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WILLIAM MAHER

August 22, 2013

VIA ECFS

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

Re: *Notice of Ex Parte Presentation – MB Docket No. 12-108*

Dear Ms. Dortch:

This is to notify you that on August 21, 2013, William Maher and Chris Clark, outside counsel for the Consumer Electronics Association (“CEA”), met with the following members of the Commission staff on behalf of CEA: General Counsel Sean Lev, Suzanne Tetreault, Joel Kaufman, Jacob Lewis, and Susan Aaron of the Office of General Counsel; Michelle Carey, Mary Beth Murphy, Steven Broeckaert, and Adam Copeland of the Media Bureau; and Karen Peltz Strauss of the Consumer and Governmental Affairs Bureau.

Meeting attendees from the Commission were provided with copies of the attached *ex parte* notice filed on August 16, 2013, by CEA and the American Foundation for the Blind (“AFB”) in the above-captioned docket, which discussed areas of agreement and disagreement among CEA, AFB, and the American Council of the Blind (“ACB”) (the “CEA-AFB-ACB Letter”).¹

The CEA-AFB-ACB Letter was the focus of the meeting. The CEA representatives discussed the significance of that joint filing and urged adoption of the positions on which CEA, AFB, and ACB agree as expressed in the CEA-AFB-ACB Letter. The CEA representatives discussed the evolution of CEA’s views regarding the implementation of Sections 204 and 205

¹ Letter from Julie M. Kearney, Vice President, Regulatory Affairs, CEA, and Mark Richert, Director, Public Policy, AFB, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 12-108 (filed Aug. 16, 2013) (“CEA-AFB-ACB Letter”).

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of the Twenty-First Century Communications and Video Accessibility Act of 2010,² which the Commission is considering in a pending Notice of Proposed Rulemaking.³

The CEA representatives described the process by which CEA, AFB, and ACB developed the positions memorialized in the CEA-AFB-ACB Letter. They also discussed legal and practical issues associated with Commission adoption of the positions on which CEA, AFB, and ACB agree in that letter.⁴

Pursuant to Section 1.1206 of the Commission's rules,⁵ this letter is being electronically filed with your office and a copy of this submission is being provided to the meeting attendees from the Commission.

Respectfully submitted,

/s/ William Maher
William Maher

Attachment

cc: Sean Lev
Suzanne Tetreault
Joel Kaufman
Jacob Lewis
Susan Aaron
Michelle Carey
Mary Beth Murphy
Steven Broeckaert
Adam Copeland
Karen Peltz Strauss

² Pub. L. No. 111-260, §§ 204-205, 124 Stat. 2751, 2773-76 (2010) (as codified at 47 U.S.C. § 303), *amended by* Pub. L. 111-265, 124 Stat. 2795 (2010).

³ *Accessibility of User Interfaces, and Video Programming Guides and Menus*, Notice of Proposed Rulemaking, 28 FCC Rcd 8506 (2013).

⁴ *See* CEA-AFB-ACB Letter at 1-3.

⁵ 47 C.F.R. § 1.1206.

Via Electronic Filing

August 16, 2013

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

Re: Notice of Ex Parte Presentation – MB Docket No. 12-108

Dear Ms. Dortch:

This is to notify you that on August 14, 2013, representatives of the Consumer Electronics Association (“CEA”), the American Foundation for the Blind (“AFB”), and the American Council of the Blind (“ACB”) met with members of the staff of the Commission’s Media Bureau (“MB”), Consumer and Governmental Affairs Bureau (“CGB”), and Office of General Counsel (“OGC”) regarding MB Docket No. 12-108. CEA participants were Julie Kearney, Vice President, Regulatory Affairs, Brian Markwalter, Senior Vice President, Research and Standards, and Bill Belt, Senior Director, Technology and Standards, who were accompanied by John Godfrey and Zachary Rothstein, Samsung Information Systems America, Inc., Paul Schomburg, Panasonic Corporation of North America (“Panasonic”), and CEA outside counsel William Maher and Chris Clark of Wilkinson Barker Knauer, LLP. Tony Jasionowski, on behalf of Panasonic, participated by telephone. AFB was represented by Paul Schroeder, Vice President, Programs and Policy, and Mark Richert, Director, Public Policy. Brian Charlson, Chairman, Information Access Committee, ACB, participated via phone. Commission attendees were Michelle Carey, Steve Broeckaert, Evan Baranoff, Adam Copeland, Maria Mullarkey, Brendan Murray, Jeffrey Neumann, and Raelynn Remy of MB, as well as Alison Neplokh and Mary Beth Murphy of MB, who participated by phone; Rosaline Crawford and Eliot Greenwald of CGB; and Royce Sherlock of OGC.

