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The Use of Hearing Aids on Shabbat

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Preface

The preservation of Human dignity is considered of such a high priority that the Tosafot declare: "And if the sole pain experienced is one's shame to mingle with others... there is no greater pain!"¹ This is especially significant for those who suffer from any type of physical handicap that is readily noticeable. Great strides have been made in modern technology, ranging from prostheses and transplants to hearing aids and cochlear implants, which not only help the well being and day-to-day functioning of the handicapped individual, but also enable him to take his place in society free of any embarrassment.

Today, through modern technology and advanced therapy, hearing-impaired children are mainstreamed in regular yeshivot and schools. They can hear and speak quite normally, and do not learn sign language. However, to function normally they are dependent on the use of their hearing aids. Being deprived of their use is akin to being condemned to a world of total silence. This in turn has a major effect on their functioning in society.

This study discusses the issues involved in the use of hearing aids on Shabbat, drawing on the halachic decisions of contemporary authorities who explain the rationale behind the accepted practice of their use. The issues have been divided into four categories:

1. Activating a hearing aid.
2. Speaking to a person wearing a hearing aid.
3. Handling a hearing aid (*muktzah*)
4. Wearing a hearing aid in a public domain (*hotza'ah*)

1. Activating a hearing aid and adjusting the volume

Before determining the halachic ramifications of activating a hearing aid on Shabbat, one must first determine the nature of the change being effected in the hearing aid upon activation. Four possible prohibitions may be involved:

Like most electrical appliances, a hearing aid prior to its activation serves no

purpose. Some authorities therefore consider the initial activation of a hearing aid to be the "completion of its construction" and in possible violation of one of two biblical precepts:

a. *Makeh Bepatish* (The prohibition of completing the formation of an object on Shabbat),² or

b. *Boneh* (The prohibition of building on Shabbat).³

c. Others, on the assumption that sparks are ignited upon activation, feel that it violates the biblical prohibition of *mav'ir* (not to kindle a flame on Shabbat).⁴

Numerous authorities consider hearing impairment to be a form of sickness as far as halacha is concerned.⁵ With regard to tending to the needs of the sick on Shabbat, biblical prohibition may be performed by a non-Jew on behalf of a sick Jew.⁶ Rabbinic prohibitions may be done in one of two ways:

a. By enlisting the services of a non-Jew,⁷ or

b. they are performed in a "backhanded" manner (*kileachar yad*).⁸

It is therefore suggested that even if the initial activation of a hearing aid is forbidden, it may be activated in a time of need by one of these methods.⁹

d. The fourth suggested prohibition is the rabbinic prohibition of *molid* ("creating") on Shabbat.¹⁰ The Talmud states that "scenting" (permeating a garment or object with a fragrance) is considered tantamount to "recreating" the garment, as it now assumes a different presence.¹¹ Similarly, the passing of an electric current through an appliance changes the otherwise dormant object into a functioning appliance.

However, other authorities suggest that none of these prohibitions are relevant to the activation of a hearing aid. They maintain that merely switching on a hearing aid cannot be considered building nor completing the formation of the aid. By way of example: it would never cross one's mind to prohibit opening and closing a door on Shabbat because it is effectively "demolishing" and "rebuilding" part of the wall.¹² This is merely using the door in accordance with its normal function. Similarly, one cannot define the completion of an electric circuit as building or completing the construction of a hearing aid, as one is merely using it as intended.¹³

As for ignition of sparks, it has been suggested that since the life span of these sparks is insignificant, this is not classified as "kindling".¹⁴ Moreover, this is of no concern with modern hearing aids. Technicians involved in the manufacture of hearing aids have indicated that no sparks whatsoever are emitted upon activation.¹⁵ As for consumption of battery fuel, the very premise that the mere consumption of a substance is in violation of *mav'ir* does not have a solid foundation.¹⁶

Concerning the issue of creating, the comparison between "scenting" a garment

and creating a current flow is questionable. The prohibition of "scenting" and thereby "recreating" the garment may apply only if the garment is *not* usually "scented" in such a manner. But a hearing aid, which only functions when the current flows, cannot be considered "recreated" when activated.¹⁷

Nevertheless, it is important to note that all authorities agree that, when feasible, one should switch the hearing aid on prior to the commencement of Shabbat and leave it that way for the duration. Even those who are lenient recommend that in practice one should try to turn it on before Shabbat.¹⁸

Many rabbinic opinions maintain that the stringency of activating a hearing aid does not include adjusting the volume of an already active hearing aid.¹⁹ Based on *Shulchan Aruch Harav*, that one may add to the aroma of an already fragrant garment if the added scent is the same as the original,²⁰ they permit raising the volume even though it may increase the intensity of the current flow,²¹ since the current flow is already in existence.²²

The above discussion deals with activating a hearing aid with its battery already in place. The question arises whether it is permissible to replace the battery when the old one no longer works, which is a common problem with batteries used in the large speech processors of cochlear implants and bodily-strapped hearing aids worn by little children. These batteries often do not last more than 25 hours and will certainly not endure a two-day *Yom Tov*. Based on the position cited above that activation of a hearing aid involves violation of *molid*, it would be possible to replace the battery either by a non-Jew or in an unusual manner.²³ Others maintain that replacing a battery is similar to the biblical prohibition of threading a shoelace on Shabbat, which is considered as completing the formation²⁴ of the shoe.²⁵ According to this opinion the battery may only be replaced by a non-Jew.

2. Speaking to a person wearing a hearing aid

At the outset let us point out that many significant authorities permit direct conversation with a person wearing a hearing aid. Among them: Rabbi Yitzchak Yaakov Weiss,²⁶ Rabbi Eliezer Waldenberg,²⁷ Rabbi Yoel Teitelbaum,²⁸ Rabbi Shlomo Zalman Auerbach²⁹ and Rabbi Ovadia Yosef.³⁰ Even Rabbi Moshe Feinstein, who feels that a biblical prohibition may be involved, cannot pinpoint exactly which one it is.³¹ As a result, he is reluctant to forbid speaking to a person wearing a hearing aid since the need is so great.³² This section will demonstrate the bases behind this conclusion.

With regard to speaking to a person wearing hearing aids, three possible prohibitions should be considered:

1. *Molid*
2. *Hashma'at kol*

3. *Gezeira Shema yetakein*

A. *Molid* (Creating)

The Talmud states that smoking fruit with spices on top of a hot piece of earthenware is prohibited on Shabbat, since the earthenware becomes permeated with that scent; this is considered *molid*. This prohibition is also applied to the "scenting" of silk garments.³³ In explaining the rationale behind this prohibition, Rashi comments that creating something new is similar in nature to *melachot* (creating forms of work) which the Torah prohibits on Shabbat.³⁴ Accordingly, this prohibition should not be limited to the creation of a scent. Rather, it should be an all-encompassing requirement to abstain from creating anything new on Shabbat.

In this vein, *Beit Yitzchak* says that completing an electrical circuit is rabbinically forbidden since a current flow is created. He adds that a person may not speak into a telephone on Shabbat, because the voice generates an increase in the current flow.³⁵ Since the identical phenomenon takes place when speaking to an individual wearing a hearing aid, it appears such an act should be in violation of this precept.

However, while the activation of electrical appliances may involve the violation of various prohibitions (see section I of this article), none of these seem to be applicable when speaking into a hearing aid. Even *Iggerot Moshe Orach Chaim* 4:84:85, who contends that one is possibly violating one of these precepts, cannot pinpoint exactly which one it is, and as a result is reluctant to rule that it is forbidden to speak into a hearing aid, since the need is so great. Rather, *if possible*, he feels that it is preferable to avoid speaking directly to the wearer. However, *Minchat Yitzchak* 3:41, *Tzitz Eliezer* 6:615 and 9:12:1, *Minchat Shlomo* 1:9, *Nishmat Shabbat* 6:360 quoting Rabbi Yoel Teitelbaum (the Satmar Rav), and *Yabia Omer* 1:19 all permit speaking to one wearing hearing aids regardless of the level of necessity.

