



Federal Communications Commission
Washington, D.C. 20554

June 16, 2016

DA 16-678

Paul Ingebrigtsen
President and CEO
Williams Sound LLC
10300 Valley View Rd.
Eden Prairie, MN 55344

Dear Mr. Ingebrigtsen:

By this letter, we grant a six-month waiver of our rules, as described below, to provide Williams Sound LLC (Williams Sound) additional time to bring an existing auditory assistance device product into compliance with our updated unwanted emissions limits requirements and to file a Class II permissive change application to amend the equipment authorization for the device.

On May 11, 2016, you asked us to waive Section 15.37(g) of the Commission's rules, 47 CFR § 15.37(g), through January 11, 2017 to permit Williams Sound to continue manufacturing with the current design a Part 15 auditory assistance device transmitter that operates on an unlicensed basis in the 72-73 MHz, 74.6-74.8 MHz, and 75.2-76.0 MHz (72-76 MHz) bands.¹ Section 15.37(g) bans the manufacture or importation of auditory assistance devices that do not comply with the revised emissions limits in Section 15.237(c) after July 11, 2016.² You state that additional time is needed for Williams Sound to bring the device – FCC ID CNMT45 – into compliance with these revised limits.³ You also state that while Williams Sound has redesigned two of its three Part 15 auditory assistance device transmitters to comply with the updated unwanted emissions limits, the CNMT45 incorporates complex design elements that have necessitated additional efforts to bring the transmitter into compliance.⁴

In support of your request, you argue that the manufacture and sale of the CNMT45 provides an important public benefit because the device helps provide simultaneous language interpretation to individuals with hearing impairments, and that grant of the waiver will ensure that the public continues to have access to this equipment as Williams Sound completes the transition to the Commission's new emissions requirements.⁵ You further contend that grant of the waiver will pose a minimal risk of interference to other band users since the CNMT45 is an FM transmitter

¹ See Request of Williams Sound for Limited Waiver of Section 15.37(g) Regarding FCC ID CNMT45 (Request) dated May 11, 2016, from Paul Ingebrigtsen, President and CEO, Williams Sound LLC at 1.

² 47 CFR § 15.37(g).

³ See Request at 1, 3.

⁴ See *id.* at 3 (describing an Ethernet module that enables Internet connectivity and another module that coordinates streaming audio from digital audio sources).

⁵ See *id.* at 4, and 4, n.13. Williams Sound also notes that it may be able to complete its testing and certify the CNMT45 as compliant with the revised emissions limits in advance of the six-month extension that it is requesting.

designed for use within large venues and that, in almost all installations, it will be well removed from any device not under common control.⁶ Moreover, Williams Sound is unaware of any instances of interference caused by the device's current design.⁷

We are authorized to grant a waiver under Section 1.3 of the Commission's rules if the petitioner demonstrates good cause for such action.⁸ Good cause, in turn, may be found and a waiver granted "where particular facts would make strict compliance inconsistent with the public interest."⁹ To make this public interest determination, the waiver cannot undermine the purposes of the rule, and there must be a stronger public interest benefit in granting the waiver than in applying the rule.¹⁰ Based on the submissions presented in your request, we find that the grant of a waiver permitting Williams Sound to continue manufacturing the CNMT45 device under the current design through January 11, 2017 is warranted.

In 2013, the Commission amended the definition of "auditory assistance device" in Part 15 of the rules to expand the permissible uses of these devices to include simultaneous language interpretation for anyone at any location. To reduce the likelihood that the unwanted emissions due to increased use of Part 15 auditory assistance devices for simultaneous language interpretation would degrade the reception of VHF TV channels 2-4 (54-72 MHz) and channels 5-6 (76-88 MHz) and help improve the reception of these channels, the Commission required that the unwanted emissions outside of Part 15 auditory assistance devices' specified 200 kilohertz transmission bandwidth in the 72-76 MHz bands not exceed the general radiated emissions limits specified in Section 15.209 of the Commission's rules.¹¹

⁶ *See id.* at 4.

⁷ *Id.*

⁸ *See* 47 CFR § 1.3. *See also* *ICO Global Communications (Holdings) Limited v. FCC*, 428 F.3d 264 (D.C. Cir. 2005); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969). *See also* *Respironics, Inc. and Boston Scientific Corporation, Requests for Waiver of Section 15.205 of the Commission's Rules to Permit the Marketing and Operation of Certain Medical Communications Devices That Operate in the 90-110 kHz Band*, Order, ET Docket No. 05-331, 21 FCC Rcd 13450 (OET, 2006) (waiving, under delegated authority, our rules for a limited time to allow the continued manufacture and operation of medical devices that did not comply with our Part 15 rules).

⁹ *Northeast Cellular*, 897 F.2d at 1166; *see also* *ICO Global Communications*, 428 F.3d at 269 (quoting *Northeast Cellular*); *WAIT Radio*, 418 F.2d at 1157-59.

¹⁰ *See, e.g.,* *WAIT Radio*, 418 F.2d at 1157 (stating that even though the overall objectives of a general rule have been adjudged to be in the public interest, it is possible that application of the rule to a specific case may not serve the public interest if an applicant's proposal does not undermine the public interest policy served by the rule); *Northeast Cellular*, 897 F.2d at 1166 (stating that in granting a waiver, an agency must explain why deviation from the general rule better serves the public interest than would strict adherence to the rule).

