Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of Section 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communciations and Video Accessibility Act of 2010	)	CG Docket No. 10-213
	)	
Amendments to the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996	)	WT Docket No. 96-198
	)	
In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision	)	CG Docket No. 10-145

REPLY COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION

The Telecommunications Industry Association ("TIA")[1] hereby submits reply comments in response to the Federal Communications Commission's ("Commission") Further Notice of

[1] TIA is the leading trade association for the information and communications technology ("ICT") industry, representing companies that manufacture or supply the products and services used in global communications across all technology platforms. TIA represents its members on the full range of policy issues affecting the ICT industry and forges consensus on industry standards. Among their numerous lines of business, TIA member companies design, produce, and deploy a wide variety of devices with the goal of making technology accessible to all Americans.

Proposed Rulemaking ("FNPRM"),[2] which seeks comment on a number of issues regarding proposed rules towards implementation of Section 104 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (the "CVAA" or the "Act").[3] TIA supported the passage of the CVAA and commends the Commission for initiating this proceeding to help ensure that all Americans have access to advanced communications services ("ACS") products.

I. THE RECORD REFLECTS AGREEMENT THAT THE COMMISSION SHOULD IMPOSE OBLIGATIONS UNDER SECTION 718 CONSISTENT WITH SECTION 716'S REQUIREMENTS.

TIA again urges, and believes that the record strongly supports, that the requirements of Section 718 should be interpreted and implemented in the same manner as Section 716, being on a case-by-case basis and subject to the various factors and parameters adopted for Section 716.[4] Specifically, TIA believes that manufacturers should only be accountable for access to content, and not for the accessibility of content or services that are made available to the user by the

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[2] *Implementation of Section 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communciations and Video Accessibility Act of 2010, Amendments to the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996, In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, Further Notice of Proposed Rulemaking, CG Docket Nos. 10-213, 10-145; WT Docket No. 96-198, FCC 11-151 (rel. Oct. 7, 2011) ("FNPRM").

[3] Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 (2010) ("CVAA").

[4] *See, e.g.*, Comments of the Consumer Electronics Association (CEA), CG Docket Nos. 10-213, 10-145; WT Docket No. 96-198 (filed Feb. 13, 2012) ("CEA Comments") at 8; Comments of CTIA-The Wireless Association, CG Docket Nos. 10-213, 10-145; WT Docket No. 96-198 (filed Feb. 13, 2012) ("CTIA Comments") at 16; Comments of Microsoft Corporation, CG Docket Nos. 10-213, 10-145; WT Docket No. 96-198 (filed Feb. 13, 2012) ("Microsoft Comments") at 2-5; Comments of TIA, CG Docket Nos. 10-213, 10-145; WT Docket No. 96-198 (filed Feb. 13, 2012) ("TIA FNPRM Comments") at 4.

inclusion of a browser on a manufacturer's product.[5] We also note our support for the interpretation that the Commission is not authorized to impose the Section 718 requirements on data-only devices such as laptops, tablets, or other products.[6]

TIA agrees with other commenters on the record that application programming interfaces ("APIs") hold the possibility to bring about the integration of assistive technologies into mobile platforms across mobile phone brands, the use of an "accessibility API" should not be required to comply with Section 718,[7] as an API is one of multiple ways to use a third-party screen reader.[8] TIA again urges that the Commission, as contemplated in the FNPRM in regard to Section 716,[9] encourage industry forums and working groups to develop accessibility standards for mobile browsers. These forums and working groups should be allowed to petition the Commission to accept the use of an API standard as a voluntary safe harbor standard.

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5 *See* TIA FNPRM Comments at 5-6; *See also* CEA Comments at 7-8.

6 *See* CEA Comments at 6-7.

7 TIA, along with other commenters, opposes the Commission mandating an "accessibility API" as proposed by Code Factory. *See also* Comments of Google, Inc., CG Docket Nos. 10-213, 10-145; WT Docket No. 96-198 (filed Feb. 13, 2012) ("Google Comments") at 8; Microsoft Comments at 3-4.

8 *See* CTIA Comments at 17-18; Comments of the Information Technology Industry Council, CG Docket Nos. 10-213, 10-145; WT Docket No. 96-198 (filed Feb. 13, 2012) ("ITIC Comments") at 2; Comments of the Rehabilitation Engineering Research Center on Telecommunications Access, CG Docket Nos. 10-213, 10-145; WT Docket No. 96-198 (filed Feb. 13, 2012) ("RERC Comments") at 12; Microsoft Comments at 4.

