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September 26, 2013

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: In re Accessibility of User Interfaces, and Video Programming Guides and Menus, MB Docket No. 12-108

Dear Ms. Dortch:

On September 24, 2013, Diane Burstein, Vice President and Deputy General Counsel; Stephanie Podey, Associate General Counsel; and I, of the National Cable & Telecommunications Association ("NCTA"), met separately with (1) Matthew Berry, Chief of Staff, Office of Commissioner Pai; and (2) Sarah Whitesell, Legal Advisor, Office of Acting Chairwoman Clyburn, and Brendan Murray, Media Bureau, regarding the Commission's implementation of Sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 ("CVAA").

At the meeting, we provided a copy of the attached CVAA provisions and reiterated points discussed in NCTA's comments in the above-captioned proceeding. We explained that cable-operator supplied on-screen text menus and guides provided by "navigation devices" are subject to Section 205 of the CVAA.[1] We also explained that cable operator-developed software or "apps" are *not* equipment, apparatus, or "navigation devices" subject to the rules.[2] We emphasized that Congress provided operators significant leeway in developing an accessible

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[1] *See* 47 U.S.C. § 303(bb)(1) (as amended by CVAA § 205(a)); *see also* 47 U.S.C. § 303(aa)(4) (as amended by CVAA § 204(a)) ("in applying this subsection the term 'apparatus' does not include a navigation device, as such term is defined in section 76.1200 of the Commission's rules…").

[2] *See* NCTA Comments at 8-10; Letter from Rick Chessen, Senior Vice President, Law & Regulatory Policy, NCTA, to Marlene Dortch, Secretary, FCC (Sept. 12, 2013) (attached). We pointed out that the Commission has consistently interpreted other provisions of the CVAA to exclude apps in these circumstances, treating software that is downloaded or otherwise added independently by the consumer after the sale of the device differently than software integrated into the physical device. *See* NCTA Comments at 9, n.32.

solution for on-screen text menus and guides.[3] For example, the CVAA permits operators to make available software, a peripheral device, equipment, service, or other solution that provides audible access.[4]

We discussed functional requirements for on-screen text menus and guides, pointing out that Section 205 only requires that "if achievable, . . . the on-screen text menus and guides provided by navigation devices . . . for the display or selection of multichannel video programming are audibly accessible in real-time upon request."[5] We expressed concern that expanding the rules to cover functions not included in on-screen text menus and guides, such as volume control and power on and off, would exceed the scope of Section 205.

We also explained that the rules should incorporate guidance on eligibility for accessible guides, and pointed to information in the record, including the ex parte jointly filed by NCTA, the American Foundation for the Blind ("AFB"), and the American Council of the Blind ("ACB").[6]

We explained why the Commission should reject requests from some commenters that cable operators and other MVPDs be required to include certain information in their program guides that is not provided there today.[7]

As to closed captioning capability, we reiterated our view that Section 205 only applies "upon request" and expressed concern about expanding the captioning "mechanism" requirement to all navigation devices going forward.[8]

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[3] *See* CVAA § 205(b)(4) & (b)(5).

[4] CVAA § 205(b)(4).

[5] 47 U.S.C. § 303(bb)(1) (as amended by CVAA § 205(a)).

[6] *See* Letter from Mark Richert, Director, Public Policy, AFB, Eric Bridges, Director of External Affairs and Policy, ACB, and Rick Chessen, Senior Vice President, Law & Regulatory Policy, NCTA, to Marlene H. Dortch, Secretary, FCC (Sept. 12, 2013) (attached); *see also* NCTA Comments at 12.

[7] *See* NCTA Comments at 11-12; NCTA Reply Comments at 14.

[8] *See* NCTA Comments at 16-17; NCTA Reply Comments at 11-12.

Finally, we discussed the need for small systems to be exempt and for small operators to have a longer phase-in period to comply with the requirements.[9]

Respectfully submitted,

/s/ Rick Chessen

Rick Chessen

cc: Matthew Berry
Sarah Whitesell
Brendan Murray

Enclosures

[9] *See* NCTA Comments at 17-19; NCTA Reply Comments at 12-14; Letter from Diane B. Burstein, Vice President & Deputy General Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC (Sept. 12, 2013) (attached).

SEC. 204. USER INTERFACES ON DIGITAL APPARATUS.

