

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

REPLY COMMENTS



I. INTRODUCTION AND SUMMARY

The American Cable Association (“ACA”) submits these reply comments to provide the Media Bureau with additional information for its review of the state of the marketplace for accessible user interfaces and guides (“talking guides”) and to respond to comments filed by Consumer Groups.¹ The information provided herein is relevant to the Commission’s consideration of whether to retain or extend, in whole or in part, the December 20, 2018

¹ *Accessibility of User Interfaces, and Video Programming Guides and Menus*, MB Docket No. 12-108, Comments of Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, American Federal for the Blind, Cerebral Palsy and Deaf Organization, Hearing Loss Association of America (filed Oct. 30, 2017) (“Consumer Groups PN Comments”).

compliance deadline for mid-sized and smaller multichannel video programming distributors (“MVPDs”) that lease or sell navigation devices to view their video programming.²

In its initial comments, ACA reported on its findings concerning the state of the marketplace for talking guides for the small and mid-sized MVPDs subject to the December 20, 2018 delayed compliance deadline established by the Commission in its 2013 Accessible User Interfaces Order.³ Specifically, ACA’s research revealed that, contrary to the Commission’s expectations, the marketplace has not coalesced around a limited number of talking guide solutions developed by large operators that could later be deployed by small and mid-sized operators at a reasonable cost, as large operators had instead developed customized, proprietary solutions that cannot be used by smaller operators.⁴ Nonetheless, many small and mid-sized operators are likely to be in a position to offer full or partial accessibility solutions to their blind and visually impaired subscribers by the December 20, 2018 deadline, as some such operators who provide their service via quadrature amplitude modulation (“QAM”) have invested in a wholesale platform with an advanced user interface that can make available talking guide functionality, and other QAM-based providers will likely be able to take advantage of two “plug-

² See *Media Bureau Seeks Comment on December 20, 2018 Accessible User Interfaces Deadline for Mid- Sized and Smaller MVPDs*, Public Notice, MB Docket No. 12-108 (rel. Sept. 28, 2017) (“Public Notice”).

³ *Accessibility of User Interfaces, and Video Programming Guides and Menus*, MB Docket No. 12-108, Comments of the American Cable Association, (filed Oct. 30, 2017) (“ACA PN Comments”); *Accessibility of User Interfaces, and Video Programming Guides and Menus; Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 17330, ¶ 114 (2013) (“2013 Accessible User Interfaces Order”).

⁴ ACA PN Comments at 12-15 (explaining that over the last five years, as large MVPDs invested significant sums to upgrade their system architectures and advanced video services, they either developed their own advanced user interfaces as part of that upgrade, configured their network upgrades to run an advanced user interface developed by a third party, or spent heavily to develop proprietary app solutions that work only within their own networks).

in” solutions⁵ that incorporate talking guides: a retail device with DVR functionality that is already available for purchase in the market and a less-expensive wholesale digital-terminal-adaptor device without DVR functionality that is in development.⁶ ACA also observed, however, that these “plug-in” talking guide devices, unfortunately, will provide only partial solutions for some operators, as they are not compatible with QAM-delivered video-on-demand (“VOD”) services. Moreover, there are two small (and likely largely overlapping) subsets of cable systems with which these devices are not at all compatible. These are systems that offer some channels in their lineup in an analog format-only and those systems not offering broadband Internet access service.⁷

In these reply comments, ACA supplements the record with information on the availability of talking guide solutions to MVPDs who provide video services over Internet protocol (“IPTV”). Based on the information ACA has gathered, it appears likely that the majority of IPTV providers will be able to provide their customers who are blind and visually impaired audibly accessible program guides and menus through apps that work on mobile devices with screen-reading capabilities.

ACA also responds to comments filed by Consumer Groups, a group of consumer organizations representing the blind, visually impaired and deaf communities,⁸ who were the only other parties to file comments. The Consumer Groups argued that the Commission should not extend the delayed compliance deadline further, as it would be contrary to Congress’ intent

⁵ ACA uses the term “plug-in” solution in reference to a solution that can be made available to customers of a cable system without the operator of the system having to make any technical upgrades to the system.

⁶ ACA PN Comments at 15-20.

⁷ *Id.* at 20-22.

⁸ The comments were filed by the Institute for Public on behalf of Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”), National Association of the Deaf (“NAD”), American Foundation for the Blind (“AFB”), Cerebral Palsy and Deaf Organization (“CPADO”), and Hearing Loss Association of America (“HLAA”) (collectively, “Consumer Groups”).

that consumers with disabilities gain access to video programming without undue delay.⁹ ACA agrees with Consumer Groups that it is important to advance Congress's goal of making video services accessible to individual disabilities without undue delay and, consistent with its research to-date, believes that with few exceptions, mid-sized and small operators will be able to meet Congress's aim by providing a fully compliant, or partially compliant solution to their customers by the deadline, notwithstanding the fact that the expectation that technology solutions developed by larger providers would trickle down to smaller providers has not come to fruition. As discussed below, in light of its assessment, ACA does not anticipate seeking a delay of the current deadline and, moreover, intends to engage with the Commission and Consumer Groups about the best means of dealing with the small subset of cable operators and their customers for which compliance will not be possible.

