

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

In the Matter of
Revisions to Reporting Requirements Governing
Hearing Aid-Compatible Mobile Handsets
WT Docket No. 17-228

NOTICE OF PROPOSED RULEMAKING

Adopted: September 26, 2017

Released: September 27, 2017

Comment Date: [30 days after publication in FR]
Reply Comment Date: [45 days after publication]

By the Commission: Chairman Pai and Commissioners Clyburn, Carr, and Rosenworcel issuing separate statements.

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I. INTRODUCTION

1. Currently, all wireless telecommunications service providers regardless of size must file annual reports providing information on handsets they offer that are compatible with hearing aids. For some time, numerous parties, especially rural and small service providers, have complained that preparing these annual reports is burdensome. While in many cases these reports have helped the Commission compile information for the public and monitor compliance with wireless hearing aid compatibility deployment benchmarks, we believe that, in light of various changes in the marketplace since these reporting requirements were adopted, the benefits of annual reporting by small, rural, and regional service providers may be outweighed by the burdens of this information collection on these entities.

2. Accordingly, in this Notice of Proposed Rulemaking (Notice), we seek comment on revising the Commission’s wireless hearing aid compatibility reporting requirements to provide relief to non-nationwide service providers. Specifically, we seek comment on whether the benefits of requiring an annual status report filing by small, rural, and regional service providers continue to outweigh the burdens this information collection places on these entities. The record in response to this Notice will help us evaluate public interest benefits associated with annual reporting and determine whether any unnecessary

or outdated reporting requirement could be eliminated or streamlined to reduce burdens, including administrative cost associated with such collection, while continuing to preserve benefits to consumers.

II. BACKGROUND

3. The Commission has several rules to ensure that consumers who need to use a wireless handset that is compatible with a hearing aid device are able to do so. For example, wireless device manufacturers and service providers are required to meet deployment benchmarks that require them to offer minimum numbers or percentages of hearing aid compatible handset models.¹ In addition, each service provider that operates a website is required to post a list of all hearing aid-compatible models that it currently offers, the ratings of those models, and an explanation of the rating system, as well as other information.² Service providers also must make hearing aid-compatible handsets available for consumers to test in their stores.³

4. The rules also require all service providers, even those which are exempt from other hearing aid compatibility requirements, to file status reports with the Commission. In 2003, the Commission required covered device manufacturers and wireless service providers to submit hearing aid compatibility reports every six months from 2004 through 2006, and then annually in 2007 and 2008.⁴ In 2008, the Commission extended annual reporting requirements on an open-ended basis, and made further changes to the requirements.⁵ For service providers,⁶ status reports are now required to detail:

- (1) compliant digital wireless phone handset models offered to customers since the most recent report, identified by marketing model name/number(s) and FCC ID number;
- (2) for each such model, the air interface(s) and frequency band(s) over which it operates, the hearing aid compatibility ratings under ANSI C63.19 for each frequency band and air interface, and the months in which the model was available since the most recent report;
- (3) non-compliant phone models offered since the most recent report, identifying each model by marketing model name/number(s) and FCC ID number;
- (4) for each non-compliant model, the air interface(s) over which it operates and the months in which the model was available since the most recent report;
- (5) total numbers of compliant and non-compliant phone models offered to customers for each air interface over which the provider offers service as of the time of the report;
- (6) information related to the retail availability of compliant phones;
- (7) the levels of functionality into which the compliant phones fall and an explanation of the service provider's methodology for determining levels of functionality;
- (8) status of product labeling;
- (9) outreach efforts; and

¹ See generally 47 CFR § 20.19(c) & (d) (setting forth M-rating and T-rating deployment benchmarks).

² See *id.* § 20.19(h).

³ See *id.* § 20.19(c)(4)(i) & (d)(4)(i).

⁴ See *Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones*, Report and Order, 18 FCC Rcd 16753, 16787, para. 89 (2003).

⁵ See *Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, First Report and Order, 23 FCC Rcd 3406, 3410, para. 13 (2008) (*First Report and Order*).

⁶ The Commission also adopted similar revised report content requirements for manufacturers. See *id.* at 3444-45, 3446, paras. 97, 100; see also 47 CFR § 20.19(i)(2).

(10) if a public website is maintained, the website address at which it provides information relating to the hearing aid-compatible handsets that it offers.⁷

5. The Commission required the same reporting content from all covered device manufacturers and service providers, regardless of size.⁸ It also clarified that the reporting requirements apply to all manufacturers and service providers, including those that come under the *de minimis* exception in the hearing aid compatibility rules.⁹ Instead of providing a once a year “snapshot,” the Commission further clarified that manufacturers and service providers must provide the dates on which they began and ceased offering specific models during the past 12 months in order to verify compliance with all of the hearing aid compatibility rules at all relevant times.¹⁰ The Commission explained that these “requirements will help ensure that the reports enable the Commission to fulfill its responsibilities in monitoring the status of access to hearing aid-compatible handsets and verifying compliance with our rules, and will ensure that the public has additional useful information on compatible handsets.”¹¹

6. In 2008, the Wireless Telecommunications Bureau (WTB), pursuant to delegated authority,¹² made electronic FCC Form 655 available for service providers and device manufacturers to use in submitting hearing aid compatibility status reports, and made its use mandatory beginning with the filing deadline for device manufacturers on July 15, 2009.¹³ These status reports in recent years have reflected near universal compliance with hearing aid compatibility requirements.¹⁴

7. Numerous parties, especially rural and small service providers, have asserted for some time that preparing annual status reports is burdensome.¹⁵ In 2016, the Rural Wireless Association (RWA), an association representing small and rural carriers, asserted that the annual reports “have proven

⁷ *First Report and Order*, 23 FCC Rcd at 3444-45, 3446, paras. 97, 100; *see also* 47 CFR § 20.19(i)(3).

⁸ *First Report and Order*, 23 FCC Rcd at 3444, 3445-46, paras. 95, 98.