(a) Amendment- Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is further amended by adding after subsection (z), as added by section 203 of this Act, the following new subsection:
`(aa) Require--
`(1) if achievable (as defined in section 716) that digital apparatus designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, be designed, developed, and fabricated so that control of appropriate built-in apparatus functions are accessible to and usable by individuals who are blind or visually impaired, except that the Commission may not specify the technical standards, protocols, procedures, and other technical requirements for meeting this requirement;
`(2) that if on-screen text menus or other visual indicators built in to the digital apparatus are used to access the functions of the apparatus described in paragraph (1), such functions shall be accompanied by audio output that is either integrated or peripheral to the apparatus, so that such menus or indicators are accessible to and usable by individuals who are blind or visually impaired in real-time;
`(3) that for such apparatus equipped with the functions described in paragraphs (1) and (2) built in access to those closed captioning and video description features through a mechanism that is reasonably comparable to a button, key, or icon designated for activating the closed captioning or accessibility features; and
`(4) that in applying this subsection the term `apparatus' does not include a navigation device, as such term is defined in section 76.1200 of the Commission's rules (47 CFR 76.1200).'.
(b) Implementing Regulations- Within 18 months after the submission to the Commission of the Advisory Committee report required by section 201(e)(2), the Commission shall prescribe such regulations as are necessary to implement the amendments made by subsection (a).
(c) Alternate Means of Compliance- An entity may meet the requirements of section 303(aa) of the Communications Act of 1934 through alternate means than those prescribed by regulations pursuant to subsection (b) if the requirements of those sections are met, as determined by the Commission.
(d) Deferral of Compliance with ATSC Mobile DTV Standard A/153- A digital apparatus designed and manufactured to receive or play back the Advanced Television Systems Committee's Mobile DTV Standards A/153 shall not be required to meet the requirements of the regulations prescribed under subsection (b) for a period of not less than 24 months after the date on which the final regulations are published in the Federal Register.

SEC. 205. ACCESS TO VIDEO PROGRAMMING GUIDES AND MENUS PROVIDED ON NAVIGATION DEVICES.

(a) Amendment- Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is further amended by adding after subsection (aa), as added by section 204 of this Act, the following new subsection:
`(bb) Require--
`(1) if achievable (as defined in section 716), that the on-screen text menus and guides provided by navigation devices (as such term is defined in section 76.1200 of title 47, Code of Federal Regulations) for the display or selection of multichannel video programming are audibly accessible in real-time upon request by individuals who are blind or visually impaired, except that the Commission may not specify the technical standards, protocols, procedures, and other technical requirements for meeting this requirement;
`(2) for navigation devices with built-in closed captioning capability, that access to that capability through a mechanism is reasonably comparable to a button, key, or icon designated for activating the closed captioning, or accessibility features; and
`(3) that, with respect to navigation device features and functions--
`(A) delivered in software, the requirements set forth in this subsection shall apply to the manufacturer of such software; and
`(B) delivered in hardware, the requirements set forth in this subsection shall apply to the manufacturer of such hardware.'.
(b) Implementing Regulations-
(1) IN GENERAL- Within 18 months after the submission to the Commission of the Advisory Committee report required by section 201(e)(2), the Commission shall prescribe such regulations as are necessary to implement the amendment made by subsection (a).
(2) EXEMPTION- Such regulations may provide an exemption from the regulations for cable systems serving 20,000 or fewer subscribers.
(3) Responsibility- An entity shall only be responsible for compliance with the requirements added by this section with respect to navigation devices that it provides to a requesting blind or visually impaired individual.
(4) SEPARATE EQUIPMENT OR SOFTWARE-
(A) IN GENERAL- Such regulations shall permit but not require the entity providing the navigation device to the requesting blind or visually impaired individual to comply with section 303(bb)(1) of the Communications Act of 1934 through that entity's use of software, a peripheral device, specialized consumer premises equipment, a network-based service or other solution, and shall provide the maximum flexibility to select the manner of compliance.
(B) REQUIREMENTS- If an entity complies with section 303(bb)(1) of the Communications Act of 1934 under subparagraph (A), the entity providing the navigation device to the requesting blind or visually impaired individual shall provide any such software, peripheral device, equipment, service, or solution at no additional charge and within a reasonable time to such individual and shall ensure that such software, device, equipment, service, or solution provides the access required by such regulations.
(5) USER CONTROLS FOR CLOSED CAPTIONING- Such regulations shall permit the entity providing the navigation device maximum flexibility in the selection of means for compliance

