



VIA ECFS

August 2, 2013

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington D.C. 20554

Re: Accessibility of user Interfaces, and Video Programming Guides and Menus [MB Docket No. 12-108]

Dear Ms. Dortch:

Enclosed for filing in the above referenced Notice of Proposed Rulemaking are reply comments of the Rehabilitation Engineering Research Center for Wireless Technologies (Wireless RERC).

Should you have any questions concerning this filing, please do not hesitate to contact me via email at helena.mitchell@cacp.gatech.edu.

Respectfully submitted,



Helena Mitchell
Principal Investigator, Wireless RERC
Center for Advanced Communications Policy
Georgia Institute of Technology

Enclosure

In the Matter of)	
)	
Accessibility of User Interfaces, and Video)	MB Docket No. 12-108
Programming Guides and Menus)	

REPLY COMMENTS

INTRODUCTION

The Rehabilitation Engineering Research Center for Wireless Technologies (Wireless RERC) hereby submits reply comments in the above-referenced Notice of Proposed Rulemaking, released on May 30, 2013. The Wireless RERC¹ mission is to research, evaluate and develop innovative wireless technologies and products that meet the needs, enhance independence and improve the quality of life and community participation of people with disabilities. As such, we commend the FCC's efforts to promulgate rules to guide the implementation of provisions of the *Twenty First Century Communications and Video Accessibility Act of 2010 (CVAA)*. Specifically, in this rulemaking, rules aimed at ensuring people with disabilities have parity of access to video programming now and in the future.

With the advent of the "second screen" and mobile apps integration into the television viewing experience, it is imperative that rules are designed to cover the array of equipment, devices, software and features of all that constitute the video programming environment. Indeed, "a changing technological environment can dramatically alter the functional impact of any given disability²," for better or for worse. In reviewing comments to the NPRM, several entities made important arguments that the Wireless RERC would like to reiterate in these reply comments. To ensure that technological developments and the regulatory frameworks in which they operate serve as facilitators that diminish access disparities we recommend (1) that the eleven functions

¹ The Rehabilitation Engineering Research Center for Wireless Technologies (Wireless RERC) is sponsored by the National Institute on Disability and Rehabilitation Research (NIDRR) of the U.S. Department of Education under grant number H133E110002. The opinions contained in this filing are those of the authors and do not necessarily reflect those of the U.S. Department of Education or NIDRR.

² Wise, Paul H. "Emerging Technologies And Their Impact On Disability." *Future Of Children* 22.1 (2012): 169-191. Academic Search Complete. Web. 6 May 2013.

outlined in the *VPAAC Second Report on User Interfaces* should not be relied upon as a safe harbor for Section 205 compliance (as suggested by AT&T³). Using it as such would exclude features not listed, such as the controls for special programming (e.g. video on demand and Blockbuster at Home), search and digital video recording functions (pause, fast forward, rewind, stop, play and record). (2) Rules include language that clarifies the “interrelation between digital apparatus as covered under Section 204 and navigation devices as covered under Section 205.”⁴ (3) In order to streamline the activation of closed captioning, video description, other accessibility features and the configuration of all, a **minimal step accessibility button, key and/or icon** should be included on navigation devices and integrated in onscreen software; a single step to open accessibility features menu and secondary selection to turn the feature on or off.

A.1 SCOPE OF SECTIONS 204 AND 205 - CATEGORIES OF DEVICES COVERED UNDER SECTIONS 204 AND 205

Reply to comments filed by AT&T and American Council of the Blind (ACB)

AT&T asserts that “Sections 204 and 205 of the CVAA are designed to work in tandem.”⁵ The Wireless RERC agrees. Digital apparatus in most cases are superordinate to navigation devices. However, it should be made clear in the rules that on some occasions, the navigation device may take the form of software installed on a mobile platform (phone or tablet), and the mobile device itself may also be the apparatus used to view video programming. In such a case, the digital apparatus used to view and navigate is perceived by the user as one in the same. The same scenario holds true for viewing programming on a desktop computer.

We posit that ownership of a mobile phone, tablet and/or desktop computer by most individuals was not predicated on the need to view digital programming. As video programming services entered the market for those devices via apps and the Internet, people migrated towards their use as an alternative to using traditional broadcast services. Likewise, mobile apps are downloaded to replace or enhance the features of traditional remote controls (i.e., navigation devices). So the scope of Sections 204 and

³ Comments of AT&RT in Docket No. 12-108, p. 11.

⁴ Comments of American Council of the Blind in Docket No. 12.-108, p. 4.

⁵ Comments of AT&T in Docket No. 12.108, p. 4.

