



The Internet Association

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: CG Docket No. 10-213

Dear Ms. Dortch:

The Internet Association is the unified voice of the Internet economy, representing the interests of leading Internet companies and their global community of users.¹ We are filing to support grant of the E-Reader Manufacturers Coalition waiver extension request. We also are submitting these comments to urge the Commission to reaffirm the Consumer and Governmental Affairs Bureau's finding in Order, DA 14-95 (rel. Jan. 28, 2014) ("Waiver Order") that posting information on a social network site is not a form of advanced communications services ("ACS") subject to the Twenty-First Century Communications and Video Accessibility Act ("CVAA").

When the Bureau granted the Coalition's request for a class waiver for basic e-readers, it correctly acknowledged that, "[u]sing a browser to post information to a social media website (e.g., Facebook), look up information on the web, access Wi-Fi, or purchase or download an e-book is not evidence of ACS"²

In fact, the Commission addressed this issue early on based on clear direction from Congress: ACS includes "two-way interactive services offered through" social networking websites (i.e., "use of electronic messaging services as part of a social networking site"), but it

¹ Our members include Airbnb, Amazon, AOL, Auction.com, eBay, Etsy, Expedia, Facebook, Gilt, Google, Groupon, IAC, LinkedIn, Lyft, Monster Worldwide, Netflix, Practice Fusion, Rackspace, reddit, Salesforce.com, Sidecar, SurveyMonkey, TripAdvisor, Twitter, Uber Technologies, Inc., Yelp, Yahoo!, and Zynga.

² Waiver Order ¶ 17.



does not include “blog posts, online publishing, or messages posted on social networking websites.”³

The E-Reader Manufacturers Coalition established in the record that the social networking applications pre-installed on e-readers provide only one-to-many social sharing functionality, which the Commission correctly ruled is not ACS.⁴ Even for e-readers with pre-loaded Facebook functionality, this pre-loaded functionality encompasses only posts to the social network.⁵ The Bureau therefore misstated the facts in the Waiver Order when it identified “the availability of social media apps on these devices that are capable of providing two-way interactive ACS between individuals.”⁶ That statement was in error at the time and, according to the E-Reader Manufacturers Coalition, remains contrary to the record.

Furthermore, according to the E-Reader Manufacturers’ petition, in the time since the waiver was granted, e-readers’ primary purpose and reading-focused design has not changed and social media functionality remains one-to-many sharing.⁷

In addition to regulatory certainty for social media functionality in future products and devices, grant of the requested extension would also serve the public interest by advancing the availability of single-purpose non-ACS devices.

Congress expressly created the waiver provision to ensure future innovation in devices. Specifically, that “a device designed for a purpose unrelated to accessing advanced communications might also provide, on an incidental basis, access to such services. In this case,

³ Implementation of Sections 716 and 717 of the Communications Act of 1934, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 14557, 14574-75 (2011) (quoting H.R. Rep. No. 111-563, at 23 (2010); S. Rep. No. 111-386, at 6 (2010)).

⁴ Petition for Waiver of Sections 716 and 717 of the Communications Act and Part 14 of the Commission’s Rules Requiring Access to Advanced Communications Services (ACS) and Equipment by People with Disabilities, Doc. No. 10-213 (May 16, 2013) (“E-Reader Petition”) pgs. 4-7.

⁵ See Letter from Gerard J. Waldron, Counsel for Amazon.com, Inc.; Kobo Inc.; and Sony Electronics Inc., to Marlene Dortch, Secretary, FCC, at 1 (Sept. 30, 2013).

⁶ Waiver Order ¶ 18.

⁷ See E-Readers Petition pg. 6.



The Internet Association

the Commission may find that to promote technological innovation the accessibility requirements need not apply.”⁸

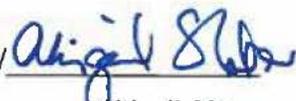
Internet Association companies are at the forefront of the “Internet of Things,” where browser capabilities in everyday products and devices are proving to be a resource for energy savings, healthcare efficiencies, and consumer safety. Smart thermostats, Internet-connected watches, and home security systems are not designed or primarily used for ACS; and they, like e-readers, should not be subject to the ACS accessibility regulations.

Our thriving industry would benefit from the certainty that merely adding a browser does not mean that future smart, non-ACS devices will be limited by potentially product-altering, ACS accessibility regulations.

To provide clear certainty for Internet Association members, and the future Internet companies that may someday be contributors to this thriving industry, we ask the Commission to grant the requested waiver because the E-Reader Manufacturers Coalition has again demonstrated that ACS is not a primary or co-primary purpose of their devices.

By granting this waiver extension, the Commission will reaffirm that the scope of ACS is limited by law, and includes only the specific activities identified by Congress. Congress did not intend for posting information on a social network site, accessing a news story from a mobile application, or simply connecting to Wi-Fi to be regulated as ACS, and it did not intend that the mere presence of a browser on a device and resulting incidental access to ACS should support a finding that a primary purpose of the device is ACS, and the Commission should find accordingly.

Respectfully submitted,
The Internet Association

By: /s/ 
Abigail Slater

VP, Legal and Regulatory Policy

⁸ 47 U.S.C. § 617 (h)(1)(B); see also H.R. Rep. No. 111-563 at 26 (2010)