with section 303(bb)(2) of the Communications Act of 1934 (as added by subsection (a) of this section).
(6) PHASE-IN-
(A) IN GENERAL- The Commission shall provide affected entities with--
(i) not less than 2 years after the adoption of such regulations to begin placing in service devices that comply with the requirements of section 303(bb)(2) of the Communications Act of 1934 (as added by subsection (a) of this section); and
(ii) not less than 3 years after the adoption of such regulations to begin placing in service devices that comply with the requirements of section 303(bb)(1) of the Communications Act of 1934 (as added by subsection (a) of this section).
(B) APPLICATION- Such regulations shall apply only to devices manufactured or imported on or after the respective effective dates established in subparagraph (A).

SEC. 206. DEFINITIONS.

In this title:
(1) ADVISORY COMMITTEE- The term `Advisory Committee' means the advisory committee established in section 201.
(2) CHAIRMAN- The term `Chairman' means the Chairman of the Federal Communications Commission.
(3) COMMISSION- The term `Commission' means the Federal Communications Commission.
(4) EMERGENCY INFORMATION- The term `emergency information' has the meaning given such term in section 79.2 of title 47, Code of Federal Regulations.
(5) INTERNET PROTOCOL- The term `Internet protocol' includes Transmission Control Protocol and a successor protocol or technology to Internet protocol.
(6) NAVIGATION DEVICE- The term `navigation device' has the meaning given such term in section 76.1200 of title 47, Code of Federal Regulations.
(7) VIDEO DESCRIPTION- The term `video description' has the meaning given such term in section 713 of the Communications Act of 1934 (47 U.S.C. 613).
(8) VIDEO PROGRAMMING- The term `video programming' has the meaning given such term in section 713 of the Communications Act of 1934 (47 U.S.C. 613).

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

END

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September 12, 2013

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: In re Accessibility of User Interfaces, and Video Programming Guides and Menus, MB Docket No. 12-108

Dear Ms. Dortch:

We write to urge the Commission to exclude MVPD-provided applications ("apps") that are downloaded on third party devices, such as tablets, "smart phones" and other devices, from its rules implementing Section 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 ("CVAA"). Legal and practical reasons strongly counsel against stretching the meaning of Section 205 to reach beyond menus and program guides provided by navigation devices in order to broadly sweep in stand-alone software such as apps.

Section 205 applies only to "on-screen text menus and guides provided by navigation devices (as such term is defined in section 76.1200 [of the Commission's rules]) for the display or selection of multichannel video programming."[1] By its terms, then, Section 205 applies only to navigation devices that include native on-screen text menus and guides since, in such cases, the devices "provide" the on-screen text menus and guides. In contrast, on-screen text menus and guides that a consumer independently chooses to download to a device are not in any sense something that the navigation device "provides" within the meaning of Section 205. NCTA's comments have set forth in detail why stand-alone cable operator-developed "apps" downloaded independently by the consumer to third-party retail devices are therefore *not* "navigation devices" subject to the CVAA.[2] Likewise, a third-party device that does not "provide" an on-

[1] *See* 47 U.S.C. § 303(bb)(1) (as amended by CVAA § 205(a)) (emphasis supplied).

[2] *See* NCTA Comments at 8-10.

screen text menu or guide (or require the download of such a guide) for the display or selection of multichannel video programming is not covered by Section 205.[3]

As a result, many of the devices the Commission suggests could be covered under Section 205 are not "navigation devices" for purposes of this provision.[4] Interpreting "navigation device" so broadly as to cover equipment that does not perform the functions of a traditional set-top box but simply contains an Internet connection (by which any mobile device or any other equipment theoretically could access cable broadband service) would stray beyond Congress' intent in the CVAA.

