

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554**

In the Matter of)	
)	
Implementation of Sections 716 and 717)	
of the Communications Act of 1934,)	
As Enacted by the Twenty-First Century)	
Communications and Video Accessibility Act)	CG Docket No. 10-213
)	
Request for Comment)	
Petition for Class Waiver of Commission's)	
Rules for Access to Advanced)	
Communications Services and Equipment)	
By People with Disabilities)	

REPLY COMMENTS OF THE INTERNET ASSOCIATION

The Internet Association is the unified voice of the Internet economy, representing the interests of leading Internet companies and their global community of users.¹ We are dedicated to advancing public policy solutions to strengthen and protect Internet freedom, foster innovation and economic growth, and empower users.

In adopting the Twenty-First Century Communications and Video Accessibility Act (“CVAA”), Congress showed a healthy respect for fostering Internet innovation and wrote into the law a number of provisions aimed at ensuring flexibility, encouraging innovation, and avoiding a rigid application of the requirements. A major example of Congress instilling a balance into the CVAA is the provision enabling the FCC to grant a waiver of the rules to

¹ The Internet Association’s members include Airbnb, Amazon.com, AOL, eBay, Expedia, Facebook, Gilt, Google, IAC, LinkedIn, Monster Worldwide, Path, Practice Fusion, Rackspace, reddit, Salesforce.com, SurveyMonkey, TripAdvisor, Uber Technologies, Inc., Yahoo!, and Zynga.

devices or services “designed primarily for purposes other than using advanced communications services.”²

The Petition filed by the Coalition of E-reader Manufacturers establishes that e-readers are just the kind of devices that Congress had in mind when it adopted the waiver process. The devices are designed, built and optimized for reading newspapers and magazines. The devices include a browser, but consumers use the browser to obtain books and magazines, or occasionally consult Wikipedia or an online dictionary, and generally not to engage in advanced communications services.

The filing by the National Federation of the Blind and several other organizations (collectively “NFB”) argues that Wi-Fi access or the use of a browser to buy a book, access online content, or go to a social media page is an advanced communications service (“ACS”).³ This line of argument culminates with the following statement: “Although certain common ACS features, including e-mail, instant messaging, or VoIP, are not generally mentioned in the marketing of e-readers, manufacturers clearly market their products’ ability to access *other ACS features like social networking and use of web browsers* as desirable features of the products.”⁴

The Internet Association respectfully emphasizes to the Commission that Wi-Fi access is *not* an advanced communications services. Posting information on a social network site is *not* an

² 47 U.S.C. § 617(h)(1); 47 C.F.R. § 14.5(a)(1).

³ See, e.g., NFB Comments at 5 (“one cannot read any content on the e-reader without using the ACS features”); *id.* (“ACS functionality directly affects the functionality of the non-ACS feature of reading”); *id.* at 8 (“Every type of ACS found on e-readers, *including Wi-Fi access, web browsing/built-in browsing, and social media* is intended to enhance the user’s experience with the device.”) (emphasis added); *id.* (“[an e-reader] also has 3G support so that the consumer can lend books to others, play games, and use apps”); *id.* at 9 (“All [e-readers] have social media features to allow users to send messages and other information, which are clearly ACS functions.”).

⁴ *Id.* at 12 (emphasis added and footnote omitted).

advanced communications service. Using a browser to buy a book or magazine is *not* an advanced communications service. Accessing an application that does not offer ACS is, to state the obvious, *not* ACS. The reason they are not advanced communications services is because they do not fall within the four specific, well-defined activities designated by Congress as constituting ACS: (a) interconnected VoIP service, (b) non-interconnected VoIP service, (c) electronic messaging service, and (d) interoperable video conferencing service.⁵ In suggesting that Wi-Fi access, posting information to a social network page, or using a browser to buy a book or newspaper are all ACS, the NFB Comments overlook the specific definitional limitations that the CVAA and the Commission’s implementing rules place on that term. To be clear: “ACS features, including e-mail, instant messaging, or VoIP” are not simply “certain common ACS features”;⁶ they, along with interoperable video conferencing service, are the sum total of what is ACS.

For these reasons, The Internet Association asks the Commission to grant the waiver request and also to make clear to all parties that the scope of ACS is limited by law and includes only the specific activities identified by Congress, and that the use of a browser to engage in something other than e-mail, instant messaging, VoIP, or interoperable video conferencing is not ACS. Congress intended the hundreds of thousands of applications that do not offer ACS to not be covered by the FCC’s rules, and the Commission should use this opportunity to make that clear.

⁵ 47 U.S.C. § 153(1); 47 C.F.R. § 14.10(c).

⁶ NFB Comments at 12.

Respectfully submitted,

THE INTERNET ASSOCIATION

By: /s/ Gina G. Woodworth

Gina G. Woodworth
Vice President
Public Policy and Government Affairs
The Internet Association

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