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*Via Electronic Filing*

September 6, 2011

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth St., S.W.  
Washington, DC 20554

*Re: Notice of Ex Parte Presentation – CG Docket No. 10-213, WT Docket No. 96-198,  
CG Docket No. 10-145*

Dear Ms. Dortch:

This is to notify you that on September 1, 2011, Julie Kearney, Vice President, Regulatory Affairs, Consumer Electronics Association (“CEA”), accompanied by outside counsel William Maher and Mark Walker of Wilkinson Barker Knauer, LLP, met with Austin Schlick (General Counsel), Jane Jackson (WTB), Karen Peltz Strauss (CGB), Julie Veach (OGC), Diane Griffin Holland (OGC), Raelynn Remy (OGC), and Marilyn Sonn (OGC).

Consistent with its comments and reply comments in the above-captioned proceedings,<sup>1</sup> CEA urged implementation of the Advanced Communications Service (“ACS”) provisions of the Twenty-First Century Communications and Video Accessibility Act (“CVAA”) in a manner that balances the increased accessibility of ACS with manufacturers’ and service providers’ continued ability to innovate. To help guide the meeting, CEA provided each attendee with (i) the attached agenda that summarizes the items discussed and provides cross-references to the relevant portions of CEA’s comments and reply comments and (ii) the attached chart that compares the ACS provisions of the legislation originally introduced in the House of Representatives to the provisions enacted in the CVAA. The comparison demonstrates Congress’s intent to narrow the scope of the statute and to achieve a greater balance between increased accessibility and continued innovation.

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<sup>1</sup> See Comments of CEA, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-168 (filed Apr. 25, 2011); Reply Comments of CEA, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-168 (filed May 23, 2011).

In addition, the following items were discussed during the meeting:

**Waivers for Internet-enabled Televisions and Digital Video Players.** Consistent with its *July 19 Ex Parte Letter*,<sup>2</sup> CEA stated that Internet-enabled televisions (the “subject TVs”) and Internet-enabled digital video players (the “subject DVPs”) should not be subject to ACS regulations, but urged in the alternative that the Commission grant the class waivers of Section 716 of the Communications Act, as amended (the “Act”)<sup>3</sup> for the subject TVs and DVPs. These waivers should be included in the Commission’s order to be adopted in the above-referenced proceeding.<sup>4</sup> The requested waivers meet all the requirements of Section 716(h)(1) and serve the public interest.<sup>5</sup> Specifically, CEA emphasized the narrow nature of the requested waivers. The primary purpose of the subject TVs and DVPs is the delivery of video content, principally full-length, professional quality video programming, not access to ACS.<sup>6</sup> Consistent with the *July 19 Ex Parte*, CEA described examples of the subject TVs and DVPs.<sup>7</sup> CEA also emphasized the need for waivers in order to provide the consumer electronics industry with the needed certainty to continue to innovate and meet changing market preferences.<sup>8</sup>

**Phase-in Period.** CEA emphasized the need for at least a 24-month phase-in period to provide industry with the necessary time to comply with the Commission’s final ACS rules. With a 24-month phase-in for compliance with the rules, much of the design and development of compliant products will likely occur around the time that Section 717 requires covered entities to keep records.<sup>9</sup>

**Informal Complaint Process.** CEA discussed the need for the Commission to narrow the proposed informal complaint process in order to focus on resolving customer complaints. CEA expressed its support for the direct resolution by manufacturers or service providers of any

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<sup>2</sup> See *Ex Parte Letter* from Julie Kearney, CEA to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-198 (filed July 19, 2011) (“*July 19 Ex Parte Letter*”) (requesting class waivers for Internet-enabled televisions and digital video players).

<sup>3</sup> See 47 U.S.C. § 617. Section 716(h)(1) provides the authority under which the waivers are requested. See *id.* § 617(h)(1).