Of similar concern is the small red L.E.D. light on the speech processors of cochlear implants, which lights up and flickers in accordance with the intensity of the sound it is processing.³⁶ Although the production of this form of light incurs no biblical prohibition, nevertheless, it would appear to involve the rabbinic restriction of *molid*, because the speech is, in effect, creating new light.³⁷ (This writer suggests that all the arguments advanced to permit the increase in current flow are equally applicable to L.E.D.s)

However, there is a significance difference between the issue of speaking into a hearing aid and the "scenting" of a garment. One of the criteria for *molid* is that the "creation" has permanence. While the fragrance in a garment is not permanent, it is still deemed a new creation, because the evaporation of the scent is gradual. On the other hand, the increase in current created by a person's

speech has no permanency, as it terminates abruptly and is subsequently reproduced. Additionally, this phenomenon is repeated countless times over the course of a mere minute, and can therefore not be classified as a "new creation".³⁸

Another approach to the issue of *molid* is that when scenting a garment it is not the creation of the scent itself that is forbidden, because the scent is not tangible. Rather, since the scent "changes the nature" of the already existing garment, one is considered to have recreated that particular garment. This restriction is therefore limited to a garment that is usually not scented, because it is precisely for this purpose that it is considered recreated. If this approach is applied to the current flow in hearing aids, the problem of *molid* is absent since the sole purpose of a hearing aid is to operate with a current flow.³⁹

A further proposal advanced to demonstrate that *molid* is of no concern is that the prohibition of *molid* is limited to instances explicitly discussed in the Talmud. All other new creations of this sort, although similar in nature, are excluded.⁴⁰

B. *Hashma'at kol* (Producing sound)

The Talmud states that one may begin grinding with millstones on a Friday only if the process will end prior to the onset of Shabbat, because the grinding of millstones emits a noise.⁴¹ Rashi explains that since the noise draws public attention, this constitutes a demeaning of Shabbat for it might be erroneously assumed that one has violated the biblical prohibition against grinding on Shabbat.⁴² This restriction, adopted by the Ramo,⁴³ is one of the arguments advanced to forbid the use of a microphone on Shabbat, even if it were activated before Shabbat, because it is customary to activate it immediately prior to use.⁴⁴ This leads to inquiring why conversation with an individual wearing a hearing aid is permitted, since it also produces sound and is also usually activated every morning prior to use.

Some suggest that comparing a hearing aid to a microphone in this regard is erroneous, because the sound emitted by a microphone is heard by the public and thus constitutes a demeaning of Shabbat. However, the sound emitted by a hearing aid is heard by no one other than the wearer himself, who is well aware that it was activated before Shabbat.⁴⁵

However, a close examination of the text reveals that the Ramo actually cites two opinions regarding the matter of the millstones: the first permits the use of the millstones, while the second prohibits it. Although the Ramo leans towards the second opinion, he himself rules that if a person would otherwise sustain a significant financial loss, the lenient opinion may be relied upon. Similarly, since hearing-impaired people will certainly incur feelings of humiliation and embarrassment if they are unable to respond appropriately when spoken to, the loss of a person's dignity should be no less significant than the loss of his assets.⁴⁶

C. *Gezeira shema yetakein* (Lest one make repairs)

The *Shulchan Aruch* rules that on Shabbat "it is forbidden to produce sound with a musical instrument."⁴⁷ the reason given is that it may lead to the repair of musical instruments, in violation of the biblical prohibition against completing the construction of an object.⁴⁸ Although the Talmud seems to limit this prohibition to the production of a "sound of song," the wording of *Shulchan Aruch* clearly indicates that in his opinion this prohibition includes the production of any sound on a musical instrument.⁴⁹ Ramo takes it a step further and prohibits the production of sound on any instrument designed for that very purpose (such as a doorknocker) even if it is not used to play music. As a result, numerous authorities prohibit speaking into a microphone on Shabbat since sound is being produced on an instrument whose function is to produce sound (and is often used to accompany sounds of song).⁵⁰ since a hearing aid and microphone are identical in terms of their operation,⁵¹ it must be determined whether there is any distinction⁵² between them with regard to this *gezeira shema yetakein*.⁵³

Some authorities suggest that the proscription of the Sages was never intended to include an item such as hearing aids for the following two reasons:

- a.** Whenever the Sages enacted restrictions to safeguard a biblical precept, they were concerned only with cases that are normative and not with aberrations. Since the hearing impaired are a very small minority of the general population, items whose usage is limited to their specific needs are not to be included in the general restriction.
- b.** The Sages never enacted restrictions which could result in the potential endangerment of a life. Were hearing-impaired people to refrain from wearing their hearing aids, they could run the risk of endangering their very lives due to their inability to be alerted⁵⁴ to hazards on the street⁵⁵ through hearing.

Others permit the use of hearing aids based on the position of Rabbi Moshe Feinstein that transistor-operated devices are not to be included in the restriction *gezeira shema yetakein*.⁵⁶ His view is based upon Tosafot's ruling that items whose repair requires professional expertise were not included in this restriction.⁵⁷ Since transistor-operated devices must be facilitated professionally, their usage is not forbidden. Accordingly, one may speak to an individual wearing a hearing aid, since all hearing aids nowadays are transistor-operated.⁵⁸

An additional approach to permit the use of hearing aids is based on the novel understanding that this restriction was only enacted lest one come to repair additional instruments to accompany one's song. Indeed, this appears to be underscored by the Mishnah's ruling that one may not clap one's hands to accompany song on Shabbat, lest it lead to repairing musical instruments to further accompany that song.⁵⁹ But if one already possesses a perfectly functional

instrument, there is no reason to assume that something might go awry, resulting in the need to repair it. Accordingly, if a hearing aid is in perfect working order, there should be no reason to restrict its usage on the chance that it might break and require repair.⁶⁰

A further theory to permit hearing aids can be suggested: The Mishnah states that "a person may not read by the light of a candle lest he come to adjust the wick."⁶¹ The Talmud applies this restriction only when an individual is alone. If, however, two people are reading a text together, there is no restriction.⁶² The reason for this distinction, Rashi explains, is that should one of them attempt to adjust the wick, the other will immediately draw his attention to the prohibition.⁶³

Gezeira shema yetakein always applies to the person making the sound - and there is no danger that the speaker will ever himself mistakenly repair the hearing aid, and he will also be able to warn the wearer not to tamper with it. As explained above, concerning such instances the Sages never imposed restrictions. However, this approach would not suffice when speaking to an individual unfamiliar with Jewish law, who, unaware that repairing is forbidden, will not remind the wearer of this fact.⁶⁴ Speaking to a young child should also be forbidden according to this reasoning, as he too will not remind the speaker that repairing the hearing aid is forbidden. Upon further examination though, it becomes evident that children are the exception to the rule. This is based on the position of the *Ramo Orach Chaim* 328:17, that requirements for the development of a child have the same halachic status as the needs of one who is sick. Therefore, just as a person may violate a rabbinic precept to help a sick individual, so too is he permitted to do so for the aforementioned needs of a child.⁶⁵

Although this restriction does not apply to hearing aids, practically speaking, there still exists the possibility of accidental tampering with the controls. Therefore, numerous contemporary authorities rule that the on/off switch should be taped over before Shabbat.⁶⁶ Others maintain that this is not necessary since we never find the Sages concerned lest one come to deactivate or switch off something that is working, their concern being only to prevent a constructive act (e.g. "lest one tilt the wick" or "lest one come to repair").⁶⁷

Even if speaking into a hearing aid were classified as forbidden under one of the three restrictions mentioned above, in the event that the wearer is not being specifically addressed, but just happens to be present, there is certainly no concern, for the following two reasons:

a. Tosafot maintain that a *pesik reisha delo nicha lei* (the unintentional violation of a rabbinic restriction, even where the outcome is inevitable) does not constitute a transgression.⁵⁸ Therefore, since the speaker is not specifically addressing the person wearing the hearing aid, he may continue speaking.⁶⁹ In

fact, even those in disagreement with Tosafot⁷⁰ may possibly concur concerning the transgression of "creation", since it is of a more lenient nature than the average rabbinic restriction.

b. The Ran, quoting Rashba, states that a gate may be closed to protect a person's property even if a deer that happened to have roamed into the enclosure is thus trapped. Although trapping an animal is biblically forbidden on Shabbat, nevertheless, since this very act of "trapping" by closing the gate is also serving a permitted function, it is permitted.⁷¹ Similarly, many permit a person to address individuals not wearing hearing aids despite the fact that he is simultaneously causing an increase in the current flow to the hearing aids (and intends also to address those wearing the hearing aid),⁷² since that very speech is concurrently serving a permitted function.⁷³

if the speaker is unaware of the consequence of his speech, there certainly would be no need to point it out to him, since he is considered a *mit'asek* (one who inadvertently violates a prohibition while preoccupied) and therefore not held responsible for his actions.

