of the HAC rules proposed in the Joint Consensus Plan, AISP.4-HAC cautions that the Commission should closely consider the implications of any changes that may be proposed by commenters before adoption.

I. Background

ATIS is a technical planning and standards development organization accredited by the American National Standards Institute (“ANSI”) and committed to rapidly developing and promoting technical and operational standards for communications and related information technologies worldwide using a pragmatic, flexible and open approach. The ATIS membership spans all segments of the industry, including local exchange carriers, interexchange carriers, wireless equipment manufacturers, competitive local exchange carriers, data local exchange carriers, wireless providers, providers of commercial mobile radio services, broadband providers,

³ *NPRM* at ¶ 4-5.

software developers, and internet service providers. Industry professionals from more than 300 communications companies actively participate in ATIS' open industry committees and other forums.

AISP.4-HAC was created in July 2003 to investigate performance between hearing aids and wireless devices to determine methods of enhancing interoperability and the compatibility of wireless devices with hearing aids in order for those in the hearing aid and cellular wireless industries to meet the FCC's HAC requirements. Since its inception, AISP.4-HAC participants, including technical experts from wireless service providers and equipment manufacturers, as well as technical experts representing the hearing aid industry, have been deliberating to address technical issues concerning the usability of wireless devices for consumers with hearing aids.

The AISP.4-HAC has the following membership (*italics indicate participation in the working group developing this proposal*):

American Cellular Corporation	Leap Wireless
<i>AT&T</i>	LG
Brookings Municipal Utilities d/b/a	<i>Motorola, Inc.</i>
Swiftel Communications	
Carolina West Wireless	<i>Nokia</i>
Corr Wireless Communications, LLC	Qwest Wireless
Cricket Communications	<i>Research in Motion Ltd.</i>
Dobson Cellular Systems Inc.	<i>Samsung Telecommunications America LP</i>
Epic Touch	<i>Sprint Nextel</i>
Hewlett Packard	<i>Sony Ericsson Mobile Communications (USA) Inc.</i>
Immix Wireless	SunCom
Key Communications	<i>T-Mobile USA</i>
Keystone Wireless	UTSTARCOM
Kyocera Wireless	<i>Verizon Wireless</i>

AISP.4-HAC participants also included representatives from advocacy groups representing consumers with hearing loss and research institutes. The following consumer advocates and researchers actively participated in AISP.4-HAC's open meetings in the

development of the Joint Consensus Plan, which was negotiated as a cooperative effort among carriers, manufacturers, and these advocates:

Hearing Loss Association of America (HLAA)
Alexander Graham Bell Association for the Deaf and Hard of Hearing
Gallaudet University Technology Access Program
Rehabilitation Engineering Research Center on Telecommunications Access

The Joint Consensus Plan developed by AISP.4-HAC participants does the following: addresses technical challenges of achieving HAC compliance in a technologically neutral manner; recommends alternative deployment benchmarks of HAC compliant handset on both manufacturers and carriers; establishes a commitment to a future review of HAC implementation; and incorporates a plan to evaluate audio output levels and volume controls.

The process for achieving the Joint Consensus Plan proposals began in November 2006 when AISP.4-HAC formed its Working Group 10 (WG10), which is charged with developing and recommending solutions to the technical challenges associated with implementing the FCC's HAC rules mandating that fifty percent of the wireless devices offered by service providers and manufacturers be hearing aid compatible by February 18, 2008. Over the course of the year, the wireless device manufacturers, service providers, consumer advocates, and researchers participating in AISP.4-HAC WG10 held over 25 official meetings to hammer out agreements that address the interoperability and compatibility issues surrounding compliance with the existing HAC rules.

In January 2007, AISP.4-HAC submitted comments to the FCC describing the technical challenges associated with implementing the FCC's HAC rules, which mandated that fifty percent of the wireless devices offered by service providers and manufacturers of wireless devices be hearing aid compatible by February 18, 2008.⁴ In April 2007, AISP.4-HAC reached

⁴ See 47 CFR §20.19(c)(1)(ii) and (3)(ii) (2006) ("50% Rule").

consensus on a comprehensive alternative proposal to the FCC's existing 50% Rule. The consensus proposal contained agreements made by both carriers and manufacturers to address significant concerns that were not originally contemplated in the FCC's HAC rules. In June 2007, AISP.4-HAC submitted to the FCC supplemental comments that provided additional details regarding AISP.4-HAC's alternative consensus proposal to modify the existing FCC HAC requirements. Throughout the summer of 2007, representatives from AISP.4-HAC met with the representatives of the Wireless Bureau, OET and with each Commissioner's office to discuss the proposal as a way of ensuring Congress' goal of affording consumers with hearing loss with the means to achieve greater use of wireless handset devices.

