

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

In the Matter of)	
)	
Implementation of Sections 716 and 717 of)	CG Docket No. 10-213
the Communications Act of 1934, as Enacted)	
by the Twenty-First Century Communications)	
and Video Accessibility Act of 2010)	

**PN COMMENTS OF CTIA—THE WIRELESS ASSOCIATION® –
CVAA REPORT TENTATIVE FINDINGS**

CTIA-The Wireless Association® (“CTIA”) is pleased to submit these comments in response to the Public Notice issued by the Consumer and Governmental Affairs Bureau (“CGB” or “Bureau”) of the Federal Communications Commission (“Commission” or “FCC”) seeking comment on the tentative findings for the 2014 Biennial Report to Congress on the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA” or the “Act”).^{1/} As CTIA explained in its prior comments, the wireless industry continues to make significant efforts to ensure that all consumers, including people with disabilities and older adults, can take advantage of innovative wireless products and services.^{2/}

CTIA respectfully submits that the Commission’s final 2014 Biennial Report to Congress should appropriately frame the issues described in the Public Notice from commenter’s statements, by:

^{1/} See *Consumer and Governmental Affairs Bureau Seeks Comment on its Tentative Findings About the Accessibility of Communications Technologies for the 2014 Biennial Report Under the Twenty-First Century Communications and Video Accessibility Act*, Public Notice, CG Docket No. 10-213, DA 14-1255 (rel. Aug. 28, 2014) (“*Public Notice*”); see also *Twenty-First Century Communications and Video Accessibility Act*, Pub. L. No. 111-260, 47 U.S.C. § 618(b)(1) (2010).

^{2/} See PN Comments of CTIA—The Wireless Association® – Accessibility of Communications Technologies, CG Docket No. 10-213 (filed July 15, 2014) (“CTIA Comments”).

- noting that concerns about the accessibility of interoperable video conferencing services (“IVCS”) are premature given that the Commission has not defined the scope of IVCS;
- recognizing the wireless industry’s continued efforts to engage and collaborate with the accessibility community; and
- identifying the accessibility issues addressed in the final report that are within the reach of the CVAA and the FCC’s rules, and those that are outside that scope and, as such, not part of covered entities’ compliance obligations with the CVAA or the FCC’s rules.

CTIA’s member companies have made substantial efforts to comply with the CVAA and have gone further to undertake voluntary collaborative efforts in the spirit of the Act that have contributed to the widespread availability of, and information about, accessible wireless products and services. The FCC should ensure that its final report reflects these efforts and achievements.

INTRODUCTION AND SUMMARY

In its tentative report, the Commission has correctly determined that the wireless industry has made significant strides in complying with the CVAA’s requirements to ensure that individuals with disabilities have access to a wide variety of advanced communications services and equipment. For instance, the Commission recognizes that there has been an increase in the availability of telecommunications equipment with varying degrees of functionality, features, and price points.^{3/} It also acknowledges the efforts to comply with the CVAA’s requirements to ensure that advanced communications services and equipment, as well as mobile web browsers, are increasingly accessible to people with disabilities.^{4/}

Although CTIA appreciates the Commission’s recognition of these efforts, CTIA believes that the FCC should revise certain of its tentative findings or provide appropriate context in its Report to Congress. These include: (1) suggestions that there is a lack of accessible

^{3/} See *Tentative Findings for 2014 Biennial Report to Congress as Required by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA)* (“*Tentative Findings*”), ¶ 21, attached to Public Notice.

^{4/} See *id.* ¶¶ 22-23.

IVCS, while the Commission has not yet defined such services; (2) general statements that the industry could be doing “more” to collaborate with the accessibility community, but without a complete overview of the accessibility communities’ efforts to educate people with disabilities about accessible wireless products and services; and (3) statements about the accessibility of products and services that are outside the scope of the CVAA, and as such, should not be included in the FCC’s final report unless the Commission makes clear that the products and services described are not part of covered entities’ compliance obligations with the CVAA or the FCC’s rules.

