

SUPPORTING STATEMENT

A. Justification:

As previously discussed with OMB, the Commission is requesting a revision of this information collection requirement because it is promulgating mandatory language to be used in disclosures and modifying input fields on Form 655, all of which affect the previous version of this information collection.

1. In the Report and Order in WT Docket 01-309, FCC 03-168, adopted and released in September 2003, the Federal Communications Commission modified the exemption for telephones used with public mobile services from the requirements of the Hearing Aid Compatibility Act of 1988 (HAC Act). The Order required digital wireless phone manufacturers and service providers to make certain digital wireless phones capable of effective use with hearing aids. As part of that Order, manufacturers and service providers were required to label certain phones they sold with information about their compatibility with hearing aids, and also to report to the Commission (at first every six months, then on an annual basis) on the numbers and types of hearing aid-compatible phones they were producing or offering to the public.

In February 2008, the Commission adopted final rules in a Report and Order, FCC 08-68, which updated several of the performance benchmarks for manufacturers and service providers, and instituted new requirements for manufacturers to refresh their product lines and for service providers to offer hearing aid-compatible handset models with differing levels of functionality. The Commission also adopted a new version of the technical standard for measuring hearing aid compatibility, and addressed the application of the rules to phones that operate in multiple frequency bands or air interfaces. In order to avoid potential consumer confusion over technical capabilities, the Order also modified the product labeling requirements slightly.

To assist the Commission in monitoring the implementation of the new requirements and to provide information to the public, the Report and Order also required manufacturers and service providers to continue to file annual reports on the status of their compliance with these requirements, and required manufacturers and service providers that maintain public websites to publish up-to-date information on those websites regarding their hearing aid-compatible handset models. The annual reports required in the Order contained different and additional information than in previous versions of this information collection and, for the first time, were required to be submitted by manufacturers and service providers using electronic FCC Form 655. The reporting and third party disclosure requirements for the aforementioned Report and Order were approved most recently by OMB on June 5, 2009 under OMB Control Number 3060-0999.

Recently, on August 5, 2010, the Commission adopted final rules in a Second Report and Order (FCC 10-145) that, among other things, updated disclosure requirements for manufacturers and service providers. Subject to OMB approval, manufacturers and service providers are now required to adequately inform consumers about the functionality and the limitations of their handsets in two specific situations. First, for handsets that meet hearing aid compatibility requirements over all air interfaces and frequency bands for which hearing aid compatibility technical standards have been established, but that are also capable of supporting voice operations in any new frequency band or air interface for which such standards do not exist, the following disclosure language must be clearly and effectively conveyed to consumers wherever the hearing aid compatibility rating for the handset is provided, including at the point of sale¹ and on company websites: “This phone has been tested and rated for use with hearing aids for some of the wireless technologies that it uses. However, there may be some newer wireless technologies used in this phone that have not been tested yet for use with hearing aids. It is important to try the different features of this phone thoroughly and in different locations, using your hearing aid or cochlear implant, to determine if you hear any interfering noise. Consult your service provider or the manufacturer of this phone for information on hearing aid compatibility. If you have questions about return or exchange policies, consult your service provider or phone retailer.”

Second, the Commission is allowing companies that offer one or two handset models over the GSM air interface, if they would have been eligible for the amended *de minimis* exception but for their size, to satisfy their obligation to offer one hearing aid-compatible handset over the GSM air interface by offering a handset that lets the consumer reduce maximum transmit power for GSM operations in the 1900 MHz band by up to 2.5 decibels. The Commission grants this exception subject to certain conditions, one of which is that companies that choose to use this exception must adequately inform consumers of the need to select the power reduction option to achieve hearing aid compatibility and of the consequences of doing so. Specifically, wherever a manufacturer or service provider provides the hearing aid compatibility rating for such a handset, it shall indicate that user activation of a special mode is necessary to meet the hearing aid compatibility standard for radio frequency (RF) interface reduction. In addition, the handset manual or a product insert must explain how to activate the special mode and that doing so may result in a diminution of coverage.²

Beyond the updated disclosure requirements noted above, an additional change is being made to the current collection. Certain fields will be changed on Form 655 in order to clarify information previously gathered in this collection and bring the collection into conformance with the amended rules. Specifically, manufacturers and service providers will be asked to provide the brand names under which they are offering digital commercial mobile radio services (if a service provider) or handsets (if a device manufacturer), in order to avoid confusion by identifying products and services offered

¹ Means of providing this language at the point of sale could include, for example, call-out cards or an insert in the handset’s packaging.

