

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

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| In the Matter of |) | |
| |) | |
| Request for an Amended Waiver of the Hearing Aid Compatibility Volume Control Reset Rules |) | CG Docket No. 18-307 |
| |) | |
| CaptionCall, LLC |) | |

ORDER

Adopted: October 15, 2021

Released: October 15, 2021

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 an amended waiver to CaptionCall, LLC (CaptionCall), of the volume control reset requirement in section 68.317 of the Commission's rules.¹ Under section 68.317, wireline telephones may exceed the maximum volume specified in the rule, but must automatically reset to a lower level after the telephone is hung up.² Telephones covered by this amended waiver can be used by persons with hearing loss without the need to turn the volume back up before each use.

2. *Background.* In a letter filed June 14, 2021, CaptionCall requests that the Commission amend a previously granted waiver of the reset requirement CaptionCall received for a telephone model used with Internet Protocol Captioned Telephone Service (IP CTS).³ The waiver was granted in 2019, pursuant to a streamlined process,⁴ for an IP CTS user device with the model number 78T (78T Device).⁵ CaptionCall explains that, due to global chip shortages, it must begin making a new version of that device with a different chipset.⁶ CaptionCall requests that the waiver for the 78T Device be modified to include

¹ See 47 CFR § 68.317(h).

² 47 CFR § 68.317(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 Letter from Michael D. Holm, Chief Technology Officer, CaptionCall, LLC, to Marlene H. Dortch, Secretary, FCC (June 14, 2021) (Waiver Modification Request).

⁴ 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*) (adopting a streamlined process for waivers of the volume control reset requirement); *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*) (modifying the streamlined waiver process); *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, 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).

⁵ *Request For Waiver of the Hearing Aid Compatibility Volume Control Reset Rules, CaptionCall LLC*, Order, 34 FCC Rcd 8174 (CGB 2019) (*2019 Waiver Order*).

⁶ Waiver Modification Request at 1.

this new version, the 78TX, and “any future versions of the [78T Device] with a different model number designation as long as those models do not contain any technical change to the volume control reset functionality.”⁷

3. *Volume Control Standard.* Section 68.317 of the Commission’s rules governs the provision of volume control on wireline telephones used with the public switched telephone network (PSTN) and telephonic equipment used with advanced communications services (ACS) such as Voice over Internet Protocol (VoIP) service (ACS telephonic CPE).⁸ Wireline telephones and ACS telephonic CPE that are manufactured or imported for use in the United States on or after February 28, 2020, must comply with the volume control standard in section 68.317(h).⁹

4. This volume control standard uses a unit of volume measurement called “Conversational Gain” to specify amplification levels.¹⁰ To help ensure that people with hearing loss can use a telephone, the volume control standard allows the receive amplification to exceed the specified maximum 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.¹¹ As outlined in section 68.317(h), the reset requirement is designed to help minimize the likelihood of harming individuals with normal hearing who may use the telephone after someone else has increased the volume beyond a certain level.¹² However, the reset requirement can hinder effective use of a telephone by consumers with hearing loss who regularly require amplification above the specified maximum.¹³ Therefore, the Commission in its *2001 Tandy Corporation Waiver Order* adopted a streamlined process for handling requests for waiver of the reset requirement to allow Part 68 registration of telephones specifically designed to meet such consumers’ needs.¹⁴ For devices manufactured pursuant to such waivers, a person with hearing loss can use the telephone without having to turn the volume back up before each use.¹⁵

5. *Streamlined Waiver Process.* The streamlined waiver process adopted in the *2001 Tandy Corporation Waiver Order* was modified in the *ClearCaptions Waiver Order* and *Volume Control Reset Waiver Public Notice* for use with the current volume control standard.¹⁶ Pursuant to this streamlined process, petitioners that satisfy five safety conditions will ordinarily receive the grant of a waiver. Those conditions are:

- (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

⁷ *Id.*

⁸ See 47 CFR § 68.6 (requiring that wireline telephones manufactured or imported for use in the United States comply with 47 CFR § 68.317); *id.* § 68.501(a) (requiring that ACS telephonic CPE be certified as hearing aid compatible). ACS telephonic CPE is defined as customer premises equipment (CPE) used with 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.

⁹ 47 CFR § 68.317(a)(2).

¹⁰ See 47 CFR § 68.317(h).

¹¹ 47 CFR § 68.317(h).

¹² *Id.*

¹³ *Tandy Corporation Waiver Order*, 16 FCC Rcd at 5255-56, para. 9.

¹⁴ *Id.* at 5257-58, paras. 13-15.

¹⁵ See *id.* at 5255-56, para. 9.

¹⁶ *ClearCaptions Waiver Order*, 33 FCC Rcd at 11604, para. 6; *Volume Control Reset Waiver Public Notice*, 33 FCC Rcd at 11599-600.

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 using 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.¹⁷

6. A party may request a volume control reset waiver for a device by certifying its compliance with the aforementioned five safety conditions and by signing the request "by a company representative or officer responsible for its truthfulness."¹⁸ 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.¹⁹ The party receiving such a waiver may then pursue equipment approval under the applicable Part 68 rules.²⁰

7. *Discussion.* We grant CaptionCall's request to amend the 2019 Waiver Order of the volume control reset requirements in section 68.317(h) to also apply to the 78TX and any future model variant of the 78T Device. We find that CaptionCall 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*.²¹ CaptionCall may therefore complete the equipment authorization process pursuant to part 68 of the Commission's rules.²²

8. We condition the grant of this waiver on the following requirements for the 78TX Device (78TX) and any future model variants of the 78T Device: (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.

9. Future model variants of the 78T Device are covered by this waiver where CaptionCall's equipment authorization filings are classified as either a Modification or Notice of Change filing in the Administrative Council for Terminal Attachments (ACTA) Online Filing (AOF) system.²³ Future filings that are treated as original filings are not covered.

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 section 68.317(h) for the 78TX and future model variants of the 78T

¹⁷ *ClearCaptions Waiver Order*, 33 FCC Rcd at 11604, para. 6; *Volume Control Reset Waiver Public Notice*, 33 FCC Rcd at 11599-600.

¹⁸ *ClearCaptions Waiver Order*, 33 FCC Rcd at 11604, para. 6; *Volume Control Reset Waiver Public Notice*, 33 FCC Rcd at 11600.

¹⁹ *Tandy Corporation Waiver Order*, 16 FCC Rcd at 5258, para. 15.

²⁰ *Id.*

²¹ *Id.* (certifying that "future versions of the Device . . . will satisfy the five safety conditions identified in the [*Tandy Corporation Waiver Order*], just as the 78T version does").

²² See 47 CFR §§ 68.201, 68.501, 68.610.

²³ See ACTA, Online Filing System, Filing Types and Fees, <https://part68.org/online-filing/filing-types-and-fees/> (last visited Sept. 7, 2021); see also Letter from Rob Carter, Counsel for CaptionCall, LLC, to Marlene H. Dortch, Secretary, FCC (Aug. 24, 2021) (stating CaptionCall's intent that future versions of the Device would be limited to Modification or Notification of Change filings in ACTA's Online Filing System).

Device (including those with different model designations) filed by CaptionCall, LLC IS GRANTED to the extent that CaptionCall abides by the requirements described herein.

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

FEDERAL COMMUNICATIONS COMMISSION

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