

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
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)	CG Docket No. 10-213
)	
Amendments to the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996)	WT Docket No. 96-198
)	
In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf- Blind, or Have Low Vision)	CG Docket No. 10-145
)	

REPLY COMMENTS OF CTIA-THE WIRELESS ASSOCIATION®

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REPLY COMMENTS OF CTIA-THE WIRELESS ASSOCIATION®

CTIA-The Wireless Association® (“CTIA”)^{1/} submits these reply comments in response to the Further Notice of Proposed Rulemaking issued by the Federal Communications Commission (“Commission” or “FCC”) seeking additional comment on issues associated with the implementation of the advanced communications provisions of the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA” or the “Act”).^{2/}

^{1/} CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization includes Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, Advanced Wireless Service, 700 MHz, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

^{2/} *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*, CG Docket No. 10-213, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557 (2011) (“*Report & Order*” or “*Further Notice*”).

To promote the development of accessible Advanced Communications Services (“ACS”) as Congress intended, CTIA respectfully recommends that the Commission:

- Adopt CTIA’s proposed “user-centric” definition of “interoperable” video conferencing services, because CTIA’s definition properly balances the interests of all parties to ensure that video conferencing services are not prematurely designated as “interoperable,” that when such services are offered in the market as “interoperable” they will also be accessible, and that consumers, industry, and the Commission will have needed certainty to identify an “interoperable” video conferencing service.
- Heed the calls from a majority of commenters to refrain from expanding the definition of “peripheral devices” to include the unknown, undefined concept of “electronically mediated services.”
- Refrain from asserting ancillary jurisdiction to impose accessibility requirements on non-real time features or functions of interoperable video conferencing services.
- Adopt a permanent, self-executing exemption for small businesses from the requirements of the CVAA, using the well-established Small Business Administration (“SBA”) definitions to identify such entities.

SUMMARY

The initial comments confirm that CTIA’s proposal concerning what video conferencing services should be considered “interoperable” is the best means of ensuring that video conferencing services become accessible as they become interoperable. This approach ensures that persons with disabilities will enjoy the benefits of interoperable video conferencing services simultaneously with all consumers when such services are introduced in the marketplace. The initial comments also demonstrate that the Commission should refrain from imposing accessibility requirements on devices or services that do not yet exist, and that in some cases, have admittedly unknown parameters. By accepting CTIA’s recommendations and the overwhelming consensus of commenters on other issues, CTIA believes the Commission will have fulfilled Congress’ intended vision and instruction to implement the CVAA.

I. CTIA’S PROPOSED DEFINITION FOR “INTEROPERABLE” VIDEO CONFERENCING SERVICES PROVIDES A CLEAR AND DIRECT PATH TOWARDS MEETING THE GOALS OF THE CVAA

The concerns described in initial comments confirm that CTIA’s proposed definition of which video conferencing services should be considered “interoperable” is the best means of ensuring that video conferencing services become accessible to consumers as they become interoperable. Specifically, CTIA suggests that the Commission should take a user-centric approach to defining “interoperable” video conferencing services that considers whether a video conferencing service in fact offers users the opportunity to make video conference calls to other users through a common platform – one that uses a Uniform Resource Identifier (“URI”) such as a telephone number – regardless of the network, device or provider used to initiate or receive the video communication. Neither too broad nor too narrow, CTIA’s definition would provide consumers, industry, and the Commission a clear and definitive understanding of when a video conferencing service is subject to the Commission’s rules as an “interoperable” video conferencing service.

CTIA’s proposed definition avoids concerns about an overly narrow standard. While some commenters raise concerns that an unduly restrictive standard – such as one requiring interoperability with all other providers, networks and platforms – would mean that no video conferencing services would ever be covered by the definition,^{3/} CTIA’s user-centric proposal would consider a service “interoperable” once such service became interoperable on the common

^{3/} See, e.g., Comments of the Rehabilitation Engineering Research Centers on Universal Interface & Information Technology Access (RERC-IT) and Telecommunications Access (RERC-TA), CG Docket No. 10-213 (Feb. 13, 2012) at 4-5 (“IT-RERC Comments”) (“It is virtually impossible for any system to meet all three criteria of being inter-provider, internetwork, and inter-platform; for example, systems that run on the open Internet are not inter-network, and systems that run on the Web platform are not inter-platform. As a result, almost no video conferencing systems available today or planned would conform.”).

platform with *any* other similar service.^{4/} Under this approach, consumers, the Commission and industry would know, clearly and definitively, that a service being offered as part of that platform would be subject to the Commission’s rules.