With the modifications proposed herein, CTIA believes the FCC should proceed with finalizing its remaining findings that highlight the extensive efforts CTIA’s member companies have made to address the accessibility of wireless products and services.

I. THE COMMISSION’S FINAL REPORT SHOULD PROPERLY FRAME ANY DESCRIPTION ABOUT THE ACCESSIBILITY OF INTEROPERABLE VIDEO CONFERENCING SERVICES

The tentative findings note that the collective Consumer Groups have expressed concerns about the lack of accessible IVCS, contending that, among other things, mainstream video conferencing services remain incompatible with Telecommunications Relay Services (“TRS”) and Video Relay Services (“VRS”).^{5/} While the tentative findings acknowledge that issues related to the interoperability of video conferencing services are the subject of a proceeding pending before the Commission,^{6/} the tentative findings do not acknowledge that the very meaning of IVCS is unclear and that the absence of a definition means that companies do not know what is expected of them in terms of any compliance.

^{5/} See *id.* ¶¶ 3, 30-31; see also Comments of National Association of the Deaf, et al. and Telecommunication-RERC, CG 10-213, at 4-6 (filed Aug. 4, 2014) (“Consumer Groups Comments”).

^{6/} See *Tentative Findings* ¶ 3, n.9.

To date, the Commission has not finalized the definition of “interoperable video conferencing services” due to the nascent state of the video conferencing market, particularly for mobile communications. Under such circumstances, complaints that such services are inaccessible are premature. Given the undefined status of IVCS, if such complaints are noted in the final report, the FCC should provide a fuller explanation of the surrounding facts, including properly noting that concerns about the lack of accessible IVCS are premature before the Commission has defined the scope of IVCS.

Moreover, as CTIA suggested in its initial comments, the Commission should promptly resolve this pending proceeding to provide the necessary clarity and regulatory certainty that the industry needs to address accessibility in the burgeoning IVCS market and to plan for compliance.^{7/} If the FCC cannot define these services due to a lack of IVCS in the market today, the Commission should clarify that it does not intend to enforce Section 716’s requirements as applied to IVCS until such time as it resolves the definition.

II. THE COMMISSION’S FINAL REPORT SHOULD RECOGNIZE THE WIRELESS INDUSTRY’S EFFORTS TO ENGAGE AND COLLABORATE WITH THE ACCESSIBILITY COMMUNITY

The tentative findings include statements by various advocacy groups that the industry needs to do “more” to include the accessibility community in the design and development of products and services to ensure that their accessibility needs are met.^{8/} For example, the Commission notes that “more needs to be done” to facilitate consumer participation early on in

^{7/} CTIA Comments at 34-35.

^{8/} See *Tentative Findings* ¶¶ 12, 24-25.

the development of products and services.^{9/} Similarly, the Commission asserts that “more can be done” to include people with disabilities in the design and development stages.^{10/}

CTIA supports industry collaboration with the accessibility community, and its member companies have demonstrated good faith efforts to consult with people with disabilities, consistent with the letter and spirit of the CVAA and the FCC’s recordkeeping requirements. CTIA submitted extensive examples of such collaboration, including – for example – instances of engagement with the accessibility and older adult communities through initiatives like CTIA’s Accessibility Outreach Initiative and support of the Partnership on Employment & Accessible Technology.^{11/} CTIA also explained that its member companies have developed strategies to consider accessibility throughout various stages of product and service design and deployment.^{12/} Such initiatives, including forthcoming workshops^{13/} and recently released research briefs that highlight consumer views about the accessibility and usability of mobile devices,^{14/} demonstrate that the wireless industry’s ongoing commitment to collaborate with the accessibility community yields positive results for consumers.

It would be helpful for the Commission to describe efforts by the Consumer Groups to raise awareness among those they represent about accessible wireless products and services, industry efforts, and available opportunities for collaboration. The inclusion of such information

^{9/} *Id.* ¶ 24.