⁹ *Id.* at 3444, 3446, paras. 95, 99; *see* 47 CFR § 20.19(e)(1)(i) (stating that reporting requirements continue to apply even if a covered *de minimis* entity is exempt from all other hearing aid compatibility requirements). Entities that come under the *de minimis* exception include manufacturers or service providers that offer two or fewer handset models in an air interface. *See generally* 47 CFR § 20.19(e)(1)(i) (stating that “[m]anufacturers or service providers that offer two or fewer digital wireless handsets in an air interface in the United States are exempt from the requirements of this section in connection with that air interface, except with regard to the reporting requirements in paragraph (i) of this section” and that “[s]ervice providers that obtain handsets only from manufacturers that offer two or fewer digital wireless handset models in an air interface in the United States are likewise exempt from the requirements of this section other than paragraph (i) of this section in connection with that air interface.”).

¹⁰ *See First Report and Order*, 23 FCC Rcd at 3444, para. 96. The wireless hearing aid compatibility rules require handset manufacturers and service providers to submit staggered reports annually to the Commission on the status of their compliance. *See* 47 CFR § 20.19(i)(1)-(3). Specifically, annual reports must be filed by July 15 of each year for device manufacturers and by January 15 of each year for service providers. *Id.* § 20.19(i)(1).

¹¹ *First Report and Order*, 23 FCC Rcd at 3444, para. 96.

¹² *See id.* at 3447 para. 103; *see also* 47 CFR § 20.19(i)(4).

¹³ *See The Wireless Telecommunications Bureau Reminds Wireless Handset Manufacturers of Their Obligation To Report on the Status of Compliance with the Commission’s Hearing Aid Compatibility Requirements by July 15, 2009*, Public Notice, 24 FCC Rcd 5821, 5821-22 (WTB 2009).

¹⁴ *See generally* 47 CFR § 20.19(c) & (d) (setting forth M-rating and T-rating deployment benchmarks). The majority of small and regional service providers have been meeting the enhanced 66 percent and 85 percent benchmarks that will not apply to them for several years.

¹⁵ *See Improvements to Benchmarks and Related Requirements Governing Hearing Aid-Compatible Mobile Handsets; Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Handsets*, Fourth Report and Order and Notice of Proposed Rulemaking, 30 FCC Rcd 13845, 13884, para. 92 n.248 (2015) (*Fourth Report and Order and Notice of Proposed Rulemaking*) (citing submissions filed in 2014 by Alaska Rural Coalition, Alaska Telephone Association, Competitive Carriers Association, and Rural Wireless Association, Inc.).

to be extremely problematic for small carriers” and asked the Commission to exempt such service providers from the reporting requirements independent of any other actions with regard to the hearing aid compatibility rules that the Commission may be considering in related rulemakings.¹⁶ RWA stated that “[m]any small companies are forced to have an employee devote several weeks annually to tracking HAC ratings,” and it sought immediate relief from Form 655 reporting requirements for these entities.¹⁷

III. DISCUSSION

8. We seek comment on whether to exempt a service provider that is not a Tier I carrier (Non-Tier I Service Provider) from the annual FCC Form 655 reporting requirements or otherwise to modify these requirements, while maintaining the reporting requirements for Tier I carriers and all handset manufacturers.¹⁸

9. We seek comment on whether the annual reporting requirements for Non-Tier I Service Providers are still necessary to achieve the Commission’s objectives for adopting the reporting requirements and whether the burden of complying with these reporting requirements for Non-Tier I Service Providers outweighs the associated benefits.¹⁹ The Commission, in adopting these reporting requirements, stated that its reporting requirements serve several purposes: providing information to the public, assisting efforts to verify compliance, and monitoring the general state of hearing aid-compatible handset deployment.²⁰ We ask commenters to address the contribution of Non-Tier I Service Provider reports to these objectives and whether these reports are still necessary to achieve these objectives.

10. For example, we seek comment on the extent to which consumers rely on Non-Tier I Service Providers’ annual reports for information about handset models. We note that the Commission’s in-store testing and web site posting requirements will continue to apply if we adopt an exemption from the Form 655 reporting requirements. We seek comment on whether consumers will have sufficient information from service providers’ ongoing compliance with these requirements. We also seek comment on whether the continued availability of Tier I carrier reports suggests that, in the aggregate, the informational benefit to consumers of Non-Tier I Service Provider reports will be minimal or otherwise supports exempting them from reporting requirements.²¹ Similarly, are consumers informed to a greater degree about the availability of handset models in the marketplace from the reports of device manufacturers?

11. We also seek comment on whether consumers can obtain information from other third-party resources and whether they may be better or more accessible sources of information to the public

¹⁶ See Rural Wireless Association, Inc. Comments, WT Docket Nos. 07-250 and 15-285, at 4-5 (filed Jan. 28, 2016) (RWA Comments).

¹⁷ *Id.* at 5 n.17.

¹⁸ Section 20.19 defines a Tier I carrier as “a CMRS provider that offers such service nationwide.” 47 CFR § 20.19(a)(3)(v). Tier II service providers are non-nationwide mid-sized CMRS providers with greater than 500,000 subscribers as of the end of 2001. Tier III service providers are non-nationwide small CMRS providers with no more than 500,000 subscribers as of the end of 2001. See *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadlines for Non-Nationwide Carriers*, Order to Stay, 17 FCC Rcd 14841, 14846-48 paras. 19-24 (2002) (*Order to Stay*).

¹⁹ In a separate docket, the Commission is considering broader changes to the hearing aid compatibility rules that may be appropriate in the event the Commission requires 100 percent of covered handsets to be hearing aid compatible. See *Improvements to Benchmarks and Related Requirements Governing Hearing Aid-Compatible Mobile Handsets*, Report and Order, 31 FCC Rcd 9336, 9353-54, para. 43 (2016) (*2016 HAC Report and Order*).

²⁰ See *supra* para. 5.

²¹ See, e.g., *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services*, Nineteenth Report, 31 FCC Rcd 10534, 10548, Table II.C.2 (2016) (*Nineteenth Report*).

about handset offerings than the status reports filed with the Commission. For instance, the Global Accessibility Reporting Initiative (GARI) is a project run by the Mobile & Wireless Forum that is designed to help consumers learn more about the accessibility features of mobile devices and to help them identify devices with the features that may assist them with their particular needs.²² Are these information sources sufficient? If not, commenters should provide specific examples of the information these sources are missing.

