Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of	)	
	)	
Implementation of Section 255 of the Telecommunications Act of 1996	)	WT Docket No. 96-198
	)	
Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment By Persons with Disabilities	)	

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AT&T REPLY COMMENTS

Pursuant to Section 1.430 of the Commission's Rules, 47 C.F.R. § 1.430, AT&T Corp. ("AT&T") replies to the submissions of other parties in response to the Commission's NOI[1] herein seeking comments and data to provide a basis for further proceedings to implement Section 255 of the Communications Act, enacted in the Telecommunications Act of 1996.[2]

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1 Implementation of Section 255 of the Telecommunications Act of 1996/Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons with Disabilities, WT Docket No. 96-198, Notice of Inquiry, FCC 96-382, released September 19, 1996 ("NOI").

2 Other parties that filed comments in response to the NOI are listed in Appendix A.

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As noted in the NOI,[3] the Commission initiated this proceeding primarily in response to the request of the United States Architectural and Transportation Barriers Compliance Board ("ATBCB"), which under Section 255(e) is required, in conjunction with the Commission, to adopt accessibility guidelines governing telecommunications equipment (including CPE) by August, 1997.[4] The principal objective of this inquiry is thus to develop information on a variety of accessibility issues concerning telecommunications equipment and CPE that may be used by the ATBCB in fulfilling its obligation to draft guidelines for such equipment.

That goal has clearly been successfully achieved here. In the initial round of comments alone, almost 40 parties, including several trade associations, filed submissions. Moreover, those commenters represent a broad spectrum of views and interests, including equipment manufacturers, local exchange and long distance carriers, wireless service providers, and representatives of individuals with disabilities. These filings, together with additional material compiled during the

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[3] NOI, ¶ 4, citing letters dated August 30, 1996 to individual Commissioners from Lawrence W. Roffee, Executive Director, and Roberta E. Breedon, Chair, Telecommunications Access Advisory Committee, ATBCB.

[4] 47 U.S.C. § 255(e).

reply round in this comment cycle, should provide the ATBCB with substantial useful material to serve as a basis for drafting telecommunications equipment accessibility guidelines to satisfy its statutory adoption deadline under Section 255(e).

At the same time, there is substantial recognition among the commenters that, as AT&T suggested in its initial filing herein (at pp. 3-7), it would be premature at this time for the Commission to initiate any rulemaking to prescribe detailed accessibility standards for telecommunications providers' service offerings.[5] Indeed, in the current unsettled context of rapidly changing telecommunications markets and technology, even the immediate adoption of general regulatory policies or guidelines for service providers' discharge of their accessibility obligations is problematic.[6]

A more useful approach for the Commission, as USTA suggests (p. 2), would be to await the outcome of

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[5] There is likewise widespread recognition among the commenters that the term "provider of telecommunications service" in Section 255 is coextensive with the statutory definition in Section 3(44) of the Communications Act of a "telecommunications carrier," and thus does not include providers of information or enhanced services. See, e.g., Sprint, pp. 4-5.

[6] See, e.g., Bell Atlantic, p. 4; BellSouth, p. 3; MCI, p. 5; Microsoft, pp. 30-32; Sprint, p. 8; TIA, p. 3; USTA, pp. 2-4; U S WEST, pp. 2-3.

the ATBCB's proceeding and then analyze the extent to which the equipment accessibility guidelines adopted by that body may be applicable to telecommunications services. For example, a number of other parties' comments in this proceeding echo AT&T's observation (pp. 7-9) regarding the importance of encouraging service providers to seek input from persons with disabilities when designing and developing telecommunications offerings.[7] AT&T anticipates that one of the ATBCB's principal outputs will be guidelines for equipment manufacturers on soliciting advice from persons with disabilities and other advocates in the community on product accessibility issues during the equipment design and development process. Once the ATBCB has articulated those provisions in the telecommunications equipment context, the Commission should then review those guidelines and evaluate their usefulness as a model for similar outreach provisions for telecommunications services subject to the Commission's jurisdiction.[8]

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[7] See, e.g., NYNEX, pp. 3-7; Pacific, passim.

[8] As AT&T's Comments showed (pp. 5-6), because Section 255 borrows its critical statutory definitions from the physical access provisions of the Americans with Disabilities Act ("ADA"), the Commission has acknowledged that there are significant "interpretive difficulties" in applying those concepts to accessibility to telecommunications services. See NOI, ¶ 21. AT&T thus anticipates that there may be similar difficulties in directly applying the ATBCB's

(footnote continued on following page)

As AT&T also showed in its Comments (p. 7), and as other commenters agree,[9] pending the development of the Commission's own policies, guidelines and regulations for determining service accessibility obligations, the Commission should continue to rely on its complaint process to enforce Section 255 requirements against telecommunications service providers. AT&T's additional showing (pp. 12-13) that no special rules or procedures need be prescribed by the Commission to address complaints under Section 255 is also mirrored by advocates for persons with disabilities, such as NAD.[10] Moreover, as NAD also correctly points out (p. 20), analysis of critical issues under Section 255, such as whether providing access to a specific telecommunications

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(footnote continued from previous page)

equipment guidelines to service accessibility, and that those guidelines will require further modification and refinement on the Commission's part.

