

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20054**

In the Matter of )  
 )  
Media Bureau and Consumer and ) MB Docket No. 12-108  
Governmental Affairs Bureau Seek )  
Comment on Second VPAAC Report: )  
User Interfaces, and Video Programming )  
Guides and Menus )

**COMMENTS OF THE  
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (“NCTA”)<sup>1</sup> submits these comments in response to the Public Notice issued by the Media Bureau and Consumer and Governmental Affairs Bureau (“Bureaus”).<sup>2</sup> The Notice seeks input on the Second Report of the Video Programming Accessibility Advisory Committee (“VPAAC”) on the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”) about user interfaces, video programming guides, and menus and how that Report should inform its upcoming Notice of Proposed Rulemaking to implement Sections 204 and 205 of the CVAA.<sup>3</sup> Set-top boxes,

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<sup>1</sup> NCTA is the principal trade association for the U.S. cable industry, representing cable operators serving more than 90 percent of the nation’s cable television households and more than 200 cable program networks. The cable industry is the nation’s largest provider of broadband service after investing over \$185 billion since 1996 to build two-way interactive networks with fiber optic technology. Cable companies also provide state-of-the-art competitive voice service to more than 23 million customers.

<sup>2</sup> Public Notice, *Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: User Interfaces, and Video Programming Guides and Menus*, DA 12-635 (re. Apr. 24, 2012) (“Notice”).

<sup>3</sup> Notice at 1.

which are a type of “navigation device”<sup>4</sup> used by cable customers, are subject only to Section 205 of the CVAA, and are expressly carved out from Section 204’s requirements.<sup>5</sup>

NCTA actively participated in Working Group 4, which discussed issues relating to user interfaces and audible guides and menus. These discussions formed the basis of the VPAAC Second Report, which provides valuable insight into “essential functions” of apparatus designed to access video programming, challenges that users with visual or auditory disabilities face in accessing and utilizing these functions, and functional requirements that such apparatus should meet to address these challenges.<sup>6</sup> The VPAAC Second Report will be a tremendous tool to manufacturers and cable operators as they roll out new, accessible products and services. It provides useful guidelines to the cable industry in addressing these issues.

However, the VPAAC’s charge and the FCC’s task in its Section 205 rulemaking proceeding are not identical.<sup>7</sup> Section 205 of the CVAA addresses two discrete issues: (1) if achievable, audible accessibility of text menus and guides provided by navigation devices for the display or selection of multichannel video programming and menus, and (2) access to built-in

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<sup>4</sup> Section 76.1200 defines “navigation device” to mean “devices such as converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems.”

<sup>5</sup> Twenty-First Century Communications and Video Accessibility Act of 2010, § 204(a), 47 U.S.C. § 303(aa)(4) (“in applying this subsection the term ‘apparatus’ does not include a navigation device, as such term is defined in section 76.1200 of the Commission’s rules...”).

<sup>6</sup> Second Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010 (Apr. 9, 2012) available at <http://vpaac.wikispaces.com/> (“VPAAC Second Report”).

<sup>7</sup> Compare Twenty-First Century Communications and Video Accessibility Act of 2010 § 201(g), 47 U.S.C. § 613(g) (“With respect to video programming guides and menus, a recommendation for the standards, protocols, and procedures used to enable video programming information and selection provided by means of a navigation device, guide, or menu to be accessible in real-time by individuals who are blind or visually impaired”) with Twenty-First Century Communications and Video Accessibility Act of 2010, § 205(a), 47 U.S.C. § 303(bb)(1) (“if achievable ... that the on-screen text menus and guides provided by navigation devices ... for the display and selection of multichannel video programming are audibly accessible in real-time upon request by individuals who are blind or visually impaired, *except that the Commission may not specify the technical standards, protocols, procedures, and other technical requirements for meeting this requirement.*”) (emphasis supplied).

closed captioning features on “navigation devices.” In both respects, Congress granted cable operators “maximum flexibility” to determine the manner of compliance with these obligations.<sup>8</sup>

As to the former, the CVAA expressly precludes the Commission from establishing technical standards, protocols, procedures or any other technical standard for meeting this requirement.<sup>9</sup> The CVAA also provides operators with a variety of options for satisfying this requirement for those blind or visually impaired customers who request such a feature or function. It does not mandate that navigation devices have built-in features for accessing audible program guides and text menus for the blind or visually impaired. Instead, if a blind or visually-impaired cable customer requests a device that provides audible accessibility, cable operators must provide it free of charge but it need not be in the form of a set-top box or similar “navigation device.” Operators can opt to make available software, a peripheral device, equipment, service or other solution that provides audible access.

As to closed captioning features, the VPAAC Second Report listed as an “Open Issue” the meaning of the requirement for providing access to built-in closed captioning features in a navigation device through a mechanism that is “reasonably comparable to a button, key, or icon designated for activating the closed captioning, or accessibility features....”<sup>10</sup> The plain language shows that Congress did not require cable operators and other MVPDs to include closed captioning buttons on their remote controls. Rather, the CVAA speaks to accessing this

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<sup>8</sup> Twenty-First Century Communications and Video Accessibility Act of 2010 §§ 205 (b)(4)(A) and (b)(5), 47 U.S.C. § 303(b)(4)(A) and (b)(5).

<sup>9</sup> Twenty-First Century Communications and Video Accessibility Act of 2010 § 205(a), 47 U.S.C. § 303(bb)(1).

<sup>10</sup> *VPAAC Second Report*, Appendix A (Open Issues). In contrast to Section 204, which applies to both closed captioning and video description capabilities, Section 205 only applies to access to the former. Thus, to the extent the VPAAC Report proposes certain requirements for access to video description (*see* VPAAC Report Section VIII, Recommendation 1, regarding tactile and/or visual markings to identify input control mechanisms for particular essential functions), those recommendations would not be applicable to cable operator-supplied navigation devices.

feature through means “reasonably comparable” to a button, key or icon, and grants operators “maximum flexibility” to comply with the user control provisions of Section 205.<sup>11</sup> For these reasons, cable operators are not required by the CVAA to provide dedicated physical buttons on remote controls to access closed captioning. Such a solution may satisfy the statutory requirement, but it is not the only way to do so. Consistent with the rest of the CVAA, this provision gives operators flexibility to implement alternative solutions. The Commission should not propose any captioning button requirement in its upcoming rulemaking.

Respectfully submitted,

**/s/ Rick Chessen**

Andy Scott  
Vice President, Engineering  
Science & Technology

Rick Chessen  
Diane B. Burstein  
National Cable & Telecommunications  
Association  
25 Massachusetts Avenue, N.W. – Suite 100  
Washington, D.C. 20001-1431  
(202) 222-2445

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<sup>11</sup> See also S. Rep. No. 99-101 at 7 (2010) (explaining that “when navigation devices include built-in closed captioning capability, access to such capability be available through a button, key, icon, *or any other reasonably comparable mechanism*”) (emphasis supplied).