

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

**Reply Comments of the
AllVid Tech Company Alliance**

August 7, 2013

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The AllVid Tech Company Alliance (“Alliance”)¹ supports the broad spectrum of commenters agreeing that Section 205 of the CVAA² addresses both competitively-offered and operator-supplied navigation devices. The Alliance also agrees with commenters calling for navigation devices to be designed and built to provide text menus and guides that are accessible to blind and visually impaired individuals, and with those who observe that this will require sharing of responsibility and information between MVPDs and device manufacturers, including access to guide metadata.

I. SECTION 205 EXPLICITLY COVERS RETAIL AND MVPD-PROVIDED NAVIGATION DEVICES.

The Alliance agrees with the American Council of the Blind (“ACB”),³ the National Cable & Telecommunications Association (“NCTA”),⁴ the American Cable Association

¹ The Alliance was formed in 2011 in answer to calls by the Congress and the Commission for a pro-competitive national broadband policy. *See* Alliance letter to Chairman Genachowski, MB Docket No. 10-91, CS Docket No. 97-80, PP Docket No. 00-67 (filed Feb. 16, 2011 “Alliance Letter”).

² Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, § 205 (as codified in 47 U.S.C. § 303) (“CVAA”).

³ ACB Comments at 3 – 5, 11.

⁴ NCTA Comments at 8.

(“ACA”),⁵ AT&T,⁶ Verizon,⁷ DISH / EchoStar,⁸ and the Consumer Electronics Association (“CEA”)⁹ that the Commission is bound by explicit statutory language to address competitively offered navigation devices, as well as those offered by MVPDs, under Section 205 of the CVAA.¹⁰ As NCTA observed, “Congress intended that all entities making on-screen text menus and guides available on navigation devices that access multichannel video programming to be subject to the same accessibility requirement. The rules should apply even-handedly in this area.”¹¹

Ad hoc line-drawing by the Commission could subject devices to a “case-by-case” analysis that would create uncertainty for users and the marketplace and be burdensome and time-consuming for the FCC.¹² AT&T and ACA point out that the relationships among manufacturer, vendor, MVPD, and consumer are not uniform and may be unclear.¹³ ACA warns that failure to follow the line cleanly drawn by the Congress “would cause needless confusion and uncertainty for equipment manufacturers, software developers and service providers as to which entity is legally responsible for providing the accessibility features to consumers with disabilities....”¹⁴ The Alliance agrees. The Commission should build upon the structure put in place by the Congress rather than seek to replace it with one that would lack both legal and technical foundation.

⁵ ACA Comments at 3.

⁶ AT&T Comments at 6.

⁷ Verizon Comments at 3.

⁸ DISH / EchoStar Comments at 3.

⁹ CEA Comments at 6 –7.

¹⁰ These views also comport with those of Commissioner Pai in his separate statement.

Accessibility of User Interfaces, and Video Programming Guides and Menus, Notice of Proposed Rulemaking, FCC 13-77, MB Docket No. 12-108 (rel. May 30, 2013), Statement of Commissioner Pai.

¹¹ NCTA Comments at 8.

¹² ACB Comments at 3.

¹³ AT&T Comments at 6; ACA Comments at 3.

¹⁴ ACA Comments at 3.

II. COMPLIANCE WITH SECTION 205 WILL REQUIRE COOPERATION BETWEEN MVPDS AND DEVICE MANUFACTURERS.

As ACB emphasizes, Section 205, in covering retail as well as MVPD navigation devices, makes technical cooperation between MVPDs and device-makers imperative. “It is precisely because of (and not despite of) the preexisting relationships that consumers have with MVPDs that Section 205 explicitly covers devices and software that they provide to their subscribers.”¹⁵ Even if an MVPD does not furnish a device to consumers, it likely bears some degree of responsibility (which may be mandatory) for elements of the design, software development and manufacturing process.¹⁶ Thus, “as the ultimate responsibility for the accessibility of the hardware and the software falls on manufacturers and software developers, [there is] no reason to disconnect the MVPDs for the responsibility to ensure that all devices they provide are fully accessible.”¹⁷ Even where an independent manufacturer supplies the product, and that manufacturer is primarily responsible, ACB observes that “[i]n the case of MVPDs, the responsibility of ensuring that the accessibility occurs directly lies on MVPDs – and through Section 205, the manufacturer or software developer.”¹⁸

The Alliance agrees. Where the MVPD is responsible for the design of the interface, program guide, or interface facility through which retail devices gain access to programming and services, it is also the MVPD’s responsibility to assure that adequate facilities are reasonably available for the retail device to afford the necessary access to subscribers with disabilities, as required by law.¹⁹

¹⁵ ACB Comments at 4.

¹⁶ *Id.* at 5.

¹⁷ *Id.* at 3.

¹⁸ *Id.* at 7.

¹⁹ In this respect the obligations of the CVAA run parallel to those of Section 629 of the Communications Act (47 U.S.C. § 549(a)).

III. CREATION OF ACCESSIBLE GUIDE DATA ENTAILS SHARING OF METADATA WITH RETAIL DEVICES.

For guides to become accessible, MVPDs must share metadata with retail devices. As NCTA recognizes, Section 205 (but not Section 204) imposes an obligation on MVPDs and retail devices with respect to “onscreen text menus and guides provided by navigation devices ... for the display or selection of multichannel video programming.”²⁰ Independent device makers can and should acquire this data by license. The Alliance agrees with NCTA that MVPDs and devices covered by Section 205 have access obligations with respect to onscreen text menus and guides, and that competitive devices can license and obtain this guide data separately.

Rovi notes that, in addition to separately licensed guide data, metadata such as Entertainment Identifier Registry (“EIDR”)²¹ data will have to pass from MVPD systems to competitive retail devices: “[R]equiring supply of cooperative factual data, such as EIDR data, to third-party navigation devices would both enable accessible user interfaces in third-party devices and foster competition and innovation in both accessible interfaces specifically and navigation devices broadly.”²² The Alliance agrees that it is necessary for such metadata to be passed from the MVPD system to the device. This will foster competition as well as accessibility.

IV. THE ALLIANCE’S FRAMEWORK PROVIDES A POTENTIAL PATH FORWARD FOR IMPLEMENTATION OF SECTION 205.

Implementation of Section 205 requires cooperation between device providers and MVPDs. While the CVAA does not allow the Commission to mandate a particular technology to accomplish Section 205’s specific access objectives,²³ the agency could create performance

²⁰ NCTA Comments at 10 – 11.

²¹ See <http://eidr.org/about-us/#how>.

²² Rovi Comments at 6.

²³ See CVAA, 47 U.S.C. § 303(bb)(1) (as amended by CVAA § 205(a)).

standards or other guidelines.²⁴ The framework that the Alliance submitted in September 2011 offers one such approach.²⁵ The framework provides a path by which interested parties can collaborate to assure reliable access while meeting legal obligations, including assurance of competitive availability of navigation devices pursuant to Section 629.

Respectfully submitted,

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²⁴ See ACB Comments at 12 – 13.

²⁵ See Letter from Robert Schwartz, Counsel for the AllVid Tech Company Alliance, to Marlene H. Dortch, Secretary, Federal Communications Commission, Docket No. 10-91, and Attachments (filed Sept. 20, 2011). The Alliance framework contains a complete suite of technical references sufficient to comprise the IP-based interface contemplated by the Commission in its *National Broadband Plan*, as well as to allow for full implementation of requirements in Section 205 of the CVAA.