205 should explicitly include mobile technologies (devices and software) as both digital apparatus and navigation devices, and as AT&T contends, coverage should not be limited to MVPD-supplied equipment.⁶ Similarly, ACB commented that “...the ultimate responsibility for the accessibility of the hardware and the software falls on manufacturers and software developers, [but] ACB finds no reason to disconnect MVPDs for [*sic*] their responsibility to ensure that all devices they provide are fully accessible.”⁷ Further, the Wireless RERC agrees with the ACB’s recommendations to include language that clarifies the “interrelation between digital apparatus as covered under Section 204 and navigation devices as covered under Section 205.”⁸

B.1 FUNCTIONS THAT MUST BE MADE ACCESSIBLE, FUNCTIONS REQUIRED BY SECTION 204

Reply to comments filed by ACB and AT&T

ACB disagrees with the FCC’s conclusion that debugging and diagnostic functions be excluded from coverage under Section 204.⁹ We also disagree for the same reasons provided by ACB. Namely, debugging and diagnostic features should be required to be accessible because oftentimes technical assistance is administered remotely in the form of step-by-step instructions delivered over the telephone. This practicality is an initial step in determining the extent of damage or malfunction to the user’s system and further deciding if a technician must travel to the user’s home to fix the problem. Depending on the nature of the problem, a visit by a technician will incur a fee to be charged to the user’s account. If the debugging and diagnostic features are not made accessible so that people with vision loss can navigate them on behalf of technicians then they will incur additional charges to have a technician in their home that their non-disabled counterparts would not be subject to. Therefore, to ensure parity across the continuum of the viewing experience, from program selection to malfunction remediation, it is essential that *all available* functions be made accessible and that no determination is made on what is considered essential, as that is subject to change based on the individual and/or the situation.

⁶ Comments of AT&T in Docket No. 12.108, p. 5.

⁷ Comments of American Council of the Blind in Docket Ni. 12.-108, p. 3.

⁸ *Ibid*, p. 4.

⁹ Comments of American Council of the Blind in Docket Ni. 12.-108, p. 9.

That is not to say that there are not standard functions used to view video programming. It would be useful to include a list of standard functions to be made accessible as a starting point for manufacturers and developers, but the eleven functions outlined in the *VPAAC Second Report on User Interfaces* should not be relied upon as a safe harbor for Section 205 compliance (as suggested by AT&T¹⁰). Using it as such would exclude features not listed, such as the controls for special programming (e.g. video on demand and Blockbuster at Home), search and digital video recording functions (pause, fast forward, rewind, stop, play and record).

C.1 ACTIVATING ACCESSIBILITY FEATURES (COMPARABLE TO A BUTTON, KEY, OR ICON), ACTIVATING CLOSED CAPTIONING AND VIDEO DESCRIPTION FEATURES

Reply to comments filed by the Consumer Groups and Telecom-RERC and AT&T

“AT&T is concerned that this single step process could reduce the ability of covered entities to provide simplified access to closed captioning through innovative means...although Section 205 does not address video description on navigation devices, a covered entity may nevertheless seek to deploy an interface mechanism that allows the user to select video description as well as closed captioning...such an interface mechanism may take more than a single step, but it may be the most effective way for the covered entity to simplify access to all accessibility features...¹¹” The Wireless RERC concurs. In order to streamline the activation of closed captioning, video description, other accessibility features and the configuration of all, a **minimal step accessibility button, key and/or icon** should be included on navigation devices and integrated in onscreen software; a single step to open accessibility features menu and secondary selection to turn the feature on or off. An example of how it could work is below:

One access button pulls up accessibility options:

1. CC (closed captioning)
 - a. On/off
 - i. If “on” is selected, configuration options appear.
2. VD (video description)

¹⁰ Comments of AT&RT in Docket No. 12-108, p. 11.

¹¹ Comments of AT&T in Docket No. 12-108, p. 16.

- a. On/off
 - i. If “on” is selected, configuration options appear.

3. Other access features

The essential characteristic is that the accessibility button, key or icon be in a conspicuous place and not buried amongst configuration menus. To that end, the Wireless RERC agrees with some of the language recommend by the Consumer Groups and Telecom-RERC but believe that is should be modified to include all access features and account for the need to initiate *and* activate. Accessibility features should “...be activated ...from all of the same locations from which the volume can be adjusted..., and if the device or apparatus lacks a volume control, then the control should be activated...from all of the same locations from where primary functions are located.”¹²

Allowing a minimal step approach would allay AT&T’s concerns regarding confirmations. According to AT&T, imposing “a single step process could cause manufacturers to eliminate confirmations (i.e. feedback)...Eliminating confirmations could cause confusion for users of navigation devices by invoking the selected change before they understand the import of the selection.”¹³ Additionally, positioning all of the accessibility features on the same menu would improve visibility of all the access features that may be applicable to users. One cannot presume that people with vision loss will not need closed caption or vice versa. Co-locating all of the accessibility features would be practical for users and manufactures alike.

CONCLUSION

In closing, the Wireless RERC wishes to emphasize the importance of advancing parity of access to video programming. Throughout the course of the Wireless RERC’s research with the disability community, a recurrent question from many people with vision loss concerned accessing secondary audio channels and video descriptions. This question was posed to us despite the fact that the research being conducted was unrelated (or tangentially, at best) to video programming. These instances are representative of the frustration felt by people with vision loss regarding the insufficient knowledge on accessibility features and deficient technical assistance provided by broadcasters, manufacturers and service providers. Implementation of

¹² Comments of Consume Groups and the Telecom-RERC in Docket No. 12-108, p.9

¹³ Comments of AT&T in Docket No. 12-108, p. 16

rules to implement the video programming provisions of the CVAA will go a long way towards addressing and ultimately lessening frustrations experienced by people with disabilities due to unresolved access issues.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "H Mitchell".

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Dated this 2nd day of August 2013