

Docket 96-198



Federal Communications Commission
Washington, D.C. 20554

OCT 19 1998

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IN REPLY REFER TO:
9806947

The Honorable Julian C. Dixon
U.S. House of Representatives
2252 Rayburn House Office Building
Washington, D.C. 20515-0532

OCT 21 1998

Dear Congressman Dixon:

This is in response to your letter on behalf of your constituent, Isadore Cohen, regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including certain aspects of the term "readily achievable," and the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

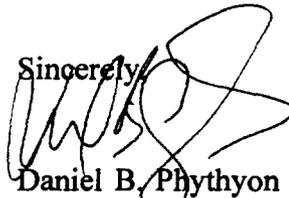
It is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on

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August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. The comments of your constituent will be included as an informal comment in the record of WT Docket 96-198, and carefully considered, along with the many other comments, before final action is taken on this critically important matter. I appreciate your constituent's input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. B. Phythyon', written over the word 'Sincerely,'.

Daniel B. Phythyon
Chief, Wireless Telecommunications Bureau

JULIAN C. DIXON
32ND DISTRICT, CALIFORNIA

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August 31, 1998

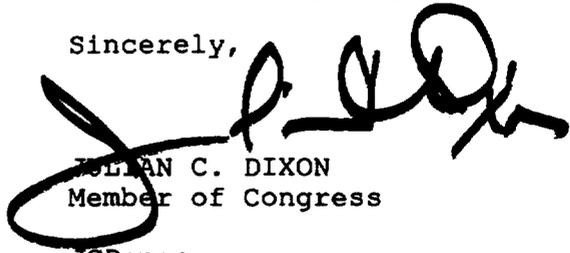
Chairman William Kennard
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Dear Chairman Kennard:

I have enclosed a letter from Ms. Isadore Cohen, a constituent in my congressional district, who has a number of concerns regarding the Federal Communications Commission (FCC) and agency actions which impact hearing impaired individuals.

I would appreciate your comments on these matters so that my office might better address her concerns. I appreciate your attention to my request.

Sincerely,


JULIAN C. DIXON
Member of Congress

JCD:pgc

Congress of the United States
House of Representatives
Washington, D.C. 20515-0532

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FAX TRANSMITTAL SHEET

Honorable Julian C. Dixon
Member of Congress
2252 Rayburn HOB
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FAX: (202) 225-4091

DATE: 9/9

TO: DAVE C. FUL
(202) 418-1662

FROM: DAN SANCHEZ

PAGES TRANSMITTED: 3
(INCLUDING COVER)

MESSAGE: Thank you!

This message is intended only for the use of the individual/entity to which it is addressed and may contain information that is confidential and exempt from disclosure under applicable law.

Honorable Julian Dixon, Congressman
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Dixon,

My name is Isadore Cohen. I am 82 and hearing impaired. I am also a constituent. The Federal Communications Commission has served Notice of Proposed Rule Making (NPRM) on the access provisions of the Telecommunications Act of 1996. Congress gave responsibilities to the Access Board to develop guidelines, but gave enforcement powers to the FCC. The FCC has outlined its positions on some of the issues and I am responding.

Many features, if adopted, would result in a negative impact on access for people with disabilities. I am seriously concerned that the FCC plans are inconsistent with Congressional intent to make telecommunications equipment and services accessible to people with disabilities, as called for in Section 255 of the Telecommunications Act of 1996.

Issue 1. In the Access Board guidelines of Feb '98, Congress gave Access Board authority to develop guidelines and indicated that the FCC guidelines be consistent with these. The FCC has shown an uncertainty in this matter. For example, The FCC is undecided as to whether the guidelines should be applied to Service Providers as well as manufacturers. Of course they should. Our hearing is fundamentally concerned with both entities.

Issue 2. When Congress wrote the Telecommunications Act, it adopted the term "readily achievable" from the ADA, to describe a company's obligation to make products accessible. The FCC has deviated radically from the readily achievable standard that has been used in disability law by introducing the concept of "cost recovery." The FCC states that it is appropriate for a manufacturer to consider whether or not it will recover the costs of increased accessibility in its assessment of readily achievable standards.

Please note that introducing the cost recovery concept here 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. Manufacturers already have protection from excessive cost impacts under the ready 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. For example, a few years ago, prior to cellular phones, it was mandated that all phones have telecoils--a most necessary item to enable hard of hearing (HoH) to use phones. Now, since it wasn't specifically indicated, most cellular analog phones do not come with telecoils.



Issue 3. This issue considers complaints. FCC suggests a 5 day quickie approach as a first step, and if not resolved, and if FCC thinks it warrants a formal legal procedure, it would invoke said procedure. All well and good, but I don't think FCC should decide who may file and who may not. I do support FCC in not requiring filing fees for complaints. Essentially, I believe it's unfair to deny an individual his day in court because FCC decides to prevent such action.

Issue 4. This last item has hardly the magnitude of importance of the previous issues, nevertheless, it must be stated. Most phones and assistive listening devices (with the exception of those specifically designed) do not come with an Access Port. This Access Port is simply a jack to accommodate a plug-in cable enabling it to be connected to other assistive devices. This is similar to building a vehicle expressly to haul a trailer, and not equipping it with a trailer hitch.

I thank you for the time spent in reading my letter, and I appreciate any consideration you see fit to award it.

Sincerely,

Iz Cohen