CEA, AFB, and ACB agreed on the need to ensure that devices are made accessible to individuals who are blind or visually impaired, as provided in Sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”).¹ The parties explained that, while they generally maintain their positions already on record in MB Docket No. 12-108 with regard to Sections 204 and 205, there are certain areas of agreement that may be significant to the Commission’s resolution of the numerous complex issues in this docket.

CEA, AFB, and ACB indicated to Commission staff that one clear path forward would be for the Commission to establish unequivocally that the eleven essential functions crafted by the VPAAC is the complete array of "appropriate built-in apparatus functions" that a manufacturer would be required to make accessible, if achievable, pursuant to Section 204. While AFB and ACB

¹ Pub. L. No. 111-260, §§ 204-205, 124 Stat. 2751, 2773-76 (2010) (as codified at 47 U.S.C. § 303), *amended by* Pub. L. 111-265, 124 Stat. 2795 (2010).

expressed their appreciation for the Commission's proposed intent to impose an accessibility obligation for virtually all conceivable apparatus functions whether or not such functions pertain to video programming at all, CEA, AFB, and ACB reached consensus that the VPAAC's list of eleven essential functions² refers to the complete set of "appropriate built-in apparatus functions" that must be accessible, if achievable, under Section 204. CEA made it clear that, should the Commission agree to reframe its proposed broader approach so that apparatus manufacturers will only be accountable for the accessibility of the eleven essential functions as described above and subject to the clarification described below, CEA would be agreeable to the Commission proceeding to apply section 205 of the CVAA only to MVPD-provided equipment, as well as to equipment that is similar in kind to MVPD-provided equipment (i.e., set-top boxes) made available to consumers via retail outlets. CEA, AFB, and ACB were not, however, able to reach consensus about how to categorize the narrow class of devices, inclusive of devices such as TiVo; CEA views such equipment as section 205-covered navigation devices, and AFB and ACB view such equipment as section 204-covered apparatus.

With respect to clarification of the Commission's treatment of the application of the eleven essential functions requirement, CEA was careful to note that the accessibility of each of the eleven essential functions for a given piece of apparatus is the responsibility of a manufacturer if, and only if, the manufacturer offers such functionality generally in that piece of apparatus. CEA urged, and AFB and ACB agreed, that manufacturers should only be obligated, for instance, to make apparatus volume control accessible when volume control is native to the equipment. If no volume control is available to purchasers of the equipment generally, then the CVAA imposes no obligation on manufacturers to add volume control to equipment.

CEA, AFB, and ACB agreed that certain simple consumer electronics devices, such as display-only video monitors,³ should be exempt from coverage under Sections 204 and 205. In addition, the parties agreed that the Commission should clarify that the devices exempted from coverage under Section 203 of the CVAA, such as digital still cameras and baby monitors, are also exempt from coverage under Sections 204 and 205.⁴

CEA, AFB, and ACB submit that the above-discussed agreement represents a significant step forward toward resolving the complex scoping issues of Section 204 and 205, while balancing the interests of the blind and low vision community and industry. Should the Commission

² SECOND REPORT OF THE VIDEO PROGRAMMING ACCESSIBILITY ADVISORY COMMITTEE ON THE TWENTY-FIRST CENTURY COMMUNICATIONS AND VIDEO ACCESSIBILITY ACT OF 2010: USER INTERFACES, AND VIDEO PROGRAMMING GUIDES AND MENUS 7, 8 (2012), available at <http://vpaac.wikispaces.com> ("User Interfaces Report").

³ Display-only video monitors include computer monitors, as well as video display screens and video projectors that require a separate source device to receive video programming. See CEA Comments, MB Docket No. 12-108, at 9-10 (filed July 15, 2013).

⁴ See *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Order on Reconsideration and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8785, 879-93, ¶¶ 11-15 (2013).

choose to adopt rules that depart from the CEA-AFB-ACB recommended approach, then the parties reserve the right to challenge any part of the forthcoming FCC order.

The parties did not discuss a number of other issues that have been thoroughly reviewed in this docket, such as the concept of reasonable comparability of captioning and description controls. Pursuant to Section 1.1206 of the Commission's rules,⁵ this letter is being electronically filed with your office and a copy of this submission is being provided to the meeting attendees from the Commission. 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
Consumer Electronics Association

/s/ **Mark Richert**

Mark Richert
Director, Public Policy
American Foundation for the Blind

cc: Michelle Carey
Allison Neplokh
Mary Beth Murphy
Steven Broeckaert
Evan Baranoff
Adam Copeland
Maria Mullarkey

Brendan Murray
Jeffrey Neumann
Raelynn Remy
Rosaline Crawford
Eliot Greenwald
Royce Sherlock

⁵ 47 C.F.R. § 1.1206