² The need for the consumer to reduce the power in order to meet the hearing aid compatibility standard should also be clearly stated in the filing for equipment certification.

under more than one brand name. In addition, the questions concerning handsets capable of Wi-Fi voice operation will be expanded to include handsets that are capable of voice communication without changes to the hardware in the handset over any air interface or frequency band for which hearing aid compatibility technical standards do not exist.

As a result, the Commission is requesting a revision of this collection due to the new disclosure requirements under Section 20.19(f) of the Commission's rules as well as the fields changed on Form 655. The updated disclosures will create no additional burden for manufacturers and service providers, but will ensure that consumers and the Commission are provided with consistent and sufficient information about the functionality and the limitations of offered handsets. These actions are taken to ensure that consumers who use hearing aids and cochlear implants have access to a variety of phones and are adequately informed about the functionality and the limitations of the handsets, while preserving competitive opportunities for small companies as well as opportunities for innovation and investment. Similarly, the additional fields will create no significant additional burden for manufacturers and service providers but will clarify the responses already required by Form 655, helping the Commission compile data and monitor compliance with the hearing aid compatibility rules while making more complete and accessible information available to consumers.

The Commission is requesting OMB approval for this revision due to the new mandatory language to be used in disclosures and the modified input fields on Form 655. All the other reporting and disclosure requirements previously approved in this collection remain unchanged.

Statutory authority for this collection of information is contained in Sections 47 U.S.C. §§ 151, 154 (i), 157, 160, 201, 202, 208, 214, 301, 303, 308, 309 (j), 310, and 610.

As noted on the Form OMB 83-I, this collection of information does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The annual reports assist the Commission staff in monitoring the progress of implementation by phone manufacturers and wireless carriers. The reports permit the Commission to stay abreast of ongoing standards work and other pertinent information associated with achieving digital wireless compatibility with hearing aids and cochlear implants. This information helps to ensure that the Commission's decisions relating to hearing aid compatibility with wireless phones are fair to all involved and reflect the actual status of technology. The website postings, which encompass a portion of the information required in the reports, provide valuable information to the public concerning compatible handsets and hearing aids. In particular, we note that while the Commission makes the contents of the reports publicly available, the reports are only required on an annual basis. The website requirement is designed to ensure that consumers have critical up-to-date information between reporting dates on which they can base their search for compatible phones. The labeling requirements alert consumers about the functionality and the limitations of the handsets and that phones operating in part over an air interface

or frequency band for which technical standards regarding hearing aid compatibility do not yet exist have not been rated for those operations. The labeling requirement also alerts consumers to the capabilities and limitations of phones that meet the hearing aid compatibility standard for GSM operations in the 1900 MHz band only with a user-controlled power reduction.

3. Reports must be filed electronically using the Commission's electronic filing system, which is accessible at <http://wireless.fcc.gov/hac>. The information contained in the reports is not available in any existing databases within the Commission or other federal agencies. Website postings are only required if the party already has a publicly-available website, and the format and manner of presentation are left entirely to the party.

4. As noted above, some of the information required to be posted on websites is also part of the parties' annual reporting obligations. However, the two batches of information are not identical, and are keyed in part to different audiences.

5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents regardless of size. Due to the mandatory electronic filing requirement, the Commission no longer allows digital wireless phone manufacturers and service providers to submit joint reports. However, the streamlining effect of the electronic filing system has decreased the paperwork burden on all respondents. This electronic filing system's database also stores all filings for future reference. The burden is further reduced due to the pre-filled data fields from previous submissions that eliminate much of the repetition inherent in previous paper filings.

6. If the mandatory electronic filing requirement were not instituted, all respondents would be unnecessarily burdened. The electronic filing system ensures that the reports include all of the required information. The system also facilitates future filings by referencing previous submissions and creating pre-filled data fields that will eliminate much of the repetition inherent in previous paper filings. Without the implementation of this mandatory electronic filing system, these efficiencies would not otherwise be available to all respondents.

Further, if the changes to the disclosure language and reporting requirements were not instituted, consumers with hearing loss would not be adequately informed about the functionality and the limitations of the handsets available to them, and the Commission would be less able to monitor the progress of implementation by phone manufacturers and wireless carriers of the Commission's hearing aid compatibility rules.

7. Current data collection is consistent with the guidelines in 5 CFR 1320.6.

8. The Commission initiated a 60-day public comment period which appeared in the Federal Register on August 23, 2010 (75 FR 51811). No comments were received as a result of the notice. A copy of the Federal Register notice is referenced in this submission to the OMB.