Moreover, the Commission has specifically rejected the claim that a software-based menu and guide downloaded to a device is itself a "navigation device" under Section 629 or the Commission's rules. In the Gemstar case, Gemstar argued that *Guide Plus+* qualified as a navigation device because it could assist in navigation once downloaded to a device.[5] The Commission rejected the claim. It reviewed the text and legislative history of Section 629 and concluded "Section 629 is intended to assure the competitive availability of *equipment*, including '*converter boxes*, interactive communications *equipment*, and other *equipment* used by consumers to access multichannel video programming and other services offered over multichannel video programming systems.'"[6]

The legislative history accompanying Section 629 clearly demonstrates that, in drafting the Telecommunications Act of 1996, Congress intended to limit the scope of Section 629 to devices used to access Title VI video services delivered by an MVPD, rather than *any* "voice, video, or data services" delivered by the MVPD.[7] Since then, the Commission has consistently

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[3] *See* 47 U.S.C. § 303 (bb)(1) (as amended by CVAA § 205(a)). NCTA previously has explained that 47 U.S.C. § 303(bb)(3) does not expand the scope of this statutory requirement to otherwise authorize regulation of third-party software or "apps" downloaded to devices, but instead was intended to address hardware and software native to a navigation device. Indeed, the Commission has consistently interpreted other provisions of the CVAA to exclude apps in these circumstances, treating software that is downloaded or otherwise added independently by the consumer after the sale of the device differently than software integrated into the physical device. *See* NCTA Comments at 9, n.32.

[4] *See In re Accessibility of User Interfaces, and Video Programming Guides and Menus*, Notice of Proposed Rulemaking, 28 FCC Rcd 8506 ¶ 16 & n.41 (2013).

[5] *See Gemstar International Group, Ltd.*, Memorandum Opinion & Order, 16 FCC Rcd 21531(2001).

[6] *Id*. ¶ 31 (emphasis in the original).

[7] *See* H.R. Rep. No. 104-458, at 181 (1996) (Conf. Rep.); H.R. Rep. No. 104-204, pt. 1, at 37 (1995). The original House version of the navigation device provision covered devices used to access "telecommunications subscription service," which was defined to mean "the provision directly to subscribers of *video, voice, or data* services for which a subscriber charge is made." H.R. Rep. No. 104-204, pt. 1, at 37 (1995) (emphasis added). The House report further directed that: "The Commission shall adopt regulations to assure competitive availability, to *consumers of telecommunications subscription services*, of converter boxes, interactive communications devices, and other customer premises equipment from manufacturers, retailers and other vendors not affiliated with any telecommunications system operator." *Id.* (emphasis added). The House Report explained that "these devices will connect consumers to the network of communications and entertainment services that will be provided by telecommunications providers." *Id.* at 112. However, the House-Senate

and repeatedly applied the definition of "navigation device" to equipment, such as cable set-top boxes, used to access Title VI cable services that are made available by a cable operator.[8] These cable services include "multichannel video programming services," such as linear cable channels, as well as "other services," such as an operator's program guide and interactive TV services.

Numerous practical and operational issues provide further bases to interpret Section 205 to exclude apps. A requirement that MVPD-provided apps contain "talking guide" functionality could delay, or in some cases prevent, bringing an accessible app to the marketplace. For one thing, the app itself would become more technically complicated if it were required to include a "self-voicing" feature. Including this feature could make the app too large from a memory standpoint to be supported on certain devices.

Moreover, developing an audible app that works with third party devices is operationally impractical where those devices themselves do not contain accessibility features that can be relied upon. In contrast to the situation where cable operators and other MVPDs largely control the design of navigation devices provided to customers, cable operators typically have no similar ability to control the design of third-party devices running their apps. In fact, the device manufacturer may have little incentive to help meet the needs of MVPD-provided accessible apps since those apps may only be incidental to the many other features/uses of the device. Not every device platform supports assistive technology or provides the necessary Application Programming Interfaces ("APIs") to develop an accessible app.

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conferees "narrowed [the scope of the regulations] to include only equipment used to access services provided by multichannel video programming distributors." H.R. Rep. No. 104-458, at 181. Accordingly, instead of applying to equipment used by consumers of "telecommunications subscription service," Section 629 was revised only to apply to equipment used by consumers of MVPD services. *Id.*

[8] *See, e.g.*, *In re Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Report & Order, 13 FCC Rcd 14775 (1998); *In re Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Order on Reconsideration, 14 FCC Rcd 7596 (1999); *In re Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Further Notice of Proposed Rulemaking and Declaratory Ruling, 15 FCC Rcd 18199 (2000); *In re Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Second Report & Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 20885 (2003); *In re Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Second Report & Order, 20 FCC Rcd 6794 (2005); *In re Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Third Report & Order and Order on Reconsideration, 25 FCC Rcd 14657 (2010).