CTIA’s proposed definition also avoids industry concerns about an overly broad standard. As TIA and others observe, adopting an overly broad definition of “interoperable” would result in a definition that is “so vague and sweeping as to draw in *all* video conferencing services and platforms,” and would “disincentivize investment and innovation to the detriment of all consumers.”^{5/} Indeed, creating a definition that is so broad that it captures services that are not interoperable in any meaningful sense would actually thwart ongoing industry interoperability and accessibility efforts. A broad approach would, in practice, read out of the statute the words “interoperable.” Such an approach also would likely lead to disputes over what services are covered, because neither consumers, nor industry, nor the Commission would have a clear and simple means of identifying which services are interoperable.^{6/} As many commenters observe, diverting industry and Commission time, attention and resources in this manner would hinder, not spur, efforts to create truly accessible services.^{7/}

^{4/} Comments of CTIA-The Wireless Association®, CG Docket No. 10-213 (Feb. 13, 2012) at 5 (“CTIA Comments”).

^{5/} See Comments of the Telecommunications Industry Association, CG Docket No. 10-213 (Feb. 13, 2012), at 15 (“TIA Comments”); see Comments of the National Cable & Telecommunications Association, CG Docket No. 10-213 (Feb. 13, 2012), at 5 (“NCTA Comments”) (“The FCC should adopt a single, limited, future-oriented definition of “interoperable” rather than one so broad as to effectively read the term out of the statute.”).

^{6/} See Comments of Microsoft Corporation, CG Docket No. 10-213 (Feb. 13, 2012), at 7 (“Microsoft Comments”) (“Absent guidance from the Commission, industry will lack certainty on when their services have crossed the threshold to reach interoperability within the meaning of the CVAA.”).

^{7/} See TIA Comments at 6 (“The video conferencing sector of the ICT market is only emerging and the Commission should take care that new regulations put in place do not hinder the potential growth – and the benefits to those the CVAA is intended to most benefit – that would result.”).

Moreover, those advocating an extremely broad definition appear to be driven by the mistaken belief that providers of video conferencing services will seek to avoid creating interoperable services in order to protect the proprietary nature of their service offerings.^{8/} Such concerns are unfounded. As CTIA described in its initial comments, the wireless industry is actively working towards making video conferencing services interoperable to meet the demands of consumers, and seeking to develop the common platform CTIA's proposal envisions.^{9/} In addition to efforts led by CTIA, other parties have indicated that they also consider interoperability a desirable part of any video conferencing service. Microsoft noted that it is an "active participant" in developing interoperability video conferencing service for business enterprise solutions.^{10/} Announcements about the introduction of new video conferencing services are further evidence that interoperability is considered a priority.^{11/} And AT&T Mobility's CEO Ralph de la Vega recently called for video conferencing services to become interoperable in order to "keep fueling" the growth cycle for the entire mobile industry.^{12/} All of these efforts demonstrate the strong industry interest in developing interoperable video conferencing services.

^{8/} See IT-RERC Comments at 5 (asserting that "[c]ompanies are not trying to create an interoperable system because they want to make systems that do not interoperate, and thus gain control over a part of the market").

^{9/} See CTIA Comments at 10-11.

^{10/} Microsoft Comments at 8.

^{11/} See *Ericsson and Polycom Announce Standards-Based, HD Visual Communications Solution*, REUTERS (Feb. 27, 2012); <http://www.reuters.com/article/2012/02/27/idUS82227+27-Feb-2012+HUG20120227> (announcing the launch of a video conferencing service for business users); see also *Microsoft Will Release Skype Application for Windows Phones*, BUSINESSWEEK.COM (reporting that "Microsoft Corp. will release a Skype video-calling application for its Windows Phone marketplace, aiming to use last year's \$8.5 billion acquisition of Skype Technologies SA to boost the popularity of its mobile software.") (Feb. 27, 2012), <http://www.businessweek.com/news/2012-02-27/microsoft-will-release-skype-application-for-windows-phones.html>.

