

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

| | | |
|---|---|----------------------|
| In the Matter of |) | |
| |) | |
| Accessibility of User Interfaces, and Video |) | MB Docket No. 12-108 |
| Programming Guides and Menus |) | |
| |) | |

COMMENTS OF CONSUMER GROUPS

Telecommunications for the Deaf and Hard of Hearing, Inc.
National Association of the Deaf
American Foundation for the Blind
Cerebral Palsy and Deaf Organization
Hearing Loss Association of America

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), by its attorneys, the Institute for Public Representation, along with National Association of the Deaf (NAD), American Foundation for the Blind (AFB), Cerebral Palsy and Deaf Organization (CPADO), Hearing Loss Association of America (HLAA) (collectively, “Consumer Groups”) urge the Commission to fully retain the December 20, 2018 deadline for mid-sized and smaller MVPDs to comply with user interface accessibility requirements. These comments are filed in response to the Public Notice issued on September 28, 2017.¹

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.

¹ FCC Public Notice, *Media Bureau Seeks Comment on December 20, 2018 Accessible User Interfaces Deadline for Mid-Sized and Smaller MVPDs*, DA 17-946 (rel. September 28, 2017) (“2017 Public Notice”).

Congress passed the Twenty-First Century Communications and Video Accessibility Act (“CVAA”) in 2010 so that individuals with disabilities could enjoy the extraordinary benefits of technological advances enjoyed by persons without disabilities.² In its *2013 User Accessible Interface Order* implementing the CVAA, the Commission said that it was “cognizant of Congress’s desire that consumers with disabilities gain access to video programming without undue delay.”³ Extending the deadline would be contrary to this Congressional intent and would only delay the ability of individuals with disabilities to experience the important educational, social, and cultural opportunities that video programming services provide. In fact, the Commission already affirmed that this deadline was sufficient in its Second Order “declin[ing] to provide additional time for entities to come into compliance for the usability requirements.”⁴

The Commission set generous compliance deadlines for MVPDs to ensure that their navigation devices, program guides, and menus are useable by individuals with disabilities. The Commission gave larger MVPDs three years to come into compliance with the CVAA. For mid-sized and smaller MVPDs, the Commission granted an additional two years,⁵ specifically concluding that a period exceeding that would be inappropriate because of Congress’s desire that individuals with disabilities gain access to video programming without undue delay.⁶

The December 20, 2018 deadline provides more than enough time for mid-sized and smaller MVPDs to implement the requisite technologies into their products. By the time that

² Pub. L. No. 111-260 (as codified in 47 U.S.C. § 303).

³ *Accessibility of User Interfaces, and Video Programming Guides and Menus*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd. 17330, 17402 (2013) (“*2013 User Accessible Interface Order*”).

⁴ *Accessibility of User Interfaces, and Video Programming Guides and Menus*, Second Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd. 13914, 13922 (2015).

⁵ 47 CFR § 79.108(b).

⁶ *2013 User Accessible Interface Order* at 17402.

deadline is reached, those MVPDs will have had five years to comply with video accessibility requirements. Ensuring that individuals with disabilities have access to video programming greatly outweighs any remaining challenges that may remain for mid-sized and smaller MVPDs to meet the December 20, 2018 compliance deadline.

The Commission plays an important role in ensuring that technological advances are fully accessible to individuals with disabilities without undue delay. As part of this role, the Commission should maintain the December 20, 2018 user interface accessibility compliance deadline for mid-sized and smaller MVPDs.

Respectfully submitted,

/s/ Chris Laughlin

Chris Laughlin^{*†}

Institute for Public Representation
Georgetown University Law Center
600 New Jersey Avenue, NW, Suite 312
Washington, DC 20001
202-662-9543
chris.laughlin@georgetown.edu
Counsel for TDI

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)

Claude Stout, Executive Director • cstout@TDIforAccess.org
8630 Fenton Street, Suite 121, Silver Spring, MD 20910
TDIforAccess.org

National Association of the Deaf (NAD)

Howard Rosenblum, Chief Executive Officer • howard.rosenblum@nad.org
Contact: Zainab Alkebsi, Policy Counsel • zainab.alkebsi@nad.org
8630 Fenton Street, Suite 820, Silver Spring, MD 20910
301.587.1788
www.nad.org

^{*} Admitted to the Colorado bar. Supervised by a member of the DC bar.

[†] These comments were drafted primarily by JeanAnn Tabbaa, a law student in the Institute for Public Representation Communications & Technology Clinic.

American Foundation for the Blind (AFB)

Contact: Mark Richert, Esq., Director, Public Policy • communications@afb.net
2 Peen Plaza Street, Suite 1102, New York, NY 10121
www.afb.org

Cerebral Palsy and Deaf Organization (CPADO)

Mark Hill, President • president@cpado.org
12025 SE Pine Street, #302, Portland, OR 97216
503.468.1219
www.cpado.org

Hearing Loss Association of America (HLAA)

Barbara Kelley, Executive Director • bkelley@hearingloss.org
Lise Hamlin, Director of Public Policy • lhamlin@hearingloss.org
7910 Woodmont Avenue, Suite 1200, Bethesda, MD 20814
hearingloss.org

October 30, 2017