<sup>4</sup> See *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Notice of Proposed Rulemaking, 26 FCC Rcd 3133, 3156 ¶ 60 (2011) (“*NPRM*”) (“Are there specific classes of services or equipment that we should consider waiving in our final rules on Section 716?”).

<sup>5</sup> See *July 19 Ex Parte Letter* at 2, 4, 7. The requested waivers also meet the Commission’s general waiver requirements. See *id.* at 8-9 & nn.42, 43.

<sup>6</sup> See *id.* at 3, 5-7, 8.

<sup>7</sup> See *id.* at 4-6 (describing subject TVs); 7-8 (describing subject DVPs).

<sup>8</sup> See *id.* at 9-10.

<sup>9</sup> See 47 U.S.C. § 618(a)(5)(A).

customer complaint before the commencement of an informal complaint process,<sup>10</sup> but cautioned that requiring an attestation from both parties to close a complaint is impractical and will be difficult to secure from the average customer even when the complaint is fully resolved to the satisfaction of the customer. CEA is concerned that the “Possible ACS EB Informal Complaint Process”<sup>11</sup> – summarized in a recent *ex parte* filing – may stray from the CVAA’s narrow requirement to “investigate the allegations in an informal complaint”<sup>12</sup> and open defendants to sweeping discovery and a wasteful litigation process, contrary to Congress’s intent.

CEA also requested that the Commission provide its staff with the discretion to dismiss an informal complaint proceeding where the complaint is deficient on its face. Section 717(a)(4) of the Act does not require the Commission to seek or receive a response from the defendant prior to dismissing a complaint that is deficient either procedurally or substantively, because no response from the subject of the complaint is necessary in such a case.<sup>13</sup>

**Limitation on Liability.** CEA urged that the Commission recognize that a manufacturer should only be responsible for CVAA compliance for the ACS applications that the manufacturer controls. CEA agrees with TIA and CTIA that manufacturers are only responsible for meeting the CVAA’s accessibility requirements with respect to a product’s hardware and ACS software that the manufacturer intentionally installs on the device before sale, unless it relies on third-party hardware or software to comply with the manufacturer’s accessibility obligations.<sup>14</sup> Conversely, the Commission should hold the developers of any third-party ACS software, including applications offered through an app store, responsible for the accessibility of the software they develop.<sup>15</sup> This common-sense approach is consistent with Section 2(a) of the CVAA,<sup>16</sup> which precludes holding manufacturers liable for software downloaded by end users, where a third party controls the specifications of the downloaded software.

While there has been some recent discussion of the duties of a “manufacturer” for purposes of the CVAA,<sup>17</sup> CEA agrees with the *NPRM* that the Commission should adopt for ACS purposes

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<sup>10</sup> See *Ex Parte* Submission from Mark Uncapher, Telecommunications Industry Association (“TIA”) to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-198, Attachment – FCC Proposed ACS Complaint Process (filed Aug. 19, 2011).

<sup>11</sup> *Id.*

<sup>12</sup> 47 U.S.C. § 618(a)(3)(B).

<sup>13</sup> See *id.* § 618(a)(4) (“Before the Commission makes a determination . . . , the party that is the subject of the complaint shall have a reasonable opportunity to respond to such complaint . . .”).

<sup>14</sup> See Comments of TIA, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-198, at 7-8 (filed Apr. 25, 2011); Reply Comments of CTIA, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-198, at 7 (filed May 23, 2011); see also Comments of AT&T, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-198, at 8 (filed Apr. 25, 2011).

<sup>15</sup> See Comments of CEA, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-198, at 7 (filed Apr. 25, 2011).

<sup>16</sup> CVAA § 2(a).

