

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 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 of 2010 )

CG Docket No. 10-213 **ACCEPTED/FILED**

JUL 15 2014

Federal Communications Commission  
Office of the Secretary

**PN COMMENTS OF THE  
CONSUMER ELECTRONICS ASSOCIATION –  
ACCESSIBILITY OF COMMUNICATIONS TECHNOLOGIES**

The Consumer Electronics Association (“CEA”)<sup>1</sup> hereby responds to the public notice released on June 17, 2014, in the above-referenced docket (“Public Notice”).<sup>2</sup> The Public Notice “seeks comment from the public to inform the preparation”<sup>3</sup> of the 2014 biennial report on accessibility compliance and related matters that the Commission must submit to Congress

<sup>1</sup> CEA is the principal U.S. trade association of the consumer electronics and information technologies industries. CEA’s more than 2,000 member companies lead the consumer electronics industry in the development, manufacturing and distribution of audio, video, mobile electronics, communications, information technology, multimedia, and accessory products, as well as related services, that are sold through consumer channels. Ranging from giant multi-national corporations to specialty niche companies, CEA members cumulatively generate more than \$208 billion in annual factory sales and employ tens of thousands of people in the United States.

<sup>2</sup> *Consumer and Governmental Affairs Bureau Seeks Comment on the Accessibility of Communications Technologies for the 2014 Biennial Report Under the Twenty-First Century Communications and Video Accessibility Act*, CG Docket No. 10-213, Public Notice, DA 14-828 (rel. Jun. 17, 2014) (“Public Notice”). The comment date later was changed from July 3, 2014, to July 15, 2014. See *FCC Extends Deadline for Comment on the Accessibility of Communications Technologies for the 2014 Biennial Report Required by the Twenty-First Century Communications and Video Accessibility Act*, CG Docket No. 10-213, Public Notice, DA 14-847 (rel. Jun. 19, 2014).

<sup>3</sup> Public Notice at 1.

(the “2014 Biennial Report”) pursuant to Section 717(b)(1) of the Communications Act of 1934 (the “Act”).<sup>4</sup>

As summarized by the Public Notice,<sup>5</sup> the 2014 Biennial Report must contain, among other things:

- An assessment of the level of compliance with Sections 255, 716, and 718 of the Act, which govern the accessibility and usability of, respectively, telecommunications services and equipment,<sup>6</sup> Advanced Communications Services (“ACS”) and equipment,<sup>7</sup> and Internet browsers built into telephones used with public mobile services (“mobile browsers”);<sup>8</sup>
- An evaluation of the extent to which any accessibility barriers still exist with respect to new communications technologies; and
- An assessment of the effect of the requirements of Section 717 of the Act on the development and deployment of new communications technologies. Section 717 provides for new recordkeeping, certification, and enforcement requirements for services and equipment covered by Sections 255, 716, and 718 of the Act.

Below, CEA comments on these three major areas to help inform the preparation of the 2014 Biennial Report.

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<sup>4</sup> See Section 717(b)(1) of the Act, codified at 47 U.S.C. § 618(b)(1). The Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”) added Section 717(b)(1) to the Act. See Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”), Pub. L. No. 111-260, 124 Stat. 2751 (2010). See also An Act to make technical corrections in the Twenty-First Century Communications and Video Accessibility Act of 2010 and the amendments made by that Act, Pub. L. No. 111-265, 124 Stat. 2795 (2010).

<sup>5</sup> See Public Notice at 2.

<sup>6</sup> See Section 255 of the Act, codified at 47 U.S.C. § 255. Services covered under Section 255 also include interconnected voice over Internet protocol (“VoIP”), voice mail, and interactive voice response systems.

<sup>7</sup> See Section 716 of the Act, codified at *id.* § 617. ACS consists of interconnected VoIP service, non-interconnected VoIP service, electronic messaging service, and interoperable video conferencing service. See *id.* § 153(1); 47 C.F.R. § 14.10(c). Section 716(f) provides that interconnected VoIP will remain governed by Section 255, not Section 716. See 47 U.S.C. § 617(f).

