

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
2010 Biennial Review of Telecommunications) CG Docket No. 10-266
Regulations)
)
)

**COMMENTS OF THE
ADMINISTRATIVE COUNCIL FOR TERMINAL ATTACHMENTS**

The Administrative Council for Terminal Attachments (ACTA) submits these comments in response to the Federal Communications Commission’s (FCC) 2010 Biennial Review of Telecommunications Regulations in the above-referenced docket.¹ The ACTA appreciates the opportunity to provide input to the FCC concerning the hearing aid compatibility rules contained in Part 68 of the Commission’s rules. As described in the comments below, the ACTA recommends that the FCC tighten its enforcement of Part 68 non-compliance and clarify that VoIP phones must meet the hearing aid compatibility and Volume Control rules in Part 68 and be listed in the ACTA database of approved terminal equipment.

I. Background

The ACTA was established in 2000 when the FCC privatized significant portions of its rules governing the connection of customer premises equipment to the public switched telephone network and certain private-line services, including standards development and terminal

¹ In the Matter of 2010 Biennial Review of Telecommunications Regulations, *Public Notice (Biennial Review Public Notice)*, CG Docket No. 10-266 FCC-10-204 (released. Dec. 30, 2010).

equipment approval processes.² The FCC directed the telecommunications industry, through the co-sponsorship and support of the Alliance for Telecommunications Industry Solutions (ATIS) and Telecommunications Industry Association (TIA), to establish the ACTA, an open body that would assume the role previously performed by the FCC. Thus, the FCC tasked the ACTA with: (1) adopting technical criteria and acting as the clearing-house for the publication of technical criteria for terminal equipment developed by ANSI-accredited standards development organizations; and (2) establishing and maintaining a registration database of equipment approved as compliant with the technical criteria. The FCC retained sole responsibility for enforcement of the Part 68 regulations and compliance with the privatized functions.

The ACTA fulfills its mission through an open and consensus-based process and with active participation from key stakeholders, including service providers, manufacturers, testing laboratories and other interested parties. The ACTA holds quarterly meetings that are open to all interested parties. More information about the ACTA can be found on the ACTA website at: www.part68.org.

II. Discussion

In its 2010 Biennial Review, the FCC seeks to determine whether any of its regulations are “no longer necessary in the public interest as the result of meaningful economic competition between providers of such service” and is directed to repeal or modify any such regulations.³ Among the regulations on which comments are sought are those administered by the Consumer and Governmental Affairs (CGB) Bureau including particularly those found in Part 68 pertaining to hearing aid compatibility. As one of the organization’s designated by the FCC to administer

² In the Matter of 2000 Biennial Review of Part 68 of the Commission’s Rules and Regulations, *Report and Order*, CC Docket No. 99-216 (released Dec. 21, 2000) (*R&O*)

³ *Biennial Review Public Notice* at 1.

Part 68 terminal attachments, the ACTA certainly recognizes the value of enforcing hearing aid compatibility rules to ensure that telecommunication services are accessible to hearing impaired consumers. However, in recent years, the ACTA has become increasingly concerned with the lack of enforcement for Part 68 non-compliance, which in turn impacts the number of phones that are compliant with Part 68 rules related to hearing aid compatibility. Therefore, the ACTA provides the following input:

A. FCC Should Enhance its Enforcement Efforts Surrounding Part 68 Rules

The ACTA believes that there is ample anecdotal evidence that some telephone terminal equipment being sold and/or imported within the U.S. is not compliant with the FCC's Part 68 regulations and believes that enhanced enforcement is warranted.

Since the FCC turned the administration of the approved terminal equipment database over to the ACTA ten years ago, there has been a steady year over year decline in the number of terminal equipment listings. While a general decline in wireline terminal equipment approval listings over the past ten years in North America has not been isolated to the U.S., the decline has been much sharper in the U.S. than in Canada. Given the similarities in the two markets, the sharper U.S. decline in approval listings may not be reflective of less equipment being imported or sold but of less equipment being tested for compliance and registered as such. Through discussions with the FCC's counterparts in Canada, the ACTA has determined that the more moderate decline in the number of terminal equipment listings in Canada may largely be due to Canada's more aggressive enforcement activities.