<sup>17</sup> See *Ex Parte* Letter from Glenn S. Richards, Executive Director, Voice on the Net Coalition, to Marlene Dortch, Secretary, FCC, CG Docket Nos. 11-47 & 10-213, at 3-4 (filed Aug. 12, 2011).

the definition of “manufacturer” used in the Section 255 rules: “an entity that makes or produces a product.”<sup>18</sup> Doing so will provide substantial certainty to the industry without inhibiting innovation.<sup>19</sup>

**Interoperable Video Conferencing Services.** Consistent with its *July 18 Ex Parte Letter*,<sup>20</sup> CEA emphasized that Congress’s inclusion of the term “interoperable” narrowed the scope of the video conferencing services covered by the ACS provisions of the CVAA. The Commission must give meaning to Congress’s inclusion of the term “interoperable,” which was added during the legislative process, even though other portions of the statutory definition were unchanged.<sup>21</sup> As a matter of statutory construction, the Commission should give meaning to all terms used in the CVAA.<sup>22</sup> The Commission should do so by ensuring that only the subset of video conferencing services that are genuinely interoperable are covered under Section 716. Consistent with the term’s ordinary meaning,<sup>23</sup> the Commission should make clear that “interoperable” means the ability to operate among different platforms, networks, and providers without special effort or modification by the end user.<sup>24</sup>

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<sup>18</sup> See *NPRM*, 26 FCC Rcd at 3142-43 ¶ 20 (quoting 47 C.F.R. § 6.3(f)). See *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996*, Report and Order and Further Notice of Inquiry, 16 FCC Rcd 6417, 6454 ¶ 90 (1999) (“*Section 255 Order*”).

<sup>19</sup> As provided in the *Section 255 Order* this definition recognizes the concept of “co-manufacturer.” See *Section 255 Order*, 16 FCC Rcd at 6454 ¶ 90 (finding that “[i]n appropriate circumstances . . . where an entity is otherwise extensively involved in the manufacturing process – for example, by providing product specifications – we may, as the individual circumstances warrant, deem such an entity to be a co-manufacturer of the product involved”).

<sup>20</sup> *Ex Parte Letter* from Julie Kearney, CEA to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-198 (filed July 18, 2011) (“*July 18 Ex Parte Letter*”) (discussing the definition of “Interoperable Video Conferencing Service”).

<sup>21</sup> CEA, *Comparison of CVAA Advanced Communications Services Provisions: H.R. 3101 (as introduced) to Pub. L. 111-260 (as enacted)*, at 1 (Sept. 1, 2011) (attached).

<sup>22</sup> See *Duncan v. Walker*, 533 U.S. 167, 174 (2001) (“It is our duty to give effect, if possible, to every clause and word of a statute. We are thus reluctant to treat statutory terms as surplusage in any setting.”); see also *Association of Bituminous Contractors, Inc. v. Andrus*, 581 F.2d 853, 862 n.22 (D.C. Cir. 1978) (“It is an elementary rule of construction that effect must be given, if possible, to every word, clause and sentence of a statute.” (internal quotation omitted)); *Mkt. Co. v. Hoffman*, 101 U.S. 112, 115 (1879) (“We are not at liberty to construe any statute so as to deny effect to any part of its language. It is a cardinal rule of statutory construction that significance and effect shall, if possible, be accorded to every word.”).

<sup>23</sup> See *Bennett v. Islamic Republic of Iran*, 618 F.3d 19, 22 (D.C. Cir. 2010) (“Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose.” (quotations omitted)); see also *American Mining Congress v. United States EPA*, 824 F.2d 1177, 1183 (D.C. Cir. 1987) (“The first step in statutory interpretation is, of course, an analysis of the language itself. As the Supreme Court has often observed, the starting point in every case involving statutory construction is the language employed by Congress. In pursuit of Congress’ intent, we start with the assumption that the legislative purpose is expressed by the ordinary meaning of the words used.” (internal quotations and citations omitted)).

<sup>24</sup> *July 18 Ex Parte Letter* at 3 (urging the adoption of an “interoperable” definition consistent with IEEE’s definition).

