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April 5, 2023

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: *Ex Parte Letter, Waiver Request on Behalf of the Covered Entities of the Hearing Aid Compatibility Task Force, WT Docket No. 20-3*

Dear Ms. Dortch:

The ATIS Hearing Aid Compatibility (“HAC”) Task Force supports the goal of continuing to promote the advancement of HAC and urges the Commission to grant near-term relief of certain HAC rules so that wireless phones introduced this year with new features for people with hearing loss can continue to be HAC-rated.¹ Granting interim relief will serve the public interest and benefit consumers by helping enable consumers with hearing loss to identify the wireless handsets that best work for them while the record develops in response to the Petition for Limited, Interim Waiver filed on behalf of the covered entities of the HAC Task Force.² While interim relief is in effect, the covered entities of the HAC Task Force will continue to offer innovative coupling and volume control capabilities.

Last year, the HAC Task Force delivered to the Commission its consensus report and recommendations—supported by consumer advocates, academics, hearing aid and wireless device manufacturers and wireless providers—for a path toward 100 percent HAC compliance through a combination of current HAC technologies and new technologies embraced by

¹ See *Wireless Telecommunications Bureau Seeks Comment on ATIS Waiver Request on Behalf of the Covered Entities of the Hearing Aid Compatibility Task Force*, WT Docket No. 20-3, Public Notice, DA 23-250 (WTB 2023), published 88 Fed. Reg. 19639 (Apr. 3, 2023) (setting a comment cycle that closes on May 18, 2023) (“Public Notice”). Handset testing takes several weeks, and therefore the FCC will not be able to resolve the Petition before covered entities must test phones in advance of the June 5, 2023 compliance date given the current comment cycle. Covered entities are also developing packaging and other materials to display and explain HAC and volume control that must be finalized prior to marketing.

² See Petition of ATIS on Behalf of the Covered Entities of the Hearing Aid Compatibility Task Force for Limited, Interim Waiver, WT Docket Nos. 15-285 & 20-3 (Dec. 16, 2022) (“Petition”); *Ex Parte Letter* from Scott Bergmann, Senior Vice President, Regulatory Affairs, CTIA, to Ms. Marlene H. Dortch, Secretary, FCC, WT Docket No. 20-3 (Mar. 29, 2023); Public Notice.

consumers and emerging in the marketplace.³ The full HAC Task Force also recommended that the Commission waive, review, and update certain ANSI 2019 volume control testing measures to address issues the HAC Task Force found and to better reflect modern wireless handset technologies.⁴ As recommended in the consensus report, ATIS, on behalf of the Covered Entities of the HAC Task Force, filed a Petition for Waiver for entities subject to those testing rules seeking relief before they go into effect on June 5, 2023.⁵ The Commission is currently seeking comment on the Petition but the compliance deadline is fast-approaching.⁶

While a full record is developed in response to the Petition, the HAC Task Force requests the Commission grant near-term, interim relief prior to the June 5, 2023 compliance deadline. Absent relief, individual companies may introduce new phones that incorporate superior hearing aid compatibility features—less interference over a wider range of frequencies, better telecoil capability, and volume control capabilities—but they will not be HAC-rated. Instead, such phones will be listed as non-HAC-rated on wireless provider and manufacturer HAC webpages, in the Global Accessibility Reporting Initiative database, and in stores, because the volume control testing measures in the 2019 ANSI standard are unworkable, as the HAC Task Force found, and these phones were designed in ways that meet the waiver request testing methodology.⁷ As a result, absent Commission action, consumers may choose a phone that is HAC-rated over these non-HAC-rated phones, even though these newer phones offer improved HAC features that may better meet their needs.⁸ A consumer would not know that; they would only know that the new phone is not HAC-rated.

To avoid this outcome, the Commission should grant near-term relief before the June 5, 2023 compliance date to enable new wireless phones to continue to receive a HAC rating. Doing so would help enable consumers with hearing loss to identify the wireless handsets that best

³ Hearing Aid Compatibility Task Force Final Report and Recommendation, WT Docket No. 15-285 (Dec. 16, 2022).

⁴ *Id.* at ii, 70-83.

⁵ The Petition requests a limited, interim waiver so that all entities subject to Section 20.19 may count, for the purposes of the FCC’s deployment benchmarks, handsets tested pursuant to *both* (i) the enhanced acoustic and telecoil coupling requirements in the 2019 ANSI Standard and (ii) the consensus volume control test methodology developed by the HAC Task Force. The Petition also requests that such handsets display the consumer-friendly “HAC” designation, rather than one of the previous dual alphanumeric (M/T) HAC ratings. The Petition resulted from a consensus effort among consumer advocates, academia, and industry representatives to further hearing aid compatibility with wireless handsets. *See* Petition at 2-5.

⁶ *See supra* note 1.

⁷ *See* 47 CFR § 20.19(h); Global Accessibility Reporting Initiative, www.gari.info (listing the HAC rating of devices). In addition, phones would be listed as non-HAC on call-out cards and other materials that retail-staff refer to when answering inquiries from consumers regarding HAC features.

⁸ Consumers can test the HAC capabilities of handsets at service provider owned or operated stores, 47 CFR § 20.19(c)(4), but consumers often purchase handsets online and from retail sources where in-person testing may not be available. In such cases, consumers often rely on online information.

work for them. The covered entities of the HAC Task Force are committed to furthering HAC, and will continue to explore advanced solutions and offer innovative coupling and volume control capabilities, and improved audio quality while interim relief is in effect. In other words, industry stakeholders will continue to roll out new, advanced wireless phones that have the latest features, including volume control while the Commission provides interim relief. In addition, industry is actively participating in the TIA standards committee, which is working to revise the volume control standard for wireless handsets.⁹ As described in the HAC Task Force Report and ATIS Petition, TIA plans to provide regular updates to the Commission on its progress.¹⁰

The HAC Task Force urges the Commission to grant interim, near-term relief that enables new wireless handsets with improved or novel features for people with hearing loss to receive HAC ratings while the Commission considers the covered entities' waiver request. Doing so will benefit consumers and the public interest by enabling consumers with hearing loss to have the information needed to identify the wireless phones that meet their needs.

Sincerely,

/s/ Thomas Goode

Thomas Goode
General Counsel

⁹ See Press Release, TIA Issues Call For Interest To Participate In TR-41 Standard Committee (Jan. 9, 2023), <https://tiaonline.org/press-release/tia-issues-call-for-interest-to-participate-in-tr-41-standard-committee> (announcing the an initial to update the TIA 5050 volume control standard). TIA called for participation in the TR-41 WG in January, began convening in February, and has held six meetings to date. Group participants include covered entities of the HAC Task Force, such as Apple, Samsung and Google, as well as other HAC Task Force participants, such as Gallaudet and CTIA. The HAC Task Force participants have submitted the HAC TF Report and Recommendation, the ATIS Petition and the Working Group 3 data on volume control testing to the TR-41 WG for consideration as part of their work to review and consider revisions to the TIA 5050 standard.

¹⁰ See HAC Task Force Report at 22; Petition at 13-14.