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*Via Electronic Filing*

March 15, 2013

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

*Re: Written Ex Parte Submission – MB Docket Nos. 12-107 and 11-154*

Dear Ms. Dortch:

This is to notify you that on March 13, 2013, Julie Kearney, Vice President, Regulatory Affairs, Consumer Electronics Association (“CEA”), accompanied by John Godfrey, Samsung Information Systems America, Inc. (“Samsung”), and CEA outside counsel William Maher of Wilkinson Barker Knauer, LLP (“Wilkinson Barker”), met with Lyle Elder, Legal Advisor, Office of Chairman Genachowski, and, in a separate meeting, with Alex Hoehn-Saric, Policy Director, and Priscilla Delgado Argeris, Legal Advisor, in the Office of Commissioner Rosenworcel. On the same date, Julie Kearney and CEA outside counsel Natalie Roisman of Wilkinson Barker spoke with Matthew Berry, Chief of Staff, Office of Commissioner Pai, and Erin McGrath, Legal Advisor, Media, Office of Commissioner McDowell, separately via telephone. Julie Kearney and Natalie Roisman also spoke via telephone with Dave Grimaldi, Chief of Staff and Media Legal Advisor, Office of Commissioner Clyburn, on March 14, 2013.

In these meetings and telephone calls, CEA generally discussed its positions (summarized in the attachment) regarding the pending notice of proposed rulemaking on emergency information and video description rules in MB Docket No. 12-107 (the “Notice”).<sup>1</sup> In particular, CEA made the following points:

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<sup>1</sup> *Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Notice of Proposed Rulemaking, 27 FCC Rcd 14728 (2012); *see also*

- As a general matter, a Further Notice of Proposed Rulemaking (“*FNPRM*”) in MB Docket No. 12-107 should not be necessary because Section 203 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (“*CVAA*”)<sup>2</sup> plainly limits the new apparatus rules for emergency information and video description to a narrow class of apparatus – devices that make available the type of programming that is subject to the Commission’s existing emergency information and video description rules.<sup>3</sup> If the Commission deems it necessary to issue an *FNPRM* in this proceeding, it should avoid tentative conclusions and explain fully the legal theories on which it bases its questions.
- To the extent that devices interact with video delivered via Internet protocol, they are not covered by the new apparatus rules to be adopted pursuant to the *Notice*,<sup>4</sup> and manufacturers of these devices should not be responsible for video programming applications developed by third parties.
- Stand-alone removable media players should not be covered by the new apparatus rules for emergency information and video description, as CEA explained in detail in its comments and reply comments in this proceeding.<sup>5</sup> Moreover, any such regulation of these players is **unnecessary** because, as CEA explained in an *ex parte* letter<sup>6</sup> dated January 24, 2013, most DVD players already support multiple audio streams. A user with a visual impairment has at least two options on every DVD player for discs based on the DVD Forum A/V formats—cycling through the available audio tracks, or going to the DVD’s setup menu provided by the DVD author and selecting the audio track for those with visual impairments on that menu.
- CEA continues to believe that a two-year phase-in period from the date of Federal Register publication of the new apparatus rules for emergency information and video description is essential.<sup>7</sup>

In addition, because some of the issues raised in the proceeding on emergency information and video description are related to the issues raised in CEA’s pending petition for reconsideration

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CEA Comments, MB Docket No. 12-107 (filed Dec. 18, 2012) (“CEA Comments”); CEA Reply Comments, MB Docket No. 12-107 (filed Jan. 7, 2013) (“CEA Reply Comments”).

<sup>2</sup> Pub. L. No. 111-260, § 203, 124 Stat. 2751 (2010) (as codified at 47 U.S.C. § 303), *amended by* Pub. L. 111-265, 124 Stat. 2795 (2010).

<sup>3</sup> See CEA Comments at 4–10; *see also* CEA Reply Comments at 3–5.

<sup>4</sup> See CEA Comments at 5–6; CEA Reply Comments at 3.

<sup>5</sup> See CEA Comments at 8–10; CEA Reply Comments at 5.

<sup>6</sup> See Letter from Julie M. Kearney, Vice President, Regulatory Affairs, CEA, to Marlene H. Dortch, Secretary, FCC, MB Docket Nos. 12-107 and 11-154, at 2 (filed Jan. 24, 2013).

<sup>7</sup> See CEA Comments at 13; CEA Reply Comments at 7–8.

(“CEA PFR”) of the Commission’s IP captioning rules in MB Docket No. 11-154,<sup>8</sup> CEA urged the Commission to grant the CEA PFR promptly.

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Pursuant to Section 1.1206 of the Commission’s rules,<sup>9</sup> this letter is being electronically filed with your office and a copy of this submission is being provided to the Commission staff in attendance at the meetings. Please let the undersigned know if you have any questions regarding this filing.