9 FNPRM at ¶¶ 311-314.

II. THE RECORD STRONGLY SUPPORTS DEFINING "INTEROPERABLE VIDEO CONFERENCING" CLEARLY AND PREDICTABLY BY INCORPORATING A CONSUMER VIEWPOINT.

In its response to the FNPRM, TIA described to the Commission how the video conferencing sector of the ICT market is only emerging, and the damaging effect that prescriptive regulations would have on it.[10] The input submitted from the majority of commenters representing service providers, vendors, and developers, demonstrates that "inter-platform, inter-network, and inter-provider," viewed from a consumer standpoint to mean that that a video conferencing service should be deemed "interoperable" under this definition when it allows a user to make and receive a video conference call to and from all other users, regardless of the network, device, or provider used to initiate or receive a video communication, should be used as this definition.[11]

TIA again notes its opposition to the use of multiple definitions for the term "interoperable video conferencing service"[12] as proposed by several commenters.[13] The CVAA's desired results will be best realized through the use of clear and concise regulations that allow for

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[10] *See* TIA FNPRM Comments at 6.

[11] *See* CEA Comments at 12; CTIA Comments at 4-10; ITI Comments at 6; Microsoft Comments at 5;

[12] *See* TIA FNPRM Comments at 6. We also note agreement on this position from NCTA. *See* Comments of the National Cable and Telecommunications Association, CG Docket Nos. 10-213, 10-145; WT Docket No. 96-198 (filed Feb. 13, 2012) (NCTA Comments) at 6.

[13] *See* RERC Comments at 8, Comments of the Telecommunications for the Deaf and Hard of Hearing, Inc., the National Association of the Deaf, the Hearing Loss Association of America, the Association of Late-Deafened Adults, Inc., and the Deaf and Hard of Hearing Consumer Advocacy Network, CG Docket Nos. 10-213, 10-145; WT Docket No. 96-198 (filed Feb. 13, 2012) ("Consumer Group Comments") at 9.

maximum predictability. Multiple definitions and tests for whether a video conferencing service is "interoperable" would be overly confusing and burdensome on stakeholders seeking to comply with the CVAA, and for the Commission in making related determinations. The proposals from proponents of multiple definitions fails to respect that definitional certainty – not requiring developers of video conferencing services to undergo multiple-pronged, potentially-overlapping analyses – will best help facilitate the increased investment and development of such a nascent sector. Finally, TIA again notes that the use of a single definition of "interoperable" in the matter at hand would be consistent with the Commission's policy of using a single definition in a public safety context.[14]

TIA believes that its suggested approach to the determination of whether a video service is "interoperable" – that the Commission use what it provides as "Option 1" in the FNPRM,[15] and that a video conferencing service be deemed "interoperable" under this definition when it allows a user to make and receive a video conference call to and from all other users, regardless of the network, device, or provider used to initiate or receive a video communication[16] – is in alignment with a significant constituency of commenters on the FNPRM that represent crucial interests in this area.[17] TIA believes that this approach would address the Commission's and others concerns that "inter-provider, internetwork, and inter-platform" would result in too narrow

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14 *See* 47 C.F.R. § 90.7.

15 *See, e.g.*, Comments of TIA, CG Docket Nos. 10-213, 10-145; WT Docket No. 96-198 (filed Apr. 25, 2011) ("TIA NPRM Comments") at 11.

16 TIA FNPRM Comments at 9-10.

17 *See* CTIA Comments at 5; CEA Comments at 12; ITI Comments at 6

of a determination of what is "interoperable,"[18] as this determination would allow for much-needed ease in determining whether a video conferencing service truly should fall within the CVAA for all stakeholders, would provide a clear and simple path forward for future development of video conferencing services and platforms, would encourage the consideration of accessibility in the earliest stages of development, and would be consistent with analogous definitional determinations made by the Commission.[19] Finally, TIA notes that the degree to which interoperability would have to exist to cross this threshold should be complete.[20]

III. THE RECORD DEMONSTRATES THAT THE IT AND TELECOM RERC'S PROPOSED PERFORMANCE CRITERIA SHOULD NOT BE USED BY THE COMMISSION

TIA reiterates its opposition to the IT and Telecom RERCs' proposal on how the Commission should interpret the phrase "may not impair or impede the accessibility of information content" in Section 617(e)(1)(B) as well as the "Aspirational Goal and Testable Functional Performance Criteria,"[21] and believes that the record reflects that the majority of stakeholders do not support these additional performance criteria,[22] which we view as

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18 *See* FNPRM at ¶ 301; *See also* RERCs Comments at 5.

