



September 28, 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); Andrew Phillips, Policy Attorney, National Association of the Deaf (NAD); and Christian Vogler, Ph.D, Co-Principal Investigator, RERC on Telecommunication Access, Director, Technology Access Program, Gallaudet University, met with Chairman Genachowski; Amy Levine, Special Counsel & Legal Advisor to Chairman Genachowski; Rick Kaplan, Chief, Wireless Telecommunications Bureau (WTB); Jane Jackson, Associate Bureau Chief, WTB; Elizabeth Lyle, WTB; Karen Peltz Strauss, Deputy Chief, Consumer & Governmental Affairs Bureau (CGB) to discuss the above referenced matters.

We 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 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(a) 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 disabilities.¹ 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, we pointed out that Section 716(a) is written very similarly to Section 255, and thus Section 255 should provide guidance in interpreting 716(a).² Section 255 uses the term “equipment” similarly to Section 716(a) and the Commission has interpreted “equipment” under Section 255 to include software.³

Further, we explained that if the law was viewed somehow to be ambiguous, then we need to look to the intent and purpose of the law. And in this case, the law’s intent and purpose is to make advanced communications services (ACS) accessible. Software is a major part of ACS, especially in the future as technology evolves primarily through software rather than hardware. For example, H.323 (Mirial, Ekiga, SIPCon1, TIPCon1) software VoIP phones are not tied to a service, but are ACS and can connect point-to-point via IP addresses. In addition, 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. If the rules were to remain as 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 systems that can establish point-to-point connections. This peer to peer concept could become the model for the communications of the future and such services providers may not be covered under the CVAA if the interpretation is too narrow. We already have point-to-point VoIP, as shown above.

Under Section 716(a) we believe that the wording of 716(a) along with CVAA’s purpose of achieving usability and accessibility for people with disabilities, as well as 716(a)’s similarities to Section 255, provides proof that stand-alone software must be covered under 716(a).

We 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. The definition of interoperable needs to focus on the ability of two products to

¹ 47 U.S.C. § 617(a) Manufacturing.

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.”

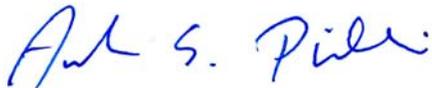
³ See Federal Communications Commission, *Guide: Disabled Persons' Telecommunications Access - Section 255*, www.fcc.gov/guides/disabled-persons-telecommunications-access-section-255. “The FCC’s rules cover all hardware and software telephone network equipment and customer premises equipment (CPE).”; 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.

communicate with one another via video and not be defined in a way that renders this part of the law moot or make it easy to deliberately make products non-interoperable.

Moreover, we addressed the serious problems with a proposed definition of “interoperable”, 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 is already interoperable, and it would seem that this definition of inter-network would apply here as well since it only runs on the Internet.

We also expressed our deep appreciation for the hard work by the Commission and FCC staff on implementing the CVAA to date.

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: Amy Levine, Chairman Genachowski's Office
Rick Kaplan, WTB
Jane Jackson, WTB
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