Respectfully submitted,

/s/ **Julie M. Kearney**

Julie M. Kearney  
Vice President, Regulatory Affairs

Attachment

cc: Lyle Elder  
Erin McGrath  
Dave Grimaldi  
Alex Hoehn-Saric  
Priscilla Delgado Argeris  
Matthew Berry  
Michelle Carey  
Mary Beth Murphy  
Steven Broeckaert  
Diana Sokolow  
Maria Mullarkey  
Jeffrey Neumann  
Karen Peltz Strauss  
Rosaline Crawford  
Eliot Greenwald  
John Herzog

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<sup>8</sup> CEA, Petition for Reconsideration, MB Docket No. 11-154 (filed Apr. 30, 2012); *see Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order, 27 FCC Rcd 787 (2012).

<sup>9</sup> 47 C.F.R. § 1.1206.

**EX PARTE PRESENTATION OF CEA  
ACCESSIBLE EMERGENCY INFORMATION AND VIDEO DESCRIPTION  
MB Docket No. 12-107; MB Docket No. 11-154**

I. INTRODUCTION

- A. CEA is the principal U.S. trade association of the consumer electronics and information technologies industries.
- B. CEA has been deeply involved in CVAA implementation, including as a member of the Video Programming Accessibility Advisory Committee (“VPAAC”).

II. THE CVAA LIMITS THE SCOPE OF THE NEW APPARATUS RULES

- A. CEA supports the Commission’s proposal to limit the scope of the apparatus requirements for emergency information and video description to devices that make available the type of programming that is subject to the current rules – devices designed to receive, play back, or record television broadcast services or MVPD services, consistent with CVAA § 203. (Comments at 4; Reply at 3-4)
- B. To the extent that devices interact with IP-delivered video, they are not covered because Congress did not extend the CVAA’s emergency information and video description provisions to IP-delivered video programming. The provisions of Section 303(u) of the Communications Act that address emergency information and video description, which were added by the CVAA, differ in scope from the provision that addresses IP closed captioning (Comments at 4-6; Reply at 3-4)
- C. The Commission should not include “video players” installed by manufacturers as a defining characteristic of “apparatus” covered by CVAA § 203 because the statute limits such apparatus to a subset of video players – those designed to receive or play back “video programming” as defined in the CVAA. (Comments at 6-8; Reply at 4-5)
- D. The apparatus requirements for emergency information and video description should not apply to “removable media players” because such requirements would be based on an unreasonable reading of the CVAA. Moreover, the removable media that the devices play are not required to contain emergency information or video description. Finally, as the *Notice* recognizes, emergency information will not be timely at the time of playback. (Comments at 8-9, Reply at 5)

III. THE COMMISSION SHOULD AVOID INFLEXIBLE TECHNICAL RULES

- A. The Commission should not adopt any technical mandates or specific performance standards for covered apparatus. (Comments at 10-11; Reply at 5)

- B. *TTS*: The Commission should not require that covered apparatus include built-in text-to-speech (“TTS”) capability. As recognized by multiple parties, TTS technology currently is not sufficiently reliable for mandatory use in providing emergency information to the blind and visually impaired. Instead of requiring apparatus manufacturers to build in TTS functionality, the Commission should permit manufacturers to develop solutions in collaboration with other industry participants. (Comments at 11; Reply at 5-6)
  - C. *Recording Devices*: New regulations here are not needed because most modern recording devices are already capable of recording both the primary and secondary audio streams, enabling consumers to play back emergency information or video description that was transmitted on the secondary audio stream when viewing the recorded programming at a later time. (Comments at 11; Reply at 6)
  - D. *Secondary Audio Channel*: The VPAAC correctly recommends that best efforts be undertaken to ensure that main channel audio, instead of silence, is carried on secondary channels when those channels are not carrying other audio. (Comments at 11-12)
- IV. THE COMPLIANCE DEADLINE FOR THE APPARATUS REQUIREMENTS FOR EMERGENCY INFORMATION AND VIDEO DESCRIPTION SHOULD APPLY TO DEVICES BASED ON THE DATE OF MANUFACTURE
- A. There is ample precedent for this common-sense interpretation, which will not harm consumers. (Comments at 12-13)
  - B. Contrary to TDI et al., the compliance deadline should not be based on the date of sale, and no new labeling requirements should be imposed.
- V. AN INITIAL PHASE-IN PERIOD OF TWO YEARS IS NEEDED TO IMPLEMENT THE APPARATUS REQUIREMENTS FOR EMERGENCY INFORMATION AND VIDEO DESCRIPTION
- A. The phase-in period should be 24 months from the date of Federal Register publication of the new rules. (Comments at 13; Reply at 7-8)
- VI. THE COMMISSION SHOULD REFRAIN FROM ADDRESSING THE THREE ISSUES PERTAINING TO EQUIPMENT FEATURES THAT AROSE IN THE 2011 VIDEO DESCRIPTION PROCEEDING
- A. It is unnecessary to address the issues raised in the *Notice* re signaling, the receiver-mix proposal, and multiple ancillary audio services.
  - B. Rather, the Commission should focus on the tasks that it must complete by the apparatus deadline of October 9, 2013. (Comments at 14-15; Reply at 7)