II. Discussion

As noted above, the AISP.4-HAC commends the Commission for recommending adoption of the Joint Consensus Plan proposed by ATIS on behalf of industry, consumers and researchers. ATIS therefore supports the Commission's proposals to adopt the components of this plan. In addition, AISP.4-HAC provides the following comments on specific issues raised in the *NPRM*.

A. Deployment Benchmarks and Deadlines.

In the *NPRM*, the Commission seeks comment on its tentative conclusion to modify the current HAC requirements set forth in Section 20.19 of the Commission's rules and adopt new HAC deployment benchmarks for Tier I manufacturers and service providers consistent with the Joint Consensus Plan.⁵ As explained in the Joint Consensus Plan, "the current rules do not adequately address the problems associated with providing HAC across all technology

⁵ *NPRM* at ¶ 37-49.

platforms.”⁶ In the *NPRM*, the Commission notes that the “reduced thresholds [for M-rated] handsets strike an appropriate balance between maintaining technological neutrality and ensuring availability of hearing-aid compatible handsets to affected consumers.”⁷ AISP.4-HAC fully supports the Commission’s adoption of the deployment benchmarks for M-rated as well as T-rated handsets as recommended by the Joint Consensus Plan.

The Commission also requests comment on whether it should require staggered deployment deadlines for manufacturers and service providers to offer compliant handsets. To avoid uncertainty for compliance purposes, AISP.4-HAC believes that maintaining the single deployment deadline for carriers and manufacturers would be simpler to understand and would better promote compliance. Therefore, AISP.4-HAC supports the annual unified deadline of February 18 set forth in the Joint Consensus Plan. However, AISP.4-HAC would not be opposed to the Commission imposing a staggering deadline that allows a short interval of six weeks between manufacturers and service providers.

B. Product Refresh and Tiering Requirements.

The Commission seeks comment on whether to modify its requirement for “equipment manufacturers to meet a product refresh requirement consistent with the Joint Consensus Plan.”⁸ As noted in the Joint Consensus Plan, “people with hearing loss should have the benefits afforded the non-disabled community by having access to new, advanced devices.”⁹ To this end, in the Joint Consensus Plan, industry “agreed to offer a mix of new and existing models so

⁶ Comments of the Alliance for Telecommunications Industry Solutions on behalf of the ATIS Incubator Solutions Program #4 – Hearing Aid Compatibility, WT Docket No. 06-203 (June 25, 2007).

⁷ *NPRM* at ¶ 43.

⁸ *NPRM* at ¶ 54.

⁹ ATIS Supplemental Comments at 9.

people with hearing loss have access to the latest technology.”¹⁰ AISP.4-HAC believes that the manufacturer product refresh requirement as recommended in the Joint Consensus Plan and further explained in the supplemental comments will ensure that people with hearing loss have the opportunity to purchase a range of HAC products with varying features, functions, and prices.

The Commission also seeks feedback on its tentative conclusion to require Tier I carriers to offer to consumers hearing aid compatible handsets with different levels of functionality. The supplemental comments submitted by AISP.4-HAC acknowledged that “people with hearing loss want a choice in product types and prices,” and promised to include information on such “tiering” in carrier reports.¹¹ The FCC asks whether it is necessary to define the obligation to offer different levels of functionality “so that hard of hearing consumers have greater assurances that their carrier is providing access to feature-rich, as well as more economical, handsets, and so that service providers can better understand what the rule requires of them.”¹² Finally, the Commission proposes to include, within its definition of “functionality” the extent to which a handset model operates over multiple frequency bands where HAC standards have been defined.¹³ While AISP.4-HAC supports the offering of HAC devices with a broad array of services, and believes that the extent to which a handset model operates over multiple frequency bands may be one feature that may be taken into consideration when determining the “tiering” of a handset, it does not support having the FCC define “tiering” of product types and prices that are offered to consumers with hearing loss. It is not feasible to identify a uniform set of “tiers”

¹⁰ *Id.*

¹¹ *Id.* at 12.

¹² *NPRM* at ¶57.