II. MANY IPTV PROVIDERS WILL LIKELY BE ABLE TO PROVIDE AUDIBLY ACCESSIBLE PROGRAM GUIDES AND MENUS BY DECEMBER 20, 2018

In its initial comments, ACA limited its discussion primarily to accessibility solutions for providers that deliver their entire programming lineup via QAM. Since then, ACA has conducted additional research about the availability of accessibility solutions for MVPDs that deliver programming via IPTV. In the course of this research, ACA interviewed large and small IPTV providers and two IPTV middleware platform vendors, who together serve the vast majority of the domestic IPTV provider market. Based on the information gathered in those interviews, ACA believes that the majority of IPTV providers will likely be able to provide their customers who are blind and visually impaired with audibly accessible program guides and menus through apps that work on mobile devices with screen-reading capabilities.¹⁰

⁹ Consumer Groups PN Comments at 2.

¹⁰ 2013 Accessible User Interfaces Order, ¶¶ 94-103 (discussing options for covered entities complying with Section 205 mandates to provide blind and visually impaired customers with separate equipment or software solutions).

Multiple IPTV middleware platform vendors already offer their clients mobile apps that can serve as a viewer's navigation device, essentially replicating the program guide experience in a traditional set-top box. These apps, which can achieve many, if not all, of the nine functions identified by the Commission as essential viewing functions,¹¹ work on mobile devices that already have screen-reading technology built-in, but in some cases the apps as originally developed are not fully compatible with the built-in screen readers. IPTV middleware platform vendors, therefore, are currently working toward updating their apps to ensure that they can fully achieve each of the Commission's nine essential viewing functions, and to be able to make certain they work with the pre-existing screen-reading capabilities of iOS and Android devices.¹² Although these apps, which are being developed by the largest IPTV middleware platform vendors, are not currently available, based on its preliminary discussions, ACA has no reason to believe that they will not be made available to the vendors' IPTV provider customers at an affordable price by the Commission's compliance deadline.¹³ However, ACA will continue to monitor development of these apps and will keep the Commission apprised as to their progress.

III. GIVEN ITS RESEARCH CONCERNING THE STATE OF THE MARKET FOR ACCESSIBLE GUIDES AND MENUS, ACA ANTICIPATES THAT CONSUMER GROUPS' PREFERENCE THAT THE COMMISSION MAINTAIN THE DECEMBER 20, 2018 COMPLIANCE DEADLINE FOR MID-SIZED AND SMALL CABLE OPERATORS AND SMALL SYSTEMS CAN BE MET

In their comments, Consumers Groups insist that the Commission must maintain the current deadline.¹⁴ They argue that by the time the deadline is reached, MVPDs subject to

¹¹ See 47 C.F.R § 79.108(2).

¹² ACA has also learned that some IPTV providers are simultaneously looking at solutions that could work on subscribers' existing set-top box.

¹³ While we have every reason to believe that providers of QAM and IPTV-based accessible guide solutions are willing to work with their own customers to reach reasonable business agreements, such financial terms for software upgrades, devices, and apps that have yet to be fully developed and deployed have not yet been established. ACA will be monitoring these business arrangements closely and keep the Commission posted.

¹⁴ Consumer Groups PN Comments at 1-3.

delayed compliance will have had five years to comply with the video accessibility requirements, and that “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 deadline.”¹⁵ ACA appreciates the position of the Consumer Groups. Notwithstanding the fact that the marketplace did not develop as the Commission expected, based on the information it has gathered to-date, ACA does not anticipate that the current deadline will need to be extended for mid-sized and smaller MVPDs.¹⁶

The purpose of this proceeding is to examine and discuss marketplace developments to aid the Commission in determining whether compliance is feasible for all or some portion of the mid-sized and small MVPDs subject to the December 20, 2018 deadline. In its initial comments, ACA responded to the Commission’s inquiry by explaining that although the marketplace did not develop as expected by the Commission, with a few exceptions, its members should be able to provide an accessible solution to their customers that is fully, or at least partially, compliant with the Commission’s rules by the deadline. In addition to providing the information contained in its initial comments, ACA shared its findings directly with the Consumer Groups last week. ACA believes that by maintaining open lines of communication between industry, the Commission, and Consumer Groups, we can collectively come up with the best means of dealing with the small subset of cable operators and their customers for which compliance will not be possible.¹⁷

¹⁵ *Id.* at 3.

¹⁶ Consistent with its findings in its initial comments and restated in these reply comments, that is not to say that every covered MVPD will be able to come into compliance by December 20, 2018, but only that as a class, ACA anticipates that compliance, in full or in part, will be feasible with few exceptions mid-sized and small operators.

¹⁷ It bears noting, however, that while Congress intended individuals with disabilities to have access to video programming over navigation devices leased or sold by their MVPDs, it did not intend that access be achieved regardless of cost or burden to MVPDs. 2013 Accessible User Interfaces Order, ¶ 77; 47 C.F.R. §§ 79.108(c)(2)(i)-(iv). Instead, Congress specifically authorized the Commission to establish an exemption for small cable systems serving 20,000 or fewer subscribers, if warranted. CVAA, § 205(b)(2); 47 U.S.C. § 303(bb). It is precisely the achievability in general and feasibility of the requirements for providers subject to the delayed compliance deadline that the Commission committed to have the Media Bureau explore through this inquiry.

IV. CONCLUSION

ACA files these reply comments to further supplement the Commission's record on the state of the marketplace for audibly accessibly video programming guides and menus, particularly regarding mid-sized and smaller IPTV providers. ACA will continue to provide further information about the state of the marketplace as it develops, and looks forward to continuing to engage with the Commission and public interest groups on the best ways to achieve the goals of Congress and the Commission.

Respectfully submitted,

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November 13, 2017