3. Handling a hearing aid (*muktzah*)

The Sages generally prohibited the handling of all items that were not designated for use prior to the onset of Shabbat, as *muktzah* (lit. set apart). Included in *muktzah* is the prohibition of handling items whose primary function is forbidden on Shabbat, lest one come to use them for the prohibited use.⁷⁴ In order to determine whether the prohibition of *muktzah* includes hearing aids, it is necessary to consider the several categories of *muktzah*.

a. *Kli shemelachto l'issur*, an item whose function is forbidden.

It is important to note that even if a hearing aid is deemed a *kli shemelachto l'issur*, this form of *muktzah* is unique in that handling it is permitted if one of the following conditions are met:

1. the item is being handled for its permitted use, or
2. the item is being moved to make the place which it occupies available for use on Shabbat.

Such items may not be handled however, to spare them from being damaged, stolen, or for any other purpose.⁷⁵

Since the activation of hearing aids could possibly entail the violation of a prohibition (see section 1), its *muktzah* status would appear to be comparable to that of an electric fan or clock activated before Shabbat. Some maintain that since a *kli shemelachto l'issur* is *muktzah* only to prevent one from performing the forbidden act, in the event that the act was already performed before Shabbat, it may be handled, since there is no longer a prohibition to safeguard.⁷⁶ Similarly,

one should be permitted to handle a hearing aid under all circumstances, provided it has already been activated before Shabbat.⁷⁷ Others disagree and consider a fan and clock that are operating to be in the category of a *kli shemelachto l'issur*.⁷⁸ They reason that since their operation is the constant product of the current flow resulting from the forbidden act, this is sufficient grounds for it to be deemed a *kli shemelachto l'issur*. If so, one would be permitted to handle a hearing aid only to benefit from the hearing aid itself or its place.⁷⁹

Practically speaking, both opinions would allow a hearing aid to be handled in order to wear it, as this is its use.⁸⁰ It may also be removed before going to sleep, for one is entitled to vacate the space that it occupies when needed and it is certainly more comfortable to lie down without it. The difference between the two views would be the removal of the hearing aid so that it will not be ruined by the elements, damaged, or stolen, which is not permitted in the case of a *kli shemelachto l'issur*.⁸¹

b. *Muktzah Machmat chisaron kis* - *muktzah* due to a potential monetary loss:

These are items that the owner will use for nothing other than their intended use out of fear that it may result in a financial loss.⁸² Since hearing aids certainly meet this criterion, it seems handling them should be forbidden on Shabbat. However, this assumption is erroneous, for this category only prohibits handling for purposes other than their primary use but not for their intended permitted use.⁸³ If so, handling hearing aids would be permitted solely for the purpose of using them, but removing them should be forbidden, since this is seemingly not their primary function. It may be suggested that perhaps the removal of a hearing aid when it is no longer desired is indeed an aspect of its intended use and therefore permitted. If the hearing aids will again be worn at a later point on that same Shabbat their removal would certainly be permitted.⁸⁴

c. *Muktzah machmat gufo* - items inherently *muktzah* due to their uselessness:

Broken glass is an example of this category of *muktzah*. Yet the Ramo rules that "if a glass breaks in an area in which it can cause harm, the broken pieces may be removed in order to prevent potential injury."⁸⁵ Based on this rule, wearing hearing aids on Shabbat is permitted, for were they withheld, hearing-impaired people could face possible injury due to their inability to hear signals warning of potential danger.⁸⁶

Another approach to permit the handling of hearing aids is based on the ruling of the *Shulchan Aruch* to suspend the prohibition of *muktzah machmat gufo* to preserve human dignity such as the use of stones or similar items to cleanse one's self on Shabbat.⁸⁷ Since the Sages did not impose their restriction in instances that could result in an individual's humiliation or embarrassment, the handling of hearing aids should certainly be permissible.

There is no greater preservation of human dignity than removing the shame and indignity otherwise experienced by the hearing impaired due to their inability to hear when spoken to. One cannot describe the humiliation, shame, and awkwardness that is inevitable upon their entering the synagogue amidst a multitude of people, yet all alone. They are unable to hear that which is transpiring nor are they always able to respond when spoken to...⁸⁸

In summary, then, we may conclude that the prohibition of *muktzah* does not preclude the wearing or handling of a hearing aid.

4. Wearing a hearing aid in a public domain (*hotza'ah*)

It is biblically forbidden to carry items in a public domain on Shabbat.⁸⁹ From the verse "You shall not take out a load from your houses on Shabbat,"⁹⁰ we infer that only items described as a "load" are forbidden to be carried out. Clothing or ornamentation (such as jewelry) are certainly not regarded as a "load" and may be worn.⁹¹ Can hearing aids be equated with clothing and ornamentation?

A comparison can be drawn between wearing hearing aids and wearing eyeglasses, and the rationale permitting wearing eyeglasses in a public domain should apply equally to hearing aids.⁹²

The *Shulchan Aruch* rules that an individual who is unable to walk without the assistance of a cane may use one in a public domain. However, if he is able to walk without it, the cane may not be used.⁹³ There is some debate concerning the rationale behind this ruling. The *levush* maintains that since the cane is assisting one's walking, it cannot be considered a "load". He therefore suggests that this prohibition is rabbinical, the reasoning being that since it is feasible to walk without the cane, the person might come to carry it.⁹⁴

Tosefet Shabbat acknowledges the rabbinical prohibition of the *Levush*, but says that it is also biblically prohibited, because in his opinion the cane is to be considered "a load".⁹⁵ The *Chayei Adam*, based on the aforementioned prohibition, rules that one is forbidden to go out with spectacles on one's nose lest they come to be carried.⁹⁶ But many *Achronim* contend that the *Chayei Adam*'s ruling was limited to eyeglasses without temples (like pince-nez), since they may fall off and come to be carried (perhaps equivalent to reading glasses, which are not worn all the time). However, regular eyeglasses that are secured with temples behind the ears and do not tend to fall off, may indeed be worn on Shabbat.⁹⁷

Similarly, hearing aids are worn every day, all day long, and there is no concern lest they come to be carried.⁹⁸ According to the reasoning of *levush*, *Chayei Adam* and others, it is permissible to wear them in a public domain.⁹⁹

According to the *Tosefet Shabbat*, although there is no reason to suspect that they might fall off, hearing aids should still be forbidden to be worn outside as they would be considered a "load", since one is physically capable of walking without them. However, it may be suggested that eyeglasses and hearing aids are not comparable to a cane (unlike the premise of the *Chayei Adam*), because a cane is held (carried), while eyeglasses and hearing aids are worn. Accordingly, the *Tosefet Shabbat* might consider only the cane to be a "load" because it is held, whereas eyeglasses and hearing aids that are worn would indeed be permitted.¹⁰⁰

Alternatively, we can argue that although hearing-impaired people are obviously capable of walking without their hearing aids, nevertheless, if their impairment is so severe that they are unable to hear effectively without them, their status may be likened to a person who is unable to walk without a cane.¹⁰¹ This approach is based on the Rosh, the source of the above-mentioned ruling of the *Shulchan Aruch*. He explains that if a lame individual is physically incapable of walking without his cane, the cane is "likened to his shoes" and may thus be used even in a public domain.¹⁰² By the same token, anything which compensates for the deficiency of any other limb should also be considered to be an extension of that limb, and may thus be carried on Shabbat. This rationale clearly would permit wearing a hearing aid outside on Shabbat.¹⁰³

An additional rationale is based on a ruling by the *Shulchan Aruch* expanding the definition of permitted ornamentation.

