

September 30, 2011

***Via Electronic Filing***

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

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

Dear Ms. Dortch:

On September 29, 2011, Christopher Guttman-McCabe, Vice President, Regulatory Affairs, and Scott Bergmann, Assistant Vice President, Regulatory Affairs, both of CTIA – The Wireless Association® (“CTIA”), met with Dave Grimaldi, Chief of Staff and Media Legal Advisor; Louis Peraertz, Legal Advisor for Wireless, International, and Public Safety Issues; Alana Intrieri, Legal Intern, and Douglas Svor, Legal Intern; all in the office of Commissioner Mignon Clyburn. Consistent with its prior filings in the above-captioned proceedings,<sup>1</sup> CTIA discussed critical elements for the Commission’s implementation of the CVAA.

CTIA explained that the Commission should implement the Twenty-First Century Communications and Video Accessibility Act (“CVAA”) by providing clarity in the rules, certainty in their application, and the flexibility that will ensure the U.S. wireless industry continues offering the most innovative products and services in the world to all consumers, including persons with disabilities. CTIA confirmed its support for a 24-month phase-in period for implementation of the CVAA rules, and encouraged the Commission to move quickly to adopt compliance guidelines under Section 716(e)(2).<sup>2</sup> The Commission has previously recognized in the context of hearing aid compatibility with wireless handsets that such an implementation period is appropriate, given the typical industry product cycles.<sup>3</sup> While the U.S. wireless industry will continue to deliver world-leading devices that meet the needs of a broad range of consumers, including those with disabilities, it would be contrary to the intent of the statute to subject manufacturers and service providers to a entirely new enforcement regime for services and equipment developed before the Commission articulated a clear set of guidelines for compliance.

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

<sup>2</sup> 47 U.S.C. § 716(e)(2) (“The Commission shall issue prospective guidelines for a manufacturer or provider regarding the requirements of this section.”).

<sup>3</sup> *Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, Policy Statement and Second Report and Order, WT Docket No. 07-250, paras. 49-50 (rel. Aug. 2010) (“We find that, in light of typical industry product cycles, two years is an appropriate period for a company that is not a small entity to introduce a hearing aid-compatible handset.”).

CTIA also reiterated that the goal of the Commission's informal complaint process should be to provide an easy means for consumers to resolve their concerns, and should avoid a litigious process that shifts attention away from the consumer by imposing the burdens of the formal complaint process on the responding entity. As described in its recent filing,<sup>4</sup> CTIA requested that the Commission should adopt rules for the informal complaint process that allow a manufacturer or service provider to answer an informal complaint with one of the provisions available under the CVAA as an affirmative defense. Incorporating specific affirmative defenses into the Commission's rules would better reflect the framework of the statute and would facilitate Commission resolution of informal complaints.

In addition, CTIA urged the Commission to give independent effect in its final rules to Section 716(j) which states that the CVAA "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." CTIA also noted that that Section 2 of the CVAA provides covered entities the certainty that they will not be held responsible for third party entities and asked that the final rules provide greater clarity with respect to Section 2.

CTIA hopes the Commission's rules and procedures adopted under the CVAA continue to encourage the strong collaborative environment that has developed among the wireless industry and consumers to find solutions that further the goal of making wireless products and services accessible to all Americans.

Pursuant to Section 1.1206 of the Commission's rules,<sup>5</sup> this letter is being electronically filed via ECFS with your office and a copy of this submission is being provided electronically to the meeting attendees. Please let the undersigned know if you have any questions regarding this filing.

Sincerely,

*/s/ Scott K. Bergmann*

Scott K. Bergmann  
Assistant Vice President, Regulatory Affairs  
CTIA-The Wireless Association®

cc: Dave Grimaldi  
Louis Peraertz

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<sup>4</sup> Letter from Matthew Gerst, Counsel, External & State Affairs, CTIA to Marlene H. Dortch, FCC, CG Docket Nos. 10-145, 10-213, WT Docket No. 96-198 (filed Sept. 26, 2011).

<sup>5</sup> 47 C.F.R. § 1.1206.