



May 18, 2017

**VIA ELECTRONIC FILING**

Mr. Donald Clark  
Secretary  
Federal Trade Commission  
400 7th Street SW  
5th Floor, Suite 5610 (Annex B)  
Washington, D.C. 20024

**Re: Hearing Health and Technology, Workshop, Project No. P171200**

Dear Mr. Clark,

CTIA<sup>1</sup> respectfully submits these comments to the Federal Trade Commission (“FTC”) in response to the FTC’s request for comments in conjunction with its “Now Hear This: Competition, Innovation, and Consumer Protection Issues in Hearing Health Care” workshop (“Workshop”), held on April 18, 2017.<sup>2</sup> CTIA appreciates and is encouraged by the FTC’s focus on, among other things, the extent to which hearing aids are compatible with wireless handsets—compatibility that benefits all consumers, including those who are deaf or hard of hearing. As the FTC considers the comments submitted in response to the Workshop, CTIA recommends that it recognize that:

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<sup>1</sup> CTIA® ([www.ctia.org](http://www.ctia.org)) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21<sup>st</sup> century connected life. The association’s members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

<sup>2</sup> FTC, *Now Hear This: Competition, Innovation, and Consumer Protection Issues in Hearing Health Care*, <http://www.ftc.gov/news-events/events-calendar/2017/04/now-hear-competition-innovation-consumer-protection-issues> (last visited May 15, 2017).



- Consumers who use hearing aid devices have ample choices among wireless handsets that meet the Federal Communications Commission's ("FCC's") hearing aid compatibility ("HAC") requirements;
- For consumers who use hearing aid devices, awareness of the FCC's HAC rating system is essential to find wireless handsets that meet their unique needs, and hearing aid manufacturers and audiologists should be encouraged to educate consumers about the HAC ratings of hearing aid devices, as wireless providers and manufacturers have done for wireless handsets; and
- Regulatory flexibility is essential to enable innovation with regard to technologies such as personal sound amplification products that may also benefit consumers.

CTIA and its members are committed to meeting the needs of consumers with hearing loss by offering hundreds of wireless handsets that satisfy the FCC's HAC requirements<sup>3</sup> and by educating consumers about the HAC rating system. As of the end of last year, more than 86 percent of wireless handsets offered by service providers to consumers were HAC compliant,<sup>4</sup> a rate well in excess of the percentage required by the FCC's current rules. That is compared to 83 percent in 2014 and 79 percent in 2013.<sup>5</sup> More specifically, based on the FCC's most recent information, more than 86 percent of mobile wireless handsets offered by service providers in the U.S. meet the FCC's M rating requirements and 78 percent meet the T ratings.<sup>6</sup> The wireless industry has embraced the opportunity to serve consumers with hearing loss while creating and deploying innovative products and services. Because the vast majority of wireless handsets in the market are HAC-compliant, consumers who use

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<sup>3</sup> See 47 C.F.R. § 20.19.

<sup>4</sup> The FCC's HAC reports provide information on HAC-compliant wireless handsets on an interface-by-interface basis. See FCC Wireless Telecommunications Bureau, Service Provider Handset Totals by Air Interface, Reporting Period from: January 1, 2016 – December 31, 2016, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-343961A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-343961A1.pdf) (noting that service providers offered phones operating on 3355 air interfaces, 415 were "Non-HAC").

<sup>5</sup> See FCC Wireless Telecommunications Bureau, Service Provider Handset Totals by Air Interface, Reporting Period From: January 1, 2014 – December 31, 2014, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-331991A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-331991A1.pdf); FCC Wireless Telecommunications Bureau, Service Providers Summary of Unique Handsets by Air Interfaces and HAC Ratings, Reporting Period From: January 1, 2013 – December 31, 2013, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-326848A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-326848A1.pdf).

<sup>6</sup> FCC Wireless Telecommunications Bureau, Service Provider Handset Totals by Air Interface, Reporting Period from: January 1, 2016 – December 31, 2016, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-343961A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-343961A1.pdf).



hearing aid devices have ample choices among wireless handsets to make predictive judgments about the performance of the wireless handset and its compatibility with the individual's hearing aid device.

To be sure, the combination of services and devices that help to address hearing loss are unique to each person. The ability of consumers who use hearing aid devices to make informed decisions regarding the compatibility of their hearing aids with wireless handsets thus depends on, among other things, consumers having the HAC ratings of *both* the wireless handset and the hearing aid device. In addition, the wireless industry, the hearing aid industry, and audiologists have specific roles in addressing the interaction between a wireless handset and a hearing aid device. Specifically, the FCC, in adopting its current HAC rating and disclosure system, expected that each of these parties would take steps to not only offer wireless handsets and hearing aid devices that are compatible, but also to educate consumers about that compatibility so they may make informed choices in selecting products that meet their needs.