One may go out with a pad or sponge on a wound, since they have a healing effect and are considered to be a form of ornamentation.¹⁰⁴

One who has a coin tied to a wound on the sole of his foot so that it won't get hurt and will become healed, may go out with it on Shabbat.¹⁰⁵

Hearing aids play a similar role as they prevent hearing-impaired people from potential injury due to their inability to hear signals of caution. They may therefore be worn on Shabbat.¹⁰⁶

Others say that hearing aids may be worn in a public area on Shabbat based on the ruling of *Shulchan Aruch* that one may go into a public domain with pepper in one's mouth to rid it of a foul odor. The reason given is that doing so "benefits the body" and spares one humiliation.¹⁰⁷ Wearing hearing aids is certainly "beneficial to the body" and thus should be permitted.¹⁰⁸ However, the *Shulchan Aruch* applies this leniency only when the peppers were already in the person's mouth prior to the onset of Shabbat. If they were placed in the mouth on Shabbat itself, going out in such a manner would appear to be prohibited if this ruling is applied to hearing aids it would seem that to go out with hearing aids on Shabbat, they would have to be worn from prior to the onset of Shabbat.

However, after examining the rationale behind this limitation it becomes evident that it is irrelevant to the wearing of hearing aids. Tosafot explain that placing pepper in one's mouth and then going out could give the impression that this is being used as a pretext to transfer the peppers from a private domain to another domain, and is therefore forbidden. However, where the legitimate motive behind taking the peppers out is evident, going out with them in one's mouth would be permitted even if they were put there on Shabbat itself.¹⁰⁹ Since the motive behind wearing hearing aids is clearly not a mere pretext to transport them from place to place, they may be worn in a public domain even if they were put on after the onset on Shabbat.

An additional reason to permit the wearing of hearing aids in public is the ruling of the *Shulchan Aruch* that one may go out on Shabbat with an "expert amulet" (whose efficacy has been established three times). This applies regardless of whether the wearer's sickness is life threatening or not.¹¹⁰ Since an amulet enabling the hearing impaired to hear would certainly have been allowed, hearing aids should be no different, as they serve that very purpose.¹¹¹

A final suggestion for the permissibility of wearing hearing aids is based on the ruling of *Shulchan Aruch* that a prisoner with chains bound to his feet may walk in a public domain on Shabbat.¹¹² The *Me'iri*, who shares the same point of view, explains that any item whose purpose is to protect a person cannot be categorized as a "load".¹¹³ Similarly, the wearing of hearing aids in a public domain should certainly be permitted, since they also serve the purpose of protecting the wearer from accidents that may result from his inability to hear. *A fortiori*, if a captive is permitted to go out with his chains despite his not wanting them, how much more so should hearing-impaired people be permitted to go out with hearing aids that are certainly desired and needed!¹¹⁴

Conclusion

There are differences of opinion regarding the initial activation of a hearing aid and the replacement of its batteries. Both should be avoided. If this is not possible, there are significant authorities who permit these actions (preferably by a non-Jew or in a backhanded manner). One may speak directly to people, especially children, wearing hearing aids and certainly to an audience that is only partially composed of such individuals. The handling of a functioning hearing aid is unanimously permitted if this is done to use the hearing aid itself or the place upon which it was placed. Handling a hearing aid for any other purpose will be subject to how its *muktzah* status is categorized. Hearing aids may be worn in a public domain according to many authorities since they are not regarded as a load and will not come to be carried.

Sound plays a vital role every day of our lives, especially on Shabbat. Communal prayer and melodious *zemirot* sung at festive Shabbat meals have always been the hallmark of the Shabbat experience. It is my hope that this essay will firmly

establish the permissibility of wearing hearing aids on Shabbat and afford hearing-impaired people the opportunity also to be inspired and uplifted by the sounds of Shabbat. To quote the wisest of all men, "Hear my son, accept my words and your years will be increased!"¹¹⁵

□ **COMMENTS:**

1. *Shabbat* 50b s.v. *Bishvil*
2. *Tzitz Eliezer* 6:6; *Minchat Yitzchak* 3:41.
3. Ibid. The *Tzitz Eliezer* bases his opinion on the position of the *Chazon Ish*, *Orach Chaim* 50:9.
4. *Chelkat Yaakov* 2:41; *Tzitz Eliezer* 7:11 quoting Rabbi D.B. Weidenfeld, the Tchebiner Rav; ibid. 6:6. See also *Tzitz Eliezer* 6:6, and *Yesodi Yeshurun* on the 39 *Melachot* 2 pg. 138.
5. For a sampling see *Iggerot Moshe Orach Chaim* 4:85; *Minchat Yitzchak* 2:18 and *Minchat Shlomo* 2:18. While *Tzitz Eliezer* 6:6 clearly disagrees, *Minchat Yitzchak* 3:41 maintains that even Rabbi Waldenberg (author of the *Tzitz Eliezer*) would concur that a hearing-impaired minor is considered "sick". This is based on Ramo *Orach Chaim* 328:17, that the developmental needs of a minor have the halachic status of the needs of the sick.
6. As per *Shulchan Aruch Orach Chaim* 328:17 and *Mishnah Berurah*.
7. As per *Shulchan Aruch Orach Chaim* 307:5.
8. Ibid 328:17 and *Mishnah Berurah*.
9. Based on a ruling of Rabbi David Cohen of Brooklyn, N.Y.
10. According to *Beit Yitzchak* in an addendum to the table of contents, *Yoreh Deah* 2:31.
11. *Beitza* 23a. For a more detailed understanding of this concept see the beginning of section 2 of this article.
12. This illustration is also cited by the *Mishnah Berurah* 340:17 to explain the position of the Ramo that a person may open and close a book with words written on the edges of the paper, even though he is effectively writing and erasing those words.
13. *Minchat Shlomo* 1:11 and 2:17. Both of which contain a correspondence between the author and the Chazon Ish on this topic. Also see responsa *Chelkat Yaakov* 1:53 that disputes the position of the Chazon Ish as far as *Makeh bepatish* is concerned.
14. *Eidut Leyisrael* chapter 20.
15. As per conversations of this writer with technical engineers from Telex, Phonac, and Phonic Ear.
16. *Tzitz Eliezer* 7:11 quoting Rabbi S.Z. Auerbach.
17. *Minchat Shlomo* 1:9. Also see an elaboration on this topic in *Tzitz Eliezer* 1:20:10.
18. *Minchat Shlomo*, ibid. pg. 74, writes that although he personally finds no prohibition involved when activating hearing aids, one should nevertheless avoid

doing so unless it is a time of great need. Two reasons prompt this ruling: a. In deference to the opinion of the *Beit Yitzhak*, and b. to avoid confusion amongst the masses who will not distinguish between the activation of these appliances and appliances containing a light bulb (which is certainly forbidden).

19. *Shemirat Shabbat Kehilchata* 1:34:28; *Minchat Shlomo* 1:9 pg. 74; *Lev Avraham* 1:6:132 and *Be'er Moshe* 1:17 who adds that since ignorant people may look askance at this, it would be better to refrain from adjusting the aid publicly.

20. *Orach Chaim* 511:7.

