

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

In the Matter of)
)
Requests for Waiver of the Hearing Aid) CG Docket No. 18-307
Compatibility Volume Control Reset Rules)
)
ClearCaptions, LLC)

ORDER

Adopted: November 27, 2018

Released: November 27, 2018

By the Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau:

1. In this Order, the Consumer and Governmental Affairs Bureau of the Federal Communications Commission (FCC or Commission) grants a waiver to ClearCaptions, LLC (ClearCaptions) of the hearing aid compatibility (HAC) volume control reset requirements contained in section 68.317 of the Commission’s rules.¹ Under section 68.317, which was amended in 2017 to incorporate a revised volume control standard,² wireline telephones are permitted to provide amplification to a level greater than the maximum specified in the applicable rule, but must automatically reset to a lower volume after the telephones are hung up. Pursuant to the Commission’s streamlined waiver process,³ ClearCaptions seeks a waiver of the volume control reset provisions for its ClearCaptions Blue telephone devices (Blue devices) 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.”⁴ ClearCaptions explains that its Blue devices support both public switched telephone network (PSTN) and

¹ 47 CFR § 68.317(g)-(h); see Letter from Michael Strecker, Vice President of Regulatory Affairs & Strategic Policy, ClearCaptions, LLC, to Suzanne Singleton, Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau, FCC (June 21, 2018) (ClearCaptions Waiver Request). Henceforth, requests for waiver of these requirements pursuant to the streamlined process described herein should be filed in the captioned docket, CG Docket No. 18-307. See *Notice of New Docket and Filing Procedures for Requesting Waiver of Wireline Hearing Aid Compatibility Volume Control Reset Rules*, CG Docket No. 18-307, Public Notice, DA 18-1196 (CGB Nov. 27, 2018).

² See *Access to Telecommunications Equipment and Services by Persons with Disabilities; Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets; Comment Sought on 2010 Review of Hearing Aid Compatibility Regulations*, Report and Order and Order on Reconsideration, 32 FCC Rcd 9063, 9066-70, paras. 7-15 (2017) (*2017 HAC Order*).

³ 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 et al., Memorandum Opinion and Order, 16 FCC Rcd 5253, 5258 (CCB 2001) (*Tandy Corporation Waiver Order*).

⁴ ClearCaptions Waiver Request at 1.

Voice over Internet Protocol (VoIP) services.⁵

2. *Background.* Section 68.317 governs the provision of volume control on wireline telephones used with the PSTN and telephonic equipment used with advanced communications services (ACS telephonic CPE).⁶ Prior to 2017, this rule addressed only PSTN telephones and specified a range of amplification levels based on receive gain as measured in terms of Receive Objective Loudness Rating (ROLR).⁷ Under the standards in place before the 2017 amendments, telephones may exceed 18 decibels (dB) of receive gain (when measured in terms of ROLR) provided that the amplification level automatically resets to nominal gain when the telephone is hung up.⁸ This reset requirement is designed to help minimize the likelihood of harm to individuals with normal hearing who may use the telephone after someone else has increased the volume beyond a certain level. However, because some consumers with hearing loss regularly require amplification above the maximum allowed level, the Commission's Common Carrier Bureau in 2001 adopted a streamlined waiver process for handling requests for waiver of this reset requirement, to allow Part 68 registration of telephones specifically designed to meet such consumers' needs.⁹

3. In 2017, the Commission amended the rule to incorporate a revised volume control standard and to apply that standard both to telephones connected to the PSTN and to the newly defined category of wireline ACS telephonic CPE, with a compliance deadline of February 28, 2020, for the amended rule.¹⁰ Telephones connected to the PSTN that are manufactured, or imported for use, in the United States before February 28, 2020, must comply with either the volume control standards incorporated in sections 68.317(b)-(g) prior to the 2017 amendments, or the revised standard incorporated in section 68.317(h) in 2017.¹¹ If manufactured, or imported for use in the United States on or after February 28, 2020, PSTN telephones and wireline ACS telephonic CPE must comply with the revised volume control standard in section 68.317(h) only; i.e., sections 68.317(b)-(g) will no longer be available

⁵ E-mail from Michael Strecker, Vice President of Regulatory Affairs & Strategic Policy, ClearCaptions, LLC, to Susan Bahr, Disability Rights Office, Consumer and Governmental Affairs Bureau, FCC (July 27, 2018, 9:46AM EDT). Although ClearCaptions requests a waiver of section 68.317(f) (i.e., the section number previously applied to the volume control reset rule), we are interpreting the ClearCaptions request as a request for waiver of the volume control reset requirements of section 68.317(g) and section 68.317(h) (i.e., the current section numbers for the volume control reset rule). *See infra* note 14.

⁶ ACS telephonic CPE is defined as customer premises equipment (CPE) used with advanced communications services (ACS) "that is designed to provide 2-way voice communications via a built-in speaker intended to be held to the ear in a manner functionally equivalent to a telephone, except for mobile handsets." 47 CFR § 68.3. ACS telephonic CPE includes, but is not limited to, CPE used with VoIP services. The compliance date for the provisions of section 68.317 that specify requirements for ACS telephonic CPE is February 28, 2020. 47 CFR § 68.2(a).

⁷ ROLR is the "ratio in dB of the voltage entering a loop and telephone to the sound pressure produced by the telephone's receiver." *2017 HAC Order*, 32 FCC Rcd at 9067 n.24 (citation omitted).

