

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	WT Docket No. 07-250
Request for Updated Information and)	
Comment on Wireless Hearing Aid)	WT Docket No. 10-254
Compatibility Regulations)	

To: Wireless Telecommunications Bureau and
Consumer and Governmental Affairs Bureau

**REPLY COMMENTS
OF THE
LAND MOBILE COMMUNICATIONS COUNCIL**

The Land Mobile Communications Council (“LMCC”), in accordance with Section 1.45 of the Federal Communications Commission (“FCC” or “Commission”) rules, respectfully submits its reply comments in response to the Public Notice seeking updated information regarding the FCC’s wireless hearing aid compatibility (“HAC”) regulations codified in FCC Rule Section 20.19.¹ Among other matters, the Public Notice asks whether the HAC rules should be extended to include handsets and CPE used exclusively on private, internal systems such as those operated by public safety, critical infrastructure, and private enterprise entities.² As discussed below, the LMCC urges the FCC to retain the carefully considered exemption in the Twenty-First Century Communications and Video Accessibility Act (“CVAA”)³ for the non-consumer digital handset devices that are used on private systems.⁴

I INTRODUCTION

The LMCC is a non-profit association of organizations representing virtually all users of land

¹ Request for Updated Information and Comment on Wireless Hearing Aid Compatibility Regulations, *Public Notice*, WT Docket Nos. 07-250 and 10-254, 29 FCC Rcd 13969 (WTB, CGB 2014) (“Public Notice”).

² *Id.* at ¶ 9.

³ Pub. L. No. 111-260, 124 Stat. 2751 (2010).

⁴ See 47 U.S.C. § 620(b)(4)(C).

mobile radio systems, providers of land mobile services, and manufacturers of land mobile radio equipment. The LMCC acts with the consensus and on behalf of the vast majority of public safety, business, industrial, transportation and private commercial radio users, as well as a diverse group of land mobile service providers and equipment manufacturers. Membership includes the following organizations:

- American Association of State Highway and Transportation Officials (“AASHTO”)
- American Automobile Association (“AAA”)
- American Petroleum Institute (“API”)
- Association of American Railroads (“AAR”)
- Association of Public-Safety Communications Officials-International, Inc. (“APCO”)
- Aviation Spectrum Resources, Inc. (“ASRI”)
- Central Station Alarm Association (“CSAA”)
- Energy Telecommunications and Electrical Association (“ENTELEC”)
- Enterprise Wireless Alliance (“EWA”)
- Forest Industries Telecommunications (“FIT”)
- Forestry-Conservation Communications Association (“FCCA”)
- Intelligent Transportation Society of America, Inc. (“ITSA”)
- International Association of Fire Chiefs (“IAFC”)
- International Municipal Signal Association (“IMSA”)
- MRFAC, Inc. (“MRFAC”)
- National Association of State Foresters (“NASF”)
- PCIA – The Wireless Infrastructure Association (“PCIA”)
- Telecommunications Industry Association (“TIA”)
- Utilities Telecom Council (“UTC”)

These organizations work with their members and with the FCC in an effort to maximize the use of scarce spectrum resources in support of activities that protect safety of life and property and that form the backbone of the nation’s economic well-being. Their wireless systems are highly specialized and are not used by the hearing-impaired consumers that the HAC regulations are intended to serve.

II THE HAC RULES SHOULD NOT BE EXTENDED TO PRIVATE, INTERNAL SYSTEMS.

The LMCC fully supports efforts to ensure that consumers with hearing loss are not denied access to advanced communications capabilities. The current HAC requirement has produced

positive results toward that objective. The Telecommunications Industry Association (“TIA”) reported in its Comments in this proceeding that, “Overall, 82 percent of wireless CMRS handsets are HAC-rated.”⁵ The HAC rules may require refinement to capture newer types of systems that offer digital handsets for consumer use designed to be held to the ear and used like a telephone, but that fall outside the definition in 20.19(a)(1). However, any expansion of the scope of the regulation vis-à-vis commercial services should take into account the issues raised by the TIA with regard to balancing the interests of consumers and the practical limitations and/or costs that would be involved. As the TIA noted, wireless handsets already are feats of engineering that include various technologies and capabilities while “[h]earing aid compatibility involves a complex ecosystem that requires the interaction of both the wireless handset and the hearing aid.”⁶ The LMCC is not in a position to assess where the appropriate balance lies for commercial wireless systems, but the 82 percent HAC-compliance achieved already suggests that continued collaboration among representatives of consumers that require hearing aids, handset manufacturers, and the FCC will produce an appropriate result.

The LMCC is able to speak to the suggestion that HAC requirements be expanded to include private, internal systems. LMCC’s members represent the governmental and business operators of those systems and are intimately familiar with how they function and who uses them. By definition, these are closed-loop networks accessed not by consumers or members of the public, but by employees or agents of the system operator.⁷ The devices are not commonly referred to as handsets; they are called “radios” or “two-way radios” or “mobiles/portables.” They are designed

⁵ TIA Comments at 4.

⁶ *Id.* at 2.

⁷ To the extent parties are concerned that a failure to make two-way radios HAC-compliant limits job opportunities for Americans with hearing impairment, the Americans with Disabilities Act and other legislation at both the federal and state levels provide protection against discriminatory behavior.

to provide specialized functionalities that support public safety activities conducted by governmental entities and the internal operations of power and petroleum companies, airlines, railroad, trucking and other transportation concerns, manufacturing facilities, and myriad other business enterprises that use wireless communications to improve productivity, efficiency, and safety. These radios are not selected by individual users, but are purchased by the operating entity as part of a system designed and deployed to meet specific communications needs. While a very small percentage may have an ancillary capability that allows the radio to operate like a telephone, that capability is not their primary purpose. These radios are working tools. Even if they are able to be held to the ear, they are designed to be used and are used while held in front of the employee's face or hooked on a belt or some other appendage.⁸ They are not designed for more leisurely telephone conversations but for brief, efficient work-related messages.

This very different use pattern, along with the associated differences in power levels and other technical features, make application of current HAC requirements to two-way radios highly problematic as indicated by both the TIA and MSI.⁹ Should the FCC elect to impose HAC obligations on these systems, contrary to the strong recommendation of the LMCC, substantial technical analysis would need to be undertaken first to determine what those rules should be.

The CVAA and the FCC's HAC rules are intended to promote access to current and evolving advanced communications services by consumers who use hearing aids.¹⁰ To the extent changes in the HAC requirements are needed to promote that objective and enable consumers to select handsets that are consistent with their reasonable expectations, handset manufacturers, consumer representatives, and the FCC will need to determine what changes are appropriate and reasonably

⁸ See Motorola Solutions, Inc. ("MSI") Comments at 5.

⁹ See TIA Comments at 7; MSI Comments at 6.

¹⁰ Public Notice at 1.

achievable. Those changes should not extend to the inclusion of private, internal systems that were expressly exempted under the CVAA, that are distinctly different from CMRS and other systems intended to serve the general public, and that are not marketed to or used by “consumers” as that term is understood in the CVAA and the Public Notice.

III CONCLUSION

The LMCC supports the FCC’s initiative in seeking further information regarding the efficacy of its HAC rules. Should the Commission propose changes in those rules, the LMCC urges the FCC not to extend the requirements to radios used in private, internal systems.

Respectfully submitted,

/s/

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