

SUSAN B. MATT

WT 96-198

June 28, 1998

Office of the Secretary  
 Federal Communications Commission  
 Washington, D.C. 20554  
 RE: FCC Notice of Proposed Rulemaking for Section 255/Telecommunications Act of 1996

Dear Sir or Madam:

I understand that the FCC has issued a Notice of Proposed Rulemaking for Section 255/ Telecommunications Act of 1996, and comments will be accepted until June 30, 1998. I have some very definite concerns about the FCC proposal.

First of all, in February 1998 the Access Board guidelines were published. Congress gave the Access Board authority for developing guidelines and indicated that the FCC guidelines must be consistent with those developed by the Access Board. It is essential for our system to work for the FCC to adopt the Access Board guidelines for both manufacturers and service providers. Definitive wording to that effect is needed to ensure that manufacturers and providers clearly understand their access responsibilities and obligations in their design of new equipment. I have experienced great frustration in my search for a cellular telephone that I can use with my telecoil. I have a moderate to severe hearing loss and have just as much need of a cellular telephone as a hearing person. The technology should be available – the manufacturers need to know that they must continue to go the extra mile to provide the technology to provide equal access.

Secondly, when Congress wrote the Telecommunications Act, it adopted the term “readily achievable” from the Americans with Disabilities Act to describe a company’s obligation to make products accessible. Under the ADA, entities are not expected to undertake changes that are difficult or involve a financial burden. The overall financial resources of the entity are a consideration meaning that large companies might be expected to provide an accommodation that would be out of the reach of a smaller organization. The FCC proposal deviates dramatically from the readily achievable standard by introducing the concept of “cost recovery.” The FCC states that it is appropriate for a manufacturer or provider to consider whether or not it will recover the costs of increased accessibility in its assessment of the readily achievable standards. Introducing the cost recovery concept would undermine the concept of accessibility in our society. It is because market forces do not work that we have laws, such as the ADA, requiring accessibility. Entities already have protection from excessive cost impacts under the readily achievable standard. Allowing a company to determine if an accessibility feature will “pay for itself” is a major deviation from the way we have addressed accessibility in the past. We need to keep in mind that accessibility for disabled people should not require higher costs for services for these individuals. As a hard of hearing person, I should not have to pay more for telephone accessibility than a hearing person purely by virtue of my handicap. That would certainly not be equal access.

Thirdly, I would like to address the complaint process proposed by the FCC. I applaud the idea of no filing fees for complaints directed against manufacturers or service providers. In fact, it is in the public interest to allow individuals to easily lodge complaints; thus, the FCC should also waive such fees for formal complaints against common carriers. Also in this section, the fast track seems like a good idea; however, it is unrealistic to expect that any complaint of substance could be

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resolved in such a short time period (five days). I would suggest that the fast track be extended to ten days and that companies which indicate that they need more time should be able to extend to a maximum of 30 days. Finally, it seems inherently unfair that individuals could automatically be denied their day in court simply because the FCC chooses to prevent such action. Conditioning formal complaints upon FCC approval is unprecedented.

Fourthly, the proposed rules omit "enhanced services" from coverage under Section 255. Many such services have become commonplace and include voice mail and automated voice response systems, both of which are extremely frustrating for me as a hard of hearing person. Congress could not have intended to eliminate such important and widely used services from the scope of Section 255, since so doing would undermine the very purpose of the law. I have encountered these systems in my dealings with airline reservations and information, government information lines, court services lines, and health care services lines, as well as other less important information lines that I call on a regular basis. I often find myself replaying the choices over and over, trying to decipher the options, finally hanging up in frustration, only to repeat the same exercise when I gather my energy to try again! Even if I were to try a TTY, relay services cannot access such systems since there is generally insufficient time for the operator to type the choice and have me respond. This is a critical access issue under Section 255. Leaving out such services severely limits educational and employment opportunities and interferes with full participation in today's society. There are options, such as an "automatic out" that would connect the caller to a real live person.