¹³ *NPRM* at ¶ 56.

for all carriers that will appropriately apply to each carriers unique set of product offerings. Explained in the Joint Consensus Plan “the demarcation of tiers should be left to the industry” in order “to address the differences among product lines offered by different carriers and manufacturers.”¹⁴ To provide the Commission and the public with more information regarding tiering, as set forth in the Joint Consensus Plan, industry representatives have agreed “to include information on carriers’ implementation of “tiering” in their annual HAC status reports.¹⁵

C. 2007 ANSI C63.19 Technical Standard.

In the *NPRM*, the FCC seeks comment on its tentative conclusion to codify the 2007 C63.19 Technical Standard, which was balloted and approved by both C63® and ANSI on June 8, 2007, as the single version of the testing standard. Under the Commission’s proposal, both the 2006 and 2007 versions of the standard would be permitted “to be used for new RF interference and inductive hearing aid compatibility certification through 2009.”¹⁶ AISP.4-HAC strongly supports the Commission’s tentative conclusion to adopt the 2007 version of the C63.19 standard while phasing out the 2006 version by the end of 2009. AISP.4-HAC believes any device being measured during the phase out period must continue to use a single version of the standard (either the 2006 or 2007 version) for all measurements of that device.

D. New Reporting Requirements.

AISP.4-HAC supports the Commission’s tentative conclusion to adopt new reporting requirements for carriers and manufactures as set forth in the Joint Consensus Plan. Also, AISP.4-HAC finds beneficial and supports the submission of the additional information by

¹⁴ ATIS Supplemental Comments at 12.

¹⁵ *Id.*

¹⁶ *NPRM* at ¶ 61.

carriers and manufacturers (i.e., model number, air interfaces, and frequency bands over which compliant phones operate) proposed in the *NPRM*.¹⁷

In the *NPRM*, the Commission seeks comment on its tentative conclusion “to adopt substantially [the Joint Consensus Plan’s reporting] schedule, but with refinements.”¹⁸ Notably, the refinements specified would “begin the staggered reporting process with manufacturers reporting ... in May 2008 and Tier I carriers reporting in November 2008.”¹⁹ AISP.4-HAC supports maintaining the reporting dates as provided in the Joint Consensus Plan, which calls for manufacturers to provide an annual status report to the Commission on November 30 and carriers to provide their annual status report to the Commission six months later, on May 30.²⁰ Additionally, AISP.4-HAC believes that annual reporting is sufficient to provide the Commission with the information it requires to assess the HAC implementation.

In the *NPRM*, the Commission seeks comment on the value of the Commission developing a standardized status report template to facilitate accurate and complete reporting.²¹ AISP.4-HAC would support the use of a standardized form across the industry and, in fact, has created and utilized such a form for the past four years in filing a consolidated HAC compliance report. The AISP.4-HAC status report form has been prepared in compliance with the Commission’s *Report and Order* in WT Docket No. 01-309 and has been offered by ATIS on a complimentary basis for use by its members and by others in the industry. AISP.4-HAC is pleased to share its status report with the Commission for its use in creating a standardized form

¹⁷ *NPRM* at ¶ 68.

¹⁸ *NPRM* at ¶ 70.

¹⁹ *Id.*

²⁰ ATIS Supplemental Comments at 11.

²¹ *NPRM* at ¶ 69.

(included as **Attachment A**).²² AISP.4-HAC also believes the Commission should continue to allow, but not require, joint submission of ATIS' annual consolidated industry HAC status report.

E. De Minimis Exception.

AISP.4-HAC is pleased that the Commission in the *SR&O* accompanying the *NPRM* determined that, based on the record in this proceeding, the current *de minimis* exception for carriers and manufacturers would stay in place, and confirmed that this exception applies on a per-air-interface basis.²³ As noted in the Joint Consensus Plan, “under this exception, new air interfaces entering the market have the opportunity to develop adequately prior to the imposition of any stringent HAC regulatory obligations. Similarly, this exception permits the phase-out of older air interfaces based on market considerations without diverting resources to interfaces that soon will be discontinued.”²⁴

F. Multi-Mode Handsets.

In the *NPRM*, the Commission tentatively concludes to adopt the Joint Consensus Plan proposal regarding the compliance requirements of multi-mode handsets. The Joint Consensus Proposal recommended that “in order to be counted as satisfying the requirements of Section 20.19, a handset that has multiple air interfaces must satisfy the C63.19 Standard with respect to all air interfaces for U.S. frequency bands. If a handset cannot meet the Section 20.19 HAC-

²² To the extent that the FCC was to decide to continue to permit the industry to maintain a reporting form, ATIS would be willing to continue to maintain the reporting form and to allow free and unrestricted use of this form by the industry.

²³ See 47 C.F.R. § 20.19(e). The Commission adopted such a clarification in its *Order on Reconsideration and Further Notice of Proposed Rulemaking*, FCC 05-122, 20 FCC Rcd 11221 (rel. June 21, 2005).