⁸ 47 CFR § 68.317(g) (requiring reset to nominal gain "when the telephone is caused to pass through a proper on-hook transition"). In 2017, this provision, previously section 68.317(f), was renumbered as section 68.317(g). *2017 HAC Order*, 32 FCC Rcd at 9094, App. B.

⁹ *Tandy Corporation Waiver Order*, 16 FCC Rcd at 5254, 5257-58, paras. 3-4, 13-15.

¹⁰ *2017 HAC Order*, 32 FCC Rcd at 9066-70, 9094, paras. 7-15, App. B.

¹¹ *See* 47 CFR § 68.317(a)(1).

as an alternative method of compliance.¹²

4. The revised volume control standard uses a different unit of measurement called “Conversational Gain.” Like the pre-2017 standards, however, the revised standard allows the receive amplification for a wireline telephone to exceed the specified maximum amplification level (24 dB Conversational Gain) provided that the amplification level automatically resets to a lower level (no more than 24 dB Conversational Gain) after the telephone is hung up.¹³

5. *Application of the Streamlined Waiver Process to the Amended Rule.* Because the substantive requirements of the revised volume control standard, including the reset requirement, are comparable to those of the pre-2017 standards, we will continue to apply the streamlined waiver process described in the *Tandy Corporation Waiver Order* to requests for waiver of the volume control reset requirement of the revised standard, in section 68.317(h) of the Commission’s rules.¹⁴

6. In the *Tandy Corporation Waiver Order*, the Bureau identified five safety conditions that, if met, would ordinarily result in the grant of a waiver. Those conditions, restated here with minor modifications to include ACS telephonic CPE in accordance with the 2017 rule changes, are as follows:

- (1) The volume reset override switch shall be labeled as such and located on the PSTN telephone or ACS telephonic CPE in such a way as not to be accessible to accidental engagement.
- (2) A bright indicator light shall be prominently displayed on the front of the PSTN telephone or ACS telephonic CPE 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.
- (5) The PSTN telephone or ACS telephonic CPE shall include 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.¹⁵

7. A party may request a volume control reset waiver for a device by certifying as to its compliance with these five safety conditions above,¹⁶ and by having the request signed “by a company representative or other officer responsible for its truthfulness.”¹⁷ “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

¹² 47 CFR §§ 68.2(a), 68.317(a)(2).

¹³ 47 CFR § 68.317(h).

¹⁴ The streamlined process will continue to be applied to requests for waiver of the pre-2017 reset requirement as well, because the corresponding standards remain applicable in the alternative for telephones manufactured or imported prior to February 28, 2020. During this period, parties seeking waivers under the streamlined process should specify whether their device will be connected to the PSTN, is ACS telephonic CPE, or both; and whether they are requesting waiver of the volume control reset requirement in section 68.317(g), section 68.317(h), or both.

¹⁵ *Tandy Corporation Waiver Order*, 16 FCC Rcd at 5258, para. 15.

¹⁶ *Id.* at 5258, paras. 15, 17.

¹⁷ *Id.* at 5258, para. 15.

request.”¹⁸ The party receiving such a waiver may then pursue equipment approval under the applicable Part 68 rules.¹⁹

8. *Discussion.* We grant a waiver of the volume control reset requirements in sections 68.317(g) and (h) to ClearCaptions for its Blue devices—in their dual roles as wireline telephones connected to the PSTN and wireline ACS telephonic CPE—because we find that ClearCaptions has properly certified compliance with the streamlined waiver conditions set forth in the *Tandy Corporation Waiver Order*.²⁰ Grant of the combined waiver will afford persons with hearing loss the option of using their telephones without the need to turn the volume back up each time they use the phone.²¹ ClearCaptions may therefore proceed to request certification from a Telecommunications Certification Body or to submit a Supplier’s Declaration of Conformity pursuant to Part 68 of the Commission’s rules.²²

9. We condition the grant of this waiver on the following: (1) the volume reset override switch shall be labeled as such and located on the Blue device 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 Blue device and shall light up when the override is engaged and the Blue device 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 Blue device shall include a warning printed in Braille that can be securely attached to the back of the handset, or, if the device has only a headset, above the dial buttons, to indicate that a high-volume setting may be engaged.

10. Accordingly, IT IS ORDERED that, pursuant to authority delegated in sections 0.141, 0.361 and 1.3 of the Commission’s rules, 47 CFR §§ 0.141, 0.361, 1.3, the request for waiver of the volume control reset requirements of sections 68.317(g) and 68.317(h) for Blue devices filed by ClearCaptions, LLC, IS GRANTED to the extent described herein.

11. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release.

12. To request materials in accessible formats (i.e., Braille, large print, electronic files, or audio format), send an e-mail to fcc504@fcc.gov, or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (844) 432-2275 (videophone), or (202) 418-0432 (TTY). This Order can also be downloaded by accessing the Electronic Comment Filing System (ECFS) at <https://www.fcc.gov/ecfs> and specifying the Proceeding as 18-307 (corresponding to CG Docket No. 18-307).

FEDERAL COMMUNICATIONS COMMISSION

Suzy Rosen Singleton
Chief, Disability Rights Office
Consumer and Governmental Affairs Bureau

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ ClearCaptions Waiver Request at 1-2.

²¹ *Id.* at 1.

²² *See* 47 CFR § 68.201.