

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

In the Matter of
Request for Waiver of the Hearing Aid
Compatibility Volume Control Reset Rules
Clarity Products, LLC
CG Docket No. 18-307

ORDER

Adopted: December 10, 2019

Released: December 10, 2019

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 Clarity Products, LLC (Clarity) of the hearing aid compatibility (HAC) volume control reset requirements contained in section 68.317 of the Commission’s rules. Under section 68.317, 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, Clarity seeks a waiver of the volume control reset provisions for device models XLC2+, XLC3.4+, XLC4, XLC7BT, XLC7HS, XLC8, XLC8HS, Alto, Alto Plus, JV335W, and JV335B (Devices) “so that persons with hearing loss can set a default volume above the maximum allowed level [for the Devices] and not have to turn the volume back up each time they use it.” Clarity states that the Devices support both public switched telephone network (PSTN) and voice over Internet Protocol (VoIP) services.

2. Background. Section 68.317 governs the provision of volume control on wireline

1 47 CFR § 68.317(g)-(h); see Letter from Mekeesha Matherley, Director of Product Management, Clarity Products, LLC, to Marlene H. Dortch, Secretary, FCC (filed in CG Docket No. 18-307) (Sept. 25, 2019) (Clarity Waiver Request).

2 47 CFR § 68.317(g)-(h); 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, CG Docket No. 13-46, Report and Order and Order on Reconsideration, 32 FCC Rcd 9063, 9066-70, paras. 7-15 (2017) (2017 HAC Order) (amending section 68.317 to incorporate a revised volume control standard and a new volume control reset requirement).

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, para. 15 (CCB 2001) (Tandy Corporation Waiver Order); Requests for Waiver of Volume Control Reset Rules, ClearCaptions, LLC, CG Docket No. 18-307, Order, 33 FCC Rcd 11602, 11604-05 (CGB 2018) (ClearCaptions Waiver Order) (providing and applying a modified streamlined waiver process); Notice of New Docket and Filing Procedures for Requesting Waiver of Wireline Telephone Volume Control Reset Rules, CG Docket No. 18-307, Public Notice, 33 FCC Rcd 11598, 11599-600 (CGB 2018) (Volume Control Reset Waiver Public Notice) (providing a new docket number and updating the procedure for requesting a streamlined waiver).

4 Clarity Waiver Request at 2.

5 Id. at 1 n.3.

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, in section 68.317(g), 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 by inserting a new section 68.317(h). The new provision incorporates a revised volume control standard, which applies 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 standard incorporated in section 68.317(b)-(g), or the revised standard incorporated in section 68.317(h).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., section 68.317(b)-(g) will no longer be available 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 standard, however, the revised standard allows the receive amplification for a device 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

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 47 CFR § 68.317(b)-(g) (setting forth the volume control standards that were applicable before 2017). 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"). Section 68.317(f) was renumbered as section 68.317(g) in 2017. *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).

¹² 47 CFR §§ 68.2(a), 68.317(a)(2).

¹³ 47 CFR § 68.317(h).

5. *Application of the Streamlined Waiver Process.* The streamlined waiver process described in the 2001 *Tandy Corporation Waiver Order* is applicable to requests for waiver of the revised volume control standard as well as the pre-2017 standard, and now includes both PSTN telephones and ACS telephonic CPE.¹⁴

6. Petitioners that satisfy five safety conditions identified in the *ClearCaptions Waiver Order* (and the *Volume Control Reset Waiver Public Notice*) will ordinarily be granted a waiver. Those conditions 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 compliance with these five safety conditions, and by having the waiver request signed "by a company representative or officer responsible for its truthfulness."¹⁶ The party receiving a waiver may then pursue equipment approval under the applicable Part 68 rules.¹⁷

8. *Discussion.* We grant Clarity a waiver of the volume control reset requirements for the Devices. Clarity has properly certified compliance with the streamlined waiver conditions of the *Tandy Corporation Waiver Order*, as modified by the *ClearCaptions Waiver Order* and the *Volume Control Reset Waiver Public Notice*.¹⁸ Grant of the combined waiver will afford persons with hearing loss the option of using their telephone without the need to turn the volume back up each time they use the phone. Clarity may therefore proceed to request equipment approval pursuant to Part 68 of the Commission's rules.¹⁹

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

¹⁴ *ClearCaptions Waiver Order*, 33 FCC Rcd at 11604, para. 6; *Volume Control Reset Waiver Public Notice*, 33 FCC Rcd at 11599-600.

¹⁵ *ClearCaptions Waiver Order*, 33 FCC Rcd at 11604, para. 6.

¹⁶ *Id.*

¹⁷ *Tandy Corporation Waiver Order*, 16 FCC Rcd at 5258, para. 15.

¹⁸ Clarity Waiver Request at 2.

¹⁹ See 47 CFR § 68.201.

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, Clarity's request for waiver of the volume control reset requirements of sections 68.317(g) and 68.317(h) for the Devices 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