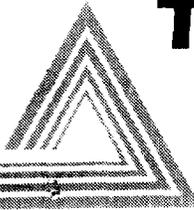
As you can see, there are a number of specific issues that must be addressed to make the FCC proposal truly meaningful to the hard of hearing and deaf community. I can only speak for myself as a hard of hearing professional. I am a registered nurse and third year law student, and I hope to be able to fully participate in my chosen profession. The only barrier I can see at this point is in the telecommunications area. I must be able to access information quickly and easily to function in the legal arena. I hope my comments will be considered.

Thank you.

Sincerely,



Susan B. Matt, RN, MN  
University of Washington  
School of Law



# TACONIC RESOURCES FOR INDEPENDENCE, INC.

WT 9/1/98

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**Services for People  
with Disabilities**

82 Washington St. - Suite 214  
Poughkeepsie, NY 12601-2305

June 26, 1998

Federal Communications Commission  
Office of the Secretary, Room 222  
Washington DC 20554

Re: Section 255 of Telecommunications Act of 1996

Dear Reader:

Taconic Resources for Independence, Inc. (TRI) submits these comments to the Federal Communications Commission on the proposed Section 255 rules. TRI is a Center for Independent Living (CIL), which is part of a national network that serves people with disabilities while using a peer approach. We serve people with all types of disabilities.

We applaud the FCC for issuing proposed rules to implement Section 255 of the Telecommunications Act of 1996. Increased access to telecommunications equipment is critical to expanding employment, educational, and recreational opportunities for individuals with all types of disabilities. We urge the FCC to adopt the suggestions contained in these comments so that our needs are fully considered in the design, development, and fabrication, of telecommunications products and services.

The Americans with Disabilities Act is wonderful legislation that, simply, levels out the playing field. It enables people with disabilities to work, and enjoy activities that people without disabilities expect to enjoy. It does not give people with disabilities any "extras". It simply allows us to access services in the same way people with disabilities expect and enjoy. It needs to be strengthened, not weakened.

We urge the Commission to adopt the Section 255 guidelines which were issued by the Architectural and Transportation Barriers Compliance Board (Access Board) on February 3, 1998. Congress gave the Access Board the primary authority to draft those guidelines, which should now be enforced by the FCC. Although the Access Board guidelines apply to equipment manufacturers, we recommend that the FCC apply these as well to service providers. The

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guidelines are comprehensive, and are the product of the Telecommunications Access Advisory Committee, which had representation of consumer and industry organizations. In addition to the guidelines on achieving accessibility, we urge the FCC to adopt and enforce the following guidelines for both service providers and equipment manufacturers:

1. Where market research on products or services is performed, customers with disabilities should be included in the populations researched;
2. Where product design trials and pilot demonstrations are conducted, customers with disabilities must be included in these activities;
3. Reasonable efforts should be made to validate access solutions through testing with individuals with disabilities;
4. Manufacturers and service providers should be required to provide access to product and service information and documentation on products and services, and their accessibility features, including information contained in user and installation guides. If the information is made available to the general public, it must be made available in accessible formats upon request, at no extra charge. Manufacturers should include the name and contact for obtaining information about accessibility features, and how to obtain documents in alternate format. This should be enclosed with general product information. Customer and technical support provided at call and service centers should be accessible by people with disabilities. This can include captioning on video cassettes containing product instructions, direct TDD access to customer service lines, text transcriptions for audio output on Internet postings, and automated TDD response systems that detect whether the caller is using voice or TDD, and enable the caller who is hearing impaired to call in an accessible format.
5. The Access Board guidelines make clear that, in addition to covering new products, Section 255 covers existing products that "undergo substantial change or upgrade, or for which new releases are distributed". The changes to which this statement refers are those that affect the functionality of the product: Not cosmetic changes. It is critical for new manufacturers and service providers to consider disability access as they make substantial upgrades or changes offered to the public.
6. The Access Board's guidelines do not allow manufacturers to make changes that reduce access to products. This ensures that customers with disabilities are not forgotten, as improvements and upgrades to products and services are performed. The FCC must adopt this guideline so customers with disabilities are not treated as second class individuals. We do not want to stifle innovation, but we want to make sure that the access function will always be maintained. We

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understand that the form of achieving access may need to change, but there must be assurance that effective access is available.

