



Federal Communications Commission
Washington, D.C. 20554

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SMALL ENTITY COMPLIANCE GUIDE

**Revisions to Reporting Requirements Governing
Hearing Aid-Compatible Mobile Handsets**

FCC 18-167

WT Docket No. 17-228

Released November 16, 2018

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

TTY: 1-888-TELL-FCC (1-888-835-5322)

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I. OBJECTIVES OF THE PROCEEDING

In the *Revisions to Reporting Requirements Governing Hearing Aid-Compatible Mobile Handsets*, Report and Order, WT Docket No. 17-228 (rel. Nov. 16, 2018) (*Report and Order*),¹ the Commission modified its wireless hearing aid compatibility rules for all covered wireless service providers (service providers) including small entities.² The Commission determined that many of the benefits of service providers' FCC Form 655 annual status reporting had been realized and had become increasingly outweighed by the burdens. As a result, the Commission eliminated the FCC Form 655 filing obligation for all covered wireless service providers, including those who are small entities, and improved its collection of information regarding the status of hearing aid-compatible handsets. The Commission's new streamlined approach for wireless service providers will continue to serve the underlying purposes of the Commission's annual reporting requirements without the burdens associated with that filing.

Specifically, in the *Report and Order*, the Commission waived the requirement for service providers to file the FCC Form 655 annual filing by January 15, 2019 and eliminated the requirement in subsequent years. Under the Commission's new approach, only wireless device manufacturers will continue to be obligated to file FCC Form 655 by July 15 of each calendar year.

The Commission amended its existing web site posting requirements for service providers to ensure that consumers have access to the most up-to-date and useful information about the hearing aid compatibility of the handset models offered by service providers, and so the Commission has sufficient information to verify compliance with the hearing aid compatible handset deployment benchmark requirements. Only the most critical pieces of information that service providers previously submitted as part of their annual FCC Form 655 filings must be made available on service providers' web sites.

The Commission also required that service providers file a simple, new, annual certification to enhance the ability of the Commission to enforce the hearing aid compatibility rules. The annual certification will also enable the Commission to better monitor the overall status of access to hearing aid-compatible handsets. For similar reasons, the Commission also required service providers to retain data regarding handsets no longer offered.

II. COMPLIANCE REQUIREMENTS

The *Report and Order* adopted revisions to Sections 20.19(c), (d), (e), (h), (i), and (m) of the Commission's hearing aid compatibility provisions. *See* 47 CFR §§ 20.19(c), (d), (e), (h), (i), and (m). These revisions implement the Commission's revised service provider requirements regarding web site posting, record retention, and annual certification.

Offering Models with Differing Levels of Functionality (47 CFR § 20.19(c)(4)(ii))

- For M-rated wireless handsets, all service providers must offer models with differing levels of functionality (*e.g.*, operating capabilities, features offered, prices).
- Service providers no longer report compliance with this requirement on FCC Form 655.
- Service providers will certify annually whether or not they have been in compliance with this requirement for the relevant reporting period.

¹ *Revisions to Reporting Requirements Governing Hearing Aid-Compatible Mobile Handsets*, Report and Order, 33 FCC Rcd 11549 (2018) (*Report and Order*).

² Covered service providers are "providers of digital mobile service in the United States to the extent that they offer terrestrial mobile service that enables two-way real-time voice communications among members of the public or a substantial portion of the public, including both interconnected and non-interconnected VoIP services, and such service is provided over frequencies in the 698 MHz to 6 GHz bands." *See* 47 CFR § 20.19(a)(1)(i).

Offering Models with Differing Levels of Functionality (47 CFR § 20.19(d)(4)(ii))

- For T-rated wireless handsets, all service providers must offer a range of models with differing levels of functionality (e.g., operating capabilities, features offered, prices).
- Service providers no longer report compliance with this requirement on FCC Form 655.
- Service providers will certify annually whether or not they have been in compliance with this requirement for the relevant reporting period.

De Minimis Exception (47 CFR § 20.19(e)(1)(i))

- Service providers that offer two or fewer digital wireless handsets in an air interface (e.g., LTE) in the United States are exempt from the website posting and record retention requirements adopted in the *Report and Order* in connection with that air interface.
- Service providers that obtain handsets only from manufacturers that offer two or fewer wireless handset models in an air interface in the United States are likewise exempt from the website posting, and record retention requirements adopted in the *Report and Order*.
- Service providers that meet these *de minimis* definitions must still file the annual certification stating whether or not they were in compliance with the Commission's hearing aid compatibility provisions for the relevant reporting period.

Web Site Posting Requirements (47 CFR § 20.19(h)(1)-(4))

- All service providers that maintain publicly-accessible web sites (other than *de minimis* service providers, which are exempt from the web site posting requirement) are required to post to their web sites the following information:
 - (1) A list of all hearing aid-compatible models currently offered, the ratings of those models, and an explanation of the rating system.
 - (2) A statement specifying, based on the levels of functionality and rating that the service provider has defined, the level that each hearing aid-compatible model falls under, as well as an explanation of how the functionality of the handsets varies at the different levels.
 - (3) A list of all non-hearing aid-compatible handset models currently offered, including the level of functionality that each of those models falls under, an explanation of how the functionality of the handsets varies at the different levels, as well as a link to the current FCC web page containing information about the wireless hearing aid compatibility rules and service providers' obligations.
 - (4) The handset lists must include marketing model name/number(s) and FCC ID number of each hearing aid-compatible and non-hearing aid-compatible model currently offered.
 - (5) A link to a third-party web site as designated by the Commission or Wireless Telecommunications Bureau, with information regarding hearing aid-compatible and non-hearing aid-compatible handset models or, alternatively, a clearly marked list of hearing aid-compatible handset models that have been offered in the past 24 months but are no longer offered by that provider. The Commission has designated the Global Accessibility Reporting Initiative (GARI) web site as the third-party web site referred to in this portion of the rule.
 - (6) The information on service providers' web sites must be updated within 30 days of any relevant changes and the web site pages must contain a "date stamp" indicating when the pages were last updated.