21. This leniency should only be applicable to the conventional hearing aids whose volume is adjusted with a dial volume control. However, adjusting the volume of digital hearing aids with electronically programmed settings (usually worn by adults with relatively mild hearing losses) entails more than merely increasing the intensity of the already active current flow, and would therefore be forbidden. A competent halachic authority should be consulted.

22. *Minchat Shlomo*, *ibid.* interestingly, *Ma'aseh Choshev* 2:5 disagrees and forbids adjusting the volume based on this very ruling of the *Shulchan Aruch Harav*, as in his opinion, the increase in current flow generated by the change in volume is not considered more of the same. In a recently published work, the 39 *Melachot*, 4 pg. 1238, Rabbi Dovid Ribiat states, "it appears that a large consensus of *Poskim* rules that the volume controls (of a hearing aid) may not be adjusted on *Shabbos*...however some permit adjusting the volume..." the source of those adopting the stricter view is *Eidut Leyisrael* section 20. There, Rabbi Y. E. Henkin permits wearing (the old-fashioned) hearing aids if they were activated prior to the onset of Shabbat and sewn into the pocket in which they will worn, "so that one will not come to turn them on or off." Rabbi Ribiat assumes that there is no distinction between the activation of a hearing aid and the adjustment of its volume. However, the above rationale clearly distinguishes between the two, and there is therefore no inference that Rabbi Henkin disagrees. Additionally, this lone source hardly justifies declaring it the view of a "large consensus" of *Poskim*.

23. Ruling of Rabbi David Cohen of Cong. G'vul Ya'avetz, Brooklyn N.Y.

24. See *Mishnah Berurah Orach Chaim* 317:16.

25. *Minchat Shlomo* 2:17. This point of view begs clarification, for the *Beit Yosef*, end of *Orach Chaim* 317 (quoting *Teshuvot Ashkenaziot*), distinguishes between inserting a shoelace into a shoe and a belt into a pair of pants. Shoelaces remain where inserted and in effect become an integral part of the shoe. Since their insertion is thus the finishing touch of the shoe, doing so is forbidden. A belt, however, which is removed after each use, is considered a separate entity and therefore not considered as the completion of the pair of pants. Since batteries are replaced daily (or weekly), there are seemingly comparable more to a belt than to a shoelace. One might suggest that since batteries are left to stay for as long as they are still functional, they are indeed comparable to shoelaces that also remain in place for as long as they are still functional. A belt, on the other hand, is removed following its use, despite the fact that it is still in perfect working condition.

26. *Minchat Yitzhak* 3:41.

27. *Tzitz Eliezer* 6:6:15 and 9:12:1.

28. The Satmar Rav, quoted in responsa *Nishmat Shabbat* 6:360.

29. *Minchat Shlomo* 1:9.

30. *Yabia Omer* 1:19. *Minchat Yitzchak* 2:17 cites this responsum in *Yabia Omer* but quotes him as remaining inconclusive due to the problem of "creating". After examining the text, this writer found no indication of this inconclusiveness. Perhaps there was an earlier edition that was subsequently revised.

31. *Iggerot Moshe Orach Chaim* 4:84 and 85.

32. Rabbi Feinstein maintains that if possible one should refrain from directly addressing a person wearing a hearing aid. He does state though, that little children, who obviously need to be communicated with in a direct manner, may be spoken to directly.

33. *Beitza* 23a; Ramo, *Orach Chaim* 511:4.

34. *Beitza* ibid. s.v. *Molid*.

35. See above note 7.

36. See *Ma'archei Lev* chapter 4 for a detailed analysis of the halachic status of L.E.D.s.

37. This issue was specifically addressed and permitted in a statement issued by Rabbi L. Y. Heilpren, dated 14 Tevet 5757/December 24 1996, as well as in *Nishmat Avraham* 5 pg. 230, quoting Rabbi Y. Y. Neuwirth.

38. *Minchat Shlomo* 1:9; responsa *Minchat Yitzchak* 3:41 quoting Rabbi E. Y. Waldenberg. The *Minchat Yitzchak* himself takes issue with this thesis although it is underscored by *Ginat Veradim Hasefaradi klal* 3:14, since responsa *Maharsham* 1:140 and responsa *Chacham Tzvi* 92 disagree. However, see *Minchat Shlomo* ibid., pp. 73-74, where it is clear that neither the *Maharsham* nor the *Chacham Tzvi* pose any challenge to our discussion (although he doesn't mention them by name).

39. *Minchat Shlomo* ibid.

40. Ibid. This novel idea is actually underscored by the following three examples: a) Food may be warmed up on Shabbat (in a way that is not deemed cooking) despite the fact that the Talmud itself refers to this phenomenon as "creating" heat. b) Juice may be squeezed from a fruit that is intended for eating purposes, despite the fact that liquid is being "created." c) Food may be colored even though the new appearance should render it a "new creation." Similarly, with regard to hearing aids, "creating" increases in current should not be in violation of the prohibition of "creating."

In *Cross Roads* 5, pg. 21, Rabbi Y. Rosen asserts that speaking as usual to a person wearing a hearing aid, with no extra effort, cannot be considered a transgression of *melacha*. This is because sound waves should seemingly be no different than body heat or any other form of energy radiated from the body, which has never been rendered a culpable action.

42. Ibid. s.v. *Yitcheno* as per the *Darchei Moshe Orach Chaim* 252:7.

43. *Orach Chaim* 252:5.

44. *Iggerot Moshe, Orach Chaim* 3:55 and 4:84 and *Yoreh Deah* 2:5.

45. Ibid, *Orach Chaim* 4:85; *Minchat Yitzchak* 3:41; "Hearing Aids On Shabbat" by

Rabbi Moshe Heinemann in *Am HaTorah* 5740 vol. 13. If the hearing aid is already activated and set to the desired volume, it is almost inevitable that feedback, a shrill high-pitched sound, will emanate from the hearing aid while the ear mold is not tightly secured in the ear. In an essay entitled "Halacha concerning Jewish deaf and hard of hearing" published by NCSY, Rabbi Mordechai Shuchatowitz points out that this may present a problem as far as *hashma'at kol* is concerned and therefore suggests two practical solutions to this dilemma: a. Plugging the opening of the ear mold with a round toothpick, rolled tissue or thin cotton swab immediately upon removing the hearing aid from the ear. b. Lowering the volume to its lowest setting, preferably prior to the removal of the hearing aid. Either method should eliminate the sound of the feedback.

46. *Am HaTorah*, *ibid*. In truth, there is a distinction between the leniency of the Ramo and hearing aids, for the Ramo bases this leniency on a similar ruling of his at the end of *Orach Chaim* 244:6. There, the *Taz*, note 6, explains that where a person will incur a substantial financial loss, the Sages were concerned that if left without a permitted alternative, he might violate a "strict prohibition". They therefore waived the "lighter prohibition" in order to ensure the observance of the more strict. Accordingly, this provision should be made only for the individual incurring the loss, since it is he who is at risk of violating the stricter prohibition. In our instance, though, the speaker producing the sound and the hearing-impaired person incurring the loss are two separate individuals. Accordingly, there seems to be no proof that even under such circumstances one may produce sound.

47. *Orach Chaim* 338:1.

48. *Mishnah Berurah* 338:1. *Tzitz Eliezer* 3:16:2 suggests that the production of these sounds is inherently forbidden due to one's "creating" a sound, and not merely as a safeguard for a biblical prohibition.

49. The Talmud in *Eruvin* 104a records a dispute whether the Sages prohibited the production of all sounds, or if they limited it to sounds of song. The *Shulchan Aruch* adopts the lenient ruling of the Rif that it is limited to sounds of song or at least sounds produced by musical instruments.

50. *Iggerot Moshe*, *Orach Chaim* 3:55 and 4:84 and *Yoreh Deah* 2:5; *Tzitz Eliezer* 3:16:3.

