

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20544**

In the Matter of

Consumer & Governmental Affairs Bureau  
And Wireless Telecommunications Bureau  
Seek Comment On Advanced Communication  
Provisions Of The Twenty-First Century  
Communications And Video Accessibility Act  
Of 2010

CG Docket No. 10-213

**COMMENTS OF VERIZON<sup>1</sup> AND VERIZON WIRELESS**

**INTRODUCTION AND SUMMARY**

The Twenty-First Century Communications and Video Accessibility Act of 2010 (“Accessibility Act” or “Act”)<sup>2</sup> will ensure that millions of Americans with disabilities have greater access to new broadband and video services and technologies. Verizon is pleased to have actively supported the legislation, and we offer these comments to help the Commission implement the new law.

1. *Definitions of “Advanced Communications Services” and “Achievable”*: The Accessibility Act’s Section 716 requires providers of advanced communications services and manufacturers of equipment and software used with those services to make their services,

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<sup>1</sup> In addition to Verizon Wireless, the Verizon companies participating in this filing (“Verizon”) are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

<sup>2</sup> Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified in various sections of 47 U.S.C.). The law was enacted on October 8, 2010 (S. 3304, 111th Cong.). *See also* Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. 111-265, 124 Stat. 2795 (2010), also enacted on Oct. 8, 2010 to make technical corrections to the Accessibility Act and amendments made by that Act. Section 104 of Title I of the Act adds new Sections 716, 717, and 718 to the Communications Act of 1934, as amended. *See* Pub. L. No. 111-260 § 104 (adding new Sections 716, 717, and 718 to Title VII of the Communications Act of 1934, as amended, to be codified as 47 U.S.C. §§ 617, 618, 619).

equipment, and software offered for sale “accessible to and usable by individuals with disabilities,” unless not achievable.<sup>3</sup>

The Accessibility Act defines “Advanced Communications Services” to mean interconnected VoIP service, non-interconnected VoIP service, electronic messaging service, and interoperable video conferencing service.

a. Interconnected VoIP Service: Section 716 defines Interconnected VoIP service as that codified at Part 9 of the Commission’s rules.<sup>4</sup> Although “Advanced Communications Services” includes Interconnected VoIP Service, Section 716(f) expressly exempts Interconnected VoIP Service from the requirements of new Section 716, because it is subject to the requirements of Section 255 of the Communications Act.<sup>5</sup>

b. Non-Interconnected VoIP Service: As defined by Section 716, Non-Interconnected VoIP services do not necessarily have to communicate with the Public Switched Telephone Network, nor do they necessarily have to permit “two-way” voice communications, so long as they enable “real-time voice communications” that originate from or to terminate to an end user’s location in Internet protocol. And while Non-Interconnected VoIP Service requires Internet protocol-compatible Customer Premises Equipment, Non-Interconnected VoIP Service does not necessarily require a broadband connection from the end user’s location.<sup>6</sup> With this new definition, the Accessibility Act casts its net beyond just Interconnected VoIP Service, covering VoIP services not previously subject to the Communications Act’s accessibility

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<sup>3</sup> Sections 716(a)(1) and 716(b)(1) of the Communications Act, to be codified as 47 U.S.C. §§ 617(a)(1) and 617(b)(1).

<sup>4</sup> 47 C.F.R § 9.3

<sup>5</sup> New Section 716(f) of the Communications Act, to be codified at 47 U.S.C. § 617(f).

<sup>6</sup> Accessibility Act § 101(1) (adding new Section 3(58) to the Communications Act, to be codified as 47 U.S.C. § 153(58)).

requirements and enabling users with disabilities to enjoy the benefits of those new and innovative services.

c. **Electronic Messaging Service:** The Act defines this to include services that “provide[] real-time or near real-time non-voice messages in text form between individuals over communications networks.”<sup>7</sup> As the House Committee on Energy and Commerce Report explains, the Committee’s primary concern regarding accessibility of electronic messaging focused on “traditional, two-way interactive services” and not “blog posts, online publishing, or messages focused on social networking websites.”<sup>8</sup> The Commission should be mindful of this legislative intent. And while Section 716 confers upon the Commission certain jurisdiction over services like e-mail and text messaging, that jurisdiction is limited to implementing Section 716 – a provision that Congress chose not to insert into Titles II, III, or VI of the Communications Act – and it does not grant the Commission broader regulatory authority over these services.

