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Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Filed electronically via ECFS

Re: Amended Petition for Waiver of Accessible User Interfaces Requirements by
FCA US LLC, MB Docket No. 12-108

Dear Ms. Dortch:

Telecommunications for the Deaf and Hard of Hearing, Inc., Cerebral Palsy and Deaf Organization, Communication Service for the Deaf, Inc., Hearing Loss Association of America, National Association of the Deaf, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Inc. (collectively, "Consumer Groups"), along with Rehabilitation Engineering Research Center on Technology for the Deaf and Hard of Hearing (DHH-RERC) at Gallaudet University and Rehabilitation Engineering Research Center on Universal Interface & Information Technology Access (IT-RERC) at Trace Research & Development Center (collectively, "RERCs") respectfully submit this written ex parte regarding the amended petition for waiver of accessible user interface requirements ("Petition") filed by Fiat Chrysler

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Automobiles US LLC (“FCA US”) with the Federal Communications Commission (the “Commission” or “FCC”) on June 15, 2017.¹

Consumer Groups and RERCs appreciate FCA US’s expressed commitment to comply with all accessibility requirements in Section 204 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). The Petition does not indicate that any of the non-compliant vehicles violated the CVAA’s accessibility requirements for deaf and hard of hearing individuals. Even so, FCA US’s broad efforts to ensure its vehicles are designed to serve all individuals with disabilities sends a signal to other manufacturers that they must continuously monitor production processes, take immediate corrective action when non-compliance is discovered, and inform the Commission of such non-compliance.

While Consumer Groups and RERCs do not oppose the waiver sought by FCA US, they do ask the Commission to include certain clarifications in its order, should it grant the waiver. Importantly, the Commission should make clear that “supplier error” is not sufficient “good cause” for a waiver in and of itself. It should also reiterate that waivers are granted only when “compelling special circumstances in the context of [a] specific waiver request . . . warrant a deviation from the general rule.”² In this case, FCA US took immediate remedial steps to correct the error once discovered. For example, it implemented processes to ensure that all unsold vehicles are made compliant before they are sold and to automatically update already-sold vehicles when they are brought into a dealer for any reason at no cost to the owner. FCA US has also sent letters to current owners encouraging them to take their vehicles to a dealer so they can be made compliant and plans to contact those owners over the phone to follow up.³

If the Commission grants the permanent waiver for the already sold vehicles,⁴ it should include two clarifications. First, the Commission should specify that the permanent waiver only applies to the 4,400 Dodge Journey vehicles manufactured in January and February of 2017⁵ and sold before June 15, 2017⁶ that were already identified by FCA US.⁷ This would make clear that should FCA US identify additional non-compliant vehicles, whether manufactured during that timeframe or not, it must seek another waiver. Consumer Groups and RERCs further ask the Commission to encourage FCA US to incorporate into its notification efforts to current owners an advisory that even if they are not in immediate need of the accessibility features, a future owner of the vehicle may be.

¹ Amended Petition For Waiver of the Commission’s Rules Requiring Accessibility of Video Programming, Fiat Chrysler Automobiles US LLC, MB Dkt. No. 12-108 (June 15, 2017) (“FCA US Petition”).

² *Accessibility of User Interfaces, and Video Programming Guides and Menus*, Memorandum Opinion and Order, MB Docket No. 12-108, 32 FCC Rcd 1926, 1929 (Mar. 16, 2017).

³ Update Letter, Fiat Chrysler Automobiles US LLC, MB Dkt. No. 12-108 at 2 (August 7, 2017).

⁴ See FCA US Petition at 2.

⁵ The months FCA US identified when the non-compliant vehicles were manufactured. *Id.* at 2.

⁶ The date of the waiver petition by FCA US. See *Id.*

⁷ Since FCA US has indicated that 200 of those vehicles have been updated since the petition was filed, the Commission could specify that the waiver only applies to those vehicles not already updated. Update Letter at 2.

For the retroactive waiver of the unsold vehicles,⁸ Consumer Groups and RERCs ask the Commission to require FCA US to instruct its dealers to update these vehicles as soon as possible rather than “just before sale during the pre-delivery process.”⁹ This will avoid a situation where a dealer inadvertently fails to upload the audio files before the vehicle is sold.

Consumer Groups and RERCs further ask the Commission to require that FCA US file annual status reports for the next five years or until all sold and unsold vehicles have been updated. Such reports should require that FCA US indicate how many sold and unsold vehicles were updated that year and how many remain non-compliant. Consumer Groups and RERCs recognize that, despite these efforts, FCA US might never be able to update all non-compliant vehicles identified in the Petition, but these status reports will ensure that the company remains diligent in its stated efforts to remedy the situation for a reasonable timeframe.

Finally, in order to deter other inadvertent errors that result in non-compliance with the CVAA, Consumer Groups and RERCs ask the Commission to include a statement of best practices directed toward all auto manufacturers encouraging them to incorporate testing of accessibility features into its standard testing procedures, if they have not done so already.

Respectfully submitted,

/s/ _____
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⁸ See FCA US Petition at 2.

⁹ *Id.* at 4.

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