

October 5, 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 October 5, 2011, Christopher Guttman-McCabe, Vice President, Regulatory Affairs, Scott Bergmann, Assistant Vice President, Regulatory Affairs, and Matthew Gerst, Counsel, External & State Affairs, of CTIA – The Wireless Association® (“CTIA”), met with Amy Levine, Special Counsel & Legal Advisor, Office of Chairman Julius Genachowski and Jessica Almond, Special Counsel, Office of Chairman Julius Genachowski. Consistent with its prior filings in the above-captioned proceedings,<sup>1</sup> CTIA discussed critical elements for the Commission’s implementation of the Twenty-First Century Communications and Video Accessibility Act (“CVAA”).

CTIA explained that the Commission should implement the 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. § 617(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 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.

Finally, CTIA emphasized the importance of ensuring certainty to continue the rapid innovation present throughout the wireless ecosystem. Section 716(h)(1) of the CVAA authorizes the Commission to waive the requirements of Section 716 for equipment or services that are not designed with a primary purpose of providing "advanced communications services." In order to provide certainty for innovative equipment and services, CTIA supports an expedited approach that would deem a waiver request granted if the Commission fails to act on such request within six months of filing.

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. These groups do and will work together to find solutions that further the goal of making wireless products and services accessible to all Americans.

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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).

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/ Matthew Gerst*

Matthew Gerst  
Counsel, External & State Affairs  
CTIA-The Wireless Association®

cc: Amy Levine  
Jessica Almond

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<sup>5</sup> 47 C.F.R. § 1.1206.