Imposing the requirements of Section 716 on video conferencing services generally, including those that are not interoperable as discussed above, will only stifle experimentation and innovation in this nascent marketplace. There are currently few, if any, truly interoperable video conferencing services, but industry is working to develop the necessary standards to provide true interoperability among different platforms, networks, and providers.<sup>25</sup>

CEA also explained that the modifier “interoperable” provides no authority for mandating interoperability among video conferencing services.<sup>26</sup> Specifically, the CVAA’s prohibition against mandating technical standards prevents the Commission from requiring interoperability among video conferencing services.<sup>27</sup>

Pursuant to Section 1.1206 of the Commission’s rules,<sup>28</sup> this letter is being electronically filed with your office and a copy of this submission is being provided to the meeting attendee from the Commission. Please let the undersigned know if you have any questions regarding this filing.

Respectfully submitted,

/s/ **Julie M. Kearney**

Julie M. Kearney  
Vice President, Regulatory Affairs

cc: Austin Schlick  
Jane Jackson  
Karen Peltz Strauss  
Julie Veach  
Diane Griffin Holland  
Raelynn Remy  
Marilyn Sonn

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<sup>25</sup> See *Ex Parte* Letter from Danielle Coffey, Vice President, Government Affairs, Telecommunications Industry Association (“TIA”) to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-198, at 2-3 (filed Aug. 10, 2011) (discussing various industry initiatives relating to interoperability standards for video conferencing).

<sup>26</sup> See *July 18 Ex Parte Letter* at 2-4.

<sup>27</sup> 47 U.S.C. § 617(e)(1)(D) (“[T]he Commission shall . . . not mandate technical standards . . .”).

<sup>28</sup> 47 C.F.R. § 1.1206.

**CVAA – Advanced Communications Services NPRM  
(CG Docket Nos. 10-213, 10-145, WT Docket No. 96-198)  
CEA *Ex Parte* Meeting Agenda**

September 1, 2011

**1. Introduction/Background on CEA**

- a. Principal U.S. trade association for the consumer electronics and information technologies industries (Com. at 2)
- b. 2,000 member companies that cumulatively generate more than \$186 billion in annual factory sales (Com. at 2 n.4)
- c. CEA and its member companies were actively involved in the CVAA legislative process and continue to engage in regulatory and standards activities relating to accessibility (Com. at 2 & n.6)

**2. CVAA Purpose and Legislative History**

- a. Congress intended to balance increased accessibility of ACS with manufacturers’ and service providers’ continued ability to innovate (Com. at 3)
- b. Congress consciously narrowed the scope of the legislation to ensure this balance, for example:
  - i. Added Section 2(a) – limitation on liability (Com. at 3 & n.7)
  - ii. Added “interoperable” and “service” to limit the forms of video conferencing subject to the CVAA (Com. at 3 & n.8)
  - iii. Added the waiver authority (Com. at 3-4 & n.9)

**3. An Initial Phase-In Period is Essential**

- a. A minimum 24 month phase-in period before commencing enforcement will provide the needed time for covered entities to comply with the final rules (Com. at 39; Rep. at 3-4)
- b. Such a phase-in period also provides time to address waiver requests filed in response to the final rules (Com. at 40; Rep. at 4-5)
- c. The Commission should grandfather in products released prior to the promulgation of the final rules (Com. at 40; Rep. at 5)

**4. Definitions and Scope of the Rules Should Be Interpreted Consistently With All of the Statute**

- a. A product or service that only includes incidental ACS should be excluded from the scope of the CVAA; Section 716 makes clear that the accessibility obligations only apply to an “offer” of ACS (Com. at 10; Rep. at 6)
- b. No authority exists to impose an interoperability mandate; the inclusion of “interoperable” limits the scope of video conferencing services covered by the CVAA (Com at 36; Rep. at 8-9)
- c. Section 2(a)’s liability limitation should be incorporated in the Commission’s final rules to ensure that the accessibility of a third-party app is the responsibility of the third-party developer, rather than the device manufacturer or underlying service provider (Com. at 7, 34-35; Rep. at 17)