d. **Interoperable Video Conferencing Service:** Congress included these services within the scope of the Act “to ensure, in part, that individuals with disabilities are able to access and control these services,” even though these services may in and of themselves be accessibility solutions.<sup>9</sup> These are services that “enable users to share information.”<sup>10</sup> It follows that one-way services, which do not permit information sharing, like webinars, are outside the scope of the definition. Similarly, point-to-point video communications and video relay services are not

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<sup>7</sup>*Id.* (adding new Section 3(56) to the Communications Act, to be codified as 47 U.S.C. § 153(56)).

<sup>8</sup> Twenty-First Century Communications and Video Accessibility Act of 2010, House Report 111-563, at 23 (July 26, 2010) (“House Committee Report”).

<sup>9</sup> *Id.*

<sup>10</sup> Accessibility Act § 101(1) (adding new Section 3(59) to the Communications Act, to be codified as 47 U.S.C. § 153(59)).

“video conferencing services,” and they should not be considered “Interoperable Video Conferencing Services.”

The Act also presents the newly defined term “achievable,” which means “with reasonable effort or expense.”<sup>11</sup> Simply because an accessibility solution may exist does not mean it is reasonable to implement for every service or device or to address every conceivable circumstance, nor did Congress intend that.<sup>12</sup> Congress directed the Commission to consider four factors when determining whether requirements of a certain provision are “achievable”, including: the nature and cost for the specific equipment or service; technical and economic impact on the manufacturer or provider; manufacturer or provider’s type of operations; and whether the manufacturer or provider offers other accessible equipment or services at different price points.

2. *Flexibility and Compatibility:* Providers and manufacturers can comply with Section 716 by relying on third-party applications, peripheral devices, software, and other equipment that is available to individuals with disabilities at a nominal cost.<sup>13</sup> The Commission should encourage providers and manufacturers to use third-party applications where appropriate, and the Commission should adopt flexible policies that do not restrict manufacturers and providers’ ability to do so. This should be done without burdening consumers, and, consistent

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<sup>11</sup> Accessibility Act § 104 (adding new Section 716(g) of the Communications Act, to be codified as 47 U.S.C. § 617(g))

<sup>12</sup> New Section 716(j) of the Communications Act, to be codified at 47 U.S.C. § 617(j); *see also* House Committee Report at 24.

<sup>13</sup> New Sections 716(a)(2)(B) and (b)(2)(B) of the Communications Act, to be codified as 47 U.S.C. §§ 617(a)(2)(B) and (b)(2)(B).

with the House Committee Report, a “nominal cost” for these purposes should be small enough so it does not factor into a customer’s decision whether to acquire a product or service.<sup>14</sup>

Section 716(c) requires that if providers and manufacturers achieve compliance, they must make their equipment and services compatible with devices commonly used by persons with disabilities to achieve access (unless that is not achievable). Section 716(c) contemplates compatibility with “peripheral devices or specialized customer premises equipment” commonly used by those with disabilities for access, and the Commission should limit its inquiry here to those devices.<sup>15</sup> Other mass market devices or software, while they may be used by persons with disabilities, are beyond the scope of what the Accessibility Act is intended to reach.

3. *Network Features*: Under Section 716(d), advanced communications services providers must not install network features, functions, or capabilities that impede accessibility.<sup>16</sup> While this requirement is similar to a requirement found in Section 251(a)(2) of the Communications Act, Section 716 is in Title VII of the Communications Act and applies to providers of advanced communications services, whereas Section 251(a)(2) is in Title II and applies to telecommunications carriers.<sup>17</sup> Congress structured the Accessibility Act this way intentionally, to avoid suggesting advanced communications services were telecommunications services. So although Section 251(a)(2) and Section 716(d) have much in common, these two provisions apply to different segments of the communications ecosystem and should be viewed separately.

