

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Amendment of Procedural Rules Governing)	MB Docket No. 17-245
Formal Complaint Proceeding Delegated to)	
the EB)	

COMMENTS OF CONSUMER GROUPS AND RERC

**Telecommunications for the Deaf and Hard of Hearing, Inc.
American Foundation for the Blind
Cerebral Palsy and Deaf Organization
Communication Service for the Deaf, Inc
Hearing Loss Association of America
National Association of the Deaf
Rehabilitation Engineering Research Center on Universal Interface & Information
Technology Access, Trace Research & Development Center, University of Maryland**

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), by its attorneys, the Institute for Public Representation, along with the American Foundation for the Blind (AFB), Cerebral Palsy and Deaf Organization (CPADO), Communication Service for the Deaf, Inc. (CSD), Hearing Loss Association of America (HLAA), National Association of the Deaf (NAD) (collectively, “Consumer Groups”) and Rehabilitation Engineering Research Center on Universal Interface & Information Technology Access (IT-RERC) at Trace Research & Development Center at University of Maryland (“RERC”), respectfully submit these comments in response to the proposed amendments to the formal complaint procedures at the Federal Communications Commission (“FCC” or “Commission”) in the above-referenced proceeding.¹

¹ *Amendment of Procedural Rules Governing Formal Complaint Proceedings Delegated to the Enforcement Bureau*, NPRM, EB Docket No. 17-245 (Sept. 18, 2017) (“2017 NPRM”).

Consumer Groups seek to promote equal access to telecommunications for the 48 million Americans who are deaf, hard of hearing, or late-deafened, the more than 20 million Americans who are blind, visually impaired, or deafblind, and those who are deaf or blind with mobility or cognitive disabilities. As advocates for technology and telecommunications policy that advances the public interest, RERC strongly support the Consumer Groups' goals.

Consumer Groups and RERC support the Commission's effort to establish uniform rules and procedures for formal complaints, including those filed under Sections 255, 716, and 718 ("Disability Access Complaints"). Formal complaints, along with requests for dispute assistance (47 C.F.R. § 14.32), and informal complaints (47 C.F.R. § 14.34), help people with disabilities gain access to telecommunications. Many claims are adjudicated through the less costly, less labor-intensive dispute assistance and informal complaint processes. However, when formal complaints become necessary, it is vital these procedures are not too burdensome on complainants. Modernization and streamlining will maintain the efficacy of rules and procedures which allow complainants to address their grievances. The following outlines Consumer Groups and RERC's responses to the Commission's specific proposals.²

Filing Deadlines (2017 NPRM at ¶ 8)

Consumer Groups and RERC support the Commission's decision to expand the reply period from 3 to 10 days. The extension should allow complainants to prepare a more considered, accurate, and comprehensive reply brief increasing the overall effectiveness of the adjudicatory process. Further, increasing the reply period should not result in a substantial

² Since the Commission is not seeking comment on whether to revisit its decisions that the Accelerated Docket rules not apply to Disability Access Complaints, 2017 NPRM at ¶ 18, we do not address this issue below, but we may raise concerns at a future time should problems arise with the formal complaint process.

negative impact on the rights of the complainants. Consumer Groups and RERC do not oppose the Commission's decision to raise the answer period from 20 to 30 days.

Discovery (2017 NPRM at ¶ 11)

Consumer Groups and RERC support the Commission's decision to repeal the requirement that parties obtain Commission approval to serve interrogatories. Currently, under § 14.47, complainants and defendants can serve up to 10 written interrogatories and complainants can serve up to 5 interrogatories on reply, but only after obtaining approval from the Commission at each stage. Under proposed rule § 1.730, the same 10-10-5 framework would remain; however, the parties no longer need to obtain Commission approval before serving the interrogatories. Interrogatories are a useful tool to quickly get to the heart of the matter in the complaint. Lowering the procedural burden for interrogatories will make the formal complaint process easier and faster. Consumer Groups and RERC are pleased that the proposed modification maintains the language from the existing rule stating that "This procedure may not be employed for the purpose of delay, harassment or obtaining information that is beyond the scope of permissible inquiry related to the material facts in dispute in the pending proceeding." Many complainants have limited resources and may be less able to cope with the burden of excess or superfluous interrogatories.

Proposed Findings of Fact and Conclusions of Law (2017 NPRM at ¶ 13)

Consumer Groups and RERC agree with the Commission's proposal to remove the requirement that parties include proposed findings of fact and conclusions of law in complaints, answers, and replies. This requirement is of limited usefulness to the Commission. Consumer Groups and RERC understand that the majority of formal complaint proceedings receive waivers

for this provision and it appears to be more an exercise of speculation than a presentation of legal issues.

Settlement Discussions and Mediation (2017 NPRM at ¶ 15)

Consumer Groups and RERC support the Commission's conclusion that requiring participation from executives in meetings are essential for timely and successful mediation. As the Commission stated, executive-level meetings ensure parties with the power to resolve violations and complaints are in the room and will reduce back-and-forth between parties leading to speedy, precise, and enduring agreements between parties. This is of particular importance for groups who may have limited resources to continue negotiations if executives are not involved in the process early on and further negotiations are necessary. Further, Consumer Groups and RERC welcome the Market Dispute Resolution Division's ("MDRD") assistance with mediation, as mediation is usually the fastest and cheapest way for all the parties involved to get relief. Consumer Groups and RERC can see no drawbacks to codifying the essential service which the MDRD is already providing.

Shot Clocks on Agency Actions (2017 NPRM at ¶ 19)

Consumer Groups and RERC wholeheartedly support the Commission's proposal to extend the shot clock provisions of Section 208 to Disability Access Complaints. Decreasing the duration of the proceeding will help people with disabilities gain access to essential telecommunication services faster. Since parties first attempt to resolve disputes using the Commission's dispute assistance and informal complaint procedures, by the time the dispute has reached the formal complaint stage, it has likely been some time. Applying the shot clock provision to Disability Access Complaints will help speed up the resolution of longtime disputes.

Additional Comment

Consumer Groups and RERC request that the Commission create and maintain outreach and educational materials designed to educate the public about their rights within the complaint framework. This will help the public know what procedures they should follow, including whether they should submit a formal or informal complaint or a request for dispute resolution. The Commission should utilize several means to publicize these materials, including producing videos in American Sign Language with captions and voice-overs for individuals with disabilities.

Conclusion

Consumer Groups and RERC support the Commission's goal to streamline the formal complaint procedures and ensure that individuals who are deaf, hard of hearing, late-deafened, blind, visually impaired, or deafblind, or those who are deaf or blind with mobility or cognitive disabilities can continue to utilize these procedures to remedy inaccessibility and gain access to essential telecommunications technologies.

Respectfully submitted,

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