^{12/} *AT&T Boss Calls for End to Mobile-Video Babel*, http://www.lightreading.com/document.asp?doc_id=217971 (Feb. 27, 2012).

In fact, recent history demonstrates that interoperability frequently follows the emergence of a popular service. The fact that no video conferencing services are yet “interoperable” is not surprising, given the nascency of the marketplace, nor does it suggest that industry is resistant to the idea of interoperability. For example, when SMS text messaging service first emerged, it was not interoperable. Yet regulatory restraint, coupled with industry leadership, allowed the service to grow and providers to develop the technology to make those services interoperable on their own, in response to consumer demand and interest.^{13/} Similarly, allowing interoperability to develop naturally here is the best path towards a healthy, viable video conferencing market that will ultimately benefit persons with disabilities.

In contrast, suggestions that regulation is a necessary – or even an effective – means for motivating industry’s technological progress towards interoperability^{14/} are misguided. As the experience with the Commission’s E-911 location accuracy rules has shown, attempting to force specific solutions on wireless carriers prematurely did not necessarily result in quicker technological progress.^{15/} Imposing regulatory requirements prior to the development of a

^{13/} See *Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, WT Docket No. 04-111, Ninth Report, 19 FCC Rcd 20597, ¶ 157 (2004).

^{14/} See IT-RERC Comments at 5-6.

^{15/} See, e.g., Reply Comments of CTIA-The Wireless Association®, PS Docket No. 11-153, PS Docket No. 10-255 (Feb. 9, 2012) at 7-9 (“...if the Commission attempts to force through a short-term text-to-911 mechanism without regard to the needs and capabilities of the wireless industry and Public Safety, it likely will face numerous challenges both before the Commission and in the courts, ultimately delaying action on NG911. The Commission is well aware that taking this sort of action will only delay the benefits of NG911 to the public and provide uncertainty to Public Safety and the wireless industry. Past attempts by the Commission concerning E9-1-1 regulation provide a clear basis for this concern by CTIA and its member companies.”); see also Commissioner Jonathan S. Adelstein Responds to Public Safety Bureau Stay Order, News Release (Mar. 12, 2008), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280787A1.pdf (In 2007, then-Commissioner Adelstein noted concern with the Commission’s adoption of PSAP-level location accuracy requirements and interim benchmarks by stating that “the majority’s insistence on plowing forward with compliance benchmarks without a full record, rather than conducting this proceeding in a more thoughtful and deliberate manner, does not truly advance E9-1-1.”).

service may actually thwart policy goals. Similarly, premature regulation of video conferencing services resulting from an unnecessarily expansive definition of the term “interoperability” would not lead to a better result here.

II. THE COMMISSION SHOULD NOT IMPOSE REGULATORY BURDENS ON DEVICES OR SERVICES THAT DO NOT YET EXIST

The Commission should reject any recommendations that it impose accessibility requirements on broad categories of devices or services that are not specified in the Act and that in some cases, have admittedly unknown parameters. Specifically, the Commission should refrain from expanding the definition of peripheral services to include “electronically mediated services” and should refrain from asserting ancillary jurisdiction to regulate the non-real time functions or features of interoperable video conferencing service.

A. The Commission Should Not Expand The Definition Of Peripheral Devices To Include Electronically Mediated Services.

The Commission should not – indeed, cannot, on this record – expand the definition of “peripheral devices” to include “electronically mediated services.” There is widespread agreement among commenters – as well as the Commission – that the term “electronically mediated services” is undefined.^{16/} Despite the Commission’s invitation in the *Further Notice* to those suggesting the expansion to clarify what is meant by this term,^{17/} no definition or explanation has been proposed. To the contrary, those insisting that “electronically mediated services” should be included in the definition of “peripheral devices” acknowledge that they are equally uncertain about the definition of such a term and therefore the potential implications of

^{16/} See, e.g., Microsoft Comments at 10 (“We urge the Commission not to adopt the proposal because “electronically mediated services” does not have a well-established meaning. It is not a widely-used term in industry or in common parlance. Nor does the phrase have an established legal definition.”).

