



August 9, 2011

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

Ref: *Ex parte comment on CG No. 10-213, WT No. 96-198, CG No. 10-145*

On July 20, 2011, a delegation from the Information Technology Industry Council (“ITI”) held a second meeting with staff of the Federal Communications Commission (hereafter, “Commission”) regarding matters raised in the Commission’s Notice of Proposed Rulemaking implementing the Twenty-First Century Communications and Video Accessibility Act of 2010 (“the Act”). In particular, the ITI delegation discussed the importance of standards and Application Programming Interfaces (“API”) in enabling advanced communications services (“ACS”) via interoperability between diverse components in the product “stack,” including Assistive Technology (“AT”), and argued that effective implementation of such standards and specifications should serve as a “safe harbor” under the Act.

During the meeting, we reiterated the fact that an ACS manufacturer is only one player within an ecosystem of many different organizations and companies. We argued that if a manufacturer appropriately adheres to and implements the relevant standards and specifications enabling AT vendors to build compatible equipment, the Commission should deem the ACS manufacturer or application developer to be in compliance with the Act.¹ In these comments, we provide additional detail in support of this view.

¹ It is also critical for the Commission to acknowledge in its order that, per the section 716(j) rule of construction, a manufacturer or service provider is not required to make every feature of every device or service accessible for all disabilities.

General purpose hardware, such as laptops, and desktop computers, operating systems, web browsers, and AT is not ACS. Even so, they play an important role in enabling end users to utilize ACS. Accordingly, it is critical that they be able to interoperate in a seamless fashion. The only reliable and sustainable method to achieve interoperability between all of these entities is through the use of APIs and specifications. Established APIs and specifications already exist to facilitate AT/ACS compatibility. AT and Information Technology (“IT”) manufacturers have worked together over the past couple of decades to develop APIs that expose the information needed by ATs. During meetings of the U.S. Access Board’s recent Section 508 Advisory Committee, AT and IT representatives came together and codified the requirements in a set of technology-neutral provisions that were included in the Advisory Committee’s report.² The provisions have now evolved into the standard ISO/IEC 13066-1:2011.³

Accordingly, an ACS manufacturer should be able to satisfy section 716 of the Act, i.e., be afforded a “safe harbor,” by programmatically exposing the ACS user interface using one or more established APIs and specifications which support the applicable provisions in ISO/IEC 13066-1:2011⁴. As technology advances, it should be the responsibility of the appropriate manufacturer or standards body to inform the Commission when new, relevant APIs and specifications are made available to the market that meet the referenced standard.

² See “Report to the Access Board: Refreshed Accessibility Standards and Guidelines in Telecommunications and Electronic and Information Technology,” Telecommunications and Electronic and Information Technology Advisory Committee, April 2008, available at <http://www.access-board.gov/sec508/refresh/report/>.

³ See ISO/IEC 13066-1:2011, “Information technology -- Interoperability with assistive technology (AT) -- Part 1: Requirements and recommendations for interoperability,” International Organization for Standardization, available at http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=53770.

⁴ As new APIs and specifications are developed and enter the marketplace, manufacturers have the option of bringing them to ISO and IEC for consideration as new parts of ISO/IEC 13066-1:2011. ITI recommends that the Commission adopt similar flexibility and provide “safe harbor” status to any additions to the referenced standard.

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In its order, we also ask the Commission to recognize that for some products, it may take a certain period of time before AT vendors are able to develop and offer complementary technology that can interoperate and provide access to the ACS. This is particularly true when a product is new and has very little market penetration. The Commission should make it clear that it will take this into account when determining how quickly it will bring an enforcement action.

As always, ITI welcomes inquiries regarding the views expressed herein. Please direct any questions to the undersigned.

Respectfully submitted,

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