12. With regard to monitoring the compliance of Non-Tier I Service Providers with the Commission's rules, we seek comment on whether the Commission should rely on its informal complaint process to help ensure Non-Tier I Service Providers continue to meet deployment benchmarks and other requirements. Given that these annual reports in recent years have reflected near universal compliance with the requirements, is detailed reporting from every small and regional service provider still justified to address any isolated instances of non-compliance by such providers?²³ Would eliminating or modifying the reporting requirements help these service providers save costs without an appreciable negative impact on the Commission's enforcement objectives? For example, we note that the Commission already relies on the informal complaint process rather than reporting to monitor compliance with other hearing aid compatibility obligations, such as in-store testing requirements. We solicit comment on whether our enforcement objectives can be met by continuing to monitor the reports from device manufacturers and Tier I carriers.

13. We seek comment on whether Non-Tier I Service Provider reporting is necessary to meet the Commission's objective of gauging the overall state of access to wireless hearing aid-compatible handset models. Is it sufficient if the Commission only receives reports from manufacturers and Tier I carriers?²⁴ For instance, the Commission has previously recognized that Non-Tier I Service Providers have difficulty obtaining the newest hearing aid-compatible handsets in comparison to the Tier I carriers,²⁵ and we seek comment on whether the majority of newer compatible handset models on the market is reflected in Tier I carriers' status reports. Do Tier I carrier reports better reflect the feasibility of achieving hearing aid compatibility in handsets than the reports of Non-Tier I Service Providers? Additionally, the Commission in 2010 noted the "growing distribution of wireless handsets through channels other than service providers."²⁶ To what extent has this development reduced the importance of service provider reports in assessing access to compatible models? To monitor the state of hearing aid-

²² See <https://www.gari.info/> (Global Accessibility Reporting Initiative).

²³ See generally Wireless Telecommunications Bureau, Hearing Aid Compatibility Reports: Service Providers, http://wireless.fcc.gov/hac/index.htm?job=reports_sp; see also 2016 HAC Report and Order, 31 FCC Rcd at 9343-49, paras. 20-33. In 2016, the Commission increased the percentage of hearing aid-compatible handsets that service providers and manufacturers are required to offer with two new percentage benchmarks: (1) 66 percent of offered handset models must be compliant following a two-year transition period for manufacturers, with additional compliance time for service providers, and (2) 85 percent of offered handset models must be compliant following a five-year transition period for manufacturers, with additional compliance time for service providers. *Id.* at 9336, para. 1. These new benchmarks apply at different periods beginning between 2019 and 2023 depending on the type of service provider and the benchmark at issue. See 47 CFR § 20.19(c)(2)(iii) & (c)(3)(iii)-(iv), (d)(2)(iii) & (d)(3)(iii)-(iv). For example, for non-nationwide providers, the 66 percent and 85 percent benchmarks apply starting in 2020 and 2023, respectively.

²⁴ We note that Non-Tier I Service Providers served less than two percent of all mobile wireless connections by the end of 2015. See *Nineteenth Report*, 31 FCC Rcd at 10543, Chart II.B.2, 10544, Table II.B.1.

²⁵ See, e.g., *Fourth Report and Order and Notice of Proposed Rulemaking*, 30 FCC Rcd at 13871, para. 51.

²⁶ See *Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, Policy Statement and Second Report and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 11167, 11190, para. 61 (2010); see also *id.* at 11190, para. 64 (stating that "a variety of phones is readily available to consumers through outlets ranging from online retailers to convenience stores to electronics specialty outlets, as well as directly from manufacturers.").

compatible handset availability and technologies, we also seek comment on whether the Commission can rely on supplemental submissions for this type of information from stakeholders in open docket WT Docket No. 15-285.

14. We also seek comment on the burdens on Non-Tier I Service Providers of complying with the Form 655 reporting requirements. Do special circumstances make annual status reporting particularly burdensome for small, rural, and regional carriers? If so, what are these circumstances and what is the burden or cost that results from them?²⁷ We ask commenters to explain all such burdens in detail, including the costs in labor and wages of complying with the reporting requirements.

15. We seek comment on all potential cost savings and other potential benefits of our proposed reporting exemption. The FCC Form 655 Instructions state “each response to this collection of information will take, on average, two and a half (2.5) hours.”²⁸ Is this estimate accurate? Are there resources or measures not accounted for in this estimate that are needed for small providers specifically to meet the reporting requirements?²⁹ Please explain all such burdens in detail. Because all non-reporting requirements under Section 20.19 will continue to apply to Non-Tier I Service Providers in the event we adopt an exemption from the reporting requirements, including the obligation to offer a sufficient number of hearing aid-compatible handset models to meet the applicable benchmarks, parties should be careful to distinguish burdens that will continue to be incurred in complying with our Section 20.19 rules, even in the absence of reporting requirements, such as burdens related to ascertaining the hearing aid compatibility ratings of various handset models offered to meet deployment benchmarks.³⁰

16. *Alternative Size Standard.* We seek comment on whether the scope of any exemption should be based on an alternative definition of carrier or size standard. Section 20.19 defines a Tier I carrier as “a CMRS provider that offers such service nationwide.”³¹ Accordingly, a Non-Tier I Service Provider exemption would cover all non-nationwide providers, including small and regional providers. Instead of exempting all non-nationwide service providers, the scope of the exemption could be based on the number of subscribers and apply if a service provider offers service to no more than, for example, 500,000 subscribers, the number of subscribers used to define small (*i.e.*, “Tier III”) status in other proceedings.³² We seek comment on the feasibility of such an alternative approach, and whether it offers any advantages over using the Tier I standard that is already incorporated generally throughout the Section 20.19 hearing aid compatibility rules.³³ Would a subscriber-based reporting threshold rely on 2001 subscriber counts, which are used in the Tier III definition used elsewhere in the Commission’s rules, or instead be based on a provider’s subscriber count in a given reporting year? Are there any other alternatives that the Commission should consider, such as expanding the exemption to all service

²⁷ To the extent parties support an alternative definition or size standard for a reporting exemption, we seek comment on the burdens applicable to providers meeting that definition or standard. *See infra* para. 16.