^{17/} *Further Notice* ¶ 309.

such a decision.^{18/} Other commenters concur that expanding the definition to include “electronically mediated services” would create unnecessary confusion and uncertainty as to what is covered by the term and subject to obligations.^{19/}

Moreover, as many observe, the common understanding of “device” cannot reasonably be interpreted to include a “service.”^{20/} As CEA noted, “section 716 and the *ACS Order* make clear the distinction between equipment and services, making the inclusion of ‘electronically mediated *services*’ within the definition of “peripheral *devices*” inappropriate.”^{21/} Moreover, a “service” is commonly understood as “a thing made for a particular purpose,” a definition that cannot be construed to include a “service.”^{22/}

Failing to offer a meaningful definition of “electronically mediated service” is fatal to its inclusion in the definition of “peripheral devices.” The Commission cannot regulate without

^{18/} See Consumer Groups comments at 11-12 (arguing that “electronically mediated services” should be included in the definition of “peripheral devices” while acknowledging that “a specific definition for ‘electronically mediated services’ has yet to be proposed”).

^{19/} NCTA Comments at 7-8 (“Expanding the definition of “peripheral devices” for purposes of section 716, but not section 255, would only create confusion – particularly since the proposed expansion would consist of a term (“electronically mediated services”) that itself has no clear meaning.”); CEA Comments at 19 (modifying the “definition of peripheral devices to include ‘electronically mediated services’ would only create uncertainty and confusion regarding the extent of a manufacturer’s or service provider’s compatibility obligations.”).

^{20/} See NCTA Comments at 7-8 (“it is far from obvious that a “device” (peripheral or otherwise) can be reasonably construed to include a “service.” Expanding the definition of “peripheral devices” to include a vague and ill-fitting category such as “electronically mediated services” would serve no useful purpose and would be inconsistent with the CVAA’s legislative intent.”); see also CEA Comments at 18 (“The Commission should not amend the definition of ‘peripheral devices’ to include ‘electronically mediated services.’ On its face, the phrase ‘electronically mediated services’ refers to services rather than equipment.”).

^{21/} CEA Comments at 18.

^{22/} See definition of “device” at Dictionary.com <http://dictionary.reference.com/browse/device> (last accessed March 7, 2012); see also the definition of “device” at <http://www.merriam-webster.com/dictionary/device> (last accessed March 7, 2012) (“a piece of equipment or a mechanism designed to serve a special purpose or perform a special function”).

identifying the proposed regulation in a manner that allows for meaningful comment.^{23/}

Adopting a rule in the face of admitted uncertainty as to what is proposed is not reasoned decision-making.^{24/} The Commission should decline to adopt such a factually and legally flawed proposal.

B. The Commission Lacks Authority To Regulate The Non-Real Time Features Or Functions Of Interoperable Video Conferencing Services.

CTIA and others demonstrated in their initial comments that the Commission may not use ancillary authority to evade Congressionally-established limits on its authority.^{25/} Even if

^{23/} See 5 U.S.C. § 553(b)(3) (requiring federal agencies to publish “either the terms or substance of the proposed rule or a description of the subjects and issues involved.”); *Prometheus Radio Project v. F.C.C.*, 373 F.3d 372, 451 (3rd Cir. 2004) (rejecting the Commission’s cross-ownership rules because it “adopted a rule with significant elements that were not previously noticed” and because the Commission orders “did not contain enough information about what it was planning to do, or the options it was considering, to provide the public with a meaningful opportunity to comment”); *Reeder v. Federal Communications Com’n.*, 865 F.2d 1298, 1304 (D.C. Cir. 1989) (finding that the FCC failed to provide an “adequate opportunity for comment” when its notice of proposed rulemaking sought comment only on proposed allotments, not on the rules governing the submission of counterproposals (which it adopted)); *Star Wireless, LLC v. F.C.C.*, 522 F.3d 469, 773 (D.C. Cir. 2008) (an agency must provide “adequate notice of the substance of the rule”).