9. Respondents will not receive any payments.

10. Information requested in the reports may include confidential information. However, covered entities are allowed to request that such materials submitted to the Commission be withheld from public inspection. See 47 C.F.R. § 0.459.

11. None of the reporting burdens address any private matters or questions of a sensitive nature.

12. As noted in the Supporting Statement associated with the Notice of Proposed Rulemaking (2007), there were three groups of entities that could be affected by the actions taken in the September 2003 Report and Order: carriers offering public mobile services, digital wireless handset manufacturers, and hearing aid manufacturers. The estimates of the number of these entities were: approximately **900** operating wireless carriers and approximately **25** digital wireless handset manufacturers. These estimates are unchanged. Thus, the total number of estimated respondents is **925**.

The estimates regarding burdens are unchanged because there are no changes in the requirements that would have the effect of increasing or decreasing the existing approved burdens.

Technical Standard. The previous estimate of burden for ongoing discussions of the technical standard is unmodified. We expect that a subset of **approximately 50** of the **925** entities will meet and make modifications to the technical standard for the remaining years. We base the total estimated annual burden hours on the following: we anticipate that twelve principal representatives will account for **1,920** hours (**12** principal representatives***160** hours) and **38** representatives will account for **2,280** hours (**38** representatives***60** hours). Therefore, the total estimated annual burden hours for these entities are **4,200**.

Reporting: Filings must be remitted electronically via a filing management database. The Commission expects that each company will utilize staff engineers to draft and file the reports. Our current estimate of the burden for an individual report through the electronic system is two and a half hours. Thus, the annual burden for the information collection is:

One report per manufacturer X 2.5 hours X 25 manufacturers: 63 hours
One report per provider X 2.5 hours X 900 service providers: 2,250 hours.

Annual Total = 63 + 2,250 = 2,313 hours.

Labeling. The Commission's rules require digital wireless handset manufacturers to label packages containing compliant handsets and to make information available in the package or product manual. The rules similarly require digital wireless service providers to ensure that handsets include the above-referenced labeling and information, and also require them to make available to consumers the performance ratings of compliant

phones. The Commission expects that these steps will be taken as part of the normal manufacturing and marketing processes, and that adding information about the performance ratings of the phones will not be a significant additional burden for these entities.

Web posting. Manufacturers and service providers that otherwise maintain public websites are required to post on their websites information on the numbers, types, ratings and functionality of hearing aid-compatible phones offered, as well as an explanation of the rating and functionality systems. All of this information is also required in either the entities' periodic reports to the Commission or in the product labeling. The reason for the web posting requirement is to ensure that consumers have access to up-to-date versions of the information. Because no new information need be gathered, nor any new web sites created, we judge that compliance with this requirement will take no more than one and a half hours. However, because we also require that the information be updated within thirty days of a change, we expect that each entity will need to update its web posting several times per year. As a result, we calculate the burden as:

925 entities affected X 1.0 hour per update X 6 updates per year = 5,550 hours.

Total annual burden hours for this collection:

Annual Burden: 4,200 standards + 5,550 web posting + 2,313 reporting = 12,063 hours.

13. There will be no costs incurred by the respondents.

14. The Commission would likely assign a staff engineer, GS-13, Step 5, at \$48.35 per hour to review the annual reports, which should take about 3 hours, resulting in a potential cost to the Federal Government of about \$145.05 per year per report. Therefore, the cost to the Federal government would be 925 respondents x 3 hours x \$48.35= \$134,171.25. Web postings and consumer labeling will not be actively monitored in the absence of consumer complaints.

15. This is a revision to a current collection (3060-0999). Although there have been changes to the disclosure language and reporting requirements, they did not result in any program changes or adjustments, as noted above.

16. The data will not be published for statistical use.

17. The Commission seeks continued OMB approval to not display the expiration date for OMB approval of the information collection. We will use an edition date in lieu of an OMB expiration date. This will alleviate the Commission staff from having to update the OMB expiration date every time this is re-submitted to the OMB. Finally, the Commission displays the OMB expiration date, OMB Control Number, and Title of all OMB-approved information collections in 47 CFR 0.408.

18. There are exceptions to the “Certification Statement” in Item 19. When the Commission published the 60-day notice, the Commission did not mention minor changes to Form 655. Since the 60-day notice was published, the Commission has decided to add input fields to Form 655 to help clarify responses already required by Form 655. The new input fields are reflected in the 30-day notice.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.