Record Retention Requirements (47 CFR § 20.19(h)(5))

- All service providers (other than *de minimis* service providers, which are exempt from the record retention requirement) must maintain internal records of the following information:
 - (1) The ratings, if applicable, of all hearing aid-compatible and non-hearing aid-compatible models no longer offered (if the calendar month/year that model was last offered is within 24 months of the current calendar month/year and was last offered in January 2018 or later).
 - (2) For models no longer offered (if the calendar month/year that model was last offered is within 24 months of the current calendar month/year), the calendar months and years each hearing aid-compatible and non-hearing aid-compatible model was first and last offered.
 - (3) The marketing model name/number(s) and FCC ID number of each hearing aid-compatible and non-hearing aid-compatible model no longer offered (if the calendar month/year that model was last offered is within 24 months of the current calendar month/year and was last offered in January 2018 or later).

Certification Requirement (47 CFR § 20.19(i))

- All service providers, including *de minimis* service providers, must file by January 15 of each calendar year an electronic certification stating whether or not they have been in full compliance with all the Commission's hearing aid compatibility requirements throughout the relevant reporting period. The electronic certification form will be available through the Commission's existing electronic interface for FCC Form 655.³
- The information in the certification must be up-to-date as of the last day of the calendar month preceding the due date of each certification.
- The following information must be included on the certification:
 - (1) The name of the signing executive and their contact information.
 - (2) The company(ies) covered by the certification.
 - (3) The FCC Registration Number (FRN).
 - (4) If the service provider is not a *de minimis* service provider, the web site address of the pages containing the required information regarding handset models.
 - (5) The percentage of handsets offered that hearing aid-compatible (providers will derive this percentage by determining the number of hearing aid-compatible handsets offered across all air interfaces during the year divided by the total number of handsets offered during the year).
- The individual certifying will state as follows:

I am a knowledgeable executive [of company x] regarding compliance with the Federal Communications Commission's wireless hearing aid compatibility requirements at a wireless service provider covered by those requirements.

I certify that the provider was [(in full compliance/not in full compliance)] [choose one] at all times during the applicable time period with the Commission's wireless hearing aid compatibility deployment benchmarks and all other relevant wireless hearing aid compatibility requirements.

The company represents and warrants, and I certify by this declaration under penalty of perjury pursuant to 47 CFR § 1.16 that the above certification is consistent with 47 CFR § 1.17, which

³ See Federal Communications Commission, Login In, <https://wireless2.fcc.gov/UlsEntry/licManager/login.jsp>.

requires truthful and accurate statements to the Commission. The company also acknowledges that false statements and misrepresentations to the Commission are punishable under Title 18 of the U.S. Code and may subject it to enforcement action pursuant to Sections 501 and 503 of the Act.

- If a service provider indicates that it was not in full compliance with the Commission's hearing aid compatibility requirements throughout the relevant reporting period, the service provider must explain which wireless hearing aid compatibility requirements it was not in compliance with, and when the non-compliance began and (if applicable) ended with respect to each requirement.

Compliance Date (47 CFR § 20.19(m))

- Service providers were not required to file FCC Form 655 by January 15, 2019 for the 2018 reporting period.
- Service providers are required to file a certification of compliance for the 2018 reporting period. Those certifications will be due after the Commission publishes notice in the Federal Register announcing OMB approval of the new certification requirement and setting forth the due date for the first service provider certifications. The new and modified web site posting and record retention requirements will become effective at the same time.
- Service provider certifications for the 2019 reporting period will be due by January 15, 2020 and on January 15th annually thereafter for the relevant reporting period.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The new recordkeeping and reporting requirements are detailed above in the Compliance Requirements section. The *Report and Order* adopted new information collection requirements for all service providers, including small entities.

- Service providers that are not *de minimis* service providers must comply with the Commission's web site posting and the record retention requirements specified above. *See* 47 CFR § 19.20(h).
- All service providers, including *de minimis* service providers, must file by January 15th of each calendar year, an electronic certification stating whether or not they have been in full compliance with all of the Commission's hearing aid compatibility requirements throughout the relevant reporting period. *See* 47 CFR § 19.20(i).
- If a service provider certifies that it was not in full compliance with the Commission's hearing aid compatibility requirements throughout the relevant reporting period, the service provider must explain which wireless hearing aid compatibility requirements it was not in compliance with, when the non-compliance began and (if applicable) ended with respect to each requirement. *See* 47 CFR § 19.20(i)(vii).

IV. IMPLEMENTATION DATE

The following rules in the *Report and Order* became effective January 7, 2019, 30 days after publication of the text or summary thereof in the Federal Register: 47 CFR § 20.19(c), (d) and (m).

The following rules in the *Report and Order* require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act: 47 CFR § 20.19(e), (h) and (i). These rules shall become effective after the Commission publishes a notice in the Federal Register announcing OMB approval and the relevant effective date.

V. INTERNET LINKS

A copy of the *Report and Order* is available at: <https://docs.fcc.gov/public/attachments/FCC-18-167A1.pdf>

A copy of the Federal Register Summary of the *Report and Order* is available at: <https://www.govinfo.gov/content/pkg/FR-2018-12-07/pdf/2018-26037.pdf>