[9] See, e.g., Bell Atlantic, p. 4; Southwestern Bell, p. 3; Sprint, p. 8; USTA, p. 2; U S WEST, p. 8.

[10] NAD, p. 33 ("NAD does not envision the need for complaint procedures which are separate and apart from other complaint procedures for the enforcement of Section 255"). Like AT&T (p. 13), however, NAD (id.) also urges the Commission to promptly adopt revised rules and case management practices to carry out the more expedited processing of formal complaints that is required, effective February 8, 1997, by Section 402 of the Telecommunications Act. Complaints under Section 255, like other complaints, will be subject to such accelerated treatment.

service is readily achievable "must be performed on a case by case basis," just as under the ADA. Accordingly, the rights of persons with disabilities can be fully preserved in the interim while the Commission develops broader requirements to assure accessibility by such individuals to telecommunications services.

As the NOI (¶ 16) also points out, the Commission intends to implement Section 255 to achieve the foregoing objective while at the same time avoiding "constraining competitive innovation."[11] Consistent with this goal when the Commission addresses telecommunications services in the future, as AT&T showed (pp. 10-11), it will be unnecessary -- as well as generally impractical -- for the Commission to require that each service offered by a telecommunications provider be made accessible to all potential customers with disabilities. Some commenters nevertheless urge the adoption of a "universal access" standard that would apparently require providers to make their services

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[11] In this regard, the NOI continues the Commission's prior policy under Title IV of the ADA of expanding the availability of services to the disabled without discouraging the development of new and improved technology. See, e.g., Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, 6 FCC Rcd. 4657 (1991).

accessible to the entire range of persons with disabilities.[12]

These parties ignore the serious adverse impact on the competitive telecommunications marketplace that would result from their proposal. As Sprint points out (p. 7), a provider who develops a service offering that meets the needs of a specific segment of persons with disabilities should be entitled "to enjoy the fruits of its efforts." If the Commission's procedures instead require the carrier to implement that same improvement in its entire array of services (and also obligate all other carriers to mirror that innovation in their own service offerings), the probable result will be to discourage the original carrier from even engaging in the service development. Id., p. 8. Such a result would seriously disserve the interests of all persons with disabilities.

Proponents of a universal access standard also fail to discuss the substantial cost, under current technology, of making a single service accessible to the needs of limited segments of the wide range of persons with disabilities -- much less making every service accessible to all such persons. For example, although the implementation of Telecommunications Relay Service

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[12] See NAD, pp. 6-9, 20-21, 34; NYNEX, p. 3; Pacific, p. 5.

("TRS") has made most telephone service accessible in a functionally equivalent manner to persons with hearing and/or speech disabilities, as presently configured that service cannot be used with coin sent-paid calling due to technical limitations in the signaling and other network arrangements used with TRS and coin traffic. Implementing the changes necessary to accommodate coin calling would have required an estimated expenditure of $200 million in BOC service territories, and additional tens of millions for other long distance carriers and payphone service providers.[13] Instead, the Commission in 1995 adopted an alternative plan that permitted TRS users to make local and long distance calls from coin payphones, using alternate billing arrangements, at equal or lower rates than coin sent-paid calls.[14]

This recent experience provides compelling evidence of the immense costs that could potentially be required to make all telecommunications services accessible to all persons with disabilities. Under the "readily achievable" standard of Section 255, such a requirement would likely prove infeasible as a practical

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[13] See Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, Memorandum Opinion and Order, DA 95-1874, released August 25, 1995, ¶ 10.

[14] Id., ¶ 18.

matter. As the Commission's resolution of the coin-sent paid calling also bears out, a flexible and innovative approach to service needs is best calculated to assure that telecommunications services are widely accessible to and usable by of persons with disabilities.[15]

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[15] Thus, as AT&T showed in its Comments (pp. 10-11), the Commission should recognize that the statutory objective is fully satisfied if particular service offerings by the provider are accessible to and usable by persons with specific disabilities, and provide similar capabilities to other services offered by the provider that are not accessible to persons with that specific disability.

APPENDIX A

List of Commenters
WT Docket No. 96-198

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Omnipoint Corporation ("Omnipoint")
Pacific Telesis Group ("Pacific")
Personal Communications Industry Association ("PCIA")
Protection and Advocacy Program - University Legal Services, Inc. ("P&A-ULS")
Railfone-Amtrak Venture (the "Venture") through GTE Railfone Incorporated ("Railfone")
Self Help for Hard of Hearing People, Inc. ("SHHH")
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Southwestern Bell Telephone Company ("Southwestern Bell")
Sprint Corporation ("Sprint")
Telecommunicaitons Industry Association ("TIA")
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CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, do hereby certify that on this 27th day of November, 1996, a copy of the foregoing "AT&T Reply Comments" was mailed by U.S. first class mail, postage prepaid, to the parties listed below.

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