^{24/} See *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (an agency must reach its decision by “examin[ing] the relevant data,” and it must “articulate a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’”) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)); see also *City of Brookings Mun. Tel. Co. v. F.C.C.* 822 F.2d 1153, 1165 (D.C. Cir. 1987) (the court must “be able to discern this connection in the record and the agency decision”); *Fox Television Stations, Inc. v. Federal Communications Com’n.*, 489 F.3d 444, 457 (2nd Cir. 2007) (agency action will be set aside as arbitrary and capricious if the agency fails to provide a reasoned explanation for its decision); *Prometheus Radio Project v. F.C.C.*, 373 F.3d 372, 391 (3rd Cir. 2004) (“we reverse an agency’s decision when it is not supported by substantial evidence”).

^{25/} See NCTA Comments at 6-7 (the “Commission here lacks authority to exercise its ancillary jurisdiction because doing so would be inconsistent with Congress’s express mandate that the video communications subject to section 716 are limited to those that occur in “real-time.” It is well established that the Commission may assert its ancillary authority only where the new rule would not be inconsistent with another provision of the statute. Congress, in delegating authority to the Commission, made clear that the authority extended only to “real-time video communications.” The Commission may not assert its ancillary jurisdiction to circumvent or repeal the “real-time” limitation mandated by Congress.”); CEA Comments at 16 (“Assertion of the Commission’s ancillary authority to bring video mail or other non-real time services within the ambit of the CVAA is inappropriate where Congress so clearly and specifically defined and limited the scope of services to be covered.”); see also *id.* at 15-16 (noting that the “courts have narrowly circumscribed the Commission’s exercise of ancillary jurisdiction in recent years.”);

this conclusive barrier to its authority did not exist, however, the FCC would still not be able to properly assert ancillary jurisdiction. Even when a statute is silent on the issue of authority over a particular service or device – which is not the case here – ancillary jurisdiction is appropriate only when the goal of the law cannot be accomplished without extending its coverage.^{26/} That standard cannot be met here.

It is impossible for the Commission to reach a reasoned conclusion that it cannot make interoperable video conferencing service accessible without regulating its non-real-time features and functions in any reasoned fashion when neither the service nor any add-on features or functions of such service has emerged in the marketplace. Without knowing the nature of the service or functions at issue, it is impossible to conclude whether ancillary jurisdiction might be appropriate. Indeed, the only information offered at this point – by the providers who are the entities seeking to develop and deploy the service and therefore in the best position to know how it will operate – is that such add-on features may not be essential to the service.^{27/} Comments advocating for such regulation – made in blanket fashion without regard for the applicable legal standard^{28/} – should therefore be rejected.

Comments of the Voice on the Net Coalition, CG Docket No. 10-213 (Feb. 13, 2012), at 6 (“VON Coalition Comments”) (“[B]ecause video mail is an incidental feature of video conferencing services, the Commission should not exercise its ancillary jurisdiction to require accessibility.”).

^{26/} See CTIA Comments at 14.

^{27/} VON Coalition Comments at 6 (“video mail is merely a supplemental function to real-time video communications, not necessary to achieve full accessibility and usability of video conferencing services.”).

^{28/} See, e.g., Consumer Groups comments at 10-11 (calling for regulation over “any other services and features available to the general public” without advancing an interpretation of how regulation of such services are ancillary to the Commission’s jurisdiction pursuant to the CVAA).

III. THE COMMISSION SHOULD MAKE THE SMALL BUSINESS EXEMPTION PERMANENT AND USE THE SBA DEFINITION OF SMALL BUSINESS

The Commission’s rationale supporting its decision to temporarily exempt small entities, such as service providers, manufacturers or application developers, from the CVAA’s accessibility requirements supports adopting the exemption on a permanent, self-executing basis. Nothing in the record warrants a different conclusion. Moreover, concerns raised about the SBA definition of small entity are unfounded.

As the Commission recognized in the *Order*, relief from accessibility obligations is “necessary for small entities” because they “may lack the legal, technical, or financial ability to conduct an achievability analysis or comply with the recordkeeping and certification requirements under the[] rules.”^{29/} As many observed, adoption of a permanent small entity exemption will “promote innovation by small manufacturers and service providers and ensure that the application of the ACS rules will not burden small businesses and entrepreneurial organizations that do not have the ‘legal, financial, or technical capability’ to comply with such requirements.”^{30/} Allowing small entities the ability to innovate and operate free of onerous requirements also increases consumer choice by preserving the ability of small businesses to compete with larger entities in the marketplace.