²⁸ *See* Wireless Telecommunications Bureau, FCC Form 655 Instructions, at 12 <http://wireless.fcc.gov/hac/FCCForm655Instructions.pdf> (Dec. 2015). The estimate “includes the time to read the instructions, look through existing records, gather and maintain the required data, enter the data in the Form 655 on-line template, and submit it electronically.” *Id.*

²⁹ *See, e.g.*, RWA Comments at 5 n.17. We note that, although the reports are filed annually, they do not merely provide a once-a-year “snapshot” of the filer’s handset offerings as of the reporting date but rather include information on the filer’s offerings over the entire calendar year covered by the report, sufficient to demonstrate month-by-month compliance with all the hearing aid compatibility rules over that calendar year.

³⁰ *See* 47 CFR § 20.19(c) & (d) (setting forth M-rating and T-rating deployment benchmarks).

³¹ *Id.* § 20.19(a)(3)(v).

³² *See Order to Stay*, 17 FCC Rcd at 14847, para. 24.

³³ *See generally* 47 CFR § 20.19 (using Tier I carrier terminology throughout hearing aid compatibility rule).

providers or limiting the exemption to providers meeting the small size standard that is incorporated in the *de minimis* exception rule, *i.e.*, providers with 1,500 or fewer employees?

17. *Alternative Reporting Period or Certification.* If we determine that it would not serve the public interest to eliminate reporting requirements completely for Non-Tier I Service Providers, we seek comment on whether there are other ways to reduce the burdens associated with these requirements. Would it serve the public interest to require reporting less frequently? For instance, would requiring Non-Tier I Service Providers to file only once every three years instead of annually better balance the benefits of having such a reporting requirement against the burdens that it imposes? If so, what are the costs and benefits of revising the reporting requirements along these lines? Alternatively, rather than eliminating the reporting requirements or lengthening the interval between reports, would a better balance between the costs and benefits of the reporting requirements be achieved by requiring these service providers to submit a certification to the Commission, annually or otherwise, that they have met Section 20.19 deployment benchmarks and other requirements, such as those on in-store testing and website postings?³⁴ If so, should the certification form simply contain a box to check that the requirements have been met, or should the certification form request additional information, such as the web address of the hearing aid compatibility information published on the service provider's website, if applicable, and whether the service provider has received inquiries or complaints about the availability of hearing aid compatible handsets? What are the costs and benefits of using a certification approach instead of the existing reporting approach? Which approach better serves the public interest?

18. *Timing.* Assuming that we adopt a reporting exemption or modified reporting requirement, we seek comment on when such a change should become effective (*e.g.*, as soon as is possible, after some period of time, or after some triggering event). Would it be in the public interest to have the change become effective as soon as possible, such that the Commission affords relief to Non-Tier I Service Providers at the soonest applicable filing deadline? Alternatively, would a better approach be to have the change become effective at some alternative point in time or after a certain trigger is met, (*e.g.*, only after a Non-Tier I Service Provider meets either the 66 or 85 percent enhanced deployment benchmarks that the Commission adopted last year)? We ask commenters to explain how their proposed approach would best serve the public interest. We also seek comment on the costs and benefits of the various approaches.

19. *Related Changes.* We seek comment on whether any changes to other aspects of the Section 20.19 hearing aid compatibility requirements would be necessary or appropriate to accommodate or reflect a reporting exemption or modified reporting requirement for Non-Tier I Service Providers. For example, the *de minimis* exception rule, while otherwise exempting certain service providers from the requirements of the hearing aid compatibility rules, requires these providers to continue to submit annual FCC Form 655 reports.³⁵ We seek comment on whether it makes sense to retain this requirement for service providers if only, *e.g.*, Tier I carriers are required to submit annual FCC Form 655 reports. We also seek comment on any other changes to Section 20.19 of the rules if the scope of the reporting requirement exemption depends on factors such as the number of subscribers. If we adopt a reporting exemption or modified reporting requirement in this proceeding, what changes to the online FCC Form 655 or related instructions, if any, would be necessary or appropriate to implement the exemption?

³⁴ In the absence of a Form 655 reporting requirement for Non-Tier I Service Providers, we would continue applying the Commission's numerical and percentage-based handset deployment requirements on a month-to-month basis for any enforcement related purposes.

³⁵ See 47 CFR § 20.19(e)(1)(i) (stating that “[m]anufacturers or service providers that offer two or fewer digital wireless handsets in an air interface in the United States are exempt from the requirements of this section in connection with that air interface, except with regard to the reporting requirements in paragraph (i) of this section” and that “[s]ervice providers that obtain handsets only from manufacturers that offer two or fewer digital wireless handset in an air interface in the United States are likewise exempt from the requirements of this section other than paragraph (i) of this section in connection with that interface.”).

20. *Other Updates.* Finally, in light of various changes in the marketplace since these reporting requirements were adopted, we seek comment on additional ways to streamline or update hearing aid compatibility reporting for all service providers, including Tier I carriers. Commenters should provide quantitative and qualitative cost and benefit analyses to support their proposals and to evaluate whether any aspects of the reporting requirements are unnecessary and outdated or could be streamlined or simplified to reduce burdens. Commenters should address, for example, whether reporting of handset offerings on a month-to-month basis and the level of details reported under our rules and the current FCC Form 655 continue to remain appropriate to protect consumers, or whether they can be modified to reduce burdens while preserving benefits to consumers. For example, should we continue to require service providers to provide the model number and FCC ID directly associated with each model that they are reporting as compatible, together with the M and T rating that each such model has been certified as achieving under the ANSI C63.19 standard? Should the reports continue to include the air interface(s) and frequency band(s) over which each reported handset model operates? Do such reports need to track compliance on a month-to-month basis in order to protect consumers? Commenters should consider all additional ways to streamline and improve the quality and usefulness of the Form 655 and whether there are alternative, less costly ways to ensure that current and future deployment benchmarks are being met. For instance, does or could the Commission obtain hearing aid compatibility information as part of other data collections, such as from the manufacturer applications for equipment certifications of handsets? If commenters find that the currently collected information is insufficient, they should explain why and how it can be improved, or whether this information can be combined with other sources to streamline the hearing aid compatibility reporting requirements. Further, can third party sources, such as GARI, replace some of the information the Commission requires? Commenters should provide specific information about what information collected in the Form 655 is duplicative to other available Commission or third party data. Any proposed changes should include an analysis of costs and benefits of current and proposed collections, and how the proposed changes will continue to preserve the benefits to consumers from our policy objectives.