The Ramo 338:1 is of the opinion that producing a sound without doing any action, e.g. whistling, is permitted. There should thus be no restriction regarding speaking into a microphone, since no action is involved. However, *Tzitz Eliezer*, *ibid*, explains that the Ramo only intended to permit instances where no instrument is enlisted in the production of sound. Where an instrument is involved, even if no action is incurred, it is still forbidden. (Also see *Ma'aseh Choshev* 3:16:2 for an identical interpretation of the Ramo.)

51. Although *Iggerot Moshe Orach Chaim* 4:85 was not convinced of the validity of this premise, any one familiar with contemporary hearing aids will realize that Rabbi Feinstein could not have been referring to these. Firstly, he suggests that it is illogical to entertain the possibility that the sound emanating from the hearing aid is a reproduction and not the original sound itself. Numerous technicians

have advised this writer, that since there is a regular microphone operating within the hearing aid, kit is certainly a reproduction of the original sound. Secondly, he writes that it possibly does not amplify any sound at all rather, it merely brings the sound closer to the inner ear, thus enabling hearing-impaired people to hear. This is certainly not true of today's hearing aids that (a) have a volume control and (b) even when not inserted into the ear canal, produce a loud sound.

52. *Nishmat Shabbat* 6:360 quotes the Satmar Rav as offering an intriguing differentiation between the use of hearing aids and that of a microphone. In his opinion, the primary reason behind prohibiting the use of a microphone on Shabbat was to in response to the desire of the Reform movement to instate a microphone as a standard feature in a synagogue service. Since this is obviously a non-issue concerning hearing aids he permits their use on Shabbat.

53. In truth, there is a major discrepancy between a microphone and a hearing aid in this regard, for while a microphone serves the function of accompanying sounds of music, a hearing aid never serves that purpose. This holds true even according to the Ramo who forbids knocking on a door with a doorknocker, since the *Mishnah Berurah* 338:4 understands this to be because one might knock to a tune. Yet, *Iggerot Moshe Orach Chaim* 4:84 does compare the two. In explanation of his opinion, two possible theories may be advanced. First, since the technical makeup of the hearing aids and microphone are identical, we do not distinguish one from the other. Second, this comparison may be predicated on the *Levush*, who explains that Ramo's concern is that a person might come to repair the doorknocker, and not that he might knock to a tune.

There is a novel interpretation of the *Biur Halacha* 338:1 s.v. *Ho'il* on this ruling, who maintains that the reasoning behind the restriction of Ramo is due to its being considered an *Uvda Dechol* (a weekday chore). The Ramo himself, in *Orach Chaim* 333:1, implies that one may do an *Uvda Dechol* in times of great need. Speaking to an individual wearing a hearing aid should therefore certainly be permitted, for were people to refrain from involving the hearing impaired in regular conversation, they would feel isolated from society (see preface).

Another suggestion is that this restriction was only enacted regarding items that produce sound. It is therefore inapplicable to the sound produced by hearing aids since it is only heard by the wearer of the aid. (Rabbi M. Shuchatowitz)

54. This premise (which appears numerous times in this article) requires further clarification:

a. Hearing-impaired people have the option of remaining at home, thereby not encountering these dangerous situations. One must conclude that due to the deep anguish they will surely experience at being isolated from the rest of society, remaining at home is not a viable solution. This reasoning, however, seems to be contested by the ruling of the Ramo, *Orach Chaim* 301:33, that a person who is afraid to leave his money, gold, or silver at home without supervision, may sew them into the clothing he will wear and go out to a public domain if it is absolutely necessary. If, however, it is not of utmost necessity, he is required to remain at home. It is evident that the fact that he is now confined to his home and unable to associate with others is not enough of a reason to permit his going

out with them. This question is posed by *She'arim Hametzuyanim Behalacha* 80:81, who explains that Ramo is discussing a one-time occurrence, where the individual happened to have valuables in his home over a particular Shabbat. Being confined to one's home under such circumstances is obviously not being isolated from society. Confining hearing-impaired people to their homes on the other hand, is something they would be forced to deal with week after week.

b. As is often the case, individuals with an impairment find methods of compensating for that deficiency. Being unable to rely on auditory measures when crossing the street, hearing-impaired people will probably visually compensate and thus avoid being hurt by the hazards of the road. It may be suggested, though, that since hearing-impaired people wear hearing aids all week long and are used to relying on their hearing, they will not necessarily compensate for their hearing loss with their eyesight.

Moreover, there are other instances, such as alerting a person to a fire, in which auditory assistance - and not merely visual compensation - can be crucial even in one's own home. Accordingly, neither objection is really of much concern. I am grateful to my colleague Rabbi B. Rabinowitz for this insight.

55. *Iggerot Moshe Orach Chaim* 4:85.

56. Rav Heinemann, based on *Iggerot Moshe, Orach Chaim* 3:55. However, *Tzitz Eliezer* 3:16:4 and 9:21:4 quotes numerous *Acharonim* in disagreement with this conclusion.

57. *Beitza* 30a s.v. *Tnan*, quoted by the Ramo *Orach Chaim* 338:2 and 339:3.

58. "Hearing aids on Shabbat" by Rabbi Moshe Heinemann. It remains to be explained why Rabbi Feinstein himself does not employ this line of reasoning when he differentiates between a microphone and hearing aids. Perhaps it is because this rationale holds true only concerning the technical repairs of the hearing aid, which require professional expertise. The possibility remains of a hearing aid inadvertently being switched off, a mishap that can easily be rectified by anyone. Perhaps this is why he explores other avenues to distinguish between the two. (Merely taping over the controls to avoid such a mishap is unsatisfactory according to Rabbi Feinstein (*Iggerot Moshe Orach Chaim* 4:85), if the enactment of the Sages would be applicable to hearing aids. Only after he is able to explain that it is inapplicable does he permit taping over the controls to avoid a mishap.)

59. *Beitza* 36b.

60. When explaining the position of the Ramo O.C. 338:1, the *Levush* clearly does not accept this. He explains that a person may not produce sound with an item intended for that purpose, lest he come to repair these very items, if they cease to function properly.

61. *Shabbat* 11a.

62. *Ibid.* 12b.

63. S.v. *Ha trei*.

64. The *Aruch HaShulchan* 338:5 rules that a radio may not be activated before the onset of Shabbat to continue playing on Shabbat. Similarly, the wearer of a hearing aid might be constrained by this restriction, since he is benefiting from the sound and may "come to repair it." This conclusion might negate this final

reason to permit the usage of hearing aids (not so the previous theories) since the speaker will not necessarily be attuned to remind the wearer to avoid making the necessary adjustments.

It is important to point out though, that not everyone is in agreement with this ruling of *Aruch HaShulchan*. The *Minchat Shlomo*, 1:9, pg. 67, contends that the Sages only forbade actions that produce sound "lest one come to repair" and were not concerned with instances in which one is passive. Although *Tzitz Eliezer* 9:21 clearly adopts the position of *Aruch HaShulchan*, in 3:16:3 he quotes Rabbi S.Z. Auerbach in the name of Maharsham and "other *Achronim*" as being in disagreement with this ruling. Even *Iggerot Moshe Orach Chaim* 4:84, *Minchat Yitzchak* 1:107, and *Shemirat Shabbat Kehilchata* 2:42:43, who prohibit the activation of a radio prior to the onset of the Shabbat to be used on Shabbat, do so based on other considerations.

65. The *Chayei Adam*, "Laws of Shabbat" 69:12, contends that although some permit violating a rabbinic precept to help a sick person, many require it to be done either indirectly or by a non-Jew. He does add though, that if these options are not feasible, a fellow Jew may indeed meet these needs. Since the child is sure to suffer great distress were he not to be communicated with in a direct manner by his fellow Jews, all would agree that this rabbinic precept may be violated in order to satisfy his need. See *Minchat Yitzchak* 3:41, who applies this very ruling to children wearing hearing aids.