**5. Exemptions/Waivers Should Be Applied Reasonably**

- a. Customized equipment or services exemption should apply broadly; this exemption was expressly added by Congress (Com. at 16; Rep. at 9-10)
- b. Waiver authority was also added in the legislative process; the Commission should focus on the plain language of the statute and not favor individualized over class waivers nor limit the duration of waivers (Com. at 17-18; Rep. at 10-11)
- c. Small entities exemption should be used to minimize the burden on small business and promote the pace of technological innovation (Com. at 20-21; Rep. at 11)

**6. Achievability Rules Should Reflect The CVAA’s Balanced Approach**

- a. The Commission should only consider the four factors provided in the statute, giving each equal weight (Com. at 21; Rep. at 12)
- b. The four factors should be incorporated into the Performance Objectives to help ensure greater clarity for covered entities as well as the FCC
- c. Built-in solutions should not be preferred to third-party solutions (Com. at 27-28; Rep. at 14-15)
- d. Nominal cost should be determined objectively on a case-by-case basis, considering the nature of the service or product as well as its total lifetime cost (Com. at 27; Rep. at 15)
- e. The “compatibility” rules should permit flexible and economical implementation (Com. at 29-30)

## **7. Recordkeeping Requirements Must be Realistic**

- a. Covered entities should only be required to maintain records for those categories set forth in Section 717 and not go beyond what Congress intended (Com. at 41)
- b. The Commission should provide flexibility in how covered entities implement the recordkeeping requirements (Com. at 41-42; Rep. at 19)

## **8. Enforcement Should Focus On Resolution of Consumer Issues**

- a. Requiring a pre-filing notice will facilitate timely resolution of consumer complaints (Com. at 43-44; Rep. at 20-21)
- b. Screening complaints prior to forwarding to defendants will reduce the burden on industry and the Commission alike (Com. at 44)
- c. A 40-day answer period will provide a reasonable timeframe for a defendant to fully and accurately respond to a complaint (Com. at 45; Rep. at 21)
- d. The answer content requirements should be streamlined to focus narrowly on (i) whether the device or service is accessible and (ii) if not accessible, whether accessibility is achievable (Com. at 45-46; Rep. at 21)
- e. The foregoing is consistent with the 180-day statutory period in which a complaint must be resolved
- f. CEA submitted draft rules which we urge the Commission to adopt (Com. at App. A)

## **9. Mobile Internet Browsers**

- a. Section 718 should be applied consistently with the flexibility requirements of Section 716 (Com. at 49; Rep. at 22-23)
- b. Section 718 does not cover data-only devices such as laptops and tablets (Com. at 49)

## **10. Scope of Definitions/Waiver Request (*ex parte* filed July 19, 2011)**

- a. CEA's *ex parte* covers two classes of equipment: (i) Internet-enabled televisions and (ii) Internet-enabled digital video players ("DVPs"). The *ex parte* supports and is consistent with ESA's waiver request for video game offerings.
- b. These classes of products should fall outside the scope of Section 716 and the definition of ACS. However, in an abundance of caution, CEA requests that the Commission grant class waivers of Section 716 for the Internet-enabled TVs and DVPs.

- c. The requested waivers meet all the requirements of Section 716(h)(1) and serve the public interest.
- d. Each class of equipment is multi-purpose, but is designed primarily for purposes other than ACS. The primary purpose of Internet-enabled TVs and DVPs is the delivery of video content, principally full-length, professional quality video programming.

**11. “Interoperable Video Conferencing Service” (*ex parte* filed July 18, 2011)**

- a. The CVAA does not provide the Commission with the authority to mandate interoperability among video conferencing services.
- b. “Interoperable” means the ability to operate among different platforms, networks, and providers without special effort or modification by the end user.
- c. The VRS approach to interoperability is an inappropriate model for commercial video conferencing services because of (i) the fundamental differences between Section 225 and the CVAA and (ii) the unique origins of the VRS requirement, which do not apply in the context of commercial video conferencing services.