<sup>8</sup> See Section 718 of the Act, codified at *id.* § 619.

## I. INTRODUCTION AND BACKGROUND

CEA applauds the Commission for its attention and efforts in implementing the CVAA and devising complex rules in a short period of time. Generally speaking, the *ACS Order*,<sup>9</sup> which established rules for implementing Sections 716 and 717, and the *Section 718 Order*,<sup>10</sup> which established rules for implementing Section 718 (collectively, the “ACS rules”), recognize the need to balance the CVAA’s dual goals of accessibility and preserving innovation. The Commission also properly has granted limited waivers of the ACS rules in well-justified circumstances, including, at the request of CEA,<sup>11</sup> a waiver for Internet Protocol (“IP”)-enabled television sets and IP-enabled digital video players.<sup>12</sup>

As the leading U.S. trade association of the consumer electronics and information technologies industries, CEA has been very involved in the implementation of U.S. laws and regulations governing the accessibility of communications equipment and services to people with disabilities and is proud to have helped shape a law – the CVAA – that reflects Congress’s

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<sup>9</sup> *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557 (2011) (“*ACS Order*”).

<sup>10</sup> *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Second Report and Order, 28 FCC Rcd 5957 (2013) (“*Section 718 Order*”).

<sup>11</sup> See CEA Petition for Waiver, CG Docket Nos. 10-213 & 10-145, WT Docket No. 96-198 (filed Mar. 22, 2012).

<sup>12</sup> See *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*; *Consumer Electronics Association; National Cable & Telecommunications Association; Entertainment Software Association; Petitions for Class Waivers of Sections 716 and 717 of the Communications Act and Part 14 of the Commission's Rules Requiring Access to Advanced Communications Services (ACS) and Equipment by People with Disabilities*, Order, 27 FCC Rcd 12970 (2012).

Careful approach toward balancing the twin goals of accessibility and preserving technological innovation.<sup>13</sup>

Similarly, CEA has been actively involved in the Commission's rulemakings to implement Sections 716, 717, and 718 of the Act, which were added by the CVAA.<sup>14</sup> CEA and its members recognize and support improved access to consumer electronics for people with disabilities and view compliance with the ACS rules as a major opportunity for such improvement. CEA also continues to engage in other regulatory and standards activities relating to accessibility.<sup>15</sup>

## II. INDUSTRY COMPLIANCE

CEA members have been working hard to comply successfully with the new ACS rules.<sup>16</sup> CEA has been assisting its members' efforts through member alerts, informational webinars, and compliance manuals and summaries. Although the implementation process is resource-intensive

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<sup>13</sup> During the development and passage of the CVAA, CEA worked closely with various Members of Congress and engaged with representatives of the accessibility community. CEA's contributions throughout the legislative process have had a meaningful result, as reflected in the CVAA.

<sup>14</sup> See, e.g., CEA Comments, CG Docket No. 10-213, WT Docket No. 96-168, CG Docket No. 10-145 (filed Feb. 13, 2012); CEA Reply Comments, CG Docket No. 10-213, WT Docket No. 96-168, CG Docket No. 10-145 (filed Mar. 14, 2012); CEA Comments on Public Notice, CG Docket No. 10-213 (filed Nov. 22, 2010); CEA Comments, CG Docket No. 10-213, WT Docket No. 96-168, CG Docket No. 10-145 (filed Apr. 25, 2011); CEA Reply Comments, CG Docket No. 10-213, WT Docket No. 96-168, CG Docket No. 10-145 (filed May 23, 2011).

<sup>15</sup> For example, CEA (i) has served on the Commission's Consumer Advisory Committee since 2004; (ii) is working, through its Video Systems Committee, with CE manufacturers and users with disabilities on a standard to address tactile feedback features for remote controls (CEA-2041); and (iii) is meeting regularly, through its Television Manufacturers Caucus ("TVMC") Accessibility Working Group, to research and develop best practices, bulletins, and/or checklists regarding accessibility for television sets and related video source devices.

