



National Cable & Telecommunications Association
25 Massachusetts Avenue, NW, Suite 100
Washington, DC 20001-1431
(202) 222-2300

Rick Chessen
Senior Vice President
Law and Regulatory Policy

(202) 222-2445
(202) 222-2448 Fax
rchessen@ncta.com

October 24, 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 October 23, 2013, Diane Burstein, Vice President and Deputy General Counsel, Stephanie Podey, Associate General Counsel, and I, of the National Cable & Telecommunications Association (“NCTA”), participated in a conference call with the following Commission personnel: William Lake, Michelle Carey, Mary Beth Murphy, Brendan Murray, Alison Neplokh, Adam Copeland, Maria Mullarkey, Karen Peltz Strauss, Rosaline Crawford, and Susan Aaron; later that same day, and on October 24, 2013, I spoke by telephone with Michelle Carey and Mary Beth Murphy. Each of the telephone calls addressed the Commission’s implementation of Section 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”).

On the calls, we emphasized that any entity (whether an MVPD or not) “shall only be responsible for compliance with the requirements [of Section 205] with respect to navigation devices *that it provides* to a requesting blind or visually impaired individual.”¹ Thus, we stated that if a non-MVPD provides a navigation device to a consumer (even if pre-loaded at sale with an MVPD app), the non-MVPD would be responsible for providing a requesting consumer with an audibly accessible on-screen text menu or guide. Further, under the CVAA, any entity subject to this obligation must be given “maximum flexibility” to determine how to provide this accessibility (either as part of the navigation device or “through that entity’s use of software, a peripheral device, specialized consumer premises equipment, a network-based service or other solution”).² We also discussed how Section 205(a), codified at 47 U.S.C. § 303(bb)(3)(A)-(B), does not override the clear delineation of ultimate responsibility under Section 205(b)(3).

¹ CVAA § 205(b)(3) (emphasis added).

² See CVAA § 205(b)(4).

Ms. Marlene H. Dortch

October 24, 2013

Page 2

Instead, that provision simply describes how a talking guide solution offered by the responsible entity may contain hardware and software elements that might play a role in ensuring audible accessibility. Finally, we pointed out that nothing in Section 205 requires than an MVPD app include an app-based audible on-screen text or guide solution when the responsible party makes another accessible solution available.³

Respectfully submitted,

/s/ Rick Chessen

Rick Chessen

cc: William Lake
Michelle Carey
Mary Beth Murphy
Brendan Murray
Alison Neplokh
Adam Copeland
Maria Mullarkey
Karen Peltz Strauss
Rosaline Crawford
Susan Aaron

³ 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 and Regulatory Policy, NCTA, to Marlene H. Dortch, Secretary, FCC at 3 (Sept. 12, 2013).