

**SEPARATE STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

*Re: Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible
Telephones; Order on Reconsideration and Further Notice of Proposed Rulemaking;
WT Docket No. 01-309*

I am very pleased to support today's decision because it reaffirms our strong commitment to improving access to digital mobile wireless phones by those Americans who use hearing aids.

Over the past couple of years, I have talked a lot about what the public interest means to me as an FCC commissioner – about how I have been guided in making decisions by one key principle: that the public interest means securing access to communications for everyone, including those the market may leave behind.

Whether it's in the field of broadcasting, spectrum-based services, or competitive telecommunications services, I have tried to address this goal by providing for access by non-English speakers, people with disabilities, rural and low-income consumers, small businesses, and many others. Public interest issues, such as protecting the rights of people who use hearing aids, always should remain in the forefront of our decisions.

While the Hearing Aid Compatibility (HAC) Act of 1988 exempted mobile wireless phones from hearing aid compatibility, Congress specifically entrusted this Commission with assessing the appropriateness of continuing the exemption. Soon after I joined the Commission, we took that obligation to heart and modified the exemption as it then applied to digital mobile wireless phones. Today, we rightly affirm the large majority of that decision.

However, we do make one significant change to our rules by allowing Tier I carriers the option of making available four digital wireless handset models per air interface to satisfy the September 16, 2005 initial benchmark. This option, which is supported by consumer groups, will provide carriers with a level of certainty that should greatly facilitate the management of their supply chain.

It must be highlighted that in advocating for this change, CTIA reports this increased certainty would enable Tier I members to provide HAC information on "call-out cards" that are a part of the handset display in retail stores. The Tier I carriers also would agree to provide low-end and high-end HAC-complaint handsets. I very much support this mutually agreeable solution. I applaud CTIA's commitment and look forward to the timely implementation of these additional consumer benefits.

I am also encouraged by the progress in hearing aid compatibility that's been made since our earlier decision. The American National Standards Institute (ANSI) committee working on this issue recently adopted and released a draft version of an updated hearing aid compatibility standard. And we are hearing good reports about the level of cooperation between service providers, handset manufacturers, and representatives of the hard of hearing community in working towards upcoming compliance deadlines.

Finally, we pose important questions about two aspects of our rules relating to expanding our in-store testing requirements to more outlets and the scope of our *de minimis* exception. These issues came up during the reconsideration discussion, and I am glad that we have teed them up for further comment. We want to make sure we have a full record before considering whether or not to further address these issues.