**Comparison of CVAA Advanced Communications Services Provisions:  
H.R. 3101 (as introduced) to Pub. L. 111-260 (as enacted)  
Consumer Electronics Association  
CG Docket Nos. 10-213, 10-145; WT Docket No. 96-168  
September 1, 2011**

Subject <sup>1</sup>	H.R. 3101 (as introduced)	Pub. L. 111-260 (as enacted)
<b>Sections Applicable to Titles I &amp; II of the CVAA</b>		
Limitation on Liability	None	Added (CVAA Sec. 2)
Proprietary Technology	None	Added (CVAA Sec. 3)
<b>Definitions added to Section 3 of the Communications Act</b>		
Advanced Communications Services	“The term ‘advanced communications’ means . . . (C) electronic messaging; and (D) video conferencing.”	“The term ‘advanced communications <i>services</i> ’ means . . . (C) electronic messaging <i>service</i> ; and (D) <i>interoperable</i> video conferencing <i>service</i> .” <sup>2</sup>
Electronic Messaging Service	“The term ‘electronic messaging’ means a service that provides non-voice messages in text form between persons over communications networks.”	“The term ‘electronic messaging <i>service</i> ’ means a service that provides <i>real-time or near real-time</i> non-voice messages in text form between individuals over communications networks.”
Interoperable Video Conferencing Service	“The term ‘video conferencing’ means a service that provides real-time video communications, including audio, to enable users to share information of the user’s choosing.”	“The term ‘ <i>interoperable</i> video conferencing <i>service</i> ’ means a service that provides real-time video communications, including audio, to enable users to share information of the user’s choosing.”
Internet Access Equipment	“. . . means equipment that is used to combine computer processing, information provision and computer interactivity with data transport . . .”	None
Internet Access Service	“. . . means service that combines computer processing, information provision, and computer interactivity with data transport . . .”	None
<b>Section 716 of the Communications Act</b>		
Applicability to Manufacturers	“. . . equipment and software that such manufacturer <i>designs, develops, and fabricates</i> . . .”	“. . . equipment and software that such manufacturer <i>offers for sale or otherwise distributes in interstate commerce</i> . . .” (Sec. 716(a)(1))
Undue Burden and Achievability Standards	“. . . unless the requirement of this subsection would result in an <i>undue burden</i> .”	“. . . unless the requirements of this subsection are <i>not achievable</i> .” (Sec. 716(a)(1), (b)(1))

<sup>1</sup> This chart focuses on the advanced communications services (“ACS”) provisions of H.R. 3101 (as introduced) and Pub. L. 111-260 (as enacted) most directly applicable to manufacturers and service providers, rather than a line-by-comparison of the legislation.

<sup>2</sup> Emphasis added throughout.

**Comparison of CVAA Advanced Communications Services Provisions:  
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September 1, 2011**

<b>Subject<sup>1</sup></b>	<b>H.R. 3101 (as introduced)</b>	<b>Pub. L. 111-260 (as enacted)</b>
Industry Flexibility	None	Added for manufacturers and service providers (Sec. 716(a)(2), (b)(2))
Applicability to Service Providers	“. . . services offered by such provider. . .”	“. . . services offered by such provider <i>in or affecting interstate commerce . . .</i> ” (Sec. 716(b)(1))
Undue Burden and Achievability Definitions	<p>“. . . ‘<i>undue burden</i>’ means <i>significant difficulty or expense</i>.”</p> <p>Factors:</p> <ol style="list-style-type: none"> <li>1. “the nature and cost of the steps required to develop and manufacture the product in question;”</li> <li>2. “the impact on the operation of the manufacturer or provider;”</li> <li>3. “the <i>financial resources of the manufacturer or provider</i>;”</li> <li>4. “the type of operations of the manufacturer or provider.”</li> </ol>	<p>“. . . ‘<i>achievable</i>’ means <i>with reasonable effort or expense, as determined by the Commission</i>.”</p> <p>Factors:</p> <ol style="list-style-type: none"> <li>1. “The nature and cost of the steps needed <i>to meet the requirements of this section</i> with respect to the specific equipment or service in question.”</li> <li>2. “The <i>technical and economic</i> impact on the operation of the manufacturer or provider <i>and on the operation of the specific equipment or service in question, including on the development and deployment of new communications technologies</i>.”</li> <li>3. “The type of operations of the manufacturer or provider.”</li> <li>4. “<i>The extent to which the service provider or manufacturer in question offers accessible services or equipment containing varying degrees of functionality and features, and offered at differing price points</i>.” (Sec. 716(g))</li> </ol>