IV. PROCEDURAL MATTERS

A. Initial Regulatory Flexibility Analysis

21. As required by the Regulatory Flexibility Act, *see* 5 U.S.C. § 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in the Notice of Proposed Rulemaking. The IRFA is set forth in Appendix B. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in response to the Notice of Proposed Rulemaking and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

B. Initial Paperwork Reduction Act Analysis

22. The Notice of Proposed Rulemaking contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Other Procedural Matters

1. *Ex Parte* Rules – Permit-But-Disclose

23. The proceeding that the Notice of Proposed Rulemaking initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.³⁶ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

2. Comment Filing Procedures

24. Pursuant to Sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings related to the Notice of Proposed Rulemaking should refer to WT Docket No. 17-228. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

25. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, Annapolis, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

³⁶ 47 CFR §§ 1.1200 *et seq.*

26. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY), or 844-432-2275 (videophone).

27. For further information regarding the Notice of Proposed Rulemaking, contact Michael Rowan, Wireless Telecommunications Bureau, (202) 418-1883, e-mail Michael.Rowan@fcc.gov.

V. ORDERING CLAUSES

28. Accordingly, **IT IS ORDERED**, pursuant to Sections 4(i), 303(r), and 710 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 610, this Notice of Proposed Rulemaking **IS HEREBY ADOPTED**.

29. **IT IS FURTHER ORDERED** that pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on this Notice of Proposed Rulemaking on or before [thirty days after the date of publication in the *Federal Register*], and reply comments on or before [forty-five days after the date of publication in the *Federal Register*].

30. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, **SHALL SEND** a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A**Proposed Rules**

The Federal Communications Commission proposes to amend Part 20 of Title 47 of the Code of Federal Regulations as follows:

1. The authority citation for Part 20 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 152(a) 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 610, 615, 615a, 615b, 615c, unless otherwise noted.

2. Amend Section 20.19 by revising paragraph (i) to read as follows:

§ 20.19 Hearing aid-compatible mobile handsets.

* * * * *

(i) *Reporting requirements – (1) Reporting dates.* Manufacturers shall submit reports on efforts toward compliance with the requirements of this section on an annual basis on July 15. Tier I carriers shall submit reports on an annual basis on January 15. Service providers that are not Tier I carriers are not required to submit reports. Information in the reports must be up-to-date as of the last day of the calendar month preceding the due date of the report.

APPENDIX B

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the policies and rules proposed in this Notice of Proposed Rulemaking (*Notice*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Notice* provided on the first page of the *Notice*. The Commission will send a copy of the *Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the *Notice* and IRFA (or summaries thereof) will be published in the *Federal Register*.³

A. Need for, and Objectives of, the Proposed Rules

2. For some time now, the Commission has required all covered device manufacturers and wireless service providers regardless of size to file annual reports on their offering of handsets that are compatible with hearing aids. Beginning in 2003, the Commission established a schedule requiring covered device manufacturers and wireless service providers to submit hearing aid compatibility reports every six months from 2004 through 2006, and then annually in 2007 and 2008. In 2008, the Commission extended annual reporting requirements on an open-ended basis for covered device manufacturers and wireless service providers in order to verify compliance with the hearing aid compatibility rules. The Commission required the same reporting content from all covered entities, regardless of size, including those that come under the *de minimis* exception in the hearing aid compatibility rules. These reporting requirements have helped the Commission fulfill its responsibilities in monitoring the status of access to hearing aid-compatible handsets, verifying compliance with the rules, and ensuring that the public has useful information on compatible handsets.

3. In 2008, the Wireless Telecommunications Bureau (WTB), pursuant to delegated authority, made electronic FCC Form 655 available for service providers and device manufacturers to use in submitting hearing aid compatibility status reports, and made its use mandatory beginning with the filing deadline for device manufacturers on July 15, 2009.

4. In this *Notice*, the Commission seeks comment on whether and to what extent to exempt wireless service providers that are not Tier I carriers (Non-Tier I Service Providers) from annual FCC Form 655 reporting requirements, while maintaining these requirements for Tier I carriers and all handset manufacturers. The Commission states that numerous parties, especially rural and small wireless service providers, have asserted for some time that preparing these annual reports is burdensome. The Commission seeks comment on the burdens of compliance with the Form 655 reporting requirements for Non-Tier I Service Providers, and whether the benefits of the reporting requirement as applied to these providers continues to outweigh the costs or burdens the reporting requirement places on them. Specifically, the Commission seeks comment on whether Non-Tier I Service Provider reporting is necessary to meet the Commission's objectives of providing information to the public, assisting efforts to verify compliance, and monitoring the general state of hearing aid-compatible handset deployment. With regard to monitoring the compliance of Non-Tier I Service Providers with the hearing aid compatibility rules, the Commission seeks comment on whether it should rely on the informal complaint process to help ensure Non-Tier I Service Providers continue to meet deployment benchmarks and other hearing aid compatibility requirements. The Commission also seeks comment on whether eliminating or modifying

¹ See 5 U.S.C. § 603. The RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). See Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² See 5 U.S.C. § 603(a).

³ See *id.*

the reporting requirement would permit Non-Tier 1 Service Providers to save costs without an appreciable negative impact on the Commission's enforcement objectives.

5. In the *Notice*, the Commission asks detailed questions to help it evaluate these issues, and asks parties to submit specific data in response to the *Notice*. In addition, the Commission seeks comment on the scope of the exemption, when the exemption should begin to apply, and whether other changes to the hearing aid compatibility rules or the FCC Form 655 may be necessary or appropriate to implement or reflect the new exemption.

B. Legal Basis

6. The proposed actions for which comments have been sought in this *Notice* is authorized under Sections 4(i), 303(r), and 710 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 610.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Would Apply

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.⁴ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁵ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁶ A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁷

8. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.⁸ First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.⁹ These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.¹⁰

9. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."¹¹

⁴ *Id.* § 603(b)(3).