7. The Access Board's guidelines set forth certain technical standards for compatibility with specialized customer premises equipment, including compatibility with TDD's and hearing aide compatible telephones. These must be adopted in FCC final rules.

8. The FCC's proposed rules say that software will be covered only if the software is included with a telecommunications product. If it is marketed separately, the FCC proposed that it would not be covered by Section 255. We oppose this interpretation. So long as software has functions that are integral to telecommunications, it must be covered under FCC new rules. This would be consistent with the Access Board guidelines which cover software, hardware, or firmware that are integral to telecommunications and CPE equipment, as well as functions and features built into the product and those provided from a remote server over a network.

We support the FCC's decision to require an assessment of accessibility and compatibility for each product. This is what Section 255 requires, and, as stated in the Access Board guidelines, the assessment to whether access can be achieved "cannot be bypassed simply because another product is already accessible". The goal of Section 255 must be to achieve, where readily achievable, universal design for as many disabilities as possible. If that is not achievable, then the overall accessibility of the provider's products or services can be compared with similar products and services that are accessible.

We are concerned that enhanced services may not be covered under the FCC's new rules. The Telecommunications Act of 1996 emphasized the need to bring everyone in our country the benefits of advanced telecommunications technologies. The purpose of Section 255 was to ensure that this objective was achieved for people with disabilities. This will be defeated if we are only provided with access to little more than basic telephone service. Voice mail, interactive phone prompt systems, and Internet telephony are already mainstream services, and are critical to the successful participation of customers with disabilities. These services must be made accessible if the true intent of Section 255 - to achieve universal telecommunications access - will happen.

Under Section 255, manufacturers must make their products accessible or compatible if it is "readily achievable" to do so. The "readily achievable" terminology is from the ADA, and involves a balancing of the nature and costs of including an access feature with the overall financial resources of the entity, and the resources of the parent corporation, where necessary. We accept the FCC's suggestion that technical feasibility also may be considered in determining whether access to a product or service can be achieved. We oppose considering the extend to

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which an accessible product can be marketed, when compared to an inaccessible product. and the extent that these costs will be recovered, in readily achievable analysis under Section 255.

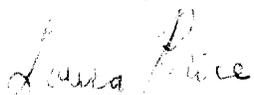
We are confused by the FCC's proposed complaint process, and are uncertain as to when the customer has the right to move from the "fast track" to the "informal" or "formal" complaint process, or when a complaint would be moved to an alternative dispute resolution process. We request clarification of these points in the final rules, so that customers may understand the means available to see redress. We adamantly oppose a rule that would require consumers to receive approval from the FCC before being permitted to file a formal FCC complaint, unless you are going to require that of all people who file formal complaints against the FCC.

We support the following FCC proposals regarding consumer complaints:

1. There must not be filing fees for informal or formal complaints. Fees that currently exist for filing complaints against common carriers should be waived for complaints under Section 255.
2. There must not be any time limit for filing complaints. because one never knows when they will discover that a product or service is inaccessible.
3. Consumers with disabilities must be able to submit complaints by any accessible means available.
4. Manufacturers and service providers should be required to establish contact points in their companies that are accessible to customers with disabilities.

We thank the FCC for the opportunity to submit these comments, and urge the FCC to act promptly in issuing rules that will fully ensure telecommunications access for customers with disabilities.

Sincerely,



Laura Price  
Peer Counselor/Independent Living Specialist

LP/b