<sup>16</sup> The Public Notice recognizes that full compliance with the rules implementing Section 716 and 718 has been required since October 8, 2013, see Public Notice at 6, which is a relatively short time interval.

and time-consuming, manufacturers and service providers are engaging in strong efforts to comply, including, but not limited to:

- Determining which equipment they manufacture or services they provide are subject to the rules;
- Ensuring that their business units and product development teams understand the substantive requirements of the ACS rules for covered products and services;<sup>17</sup>
- Consulting with people with disabilities to help determine accessibility solutions;
- Modifying their internal business processes and systems to perform the tasks needed to comply with the new rules; and
- Keeping internal records systems current and functioning smoothly to meet records maintenance requirements.

Unfortunately, smaller entities have encountered challenges in achieving compliance. To alleviate these obstacles, the Commission should adopt a permanent small entity exemption, which will facilitate the entry and continued participation of small entrepreneurial businesses in providing innovative ACS and ACS equipment.<sup>18</sup> This exemption is essential in light of the compliance burden that the ACS rules impose on small businesses.

### **III. ACCESSIBILITY BARRIERS TO NEW COMMUNICATIONS TECHNOLOGIES**

Modern consumer electronics devices and applications (“apps”) help tear down accessibility barriers by providing opportunities for access to people with disabilities that the less sophisticated, less user-friendly devices and apps of even a few years ago were unable to deliver.

CEA recognizes such innovative advances in accessibility in its annual Innovation Awards

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<sup>17</sup> Although the general structure of the ACS rules adopted under Section 716 is similar to the structure of the Section 255 rules, the substantive requirements are significantly different. For example, the “unless not achievable” standard that applies to the accessibility and usability provisions of the ACS rules is more rigorous and less well-defined than the “if readily achievable” standard of the Section 255 rules.

<sup>18</sup> See Public Notice at 2-5.

presented at the International CES.<sup>19</sup> Policy makers and advocates for increased accessibility should encourage development of even more advanced devices and apps.

Nevertheless, CEA recommends that the Commission refrain from evaluating the accessibility of communications technologies other than the telecommunications and ACS equipment and services covered by Sections 255 and 716 and the Internet browsers built into telephones used with public mobile services covered by Section 718.<sup>20</sup> Rather than reporting on technologies outside the scope of the Act, the Commission should focus on the accessibility of equipment and services over which Congress has granted it specific statutory authority.

#### **IV. EFFECT OF SECTION 717 ON DEVELOPMENT AND DEPLOYMENT OF NEW COMMUNICATIONS TECHNOLOGIES**

The recordkeeping, complaint, and enforcement requirements adopted pursuant to Section 717 have only recently been completely phased in, with the recordkeeping requirements in particular having been in effect since January 30, 2013. As members' engineers and software developers seek to develop new communications technologies, the recordkeeping, certification, and enforcement requirements of Section 717 have imposed additional paperwork and recordkeeping burdens. The Commission wisely provided some flexibility to entities subject to Section 717 to implement recordkeeping mechanisms in their own way,<sup>21</sup> but even so, the process for doing so has required significant resources. The Commission should continue to avoid regulations or enforcement practices that freeze or lock in a given accessibility "solution" that may become obsolete as technologies develop.

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<sup>19</sup> See <http://www.cesweb.org/Events-Programs/CES-Innovation-Awards.aspx> (Award-winning accessibility solutions are displayed by using the drop down menu to navigate to "Accessible Technologies").

<sup>20</sup> See Public Notice at 7.

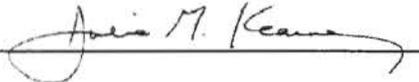
<sup>21</sup> See *ACS Order*, 26 FCC Rcd at 14652-53, ¶ 223.

V. CONCLUSION

CEA urges the Commission to make findings in the 2014 Biennial Report that reflect the views expressed above.

Respectfully submitted,

Consumer Electronics Association

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