**Comparison of CVAA Advanced Communications Services Provisions:  
H.R. 3101 (as introduced) to Pub. L. 111-260 (as enacted)  
Consumer Electronics Association  
CG Docket Nos. 10-213, 10-145; WT Docket No. 96-168  
September 1, 2011**

<b>Subject<sup>1</sup></b>	<b>H.R. 3101 (as introduced)</b>	<b>Pub. L. 111-260 (as enacted)</b>
Waiver Authority	None	“The Commission shall have the authority . . . to waive the requirements of this section for any feature or function of equipment used to provide or access advanced communications services, or for any class of such equipment, for any provider of advanced communications services, or for any class of such services, that— (A) is capable of accessing an advanced communications service; and (B) is designed for multiple purposes, but is designed primarily for purposes other than using advanced communications services.” (Sec. 716(h)(1))
Small Business Exemption	None	“The Commission may exempt small entities from the requirements of this section.” (Sec. 716(h)(2))
Customized Equipment or Services Exemption	None	“The provisions of this section shall not apply to customized equipment or services that are not offered directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.” (Sec. 716(i))
Rule of Construction	None	“This section shall not be construed to require a manufacturer of equipment used for advanced communications or a provider of advanced communications services to make every feature and function of every device or service accessible for every disability.” (Sec. 717(j))

**Comparison of CVAA Advanced Communications Services Provisions:  
H.R. 3101 (as introduced) to Pub. L. 111-260 (as enacted)  
Consumer Electronics Association  
CG Docket Nos. 10-213, 10-145; WT Docket No. 96-168  
September 1, 2011**

Subject <sup>1</sup>	H.R. 3101 (as introduced)	Pub. L. 111-260 (as enacted)
Sections 717, 718 of the Communications Act and Section 106 of CVAA		
Remedies	“CEASE AND DESIST ORDERS.—If the Commission’s investigation . . . determines that a manufacturer of equipment or provider of service is engaged in an act prohibited by section 255, 716, 718, or 719, or is failing to perform any act required by section 255, 716, 718, or 719, the Commission shall have the authority to order such manufacturer or provider to cease from violating such section.”	“If the Commission determines that a violation has occurred, the Commission may, in the order issued under this subparagraph or in a subsequent order, direct the manufacturer or service provider to bring the service, or in the case of a manufacturer, the next generation of the equipment or device, into compliance with requirements of those sections within a reasonable time established by the Commission in its order.” (Sec. 717(a)(3)(B)(i))
Reporting and Recordkeeping	Required all manufacturers and providers to submit an annual report that details the steps taken to achieve compliance.	Replaced annual reporting requirement with a recordkeeping obligation and annual certification that the records are being kept. (Sec. 717(a)(5)(A), (B))
Internet Browsers Built into Telephones Used with Public Mobile Services	None	Added, effective 3 years after enactment (See Sec. 718).
Internet Access Service User Interface	“Every provider of Internet access service and every manufacturer of Internet access equipment shall, unless it would result in an undue burden, make user interfaces for such service and equipment accessible to individuals with disabilities, including those interfaces used to initiate, monitor, and control such service.”	None
Advisory Committee	“Emergency Access and Real-Time Text Advisory Committee”	“Emergency Access Advisory Committee” CVAA Sec. 106