



September 27, 2011

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

RE: Notice of *Ex Parte* Meeting
CG Docket No. 10-213; WT Docket No. 96-198; CG Docket No. 10-145

Dear Ms. Dortch:

On Friday, September 23, 2011, the Coalition of Organizations for Accessible Technology (“COAT”), represented by, Jenifer Simpson, Senior Director for Government Affairs, American Association of People with Disabilities (AAPD); Eric Bridges, Director of Advocacy and Governmental Affairs, American Council of the Blind (ACB); Mark Richert, Director of Public Policy, American Foundation for the Blind (AFB); and Andrew Phillips, Policy Attorney, National Association of the Deaf (NAD), met with Commissioner Copsps and Margaret McCarthy, Policy Advisor to Commissioner Copsps to discuss the above referenced matters.

COAT expressed our concerns that the Commission’s possible approach to 21st Century Communications and Video Accessibility Act (CVAA) applicability to certain software products or services may be far too narrow to accord with the letter and spirit of the CVAA. It is possible that the proposed rules for Section 716 of the CVAA will leave certain valuable software products uncovered by the law. We explained that software is expressly covered in Section 716 where it requires the manufacturers “of equipment used for advanced communications services, including end user equipment, network equipment, and software” to ensure that such equipment is accessible to and usable by individuals with disabilities¹ In the language above, “software” is listed as one of three kinds of equipment used for advanced communications services and that this is evident by the comma prior to “and.” Moreover, COAT pointed out that Section 716(a) is written very similarly to Section 255 thus Section 255 should provide guidance in interpreting

¹ 47 U.S.C. § 617(a) Manufacturing.

716(a).² Section 255 uses the term “equipment” similarly to Section 716 and the Commission has interpreted “equipment” under Section 255 to include software.³

Further, COAT explained that if the law is ambiguous, we need to follow the intent and purpose of the law, which is to make advanced communications services (ACS) accessible and we see software as a major part of ACS, especially in the future. For example, h.323 (Miral, Ekiga, SIPCon1, TIPCon1) software VoIP phones are not tied to a service, but are ACS and can connect point-to-point via IP addresses. Also one could use ACS with a third party service that is not designed for ACS (not a service provider) such as an online directory service. And if the rules stay the way currently proposed, then there is an incentive to find ways to provide ACS without a service provider. We already have Diaspora (a Facebook alternative) and Bittorrent (file sharing) which are decentralized peer to peer and establish point-to-point connections. This peer to peer concept could become the model for the communications of the future and vendors will not be covered under the CVAA. We already have point-to-point VoIP, as shown above.

COAT also expressed concerns about the implications of postponing rules defining interoperable video conferencing service. For interoperable video conferencing service, we stressed the need to interpret the rules as a mandate for interoperability or that ACS must be built with the goal of interoperability. However, if such a requirement is not found, then interoperability should be interpreted reasonably and following the intent of the law. Thus the definition of interoperable needs to focus on the ability of two products to communicate with one another via video and not be defined in a way that will leave this part of the law moot or make it easy for the industry to deliberately make its products non-interoperable.

Moreover, COAT addressed the serious problems with the definition of interoperable supported by members of the industry which requires: inter-platform, inter-network, and inter-provider. There are many kinds of platforms for both desktop and mobile. It would not make sense to have a large-scale desktop platform on a mobile device (because of limited screen size, CPU power, and bandwidth), but there are many ways to communicate via conferencing services between these two different platforms. As for network, there are many different kinds of networks such as the Internet and the public switched telephone network. In fact, VRS has been forced to become interoperable, and it

² See 47 U.S.C. § 255(b) Manufacturing. “ A manufacturer of telecommunications equipment or customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.”

³ See Federal Communications Commission, *Guide: Disabled Persons' Telecommunications Access - Section 255*, www.fcc.gov/guides/disabled-persons-telecommunications-access-section-255. “The FCC’s rules cover all hardware and software telephone network equipment and customer premises equipment (CPE).”; See also *In the Matter of Implementation of Section 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996. Access to Telecommunications Services, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities* (WT Docket No. 96-198), Report and Order and Further Notice of Inquiry, FCC 99-181 (rel. Sept. 29, 1999)(“R&O”) at paragraphs 81 – 88. Explaining that software is covered by the definitions for “telecommunications equipment” and “customer premises equipment,” including stand-alone software.

would seem that this definition of inter-network would apply here as well since it only runs on the Internet.

Further, with the inter-provider requirement, does this mean the same product carried by providers? Most providers customize their products to differentiate so that no products work across providers. There probably is no video conferencing system today that fits this restrictive system, including different video conferencing systems that can communicate with each other like VRS.

Moreover, COAT expressed disappointment with the possibility of setting the phase-in period for complaints at two years. We explained that this is too long a wait for accessible technology. Further, concerns were raised about the possibility of a 2-year term being extended in the future. COAT also shared concerns about “nominal costs” being defined in a way that would leave many products uncovered as well the need for rigid waiver process that is only for products currently being developed and that are not currently on the market. There also should be consideration for how a product evolves and coverage of products where ACS can be used separately. COAT also shared concerns about defining the small business entity.

Respectfully submitted,

A handwritten signature in blue ink that reads "Andrew S. Phillips".

Andrew S. Phillips, Esq.
Policy Attorney
National Association of the Deaf

cc: Margaret McCarthy, Commissioner Copps' Office