^{10/} *Id.* ¶ 25.

^{11/} *See* CTIA Comments at 26-33.

^{12/} *See, e.g., id.* at 8-9.

^{13/} *See, e.g., Discovery Wireless Accessibility! How-to Presentations for Consumers with Disabilities*, Wireless RERC (Aug. 2014), <http://www.wirelessrerc.org/content/newsroom/discover-wireless-accessibility-how-presentations-consumers-disabilities>.

^{14/} *See, e.g., SUNspot – Ease of Use and Wireless Device Modifications by Adults with Disabilities*, Wireless RERC (July 2014), http://www.wirelessrerc.gatech.edu/sites/default/files/publications/SUNspot_2014-03_Ease%20and%20Modifications_2014-07-30_0.pdf.

will provide Congress with a more complete picture of the collaborative efforts being taken by industry and the accessibility community to determine whether additional efforts are necessary. The Commission's final report should note that industry has detailed significant efforts to consult and engage with the accessibility community and encourage the Consumer Groups to continue augmenting these industry efforts through education of people with disabilities about accessible wireless products and services.

III. THE COMMISSION'S FINAL REPORT SHOULD PROPERLY FRAME ISSUES THAT ARE OUTSIDE THE SCOPE OF THE CVAA OR FCC RULES

The tentative findings note concerns raised by the advocacy groups and others that are beyond the scope of the CVAA and the FCC's rules. For instance, the tentative findings discuss concerns raised by some commenters that are outside the FCC's jurisdiction altogether, including – for example – issues relating to the inaccessibility of websites, the inaccessibility of software applications, and the inability to access captions or video description on assistive devices.^{15/} The tentative findings similarly note concerns raised by the Consumer Groups about the accessibility of certain products and services that have received waivers of the FCC's rules, including gaming consoles, services, and software and certain navigation devices.^{16/}

While the Commission notes that such concerns are outside the CVAA's scope and in some cases outside the FCC's jurisdiction entirely,^{17/} it nonetheless includes a discussion of those concerns in the report without clearly distinguishing which concerns suggest a potential problem with CVAA compliance on the part of industry and which are matters that are not

^{15/} See *Tentative Findings* ¶ 6, n.30.

^{16/} See *id.* ¶ 3 (citing Consumer Groups Comments at 6).

^{17/} See *id.* ¶ 3, n.12 (“Note, however, that the Commission granted class waivers of the advanced communications services accessibility rules until October 8, 2015, for gaming consoles, services and software.”); *id.* ¶ 6, n.30 (“A number of the commenters noted concerns that are outside the Commission's jurisdiction.”).

covered by the CVAA but that the accessibility community would like to see addressed in the future. CTIA believes that the inclusion of concerns unrelated to CVAA requirements in the FCC's final report may be of limited value to Congress's review of the Act's success. However, to the extent the FCC determines to include them, it should make clear in its final report which concerns do not suggest a failure by industry to comply with any CVAA obligations or FCC rules.

CONCLUSION

CTIA is pleased that the Commission recognizes the substantial efforts made by the wireless industry to ensure that wireless products and services are accessible to and usable by all Americans, including those with disabilities. By incorporating the clarifications noted herein, CTIA believes the FCC should finalize its Biennial Report to Congress, highlighting the extensive collaborative efforts the wireless industry has made to foster the accessible communications environment that Congress and the FCC envisioned in enacting and implementing the CVAA.

Respectfully submitted,

/s/ Matthew B. Gerst

Matthew B. Gerst
Director, State Regulatory & External Affairs

Michael F. Altschul
Senior Vice President, General Counsel

Scott Bergmann
Vice President, Regulatory Affairs

Krista L. Witanowski
Assistant Vice President, Regulatory Affairs

CTIA—The Wireless Association®
1400 Sixteenth Street, N.W.
Suite 600
Washington, D.C. 20036
(202) 785-0081

September 11, 2014