⁵ *Id.* § 601(6).

⁶ *Id.* § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

⁷ 15 U.S.C. § 632 (1996).

⁸ *See* 5 U.S.C. § 601(3)-(6).

⁹ *See* SBA, Office of Advocacy, "Frequently Asked Questions, Question 1 – What is a small business?" https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf.

¹⁰ *See* SBA, Office of Advocacy, "Frequently Asked Questions, Question 2- How many small businesses are there in the U.S.?" https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf.

¹¹ 5 U.S.C. § 601(4).

Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with Internal Revenue Service (IRS).¹²

10. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”¹³ U.S. Census Bureau data from the 2012 Census of Governments¹⁴ indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.¹⁵ Of this number there were 37,132 general purpose governments (county¹⁶, municipal, and town or township¹⁷) with populations of less than 50,000 and 12,184 special purpose governments (independent school districts¹⁸ and special districts¹⁹) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000.²⁰ Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of “small governmental jurisdictions.”²¹

¹² Data from the Urban Institute, National Center for Charitable Statistics (NCCS) reporting on nonprofit organizations registered with the IRS was used to estimate the number of small organizations. Reports generated using the NCCS online database indicated that as of August 2016 there were 356,494 registered nonprofits with total revenues of less than \$100,000. Of this number, 326,897 entities filed tax returns with 65,113 registered nonprofits reporting total revenues of \$50,000 or less on the IRS Form 990-N for Small Exempt Organizations and 261,784 nonprofits reporting total revenues of \$100,000 or less on some other version of the IRS Form 990 within 24 months of the August 2016 data release date. See <http://nccsweb.urban.org/tablewiz/bmf.php>, where the report showing this data can be generated by selecting the following data fields: Show: “Registered Nonprofit Organizations”; By: “Total Revenue Level (years 1995, Aug to 2016, Aug)”; and For: “2016, Aug” then selecting “Show Results.”

¹³ 5 U.S.C. § 601(5).

¹⁴ See 13 U.S.C. § 161. The Census of Government is conducted every five (5) years compiling data for years ending with “2” and “7.” See also Program Description Census of Government, <http://factfinder.census.gov/faces/affhelp/jsf/pages/metadata.xhtml?lang=en&type=program&id=program.en.COG#>.

¹⁵ See U.S. Census Bureau, 2012 Census of Governments, Local Governments by Type and State: 2012 - United States-States, <https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG02.US01>. Local governmental jurisdictions are classified in two categories - General purpose governments (county, municipal and town or township) and Special purpose governments (special districts and independent school districts).

¹⁶ See U.S. Census Bureau, 2012 Census of Governments, County Governments by Population-Size Group and State: 2012 - United States-States, <https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG06.US01>. There were 2,114 county governments with populations less than 50,000.

¹⁷ See U.S. Census Bureau, 2012 Census of Governments, Subcounty General-Purpose Governments by Population-Size Group and State: 2012 - United States – States, <https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG07.US01>. There were 18,811 municipal and 16,207 town and township governments with populations less than 50,000.

¹⁸ See U.S. Census Bureau, 2012 Census of Governments, Elementary and Secondary School Systems by Enrollment-Size Group and State: 2012 - United States-States, <https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG11.US01>. There were 12,184 independent school districts with enrollment populations less than 50,000.

¹⁹ See U.S. Census Bureau, 2012 Census of Governments, Special District Governments by Function and State: 2012 - United States-States, <https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG09.US01>. The U.S. Census Bureau data did not provide a population breakout for special district governments.

²⁰ See U.S. Census Bureau, 2012 Census of Governments, County Governments by Population-Size Group and State: 2012 - United States-States, <https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG06.US01>; Subcounty General-Purpose Governments by Population-Size Group and State: 2012 - United States–States, <https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG07.US01>; and Elementary and Secondary School Systems by Enrollment-Size Group and State: 2012 - United States-States,

(continued....)

11. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment, including unlicensed devices. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, radio and television studio and broadcasting equipment.²² The Small Business Administration has established a size standard for this industry of 750 employees or less.²³ U.S. Census data for 2012, shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees.²⁴ Based on this data, we conclude that a majority of manufacturers in this industry is small.

12. *Part 15 Handset Manufacturers.* The Commission has not developed a definition of small entities applicable to unlicensed communications handset manufacturers. The SBA category of Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing is the closest NAICS code category for Part 15 Handset Manufacturers. The Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing industry is comprised of establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.²⁵ The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, as firms having 750 or fewer employees.²⁶ U.S. Census data for 2012, shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees.²⁷ Thus, under this size standard, the majority of firms can be considered small.

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<https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG11.US01>. While U.S. Census Bureau data did not provide a population breakout for special district governments, if the population of less than 50,000 for this category of local government is consistent with the other types of local governments, the majority of the 38,266 special district governments have populations of less than 50,000.

²¹ *Id.*

²² See U.S. Census Bureau, North American Industry Classification System (NAICS): Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, <https://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

²³ 13 CFR § 121.201, NAICS Code 334220.

²⁴ U.S. Census Bureau, American FactFinder; Industry Statistics for Subsectors and Industries by Employment Size: 2012, http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_31SG2&prodType=table.

²⁵ U.S. Census Bureau, 2002 NAICS Definitions, 334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

²⁶ 13 CFR § 121.201, NAICS Code 334220.

²⁷ U.S. Census Bureau, American FactFinder; Industry Statistics for Subsectors and Industries by Employment Size: 2012, http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_31SG2&prodType=table.

13. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services.²⁸ The appropriate size standard under SBA rules is for the category Wireless Telecommunications Carriers (except Satellite) is that a business is small if it has 1,500 or fewer employees.²⁹ For this industry, U.S. Census data for 2012 shows that there were 967 firms that operated for the entire year.³⁰ Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more.³¹ Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

14. The Commission's own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that will be affected by our actions today.³² The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services.³³ Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.³⁴ Thus, using available data, we estimate that the majority of wireless firms can be considered small.

