

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

In the Matter of)
)
Clarity, A Division of Plantronics, Inc.)
Request For Waiver of Volume Control Reset,)
47 C.F.R. § 68.317(f))

ORDER

Adopted: September 13, 2004

Released: September 14, 2004

By the Chief, Disability Rights Office:

1. In this *Order* we address a petition for waiver of 47 C.F.R. § 68.317(f) of the Commission’s rules filed by Clarity, A Division of Plantronics, Inc. (Clarity) on August 20, 2004. Section 68.317(f) requires that telephones with amplification greater than 18 dB (designed for persons with hearing disabilities) must reset to a volume no greater than 18 dB once the telephone is returned to an on-hook position. Clarity seeks approval of a telephone device, Model C440, that include a volume control override switch so that persons with hearing disabilities can use the telephone without having to turn the volume back up each time they use the telephone. In order to do so, Clarity has requested a waiver of Section 68.317(f) pursuant to the Commission’s streamlined waiver procedures.¹

2. *Background: Part 68 Registration Process.* All terminal equipment manufactured in, or imported into, the United States and connected to the public switched telephone network (PSTN) must conform to the requirements of Part 68 of the Commission’s rules.² To that end, Part 68 requires either that terminal equipment be tested by a Telecommunications Certification Body (TCB)³ or that the

¹ See *Tandy Corporation, Walker Equipment Company, Ameriphone, Inc., and Ultratec, Inc., Request for Waiver of Volume Control Reset, 47 C.F.R. § 68.317(f)*, NSD-L-00-17, NSD-L-00-22, NSD-L-00-63, NSD-L-00-193, DA 01-578, 16 FCC Rcd 5253 (March 5, 2001) (*Tandy Corporation*).

² Part 68 is intended to prevent harm to the PSTN from the connection of terminal equipment and associated wiring. 47 C.F.R. § 68.1. Pursuant to Part 68, all terminal equipment that may be connected to the telephone network must meet the technical requirements of both Part 68 and those published by the Administrative Council for Terminal Attachments (ACTA) as required in sections 68.7, 68.102, and subpart C of Part 68 of the Commission’s rules. See 47 C.F.R. §§ 68.7, 68.102; 47 C.F.R. Subpart C.

³ TCBs are equipment test laboratories certified by the Commission pursuant to sections 68.160 and 68.162 of the Commission’s rules to approve terminal equipment for connection to the telephone network. Each TCB has its own application procedure and operates independently of the Commission. In addition, bodies outside the United States are also permitted to approve equipment. See 47 C.F.R. §§ 68.160(c), 162.

responsible party follows the procedures for a Supplier's Declaration of Conformity (SDOC).⁴ A waiver of section 68.317(f) allows the petitioner to apply to a TCB, or to file its SDOC pursuant to the Part 68 equipment approval requirements, despite the fact that the device does not meet the technical standards of section 68.317(f).

3. *Streamlined Volume Reset Switch Waiver Process.* On March 5, 2001, the Commission's Common Carrier Bureau, Network Services Division, released an order adopting a streamlined waiver process for deciding section 68.317(f) waiver petitions.⁵ The Bureau found that the Commission's waiver requirements would be met, and that an order would be issued granting the waiver request, if manufacturers filed a statement with the Commission stating that they complied with the following five safety conditions:

- (1) the volume reset override switch shall be labeled as such and located on the telephone in such a way as to not be accessible to accidental engagement;
- (2) a bright indicator light shall be prominently displayed on the front of the telephone and shall light up when the override is engaged and the telephone is placed in an off-hook condition;
- (3) next to the light shall be a warning that the amplification is at a high level;
- (4) a caution on the use of the volume reset override switch shall be included in the users' manual; and
- (5) the telephone includes a warning printed in Braille that can be securely attached to the back of the handset, or, if the telephone has only a headset, above the dial buttons, to indicate that a high volume setting may be engaged.

With this streamlined waiver process, the Commission eliminated the usual public notice and comment procedures for petitions for waivers of Commission rules.⁶

4. Accordingly, parties may request waiver of section 68.317(f) by submitting a letter certifying that the equipment for which the waiver is requested complies with the five safety conditions set forth in *Tandy Corporation*.⁷ The letter (waiver request) must be signed "by a company representative or other officer responsible for its truthfulness."⁸ "If the request is in order and if no other issues are present that preclude a grant, the [Commission] will issue an order granting the waiver request."⁹ The party receiving such a waiver grant may then pursue equipment approval under the applicable Part 68 rules.¹⁰

5. *Discussion.* Clarity has provided a letter dated August 20, 2004, certifying that its proposed telephone device, Model C440, comply with the five waiver conditions specified in *Tandy Corporation*. Its statement of certification is signed by Bart Boyd, Quality Manager of the company.

⁴ SDOC procedures are set forth in sections 68.320 – 68.353 of the Commission's rules. 47 C.F.R. §§ 68.320 – 68.353.

⁵ *Tandy Corporation* at ¶¶ 13-15.

⁶ *Id.* at ¶ 15.

⁷ *Id.* at ¶ 17.

⁸ *Id.* at ¶ 15.

⁹ *Id.*

¹⁰ *Id.* at ¶ 15.

Based on this letter, we conclude that it is appropriate that the requested waiver be granted. This *Order* therefore grants Clarity's waiver request. As a result, Clarity may proceed with either TCB certification or Self-Declaration of Conformity pursuant to Part 68 of the Commission's rules.

6. Accordingly, IT IS ORDERED that, pursuant to authority delegated in sections 0.141 and 0.361 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, and section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, the request for waiver of section 68.317(f) for Model C440, filed by Clarity, A Division of Plantronics, Inc., IS GRANTED to the extent stated herein.

7. IT IS FURTHER ORDERED that the petition for waiver IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS: (1) the volume reset override switch shall be labeled as such and located on the telephone in such a way as to not be accessible to accidental engagement; (2) a bright indicator light shall be prominently displayed on the front of the telephone and shall light up when the override is engaged and the telephone is placed in an off-hook condition; (3) next to the light shall be a warning that the amplification is at a high level; (4) a caution on the use of the volume reset override switch shall be included in the users' manual; and (5) the telephone includes a warning printed in Braille that can be securely attached to the back of the handset, or, if the telephone has only a headset, above the dial buttons, to indicate that a high volume setting may be engaged.

8. 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). This *Order* can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro>.

FEDERAL COMMUNICATIONS COMMISSION

Thomas E. Chandler
Chief, Disability Rights Office
Consumer & Governmental Affairs Bureau