The wireless industry has gone to great lengths to provide information about the HAC rating systems to consumers. In collaboration with its members, CTIA has generated robust HAC resources for consumers on CTIA's AccessWireless.org.<sup>7</sup> AccessWireless.org, which was awarded the FCC's Chairman's Award for Advancement in Accessibility in 2011<sup>8</sup> and the Hearing Loss Association of America's National Access Award in 2013,<sup>9</sup> is a resource for consumers to learn about accessible wireless services and products, including HAC-compliant wireless handsets.<sup>10</sup> Notably, AccessWireless.org hosts a five-part educational video series developed by the Wireless RERC at Georgia Tech that walks consumers through the process of selecting a HAC-compliant wireless handset, and that also highlights the importance of consumers being informed about the HAC rating of their hearing aid device.<sup>11</sup>

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<sup>7</sup> AccessWireless.org, <http://accesswireless.org/Home.aspx> (last visited May 15, 2017).

<sup>8</sup> See FCC, Press Release, *FCC Chairman Julius Genachowski Joins Commissioner Michael Copps to Honor Innovators in Accessibility Communications Technologies* (Oct. 28, 2011), [http://apps.fcc.gov/edocs\\_public/attachmatch/DOC-310717A1.pdf](http://apps.fcc.gov/edocs_public/attachmatch/DOC-310717A1.pdf).

<sup>9</sup> See Convention 2013, Hearing Loss Association of America, <http://www.hearingloss.org/about-us/history/2013> (last visited May 15, 2017).

<sup>10</sup> See GARI, AccessWireless.org, <http://www.accesswireless.org/Find/Gari.aspx> (last visited May 15, 2017).

<sup>11</sup> See HAC FAQs, AccessWireless.org, <http://accesswireless.org/Disability-Categories/Hearing.aspx#faq>.



Further, wireless service providers and manufacturers are subject to specific FCC requirements, such as disclosing the HAC ratings of wireless handsets and listing on their websites all HAC-compliant handsets offered by the service provider or manufacturer.<sup>12</sup>

The wireless industry is also committed to working with representatives of consumers with hearing loss on improving the accessibility of wireless handsets. On November 12, 2015, CTIA, the Hearing Loss Association of America, the National Association of the Deaf, Telecommunications for the Deaf and Hard of Hearing, the Competitive Carriers Association, and the Telecommunications Industry Association, representing people who use hearing aid devices and the wireless industry, submitted a proposal to the FCC in response to then-FCC Chairman Wheeler's request for a consensus path to ensure that all wireless handsets are accessible to and usable by people who use hearing aid devices ("Consensus Proposal").<sup>13</sup> The FCC adopted the Consensus Proposal in August 2016,<sup>14</sup> striking a careful balance between the goal of HAC for all wireless handsets and the need to encourage continued innovations that can benefit all consumers, including those who use hearing aid devices. Specifically, the FCC expanded the benchmarks for the number of wireless handsets that need to be HAC compliant over the next five years and charted a course toward the goal of 100 percent availability of HAC-compliant wireless handsets, should that goal be achievable. CTIA encourages the FTC to consider the FCC 2016 HAC Order and the Consensus Proposal as it considers the remarks of its Workshop speakers, as well as on the public comments it receives in this docket. And, given the two-sided nature of the HAC ecosystem, described above, CTIA believes the FTC can help encourage hearing aid manufacturers to be part of any discussion about how to ensure that hearing aids can take advantage of innovation and be compatible with wireless handsets.

CTIA also encourages the FTC to consider the flexibility that is needed to enable innovation with regard to technologies such as personal sound amplification products ("PSAPs"). Per the U.S. Food and Drug Administration ("FDA"), a "hearing aid is a wearable sound-amplifying device that is intended to compensate for impaired hearing," whereas a

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<sup>12</sup> See 47 C.F.R. § 20.19 (f)-(h).

<sup>13</sup> *Ex Parte* letter from Scott Bergmann, Vice President, Regulatory Affairs, CTIA, et al., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 07-250, 10-254 (filed Nov. 12, 2015), <https://ecfsapi.fcc.gov/file/60001336016.pdf>.

<sup>14</sup> See *Improvements to Benchmarks and related Requirements Governing Hearing Aid-Compatible Mobile Handsets*, Report and Order, 31 FCC Rcd 9336 (2016) ("FCC 2016 HAC Order").



PSAP is “a wearable electronic product that is not intended to compensate for impaired hearing, but rather is intended for non-hearing impaired consumers to amplify sounds in the environment for a number of reasons, such as for recreational activities.”<sup>15</sup> As the FTC considers the appropriate role for PSAPs, CTIA recommends that it similarly recognize the differences between hearing aids and PSAPs.

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CTIA commends the FTC for its consideration of how innovative wireless products and services can continue to improve the quality of life for people with hearing loss who use hearing aid devices, and appreciates the opportunity to comment in this proceeding. Wireless providers and manufacturers continue to take significant steps to make innovative HAC-compliant wireless handsets available to all consumers, and CTIA and its members continue to provide educational information about HAC resources to consumers. We stand ready to work with the representatives of consumers with hearing loss and federal government agencies where appropriate on this important issue.

Sincerely,

/s/ Kara D. Romagnino

Kara D. Romagnino  
Director, Regulatory Affairs

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<sup>15</sup> FDA, *Guidance for Industry and Staff: Regulatory Requirements for Hearing Aids and Personal Sound Amplification Products* (Feb. 25, 2009), <http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm127091.pdf>.