66. *Iggerot Moshe Orach Chaim* 4:85, *Tzitz Eliezer* 6:6. In *Eidut Leyisrael* chapter 20, Rabbi Y. E. Henkin required the bodily-worn hearing aid of old to be sewn into one's clothing so that it will not come to be switched on or off.

67. *Minchat Shlomo* 2:18 in Rabbi Auerbach's letter to Rabbi Henkin.

68. *Shabbat* 103a s.v. *Lo*.

69. *Iggerot Moshe*, *ibid*, suggests that even when speaking in close proximity to a hearing aid, a person's speech is not always necessarily causing an increase in current flow. His premise is that the wearer does not always hear every word being spoken. In reality, with contemporary hearing aids, the sound is constantly causing an increase in current flow, but hearing-impaired people sometimes experience difficulty in processing that information. This will at times result in their missing a few words here and there.

Minchat Yitzchack 3:41:6 and *Tzitz Eliezer*, 6:6 and 9:12, maintain that this rationale permits even directly addressing a lone person wearing a hearing aid.

70. See *Magen Avraham* 316:8; *Mishnah Berurah* 316:16.

71. *Shabbat* 38a (pages of the *Rif*)

72. *Ma'aseh Choshev* 2:5 pg. 105. There it is pointed out that the *Mishnah Berurah* 316:25 clearly rules that we do not follow this lenient ruling of the Rashba; rather, we adopt the stringent ruling of the Ran and Ritva. Nevertheless, he maintains that our case is unique in the following two respects: a. The transgression in question is merely rabbinic. Therefore, since its enactment would result in potential distress to hearing-impaired people, one may rely on the lenient position of the Rashba. b. The Ran himself, who takes issue with the Rashba, happens to agree with the aforementioned Tosafot that an unintentional violation

of a rabbinic prohibition is permitted even if the outcome is inevitable. (See *Ran Beitza* 19a, pages of the *Rif*). Hence, it should be permitted either way.

73. There seems to be some difficulty in applying the leniency of the Rashba to our case, for in the instance discussed by him, the "forbidden act", closing the door, is in and of itself also permitted act and is therefore permitted. However, "creating" an increase of current flow, if forbidden, is always forbidden. The fact that the forbidden act of "creating" results from one's speech, which happens to also have a permitted function, hardly justifies the comparison, for it is the "act of creating" that is forbidden, not one's speech.

74. Rambam, *Hilchot Shabbat* 24:12 and 13.

75. *Shulchan Aruch Orach Chaim* 308:3.

76. Although the fan can still be deactivated, which is also prohibited, nevertheless, this does not render it a *kli shemelachto l'issur*. As the *Biur Halacha* 308:3 s.v. < i> kli point out, an item is only considered a *kli shemelachto l'issur* if its primary use is prohibited. Since the primary function of the fan is its activation, not its deactivation, it is not considered to be a *kli shemelachto l'issur*.

77. *Minchat Shlomo* 1:9 pg. 75; *ibid.* 2:18; *Am HaTorah* 5740 vol. 13.

78. *Iggerot Moshe Orach Chaim* 3:49.

79. This ruling is adopted by *Tzitz Eliezer* 6:6 and *She'arim Hametzuyananim Behalacha* 80:81. Upon concluding his remarks, however, the *Tzitz Eliezer* declares that hearing aids may indeed not have the status of a *kli shemelachto l'issur*, but does not divulge what prompted that comment. This conclusion is not universal, for the aforementioned position of Rabbi Feinstein regarding a fan seems to be in direct conflict with a different ruling of his, quoted in *The Halachos of Muktzah*. There he is quoted as classifying an electronic watch/clock as a *kli shemelachto l'heter*. One solution (suggested to this writer by a son of Rabbi Feinstein) is that the issue in *Iggerot Moshe* concerned a fan or clock that was connected by a cord to the electricity, while the clock mentioned in *The Halachos of Muktzah* was battery operated and thus assumed a different halachic status. It would follow that a hearing aid that is battery operated should also be deemed a *kli shemelachto l'heter* even according to Rabbi Feinstein. However this solution seems highly questionable, as in *Iggerot Moshe Orach Chaim* 4:85 it is apparent that in his opinion, battery operated appliances - specifically hearing aids - involve the same possible biblical prohibitions as appliances connected to the electricity. Rabbi Bodner (author of *The Halachos of Muktzah*) advised this writer that the distinction between the cases lies in the fact that the activation of a watch is not an integral part of its use, since a watch is virtually always bought with the battery already in it. Accordingly, its ongoing operation is not considered to be an extension of the forbidden act of activating an electrical appliance. The activation of an electric fan or clock, on the other hand, is part of their use and thus their ongoing operation is considered an extension of a forbidden act. (in a recently published work on the laws of *muktzah*, *Nachalat Yisrael* pp 131-132, the author raises our very question and resolves it as stated.) since the activation of a hearing aid is certainly part of its use, according to Rabbi Feinstein, it should be considered a *kli shemelachto l'issur*.

80. Once the hearing aids are already worn, there is further reason to permit their handling. The *Shulchan Aruch* 311:8 rules that moving an object with one's body is permitted. This is explained by the Mishnah *Berurah* (note 30) to mean that the restrictions of *muktzah* were never enacted where the person touches the object with a part of his body other than his hands. This point is of importance regarding an instance in which the battery dies while the hearing aid is worn, rendering the now functionless hearing aid *muktzah machmat gufo* (inherently *muktzah*). Although such items may not be handled at all, the hearing aid may continue to be worn, since the wearer is not handling it with his hands. Its removal, however, will need to be facilitated in either a backhanded manner or through the services of a non-Jew.

81. It is highly questionable whether they may indeed be handled for their own use or place should they be deemed *kli shemelachto l'issur*, as there is a debate amongst the authorities concerning the status of a *kli shemelachto l'issur* that has no alternative permitted function. The *Beit Meir Orach Chaim* 310:7 permits handling these items for their use or place, while the *Pri Megadim* (*Eishel Avraham* 308:12), and the *Aruch HaShulchan* 279:1 forbid doing so under all circumstances. Accordingly, if we adopt the opinion of the *Iggerot Moshe* that a hearing aid is a *kli shemelachto l'issur*, as well as that of the *Pri Megadim* and the *Aruch HaShulchan*, it would be forbidden to handle a hearing aid at all on the Shabbat.

Interestingly, the *Iggerot Moshe* and *Minchat Shlomo* have actually taken sides in this very dispute. Rabbi S. Z. Auerbach (author of *Minchat Shlomo*) is quoted in *Shemirat Shabbat Kehilchata* 20:80 as siding with the *Pri Megadime*, whereas Rabbi Feinstein (author of *Iggerot Moshe*), is quoted in *The Halachos of Muktzah* 2:2 (as well as in the section titled "Responsa of Hagaon Rabbi M. Feinstein," *kli shemelachto l'issur* note 9), as accepting the view of the *Beit Meir*. Accordingly, Rabbi Feinstein, who considers a hearing aid as a *kli shemelachto l'issur*, happens to be of the opinion that it may still be handled for its use or the use of its place. Rabbi Auerbach, who would indeed forbid its handling were it to be considered a *kli shemelachto l'issur*, still permits it to be handled, as he deems it a *kli shemelachto l'heter*.

82. *Shulchan Aruch Orach Chaim* 308:1, according to the understanding of the *Mishnah Berurah*, note 2. The *Tehila Ledavid* in his opening remarks to section 308 suggests that an item is only considered *muktzah machmat chisaron kis* if it is also a *kli shemelachto l'issur*. According to the view of the *Minchat Shlomo* therefore, there is no reason to forbid handling a hearing aid as far as this form of *muktzah* is concerned.

83. Rabbi Auerbach's letter to Rabbi Y. E. Henkin, dated 5703, quoted in *Minchat Shlomo* 2:18; Rabbi M. Heinemann (see above note 58), who supports this premise from the halachic status of a slaughtering knife.

84. *Tehila Ledavid* 308:5.