For all these reasons, the Commission should monitor developments in this area and refrain from taking action at this point that would likely result in unintended consequences in a highly dynamic marketplace.

Respectfully submitted,

/s/ Rick Chessen

Rick Chessen

September 12, 2013

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: In re Accessibility of User Interfaces, and Video Programming Guides and Menus, MB Docket No. 12-108

Dear Ms. Dortch:

The National Cable & Telecommunications Association ("NCTA"), American Foundation for the Blind ("AFB"), and the American Council of the Blind ("ACB") are pleased to file this joint letter expressing our agreement on two issues that have been raised in the above-captioned proceeding: (1) eligibility requirements for consumers requesting accessible equipment from their multichannel video programming distributor ("MVPD") under Section 205 of the Twenty-First Century Communications and Video Accessibility Act ("CVAA"), and (2) the scope of Sections 204 and 205 of the CVAA, including the limits of those provisions with respect to software or applications ("apps") providing MVPD services running on third-party devices.

Eligibility Requirements for Equipment Requests

Section 205 requires MVPDs, upon request, to make audibly accessible on-screen text menus and guides provided by navigation devices available to blind or visually impaired customers. NCTA, AFB, and ACB recognize that industry and consumer interests must be balanced when addressing what eligibility criteria or documentation requirements are applicable. On the one hand, AFB and ACB representatives are concerned that burdensome paperwork requirements, misunderstanding about what constitutes functional vision loss, and an array of other practical issues may impose a complexity on consumer acquisition of accessible equipment that is not necessary or useful. On the other hand, while the cable industry desires an easy and hassle-free process for those blind or visually impaired customers who request an accessible guide or menu, the industry also has concerns that some individuals may misrepresent themselves in order to obtain from MVPDs, at no additional cost, equipment or services that they would not be eligible to receive or would otherwise be required to pay for.

To balance these interests, NCTA, AFB, and ACB propose that the Commission permit, but not require, MVPDs to establish eligibility criteria for customers requesting audibly accessible on-screen text menus or guides. If an MVPD chooses to establish eligibility requirements for such requests, such requirements must (1) be reasonable and (2) *only* apply in situations where an MVPD is providing the customer with an accessible solution that he or she would otherwise not be entitled to receive under his or her existing level of service and associated equipment.

Eligibility requirements should be deemed reasonable if they accommodate a wide array of methods for customers to document eligibility, including, *but not limited to*: proof of participation in a nationally-established program for the blind or visually impaired, such as the Commission's National Deaf-Blind Equipment Distribution Program or the National Library Service's talking books program; or documentation from any professional or service provider with direct knowledge of the individual's disability, such as a social worker, case worker, counselor, teacher, school superintendent, professional librarian, doctor, ophthalmologist, optometrist, or registered nurse. We believe that such a broad menu of options will ease any paperwork or other burdens on customers requesting an accessible solution.

Blind or visually impaired customers would only need to provide evidence of eligibility where the accessible solution would not be covered under their existing level of service and equipment. For example, an MVPD might seek proof of eligibility in situations where it is providing an accessible on-screen text menu or guide via a set-top box different from (and more advanced than) the equipment that the customer is currently using to access MVPD service, or where an MVPD offers a separate accessibility solution, such as a tablet with an accessible app. NCTA, AFB, and ACB believe that this approach would provide MVPDs with some measure of protection against potential abuse for non-qualifying customers, while ensuring that qualifying customers can obtain accessible equipment as easily and as quickly as possible.

Scope of Sections 204 and 205 & MVPD Apps

In an effort to address debate in the docket about the scope of Sections 204 and 205, AFB and ACB joined the Consumer Electronics Association ("CEA") in filing an ex parte letter on August 16, 2013, proposing that, subject to certain conditions, Section 205 would apply to MVPD-supplied navigation devices while Section 204 would apply to non-MVPD devices sold at retail. By this letter, NCTA supports that agreement. NCTA recognizes that AFB, ACB, and CEA did not come to full agreement on the issue of how the rules should apply to certain third-party set-top-boxes. Nevertheless, NCTA, AFB, and ACB agree that, to the extent that Section 205 applies to such retail devices, the MVPD would not be responsible for compliance with the Section 205 accessibility requirements. Indeed, Section 205(b)(3) provides that "[a]n entity shall only be responsible for compliance with the requirements added by this section with respect to navigation devices that it provides to a requesting blind or visually impaired individual."