15. Also included in this classification is Personal Radio Services, which provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The Personal Radio Services include spectrum licensed under Part 95 of the Commission's rules. These services include Citizen Band Radio Service (“CB”), General Mobile Radio Service (“GMRS”), Radio Control Radio Service (“R/C”), Family Radio Service (“FRS”), Wireless Medical Telemetry Service (“WMTS”), Medical Implant Communications Service (“MICS”), Low Power Radio Service (“LPRS”), and Multi-Use Radio Service (“MURS”). We note that many of the licensees in these services are individuals, and thus are not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum utilized in many of these services, the Commission lacks direct information upon which to base a more specific estimation of the number of small entities under an SBA definition that might be directly affected by our action.

²⁸ U.S. Census Bureau, 2012 NAICS Definitions: 517210 Wireless Telecommunications Carriers (except Satellite), <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517210&search=2012>.

²⁹ 13 CFR § 121.201, NAICS Code 517210.

³⁰ U.S. Census Bureau, American FactFinder; Industry Statistics for Subsectors and Industries by Employment Size: 2012, http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

³¹ *Id.* Available census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “1000 employees or more.”

³² See Federal Communications Commission, Wireless Telecommunications, <http://wireless.fcc.gov/uls>. For the purposes of this IRFA, consistent with Commission practice for wireless services, the Commission estimates the number of licensees based on the number of unique FCC Registration Numbers.

³³ See Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, Trends in Telephone Service at Tbl. 5.3 (Sept. 2010), https://apps.fcc.gov/edocs_public/attachmatch/DOC-301823A1.pdf.

³⁴ See *id.*

16. *Wireless Resellers.* The SBA has not developed a small business size standard specifically for Wireless Resellers. The SBA category of Telecommunications Resellers is the closest NAICS code category for wireless resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry.³⁵ Under the SBA's size standard, such a business is small if it has 1,500 or fewer employees.³⁶ U.S. Census data for 2012 shows that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees.³⁷ Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

17. The Commission is not proposing to impose any additional reporting or record keeping requirements. Rather, as discussed in the next section, the Commission is seeking comment on whether and to what extent it can reduce burdens on small wireless service providers by exempting them from hearing aid compatibility reporting requirements. Presently, these requirements include filing electronic FCC Form 655 on an annual basis. However, the Commission also asks whether it should require those wireless service providers who qualify for the new exemption to file a certification, either annually or otherwise, that states that they meet the hearing aid compatibility deployment benchmarks and other requirements.

E. Steps Proposed to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

18. The RFA requires an agency to describe any significant, specifically small business alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) exemption from coverage of the rule, or any part thereof, for small entities.”³⁸

19. To assist the Commission's evaluation of the economic impact on small entities, as a result of actions that have been proposed in this *Notice*, and to better explore options and alternatives, the Commission has sought comment from the parties. In this *Notice*, the Commission has requested that commenters estimate the number of small entities that may be affected by any rule changes that might result from this *Notice*, to assist the Commission in analyzing the total number of potentially affected small entities. The *Notice* also seeks comment on whether and to what extent it should exempt wireless service providers that are not Tier I carriers from annual reporting requirements, while maintaining these requirements for Tier I carriers and all handset manufacturers. Under the Commission's current hearing aid compatibility rules, all covered wireless service providers regardless of size must electronically file FCC Form 655 with the Commission in January of each year. While these reports have helped the Commission meet several of its objectives, the Commission is seeking comment on whether the burden of

³⁵ U.S. Census Bureau, 2012 NAICS Definitions 517911 Telecommunications Resellers, <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=517911&search=2012+NAICS+Search&search=2012>.

³⁶ 13 CFR § 121.201, NAICS Code 517911.

³⁷ U.S. Census Bureau, 2012 Economic Census, Subject Series: Information, “Establishment and Firm Size,” NAICS Code 517911.

³⁸ 5 U.S.C. §§ 603(c)(1)-(4).

filing this form for small wireless service providers outweighs the benefits that the form provides the Commission and the public. The Commission is seeking comment, in part, on whether and how this change would benefit small entities.

20. The Commission expects to more fully consider the economic impact on small entities, following the review of comments filed in response to the *Notice*. In seeking comment on whether to exempt non-nationwide wireless service providers from annual reporting requirements, the Commission considers several alternatives and steps it could take to implement its proposal. For example, the Commission invites comment on whether the hearing aid compatibility rules should incorporate an alternative definition or size standard on which a reporting exemption for small, rural, or regional service providers could be based. Specifically, the Commission asks whether the exemption could be based on a threshold number of subscribers. The Commission also seeks comment on whether to limit the new exemption to wireless service providers who meet the small size standard that is incorporated in the *de minimis* rule, *i.e.*, wireless service providers with 1500 or fewer employees. The Commission further seeks comment on the timing of when such an exemption should go into effect. Finally, the Commission asks whether to require those wireless service providers who qualify for the new exemption to file a certification, either annually or otherwise, that states that they meet the hearing aid compatibility deployment benchmarks and other requirements. The Commission invites comment on ways in which the Commission can achieve its goals, but at the same time further reduce the burdens on small entities.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

21. None.

**STATEMENT OF
CHAIRMAN AJIT PAI**

Re: *Revisions to Reporting Requirements Governing Hearing Aid-Compatible Mobile Handsets*, WT Docket No. 17-228

Today, we seek to help small wireless providers put their resources where it matters most—towards investment and innovation that benefits their customers, instead of bureaucratic red tape.

With today's action, we aim to streamline our current hearing aid compatibility (HAC) deployment and compliance reporting requirements. Those rules require annual reporting, regardless of the size of the provider or whether that provider is subject to other HAC obligations. Numerous details are demanded, including which handsets the provider has made available to consumers since the last report that are and are not hearing-aid compatible, the frequencies over which those handsets operate, how many months the handsets have been available, and the status of product labeling and outreach efforts.

We've heard concerns, particularly from many small providers, about the burdens that creating these annual reports pose, such as the time and cost required. That's why we're exploring whether the benefits of requiring all providers to comply with the Commission's reporting requirements still outweigh the costs. Exempting small providers from the annual reporting obligations and possibly streamlining the reporting mechanisms for other carriers may relieve these burdens without affecting the Commission's ability to effectively monitor the overall status of HAC handset availability.

