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VIA ECFS

Kris Monteith
Acting Chief, Consumer and Governmental Affairs Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Request for Comment on Petition for Class Waiver of Commission's Rules for Access to Advanced Communications Services and Equipment by People with Disabilities, CG Docket No. 10-213

Dear Ms. Monteith:

We are the U.S. Public Policy Council of ACM (USACM), a community of technical experts representing ACM — the Association for Computing Machinery — a major technical and professional society with members involved in all aspects of computing and information technology.

USACM believes that minimal regulation has helped foster the development and spread of Internet technologies. We share the FCC's objective of advancing accessibility in a manner that promotes innovation while being mindful of the potential burden on industry.

We concur that the e-reader devices identified by the petitioner are used primarily by consumers for reading written content and constitute a class of equipment eligible for a waiver from the accessibility requirements of advanced communications services because they are designed, marketed, and used primarily for purposes other than using advanced communications services.

We conclude that some of the technical features suggested by the petitioner to demonstrate that the e-readers are not designed for advanced communications services are of little value to the Commission's examination. Whether the product lacks an LCD screen, high-capacity storage, or greater processing speed as compared to other equipment on the market, such as tablets, reflects the technical elements of the product rather than its design or primary purpose. Further, these technical elements are subject to change and thus do not constitute reliable factors to identify and distinguish one class of devices from another class of devices over time.

Although the petition meets the two specific factors used by the Commission to determine whether the equipment or service is designed primarily for purposes other than using advanced communications services, we would like to highlight statements made in the petition relevant to analysis under the general waiver standard, which requires the petitioner to demonstrate a good cause to waive the rules and to show specific facts that demonstrate compliance would be inconsistent with the public interest. The petitioner states that "purposeful hardware limitations drive e-readers' primary purpose: reading" and, as a result, "most cannot generate audio output or record audio input." The petitioner also states

that making e-readers accessible under the advanced communications services requirements would require "fundamentally altering the devices" without bringing a "meaningful benefit to individuals with disabilities." We recognize that the Commission declined to adopt the use of the four factors of the "achievable" standard as part of its waiver analysis. Still, we feel that these statements in the petition could be inconsistent with the Commission's finding in the *ACS Report and Order* with respect to the first factor of "the nature and cost of the steps needed." The Commission cautioned that "in many cases, features such as voice output can be added in ways that do not fundamentally alter the product, even if earlier versions of the product did not have that capability." Notably, some earlier versions of e-readers provided audio output, even though current versions of those same product lines omit the audit output capability.

USACM recognizes the value of building appropriate accessibility features and functionalities into the design of e-readers. Designing e-readers for accessibility has benefits well beyond better support for people with disabilities. A commitment to making e-readers more accessible will pay dividends in evolving technology that can be more easily accessed – and more easily understood and used – by everyone. These advances will result in better access to important information, and broader participation in commercial and educational activities by all citizens. We feel that the petitioner fails to demonstrate that compliance would be inconsistent with the public interest.

Lastly, should the Commission decide to grant the waiver from the accessibility requirements for advanced communications services, we recommend a time-limited waiver, rather than a permanent waiver, given the potential technological and marketplace developments that may change the fact-based analysis and findings of the Commission's waiver inquiry.

We hope that the Commission finds the above comments useful as it considers this petition for a class waiver for e-readers.

Respectfully submitted,

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Chair
ACM U.S. Public Policy Council

Harry Hochheiser
Chair, Accessibility Committee
ACM U.S. Public Policy Council