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<sup>14</sup> House Committee Report at 24.

<sup>15</sup> New Section 716(c) of the Communications Act, to be codified at 47 U.S.C. § 617(c).

<sup>16</sup> New Section 716(d) of the Communications Act, to be codified at 47 U.S.C. § 617(d).

<sup>17</sup> 47 U.S.C. § 251(a)(2).

4. *Section 255 and 716*: The Public Notice<sup>18</sup> suggests that interconnected VoIP service and other services that are subject to Section 255<sup>19</sup> of the Communications Act are now covered by both Section 255 and Section 716. But Section 716(f) specifically exempts those services from the Section 716 requirements, because they were subject to the requirements of Section 255 on the enactment date of the Accessibility Act.<sup>20</sup> Section 716(f)'s plain language exempts services that were subject to Section 255 on that date – and explicitly mentions interconnected VoIP service – so as to avoid having those services be subject to two separate requirements.

5. *Enforcement and Record Keeping*: Section 717 of the Accessibility Act requires the Commission to adopt rules that facilitate complaint filing.<sup>21</sup> Because the statute includes a deadline by which the Commission is to conclude its investigation of informal complaints, it will be important for the Commission to develop manageable complaint procedures. Among them, the Commission should establish reasonable standing requirements for complainants that allege violations. And like Section 255 of the Communications Act, new Section 717 does not confer a private right of action.

Section 717 also establishes recordkeeping requirements.<sup>22</sup> Entities subject to the accessibility requirements must maintain records of their efforts to implement Sections 255, 716, and 718. Verizon recommends that ATIS or a similar organization develop a standard

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<sup>18</sup> See *CGB and WTB Seek Comment on Advanced Communication Provisions of The 21st Century Communications And Video Accessibility Act of 2010*, Public Notice, CG 10-213, DA 10-2029 (Oct. 21, 2010) (“Public Notice”).

<sup>19</sup> 47 U.S.C. § 255.

<sup>20</sup> New Section 716(f) of the Communications Act, to be codified at 47 U.S.C. § 617(f).

<sup>21</sup> New Section 717(a) of the Communications Act, to be codified at 47 U.S.C. § 618(a).

<sup>22</sup> New Section 717(a)(5) of the Communications Act, to be codified at 47 U.S.C. § 618(a)(5).

recordkeeping form that Original Equipment Manufacturers, carriers, and others could complete during the development process in order to satisfy this requirement.

6. *Mobile Browsers:* Section 718 of the Accessibility Act requires that within three years, if a manufacturer includes an Internet browsers in a mobile device, or if a provider arranges for a browser to be included in the device, the functions of the browser must be accessible.<sup>23</sup> The House Energy and Commerce Committee intended that “service providers and manufacturers have maximum flexibility” implementing this section.<sup>24</sup> While some third-party accessibility solutions may exist today, they are in their early stages, and no standards exist around these solutions. To develop reasonable, achievable accessibility solutions, the FCC should encourage industry forums and working groups to develop accessibility standards for mobile browsers, so that persons with disabilities can access the Internet using mobile devices. Ensuring compliance will require a cooperative effort amongst various stakeholders, including equipment manufacturers, developers of third-party applications and operating systems, and service providers.

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<sup>23</sup> New Section 718(a) of the Communications Act, to be codified at 47 U.S.C. § 619(a).

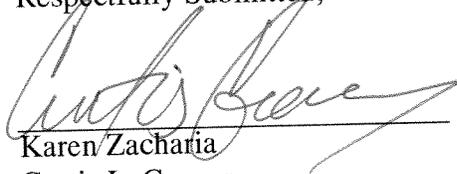
<sup>24</sup> House Committee Report at 27.

## CONCLUSION

Verizon submits these comments to help guide the Commission in the initial implementation stages of the Accessibility Act, which will ensure millions of Americans with disabilities will have greater access to advanced communications services.

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Respectfully Submitted,



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