



# The Internet Association

December 20, 2013

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

Re: Docket No. 10-213

Dear Ms. Dortch:

The Internet Association is the unified voice of the Internet economy, representing the interests of leading Internet companies and their global community of users.<sup>1</sup> We are filing to reaffirm that posting information on a social network site is not a form of advanced communications service (“ACS”) subject to the Twenty-First Century Communications and Video Accessibility Act (“CVAA”).<sup>2</sup>

A recent filing in this proceeding opposing the Coalition of E-Reader Manufacturers’ (“E-Reader Manufacturers”) waiver petition repeatedly mentions prominent social networking sites and suggests the scope of social networking functionality that constitutes ACS is an open issue.<sup>3</sup> This ignores that the Commission already addressed this issue based on clear direction from Congress: ACS includes “two-way interactive services offered through” social networking websites (*i.e.*, “use of electronic messaging services as part of a social networking site”), but it

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

<sup>2</sup> See Reply Comments of The Internet Association, CG Docket No. 10-213 (Sept. 13, 2013).

<sup>3</sup> Letter Sent on Behalf of Association of Research Libraries and American Library Association Regarding GC Docket No. 10-213, Petition for Class Waiver Regarding Access to Advanced Communication Services in E-Readers for People with Disabilities (“Glushko-Samuels Filing”), CG Docket No. 10-213 (Dec. 6, 2013).



does not include “blog posts, online publishing, or messages posted on social networking websites.”<sup>4</sup>

Because the recent filing fails to recognize the well-established distinction between one-to-one and one-to-many functions, at various places it conflates forms of social media functionality that are ACS with those that are decidedly not. For instance, the filing asserts that “use of basic e-readers to communicate through social media” should be treated as a form of ACS.<sup>5</sup> It also “contend[s] that the social media functionalities of basic e-readers . . . fit under the statutory definition of” an electronic messaging service.<sup>6</sup> But, that is not the case since the E-Reader Manufacturers already established in the record that the social networking applications pre-installed on e-readers provide only one-to-many social sharing functionality, which the Commission correctly ruled is not ACS.<sup>7</sup>

The recent filing also includes a survey, which suffers from the same confusion and fails to draw a clear and accurate distinction between messages posted to a social network and an electronic messaging service. For instance, it asks whether survey participants were ever “prompted to access any form of social media”; “prompted to use Twitter”; “prompted to use Facebook (*e.g.*, to post or to ‘like’)”; or were “influence[d]” in purchasing decisions by the “ability to post information online or communicate with other individual.”<sup>8</sup> These questions

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<sup>4</sup> Implementation of Sections 716 and 717 of the Communications Act of 1934, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 14557, 14574-75 (2011) (quoting H.R. Rep. No. 111-563, at 23 (2010); S. Rep. No. 111-386, at 6 (2010)).

<sup>5</sup> Glushko-Samuelson Filing at 4.

<sup>6</sup> *Id.* at 1.

<sup>7</sup> *See, e.g.*, Coalition of E-Reader Manufacturers, Notice of *Ex Parte* Meeting, CG Docket No. 10-213, at 2 (Sept. 20, 2013).

<sup>8</sup> Glushko-Samuelson Filing at Appendix I, Questions 4, 5, 13, 17.



cannot generate any relevant information about whether the device is used for ACS since each of the cited activity is not ACS.

To avoid the misunderstandings about the scope of ACS that have arisen in the e-reader proceeding, the Commission should grant the requested waiver because the E-Reader Manufacturers have demonstrated that their devices are not used for actual ACS except on an incidental basis. In that context, we urge the Commission to reaffirm that the scope of ACS is limited by law and includes only the specific activities identified by Congress. In particular, as we have stated previously, the Commission should reaffirm that posting information on a social network site, Wi-Fi access, using a browser to buy a book or magazine, and accessing an application that does not offer ACS are not forms of 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.

Respectfully submitted,

THE INTERNET ASSOCIATION

By: /s/ Gina G. Woodworth

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