It's important to note that we are not changing the obligations of manufacturers and operators to provide hearing aid-compatible devices. The FCC would continue to monitor compliance with our HAC rules to ensure consumers have access to compatible devices. All we would be doing by simplifying our HAC compliance reporting efforts is helping small providers shift resources from unnecessary reporting to better services for their customers.

As always, a big thank you to the staff that worked on this item: Charles Eberle, Neşe Guendelsberger, Garnet Hanly, Eli Johnson, Aalok Mehta, Michael Rowan, Michael C. Smith, Cecilia Sulhoff, Peter Trachtenberg, and Weiren Wang from the Wireless Telecommunications Bureau; Robert Aldrich, Susan Bahr, Eliot Greenwald, Suzanne Singleton, and Karen Peltz Strauss from the Consumer and Governmental Affairs Bureau; Pamera Hairston, Jeremy Marcus, and Aspasia Paroutsas from the Enforcement Bureau; and Deborah Broderson, David Horowitz, Linda Oliver, Bill Richardson, and Anjali Singh from the Office of General Counsel.

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

Re: *Revisions to Reporting Requirements Governing Hearing Aid-Compatible Mobile Handsets*, WT Docket No. 17-228

We have reached a significant milestone when it comes to mobile wireless services: for the first time ever, more Americans have cellular telephones than land lines. And for the millions of consumers who are hearing impaired, that wireless phone may be their only means of maintaining contact with loved ones, seeking professional services and job opportunities, or reaching out to first responders in case of emergency.

As technologies evolve, so must we, and since 2003, the Commission has adopted regulations to ensure that Americans with hearing disabilities enjoy the same access to wireless communications as other consumers. Just over a year ago, the Commission adopted a joint proposal advanced by consumer advocacy groups and industry trade associations to increase the availability of hearing aid-compatible wireless handsets for those with hearing loss. This proposal underscored all the stakeholders' collective goal of hearing aid-compatibility for *all* wireless handsets, and set us on a path toward achievement of that goal.

It is against this backdrop, that I considered today's item. I am never one to shy away from an inquiry about the utility of any given regulation to determine whether there are ways to decrease the burden on industry without undermining critical consumer benefits. The very purpose of the hearing aid-compatibility reporting requirements is to provide information to the public, assist with efforts to verify compliance, and monitor the deployment of hearing aid-compatible handsets. Therefore, I support the line of inquiry, on how to balance those very important goals with the reporting burdens faced by small and rural wireless service providers.

I am particularly interested in understanding exactly how onerous these reporting requirements are for non-Tier 1 providers, whether the information collected by the Commission in these reports is available elsewhere, and what impact any further Commission action would have on consumers with hearing disabilities. I encourage all stakeholders to participate in this proceeding, and look forward to reviewing the record that develops.

Thanks are due to the Wireless Telecommunications Bureau for all the work you have done over the years to ensure that consumers with hearing impairments have access to a broad selection of innovative and advanced wireless handsets. I look forward to continuing to work with you and my colleagues on achieving 100% hearing aid-compatible wireless handsets in the very near future.

**STATEMENT OF
COMMISSIONER BRENDAN CARR**

Re: *Revisions to Reporting Requirements Governing Hearing Aid-Compatible Mobile Handsets*, WT Docket No. 17-228

This item shows what I would call good, outside-the-Beltway thinking. When it comes to small businesses, D.C. has had a tendency to pile on just one more reporting obligation, one additional fee, or merely a little more red tape. Far too often, these actions are taken with no consideration for the actual and cumulative burden that these regulations impose.

Over the years, the FCC has been no exception. A coalition that represents small and rural broadband providers recently explained that our reporting obligations alone now consume 23 weeks of work per year or five months of full-time labor. I've heard these same concerns when I've met with small wireless providers. They talk about having to take one of the few people they employ off of a customer service job or marketing effort or even a broadband deployment project and train them to complete and submit FCC paperwork. These small businesses are not corporate behemoths. They do not have, and simply cannot afford, an army of regulatory lawyers. It strikes them that a lot of this paperwork is unnecessary. And I agree. If we can eliminate these reporting burdens, small businesses can focus even more on competing, growing their businesses, and serving consumers.

Today's Notice takes a small and welcome step toward this goal. We are seeking comment on whether we can exempt small wireless providers from a HAC reporting obligation while continuing to ensure that consumers and the FCC have access to all necessary information. I am glad that we are taking this step. And I am pleased that it is part of a broader trend at the agency. This is a Commission that has been working to reduce unnecessary regulatory burdens on small businesses. So this item and this effort have my support.

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL**

Re: *Revisions to Reporting Requirements Governing Hearing Aid-Compatible Mobile Handsets*, WT Docket No. 17-228

Today's rulemaking proposes changes to the annual report that small, rural, and regional wireless providers file detailing how the mobile handsets they offer are compatible with hearing aids. These reports take time and effort. Moreover, in their existing form they may not fully reflect the current device marketplace. I support seeking comment regarding changes to these rules.

I believe it is just as important to note what does not change with this proceeding. What does not change is that hearing loss is a big deal. More than 30 million Americans have some form of hearing difficulty—and among older Americans it is especially prevalent. There is only one other group that wrestles with hearing loss in comparably large numbers—and that's veterans.

In fact, hearing problems are the most common service-connected difficulty experienced by our veterans. Military personnel who are repeatedly exposed to gunfire and explosives face special risk. Recovering from blast-induced injuries is hard work. Getting accustomed to ringing in the ears, asking family and friends to repeat themselves, and acclimating to hearing aids takes time and effort. If anyone has the strength and fortitude to do so, it's those who have served. When they do, they deserve to be able to use mobile devices like everyone else. They deserve to have access to a full range of wireless handsets in the marketplace. They deserve to call, connect, and live life wirelessly like so many of us do.

In the end, this rulemaking is about moving to a regime with less paperwork. But I am unmoved by any suggestion this Commission should retreat from its commitment to ensuring that those with hearing loss—including veterans—have full access to modern communications. This is not only the right thing to do—it's required under the law.