¹¹ *Amendment of Part 15 of the Commission's Rules to Amend the Definition of Auditory Assistance Device in Support of Simultaneous Language Interpretation*, ET Docket No. 10-26, Report and Order, 28 FCC Rcd 6658 at 6667 and 6670, paras. 22 and 31 (2013) (*Auditory Assistance Device Order*); 47 CFR §§ 15.3(a)(1)-(3) and 15.237(c).

The waiver Williams Sound seeks will not undermine the purpose of the rule. The radiated emissions limits were revised to support a general goal of improving the reception of VHF-TV channels 2-6 by reducing the noise level from nearby equipment, and not in response to any particular incidence of Part 15 auditory assistance devices having caused harmful interference to authorized services under our rules.¹² The CNMT45 is an existing device that has successfully operated in the band and that is typically operated in controlled locations. Moreover, Williams Sound does not seek a lengthy or indefinite waiver of our rules. Instead, the waiver would simply allow Williams Sound a brief additional amount of time to complete its revision of a single product model that has complexities that may not have been fully appreciated when the three-year transition period was originally established. Thus, even under the waiver, we can be confident that the objective of transitioning Part 15 auditory assistance devices to the new emissions limits will still be met.

We also conclude that there is good cause to grant a waiver because it will allow Williams Sound to continue to manufacture and sell a Part 15 auditory assistance device that is used to help provide simultaneous language interpretation to individuals with hearing impairments. In light of the benefits that auditory assistance devices help provide to persons with disabilities and the requirements of event spaces and other public venues to provide auditory assistance for individuals with hearing impairments and audio description for individuals with visual impairments,¹³ it would be inconsistent with the public interest for us to limit the sale and marketing of an auditory assistance device like the CNMT45 unless there was an interference-based concern or other technical reason to do so.

You also request an extension of the time period within which to file a Class II permissive change application to amend Williams Sound's existing equipment authorization grant for the CNMT45.¹⁴ In the *Auditory Assistance Device Order*, the Commission permitted Class II permissive changes until July 11, 2016, for Part 15 auditory assistance devices that operate in the 72-76 MHz bands that were certified prior to January 12, 2015. After July 11, 2016, Class II permissive changes for such devices are not permitted.¹⁵ Thus, after July 11, 2016, a new application for equipment authorization is required for legacy Part 15 auditory assistance devices if there is a change in the design, circuitry, or construction of the device for which an equipment authorization has been issued.¹⁶ In support of your request, you argue that grant of a six-month extension will reduce the administrative burdens imposed upon both the Commission and

¹² *Auditory Assistance Device Order*, 28 FCC Rcd at 6667-68, paras 22-23.

¹³ Current law requires operators of public gathering places to provide auditory assistance devices for use by persons with disabilities. *See Americans with Disabilities Act of 1990* (as amended), 42 U.S.C. §§ 12103, 12181(7)(A)-(L), 12182.

¹⁴ *See* Request at 4. Under Section 15.201(b) of the rules, Part 15 auditory assistance devices must be certified by the Commission pursuant to the equipment authorization procedures in Subpart J of Part 2 of the Commission's rules prior to marketing. 47 CFR § 15.201(b). Under Section 2.1043(b)(2) of the rules, a Class II permissive change includes those modifications which degrade the performance characteristics of a device as reported to the Commission at the time of initial certification. *See* 47 CFR § 2.1043(b)(2).

¹⁵ *See Auditory Assistance Device Order*, 28 FCC Rcd at 6669 para. 29.

¹⁶ *See* 47 CFR § 2.932(a).

Williams Sound by ensuring that the company does not need to submit a new equipment authorization application for the redesigned CNMT45.¹⁷ Given that we are granting Williams Sound a waiver that will permit it to continue manufacturing the CNMT45 device with the current design through January 11, 2017, the grant of a waiver extending the time period for filing a Class II permissive change application to the same date is also warranted. The Commission had previously determined that the permissive change process was appropriate for the type of device modification being made here, so we conclude that the purpose of the rule will not be undermined. The permissive change process should permit Williams Sound to introduce its revised CNMT45 device quicker and more efficiently than if it had to submit a new equipment authorization application. A waiver also serves the public interest, as use of the Class II permissive change process will reduce the administrative burdens on both Williams Sound and the Commission.

Accordingly, pursuant to the delegated authority in Sections 0.31, 0.241, and 1.3 of the Commission's Rules, 47 C.F.R. §§ 0.31, 0.241, 1.3, WE WAIVE the requirements of Section 15.37(g) of our Rules to permit Williams Sound to continue manufacturing its Part 15 auditory assistance device, FCC ID CNMT45, with the current design through January 11, 2017. We also extend through January 11, 2017, the time period within which Williams Sound may file a Class II permissive change application to amend its existing equipment authorization grant for the CNMT45 device.

Sincerely,

Julius P. Knapp
Chief
Office of Engineering and Technology

¹⁷ See Request at 4.