NCTA, AFB, and ACB further agree that Section 205 grants MVPDs maximum flexibility to provide a requesting customer an accessible solution and should not be construed to require that MVPD-provided apps running on third-party devices must be accessible regardless of whether the MVPD provides the customer with another accessible solution. As NCTA noted in its comments in this proceeding, cable operators will work to include accessible features in their apps to the extent possible (*see* NCTA Comments at 8). As an example of developments in this area, Comcast has advised the Commission that it is actively working to incorporate solutions into apps for third-party devices, *see* Comcast Ex Parte at 2 (Aug. 1, 2013).

Notwithstanding these anticipated market trends, NCTA, AFB, and ACB agree that Section 205(b)(4) must be read so as to grant "maximum flexibility" for MVPDs to comply with the accessibility requirements through set-top box solutions or via alternative means, including

software-based solutions. MVPDs must make an accessible solution available to eligible customers who request one, but the solution can be of the MVPD's choosing. This is in stark contrast to how AFB and ACB read the requirements of Section 204 in which manufacturers must make equipment of the customer's choosing accessible unless it is not achievable to do so. Nothing in Section 205 requires that an MVPD app include an app-based audible on-screen text or guide solution when the MVPD makes another accessible solution available. If the MVPD provides multiple means to access its services, the MVPD may choose which of those means to make accessible and provide to a requesting customer who is blind or visually impaired.

Respectfully submitted,

/s/ Mark Richert
Director, Public Policy
American Foundation for the Blind

/s/ Rick Chessen
Senior Vice President, Law & Regulatory Policy
National Cable & Telecommunications Association

/s/ Eric Bridges
Director of External Affairs and Policy
American Council of the Blind

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Re: In re Accessibility of User Interfaces, and Video Programming Guides and Menus, MB Docket No. 12-108

Dear Ms. Dortch:

On September 10, 2013, Mike Zarrilli, Vice President of Government Relations and Senior Counsel, Suddenlink; and Lisa Schoenthaler, Vice President of Association Affairs & Office of Rural/Small Systems; Stephanie Podey, Associate General Counsel; and I of the National Cable & Telecommunications Association ("NCTA") participated in a conference call with Evan Baranoff, Steven Broeckaert, Michelle Carey, Adam Copeland, Maria Mullarkey, Mary Beth Murphy, Brendan Murray, Alison Neplokh, and Jeffrey Neumann of the Media Bureau, and Eliot Greenwald of the Consumer & Governmental Affairs Bureau, regarding the Commission's implementation of Sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 ("CVAA").

On the call, we reiterated points discussed in NCTA's comments in the above-captioned proceeding. In particular, we discussed the need for small operators (which would include incumbent cable operators below the top six) to have a longer phase-in period to comply with the obligations contained in Section 205 of the CVAA.[1] We explained that smaller cable operators like Suddenlink do not have the budget or the resources that would be necessary to internally develop the equipment and software needed to comply with the Section 205 obligations.[2] We also discussed how smaller operators fit into the supply chain and why additional time would be needed for smaller operators to roll out accessibility solutions once they were developed and deployed by larger operators.

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

2 *See* NCTA Comments at 17-19; NCTA Reply Comments at 12-14.

We also briefly discussed functional requirements for on-screen text menus and guides. We expressed concern that expanding the rules implementing Section 205 to cover functions not included in on-screen text menus and guides, such as volume control and power on and off, would exceed the intent of Section 205, and reiterated that the rules should not interfere with the "maximum flexibility" the CVAA grants cable operators to develop accessible solutions.

Respectfully submitted,

/s/ Diane B. Burstein

Diane B. Burstein

cc: Evan Baranoff
Steven Broeckaert
Michelle Carey
Adam Copeland
Maria Mullarkey
Mary Beth Murphy
Brendan Murray
Alison Neplokh
Jeffrey Neumann
Eliot Greenwald