Not surprisingly, over the same ten year period, observers have reported to the ACTA that telephones are being sold in retail stores in the U.S. that are not labeled in accordance with

ACTA labeling specifications nor listed in the ACTA database.⁴ There is no guarantee therefore that those telephones have been tested for hearing aid compatibility and actually meet the Commission's hearing aid compatibility requirements in Part 68. The ACTA cautions that without appropriate Part 68 compliance testing, phones with poor quality hearing aid compatibility can infiltrate the market. In fact, hearing aid compatibility can only be determined by thorough testing and the public can only be assured of compliance through the terminal equipment approval process defined in Part 68, including the listing of approved products in the ACTA database.

The ACTA notes that when terminal equipment does not meet the hearing aid compatibility and volume control requirements of Part 68,⁵ it can create accessibility problems for hearing impaired users. Non-compliant devices can produce poor quality audio that hearing impaired users may not be able to discern as a device non-compliance problem, as opposed to a network problem, a hearing aid problem, or a worsening of their hearing impairment. Telephones that do not comply with the Commission's hearing aid compatibility rules in Part 68 and/or ACTA labeling requirements are not in the public interest because such telephones impede accessibility to telecommunications by hearing impaired individuals.

Improperly labeled terminal equipment and the failure to list such equipment in the ACTA database is a problem. The best way to resolve this problem is for the FCC to emphasize the hearing aid compatibility rules and ACTA database listing process in Part 68 through public notices and workshops, along with increased enforcement efforts in order to resolve these problems.

⁴ The ACTA has in the past given samples of improperly labeled terminal equipment and terminal equipment not listed in the ACTA database of approved terminal equipment to the Commission, but is not aware of any Commission enforcement action with regard to those products.

⁵ See 47 CFR §§68.4, 68.6.

B. FCC Should Clarify Whether VoIP Devices Must Comply with Part 68

The ACTA would also like to reiterate, as it has noted previously, that the FCC should “consider the potential impact that failures to comply with Part 68 rules and the ACTA-adopted technical criteria could have on the survivability of communications networks, including broadband networks.”⁶ Wireline carrier facilities continue to serve as the backbone for advanced communications services including VoIP. Therefore, the ACTA encourages the FCC to protect the PSTN and broadband networks by clarifying that *all devices including VoIP, that connect or potentially can connect to the PSTN and private line services provided over wireline facilities that are owned by providers of wireline telecommunications must be compliant with Part 68 rules, the ACTA-adopted technical criteria, and must be registered in the ACTA’s Part 68 database located at <http://www.part68.org/filingmain.aspx>.* The ACTA believes that such clarification would help ensure that advanced communication services including VoIP phones meet Part 68 hearing aid compatibility and volume control requirements.

⁶ In the Matter of Effects on Broadband Communications Networks of Damage to or Failure of Network Equipment or Severe Overload, *ACTA Reply Comments*, PS Docket No. 10-92 (filed Sept. 3, 2010) at 2.

III. Conclusion

There can be no doubt that Part 68 hearing aid compatibility requirements have served the public interest by making telecommunications accessible by the hearing impaired. The ACTA supports the FCC's efforts to promote hearing aid compatibility by ensuring that it maintains an accurate and reliable database of terminal equipment that has been approved as compliant with Part 68 and the technical criteria published by the ACTA. The ACTA appreciates the opportunity to provide comments in this proceeding and welcomes the FCC's participation in its quarterly meetings and engagement on relevant matters.

Respectfully submitted
by the Alliance for Telecommunications
Industry Solutions as Secretariat to
the Administrative Council for Terminal
Attachments

By: 

Thomas Goode,
General Counsel

Alliance for Telecommunications Industry
Solutions, Secretariat for ACTA
1200 G Street, N.W., Suite 500
Washington, D.C. 20005

Dated: January 31, 2011