85. *Orach Chaim* 308:6.

86. *Tzitz Eliezer* 6:6 points out that this support only carries weight according to the opinion of the *Pri Megadim* (*Eishel Avraham* 308:37, quoted by the *Mishnah*

Berurah 308:77) that the prohibition of *muktzah* is waived to spare even a single person from potential injury. The *Shulchan Aruch HaRav* 308:28 and *Aruch HaShulchan* 308:20, on the other hand, both contend that the prohibition is waived only if it is a group of people who stand the chance of getting hurt. In support of his lenient conclusion, he quotes the *Tashbatz* 1:137, who concurs with the opinion of *Pri Megadim*.

Two issues beg clarification:

a. According to this understanding, hearing aids should only be allowed to be handled in order to hear with them. Removing them before going to sleep would be forbidden, as this act does not prevent one from getting hurt. This may be resolved with the position of the *Tehila Ledavid* 308:5, who maintains that an item which will be needed "or its own use" at a later point on that particular Shabbat, may be handled (even to protect it from the elements etc.), so that it will be available for use later on. Similarly, if the hearing aids stand a chance of becoming damaged as a result of one's movements while sleeping, they may be removed beforehand, provided one is still planning on wearing them on that particular Shabbat. If one is planning on leaving them off until after Shabbat, their removal would not be justified according to this reasoning. Although not always practical, the assistance of a non-Jew can be enlisted to remove them (*Mishnah Berurah* 279:14).

b. There is a seeming discrepancy between a hearing aid and broken glass. Broken glass is the *muktzah* item itself, and thus, as a potential hazard, may be handled despite its *muktzah* status. However, a hearing aid is not the potential cause of injury in and of itself, but rather a mere deterrent from being injured by something else. Perhaps concerning such instances the prohibition is still in force. It would seem, though, that since potential injury takes precedence over the *muktzah* prohibition, no distinction is made.

87. *Orach Chaim* 312:1.

88. *Tzitz Eliezer* 6:6.

89. *Mishnah Shabbat* 73a.

90. *Yirmiyahu* 17:22.

91. *Aruch Hashulchan Orach Chaim* 301:48.

92. For a comprehensive treatment of this matter, see *Binyan Tziyon* 37; *Minchat Shabbat* on the *Kitzur Shulchan Aruch* 84:6, citing numerous leading authorities such as Rabbi Shlomo Kluger and Rabbi Yechiel Michel Epstein, who concur with the permissive ruling; *Minchat Elazar* 3:4.

93. *Orach Chaim* 301:17.

94. Quoted in *Pri Megadim*, *Eishel Avraham* 301:27, who appears to share the same point of view, as he does not contest this argument.

95. 301:38.

96. "Laws of Shabbat" 56:3.

97. *Ibid*.

98. It is important to point out that some hearing aids (especially cochlear implants that run on a single battery) tend to run out of power before the culmination of Shabbat. On a weekday, the natural course of events would be to

remove the hearing aid and replace the battery. Since there is room for concern that they might come to be carried, wearing them in a public domain might not be permitted. It may be suggested though, that even where there is cause for concern that they might come to be carried, hearing aids may still be worn outdoors on Shabbat, based on the following two principles: a. Regarding items that may not be taken out lest they come to be carried, the *Elya rabba* 301:35 (quoted in *Eishel Avraham* of the *Pri Megadim* 301:25) rules that *b'dieved*, if a person forgot and went outside with them, he may continue on his way. b. There is a frequently used rule in halachic literature, that "a time of great need" is classified as *b'dieved*. The permissibility of wearing hearing aids is certainly definable as "a time of great need", and therefore initially should be no different.

99. *Minchat Yitzchak* 1:37. In *Be'er Moshe* 117, Rabbi Stern permits going out with the hearing aids of old that were attached to a battery pack secured in the person's pocket. A *fortiori*, if a person is permitted to go out wearing eyeglasses even though they can possibly fall off and come to be carried, he may certainly wear these hearing aids, since there is no way for them to fall. This would be equally applicable to speech processors of cochlear implants and bodily-worn hearing aids (usually worn by young children) that are secured in a pocket, harness or a belt.

However, in *Har Tzvi Orach Chaim* 1:173, we find a diametrically opposed point of view. He contends that if a component of the hearing aid is placed within a pocket, it cannot be considered a form of ornamentation and may not be worn on Shabbat. A similar view is expressed by Rabbi Y. E. Henkin (in a letter to Rabbi S. Z. Auerbach subsequently published in *Minchat Shlomo* 2:8, who also contends that it is illogical to define items worn inside a pocket as ornamentation. He therefore suggests (both in the aforementioned letter as well as in *Eidut Leyisrael* chapter 20), that the part of the hearing aids in the pocket be sewn in before Shabbat, so that one may go out with it. In *Minchat Shlomo*, *ibid*, Rabbi Auerbach disagrees with this suggestion as being insufficient grounds to eliminate this concern, but nevertheless permits it anyway due to a host of other reasons.

Concerning the hearing aids of old that were built into eyeglass frames, *Har Tzvi*, *ibid* as well as *Minchat Yitzchak* 2:112 (quoting Rabbi Tz. P. Frank, author of the *Har Tzvi*) contend that the hearing aids are deemed *tafel* (negligible) to the eyeglasses and may thus be worn. This rationale is contested by Rabbi S.Z. Auerbach (quoted in *Shemirat Shabbat Kehilchata* 34:109), who finds difficulty in deeming hearing aids inferior to eyeglasses.

100. This may be inferred from responsa *Be'er Moshe* 1:17 and *Minchat Shlomo* 2:18.

101. See above note 58.

102. Rosh, *Beitza* 3:5.

103. According to this understanding, it is unclear why the Rosh likened a cane to a shoe, for since it fills the void created by the foot's inability to walk, it should have been likened to the foot itself.

104. *Orach Chaim* 301:21.

105. Ibid, 301:28.

106. *She'arim Hametzuyanim Behalacha* 80:81. The *Sha'ar Hatziyun* 301:131 records a dispute among the authorities whether the pad and sponge are considered secondary due to their lack of inherent value. The *Chayei Adam* maintains that if the item used to protect the wound is of value, it cannot be deemed secondary to the wound. The Gra disagrees and contends that anything protecting a wound is deemed secondary to that wound, regardless of its worth. Since hearing aids are of great monetary value, this theory is seemingly limited to the position of the Gra.

It may be suggested that this basis has merit even according to the *Chayei Adam*, for the intrinsic value of the items he was discussing arises from the reality that they serve functions other than merely protecting a wound and can therefore not be considered secondary to the wound. A hearing aid, on the other hand, while also of great monetary value, serves no function other than enabling the wearer to hear. Thus, it may be considered secondary to the body it is protecting. (A possible flaw in this reasoning is that the sole function of a hearing aid is not merely to protect hearing-impaired people, but rather to facilitate communication in general.)

107. *Orach Chaim* 303:15.

108. *Be'er Moshe* 1:17.

109. Tosafot *Shabbat* 64b s.v. *Ubilvad*. It is important to note that this is the second explanation in Tosafot. The first would possibly have different ramifications.

110. *Orach Chaim* 301:25.

111. *Shemirat Shabbat Kehilchata* 1:34:108; *Minchat Shlomo* 2:18; *Am HaTorah* 5740 vol. 13. A seeming difficulty with this support to where the amulet renders some sort of healing effect. While hearing aids do fill the void created by the hearing impairment, they do not possess any healing quality. Nevertheless, *Minchat Shlomo*, *ibid*, implies that since practically speaking the impairment no longer impairs as a result of the hearing aids, they are considered to heal temporarily. *Har Tzvi Orach Chaim* 1:173 and *Be'er Moshe* 1:17 disagree.

112. *Orach Chaim* 301:19.

113. *Shabbat*, Chapter 6, Mishnah 7.

114. *Be'er Moshe*, *ibid*.

115. Proverbs 4:10.

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