

## SUPPORTING STATEMENT

### **A. Justification:**

The Commission is requesting a revision of this information collection requirement because it is issuing final rules that 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 on 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 November 2007, the Commission adopted and released a Notice of Proposed Rulemaking (NPRM) that proposed to extend and modify existing reporting requirements such that carriers and manufacturers would be required to submit annual reports demonstrating their compliance with proposed new hearing aid compatibility handset compliance benchmarks, as well as other related information. The OMB pre-approved this NPRM on 12/27/07 under this OMB control number (3060-0999).

Now, the Commission is revising this IC because it has adopted final rules in a Report and Order, FCC 08-68, adopted on February 26, 2008, and released on February 28, 2008, which updates several of the performance benchmarks for manufacturers and service providers, institutes 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, adopts a new version of the technical standard for measuring hearing aid compliance, and addresses the application of the rules to phones that operate in multiple frequency bands or air interfaces.

To assist the Commission in monitoring the implementation of the new requirements and to provide information to the public, the Report and Order also requires manufacturers and service providers to continue to file annual reports on the status of their compliance with these requirements, and requires 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 this Order contain different and additional information than in previous versions of this information collection. Those requirements, along with the requirement

to post certain information on websites, are intended to give consumers the information they need to navigate a technically complex and rapidly changing world of hearing aid-compatible wireless phones, and to allow the Commission to monitor compliance with its new regulations. Finally, in order to avoid potential consumer confusion over technical capabilities, the Order modified the product labeling requirements slightly. [See attached rules].

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), and 310.

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 will assist the Commission staff in monitoring the progress of implementation by phone manufacturers and wireless carriers. The reporting requirements have been extended indefinitely because the Commission's requirements in this area are now focused on an ongoing commitment to maintaining the availability of hearing aid-compatible wireless handsets. The reports will permit the Commission to stay abreast of ongoing standards work, testing, and other pertinent information associated with achieving digital wireless compatibility with hearing aids and cochlear implants. This information will help 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, will provide valuable information to the public concerning compatible handsets and hearing aids. In particular, we note that while the Commission intends to make 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 revised labeling requirements will alert consumers that phones operating in part over the Wi-Fi air interface for which technical standards regarding hearing aid compatibility do not yet exist, have not been rated for those operations.

3. Reports may be filed electronically using the Commission's Electronic Comment Filing System (ECFS), which is accessible at [www.fcc.gov](http://www.fcc.gov). The information which will be 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. Similarly, the manner of informing consumers about the lack of a rating for Wi-Fi operations is left to the discretion of the manufacturers and service providers doing the informing, so long as the disclosure is made wherever hearing aid compatibility ratings are provided.

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 data sets 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. In order to minimize report burdens on all respondents, the Commission allows digital wireless phone manufacturers and service providers to submit joint reports, if they wish.

6. If the reports were required less frequently or if no reporting requirements were adopted, it would be significantly more difficult to monitor the industry's progress toward implementation, and it would be nearly impossible to verify compliance with the regulatory deadlines. If the website postings were not required, consumers would find it difficult to get current information on the availability and capabilities of hearing aid-compatible phones, a situation they face now and which has drawn some complaint from the hearing-impaired community. If the new informational requirements were not instituted, consumers might form unwarranted expectations that Wi-Fi-enabled phones would meet hearing aid compatibility ratings operating under Wi-Fi. Under these scenarios, accessibility to wireless telecommunications by individuals with hearing disabilities would be frustrated rather than expanded, which is contrary to the statutory goal of the Hearing Aid Compatibility Act to "establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing." 47 U.S.C. § 610(a).

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 March 21, 2008 (73 FR 15156). 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 would be 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 ~~original~~ 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 consultations regarding technical standards are unchanged because there are no changes in this requirement. The estimates regarding the annual hour burden with regard to product labeling and reporting to the Commission do not require adjustment because the changes in the volume of the required activity are *de minimis*. Nonetheless, because the reporting schedule has changed, the total burden estimate over the course of time has changed.

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. The total estimated annual burden hours for these entities are **4,200**. 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).

Reporting: The changes to the content of the required reports are *de minimis* and do not affect the estimate the each report should take three hours to draft. However, there have been changes to the reporting schedule since the previous supporting statement that will affect the overall hour burden over the course of several years. The Commission expects that each company would utilize staff engineers to draft the reports, and each report would take about three hours to draft. Service providers are to file the new reports annually beginning January 2009 and manufacturers will file in January 2009 and then annually beginning in July 2009. Thus manufacturers will provide two sets of reports in 2009 and one set annually thereafter. Service providers will provide one annually beginning in 2009. Our previous estimate of the burden for an individual report was three hours. Thus, the annual burden for the information collection is:

**Two reports per manufacturer X 3 hours X 25 manufacturers: 150 hours**  
**One report per provider X 3 hours X 900 service providers: 2700 hours**  
**total = 2,850 hours**

The actual annual hour burden may be less because the Commission gave these entities the option to submit joint reports, if desired. Moreover, the Commission is working on a standardized reporting template that if implemented should further reduce reporting time requirements.

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. Although the content of this material has changed slightly for some manufacturers, we expect this will continue to be true.

Web posting. Manufacturers and service providers that otherwise maintain public websites are required, as of January 2009, 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 already 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:**

**4,200 standards + 5,550 web posting + 2,850 reporting = 12,600 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 \$45.05 per hour to review the annual reports, which should take about 5 hours, resulting in a potential cost to the Federal Government of \$250 per year per report for years 4 and 5 (when 1 report per respondent is filed each year). Thus, the annual cost to the Federal government is 925 respondents x 5 hours x \$45.05 = \$208,356. Web postings and consumer labeling will not be actively monitored in the absence of consumer complaints.

15. The Commission is reporting a program change of **+6,550 hours** when compared to the estimate in the previous supporting statement. These changes in burden hours arise due to a number of factors. The reporting requirements have been increased slightly because manufacturers will be required to file two sets of reports in 2009. At the same time, the Commission has created a requirement for certain information related to hearing aid compatibility to be placed on websites for ease of access by consumers, increasing the number of burden hours. The Commission has minimized the burden of compliance by adopting a phased-in implementation schedule over several years, rather than demanding compliance in a short time frame. In addition, the reporting requirements have been delayed in order to ensure that affected parties have ample time to begin the process of data collection.

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

17. We do not seek approval to not display the expiration date for OMB approval of the information collection.

18. There are no exceptions to the “Certification Statement” in Item 19.

**B. Collections of Information Employing Statistical Methods:**

No statistical methods are employed.