



National Cable & Telecommunications Association
25 Massachusetts Avenue, NW – Suite 100
Washington, DC 20001
(202) 222-2300

www.ncta.com

Diane B. Burstein
Vice President and Deputy General Counsel

(202) 222-2445
(202) 222-2446 Fax

July 26, 2013

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: In re Accessibility of User Interfaces, and Video Programming Guides and Menus, MB Docket No. 12-108

Dear Ms. Dortch:

On July 24, 2013, Andy Scott, Vice President, Engineering; Stephanie Poday, Associate General Counsel; and I, of the National Cable & Telecommunications Association (“NCTA”), met with Eliot Greenwald and Karen Peltz Strauss of the Consumer & Governmental Affairs Bureau; Susan Aaron of the Office of General Counsel; and Evan Baranoff, Michelle Carey, Adam Copeland, Maria Mullarkey, Brendan Murray, Alison Neplokh, Jeffrey Neumann, and Raelynn Remy of the Media Bureau, regarding the Commission’s implementation of Sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”).

At the meeting, we reiterated points discussed in NCTA’s comments in the above-captioned proceeding. NCTA explained that cable-operator supplied on-screen text menus and guides provided by “navigation devices” are subject to Section 205 of the CVAA.¹ We also discussed why cable operator-developed “apps” are *not* equipment, apparatus, or “navigation devices” subject to the rules.²

We emphasized that Congress provided operators significant leeway in developing an accessible solution for on-screen text menus and guides.³ For example, the CVAA provides that the Commission “may not specify technical standards, protocols, procedures, and other technical requirements.”⁴ In addition, the CVAA permits operators to make available software, a

¹ See 47 U.S.C. § 303(bb)(1); *see also* 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...”).

² See NCTA Comments at 8-10.

³ See CVAA § 205(b)(4) & (b)(5).

⁴ 47 U.S.C. § 303(bb)(1) (as amended by CVAA § 205(a)).

Ms. Marlene H. Dortch

July 26, 2013

Page 2

peripheral device, equipment, service, or other solution that provides audible access.⁵ We discussed why the Commission should not dictate rigid requirements for on-screen text menus and guides.⁶

As to the closed captioning features, we explained that Congress did not require cable operators to include closed captioning buttons on their remote controls or access in a “single step.”⁷ Rather, the CVAA speaks to accessing this feature through means “reasonably comparable” to a button, key, or icon. We discussed how the CVAA grants operators “maximum flexibility” to comply with the user control provisions of Section 205, and does not mandate that access be provided in any particular manner.⁸

Finally, we explained that small cable systems should be exempt from the requirements of Section 205, and that the Commission should provide a longer phase-in for smaller cable operators.⁹

Respectfully submitted,

/s/ Diane B. Burstein

Diane B. Burstein

cc: Eliot Greenwald
Karen Peltz Strauss
Susan Aaron
Evan Baranoff
Michelle Carey
Adam Copeland
Maria Mullarkey
Brendan Murray
Alison Neplokh
Jeffrey Neumann
Raelynn Remy

⁵ CVAA § 205(b)(4).

⁶ See NCTA Comments at 3-4.

⁷ See NCTA Comments at 13-15.

⁸ CVAA § 205(b)(5).

⁹ See NCTA Comments at 17-19.