²⁴ ATIS Supplemental Comments at 10.

compliant definition for all of its U.S. air interfaces, it will be counted as a non-HAC compliant phone.”²⁵ AISP.4-HAC agrees with the Commission that this rule would conform to consumer expectations that the handset is hearing-aid compatible in every mode in which it operates.

The FCC further tentatively concludes that multi-mode phones should not be counted as HAC in any mode if they operate over air interfaces for which technical standards have not been established. This new requirement is beyond the scope of the Joint Consensus Plan and individual members may offer comments on this question separately.

G. Further Review of FCC Rules.

As noted in the Joint Consensus Plan, “continuing review of the Commission’s HAC rules is necessary to ensure that the needs of people with hearing loss are continually being met and that compliance with these rules continues to be practical in light of rapid technological advancements in hearing aid devices and wireless industry developments.”²⁶ Thus, as recommended by the Joint Consensus Plan, a further review of the rules should take place in 2010 (to become effective 2012). AISP.4-HAC reiterates that the Joint Consensus Plan’s 2011 deployment benchmarks as proposed in the Plan “should remain in effect until a review of the HAC milestones and FCC rules is complete and, if necessary, rule modifications are implemented.”²⁷

H. Volume Control.

AISP.4-HAC is pleased that the Commission “urges all interested parties to specifically look into adding volume controls to wireless handsets.”²⁸ As noted in the Joint Consensus Plan,

²⁵ *Id.*

²⁶ *Id.* at 12.

²⁷ *Id.*

²⁸ *NPRM* at ¶ 87.

“AISP.4-HAC has agreed to study and make recommendations regarding audio output levels and volume controls.”²⁹ Upon completion, AISP.4-HAC plans to share its recommendations with the Commission and, if determined necessary, will submit a proposal requesting further modifications to the Commission’s HAC rules.

III. Stay of February 2008 Requirements

AISP.4-HAC is pleased to support the Commission’s stay of the current February 18, 2008, HAC requirements for 60 days, until April 18, 2008. AISP.4-HAC encourages quick action by the Commission to issue a *Report and Order* addressing the issues in the *NPRM* in order to provide the appropriate lead time and notification needed by the industry to meet its HAC obligations.

IV. Conclusion

AISP.4-HAC appreciates and supports the Commission tentative conclusion to adopt the Joint Consensus Plan proposals. AISP.4-HAC believes that each element of the Joint Consensus Plan is critical to ensuring that the Commission’s goal of affording people with hearing loss the fullest benefit of wireless handset devices is achieved. AISP.4-HAC urges the Commission to take action consistent with comments offered above and adopt the Joint Consensus Plan in its entirety.

²⁹ ATIS Supplemental Comments at 14.

Respectfully submitted,

ATIS on behalf of AISP.4-HAC

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Dated: December 21, 2007

Attachment A

STATUS REPORT ON HEARING AID COMPATIBLE WIRELESS DEVICES (as of November XX, 2007)				
SECTION 1. COMPANY INFORMATION			<i>Service Provider:</i> ____ <i>Device Manufacturer:</i> ____	
<i>a. Company Name:</i>			<i>b. Contact Name:</i>	
<i>c. Address:</i>				
<i>d. City:</i>		<i>e. State:</i>		<i>f. Zip Code:</i>
<i>g. Phone:</i>		<i>h. Fax:</i>		<i>i. Email:</i>
SECTION 2. COMPLIANT PHONE MODEL INFORMATION				
<i>a. Compliant Phone Models</i>				
Model	Band(s)	Air Interface(s)	ANSI C63.19 Rating	FCC ID
<i>b. Total Number of Compliant Models by Air Interface</i>			<i>c. Total Number of Models (US) by Air Interface</i>	
Air Interface	Number of Models		Air Interface	Number of Models
TOTAL			TOTAL	
SECTION 3. PRODUCT LABELING INFORMATION				
SECTION 4. CONSUMER OUTREACH EFFORTS				
SECTION 5. RETAIL AVAILABILITY OF COMPLIANT MODELS				

SECTION 6. EFFORTS TO INCORPORATE HEARING AID COMPATIBILITY INTO NEW MODELS

SECTION 7. ACTIVITIES RELATED TO ANSI C63.19 OR OTHER STANDARDS

SECTION 8. EFFORTS TO TEST INTEROPERABILITY WITH HEARING AIDS

**SECTION 9. INFORMATION REGARDING DIFFERENCES IN HANDSET OFFERINGS AMONG REGIONS
IN SERVICE AREAS (*Service Providers Only*)**