Those commenters advocating against instituting the exemption on a permanent basis argue that the CVAA already provides a process for seeking an exemption for those entities that lack the capability to comply.^{31/} Such assertions, however, directly ignore the Commission’s finding that the achievability analysis – a prerequisite to obtaining any exemption under the

^{29/} *Report & Order* ¶ 22.

^{30/} CEA Comments at 3.

^{31/} Consumer Groups at 4.

CVAA – may itself be too much of a burden for small entities.^{32/} Adopting a waiver process approach, therefore, could leave small entities without any effective avenue for relief.

Moreover, concerns that a permanent exemption for small business would drastically limit the availability of ACS offerings truly lacks any factual basis in the record.^{33/} In fact, as the record clearly demonstrates, the increasing availability of equipment, services and applications that address accessibility issues counsels strongly against such a conclusion.^{34/} Nor is there any evidence that larger entities will attempt to skirt their obligations under the CVAA by using products created by small businesses.^{35/} To the contrary, the record demonstrates that larger entities are already working to develop accessibility elements for their products and services.^{36/}

^{32/} *Report & Order* ¶ 22.

^{33/} IT-RERC Comments at 4 (incorrectly arguing that the permanent exemption could “result in the majority of ACS being inaccessible for people with disabilities”). Likewise, there is no evidence that supports the Consumer Groups suggestion that small entities provide more ACS services than larger entities. *See* Consumer Groups Comments at 5 (“since more and more of the services which disabled people will need to communicate are provided on the Internet or through similar means and require very few employees to function.”).

^{34/} *See, e.g.*, Comments of T-Mobile USA, Inc., CG Docket No. 10-213, at 3-4, n. 9 (April 25, 2011); Comments of AT&T, CG Docket No. 10-213, at 1-2 (April 25, 2011); Comments of Microsoft Corporation, CG Docket No. 10-213, at 2 (April 25, 2011); Comments of Consumer Electronics Association, CG Docket No. 10-213, at 2, n. 6 (April 25, 2011); Comments of Voice on the Net Coalition, CG Docket No. 10-213, at 2 (April 25, 2011); Comments of CTIA-The Wireless Association, CG Docket No. 10-213 at 3-6 (April 25, 2011).

^{35/} IT-RERC Comments at 4 (stating “[j]ust because a company decides to have a small business create something for it, it does not mean that it should be able to skirt its obligations under the CVAA”). To the extent that any entity relies on a small business’ equipment or service to comply with the Commission’s rules, the Commission has stated that an entity has an obligation to ensure the small business’s equipment or service meets the Commission’s requirements for advanced communications services. *Report & Order* ¶ 88 (citing Section 2(b) of the CVAA).

^{36/} *See also* Press Release, *Sprint Launches Code Factory Mobile Accessibility Application for Free to Android Users Who are Blind or Have Low Vision* (Feb. 29, 2012) available at http://newsroom.sprint.com/article_display.cfm?article_id=2194 and Press Release, *Introducing AT&T Mobile Accessibility Lite, Free Application to Enhance Android Experience for People Who are Blind or Have Low Vision* (Oct. 3, 2011) available at <http://www.att.com/gen/press-room?pid=21494&cdvn=news&newsarticleid=32969>.

Finally, concerns that the SBA's definition of small business is not appropriate because it is overbroad^{37/} are unwarranted. The SBA definition has been endorsed and used in a broad spectrum of contexts by the Federal government, including by the Commission itself. Its use here will provide needed certainty to entities, the Commission, and the public about what entities are exempt.^{38/} CTIA urges the Commission to adopt the SBA's definition of small business for the purposes of determining the eligibility of the small entity exemption.

CONCLUSION

The Commission should revise its proposed rules as discussed herein.

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^{37/} See Consumer Group Comments at 4 (stating it would be “particularly inappropriate policy” to “adopt a screen based on number of employees”).

^{38/} CEA Comments at 3 (“adopting the SBA’s well-established rules and size standards will provide clarity and certainty in applying the exemption.”).