19 *See* TIA FNPRM Comments at 9-10.

20 As TIA noted in its comments to the FNPRM, it bases this position on Congress' wording in the CVAA, where the plain language of the law contains no qualifying terms (such as "partially" or "substantially"). 47 U.S.C. 153(59).

21 *See* TIA Comments at 11-12.

22 *See* CEA Comments at 17-18; CTIA Comments at 15; ITIC Comments at 5, 7; NCTA Comments at 3.

unnecessary, premature, and prescriptive, particularly given the performance objectives adopted in the CVAA Order.[23] We disagree that this proposed performance criteria, as suggested by the Consumer Groups and the RERCs (in previous filings), "do[es] not specify any particular design features or implementations." [24] As we have explained in our initial comment to this FNPRM, from the perspective of the companies who develop the products at issue, these criteria, if adopted, will inhibit, not encourage, innovation in the ACS market.[25] Under this scenario, the ultimate loss would be experienced most acutely by the groups of consumers which the CVAA was intended to benefit. TIA believes the correct course of action is for the Commission to encourage the development and use of industry, consensus-based standards, particularly for accessibility of information content.

IV. THE RECORD SUPPORTS THE USE OF CONSENSUS-BASED, VOLUNTARY TECHNICAL STANDARDS AS SAFE HARBORS FOR COMPLIANCE WITH THE CVAA.

From the record, it is clear that there is unanimous agreement amongst the commenters that the use of standards as safe harbors is supported, [26] and we reiterate that TIA supports standards being used as safe harbors where necessary, and not as a substitute for more general

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23 *See* 47 C.F.R. § 14.21.

24 *See, e.g.,* Consumer Groups at 12-13.

25 *See* TIA Comments at 11-12.

26 *See* CEA Comments at 20-21; Google Comments at 8; ITIC Comments at 9-10; Microsoft Comments at 12.

performance objectives.[27] While there are a variety of views regarding the standards for which the Commission sought comment in the NPRM,[28] TIA is in agreement with others on the record that it would not be appropriate to wholly adopt applicable provisions in ISO/IEC 13066-1:2011, WCAG 2.0, or Section 508 at this time, and that instead the Commission should develop a process by which it considers standards which were developed in a consensus-based, industry-led, open process that complies with American National Standards Institute ("ANSI") Essential Requirements.[29] Particularly, in regard to Section 508, given the ongoing rulemaking process the United States Access Board is currently in the process of,[30] TIA reiterates that that the Commission is not required to guarantee that the performance objectives proposed by the Commission are identical to the draft Section 508 guidelines set forth by the Access Board, and may attempt, if not contrary to statutory obligations, to harmonize its CVAA performance objectives with those of the Access Board, though the Commission has full discretion to depart from the Access Board Guidelines when merited.[31]

Finally, TIA wishes to emphasize that that while we encourage standards to be deemed safe harbors, these standards should not be required, nor should they be categorized as

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[27] *See, e.g.*, TIA NPRM Comments at 32.

[28] The Commission specifically sought comment on the use of "APIs and specifications which support the applicable provisions in ISO/IEC 13066-1:2011;" as well as W3C/WAI Web Content Accessibility Guidelines, Version 2.0 (WCAG 2.0); and Section 508 of the Rehabilitation Act of 1973, as amended (Section 508), as safe harbors. *See* FNPRM at ¶ 312.

[29] *See* CEA Comments at 20-21; TIA FNPRM Comments at 7-8.

[30] *See* United States Architectural and Transportation Barriers Compliance Board Request for Comments on Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards, 76 Fed. Reg. 76640 (Dec. 8, 2011).

[31] *See* TIA NPRM Comments at 32.

"accessibility" standards.[32] Placing such a label on a standard would be an inappropriate validation by the Commission because it would be inferred that the particular standard offers for across-the-board "accessibility."

[32] See TIA FNPRM Comments at 15.

V. CONCLUSION

For the foregoing reasons, TIA urges the Commission's to adopt the recommendations above, consistent with the CVAA.

Respectfully submitted,

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