

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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| In the Matter of |) | |
| |) | |
| Accessibility of User Interfaces, and Video |) | MB Docket No. 12-108 |
| Programming Guides and Menus |) | |
| |) | |
| Accessible Emergency Information, and Apparatus |) | MB Docket No. 12-107 |
| Requirements for Emergency Information and Video |) | |
| Description: Implementation of the Twenty-First |) | |
| Century Communications and Video Accessibility Act |) | |
| of 2010 |) | |

COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION

The Telecommunications Industry Association (“TIA”)¹ submits these comments in response to the Commission’s Further Notice of Proposed Rulemaking (“FNPRM”) on whether “accessibility features” include user display settings for closed captioning and whether to require covered entities under the Twenty-First Century Communications and Video Accessibility Act of 2010² to ensure that consumers are able to locate and control such settings.

¹ TIA is a trade association based in the Washington, DC area which represents the global information and communications technology (“ICT”) manufacturer, vendor, and supplier community through policy advocacy and standards development. TIA represents ICT industry consensus accessibility-related positions to Congress, the Federal agencies, civil society, and other stakeholders. Through its Accessibility Working Group, TIA also serves its member companies by providing a forum for addressing existing and emerging accessibility-related issues and events for member companies, as well as a conduit for constructive dialogues with the disability community. See <https://www.tiaonline.org/policy/accessibility>.

² Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified in various sections of 47 U.S.C.). *See also* Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-265, 124 Stat. 2795 (2010).

In these comments, we focus on the Commission’s discussion of possibly expanding the requirement that closed captioning and video description be activated via a mechanism “reasonably comparable to a button, key or icon” to additional features, such as user display selections for closed captioning.³ TIA urges the Commission to (1) decline to adopt any technical mandates for user display selections for closed captioning related to Internet protocol (“IP”) delivered video and (2) determine that a “button, key or icon” requirement is not appropriate for settings with multiple options.

I. THE FCC SHOULD NOT ADOPT ANY TECHNICAL MANDATES FOR USER DISPLAY SELECTIONS FOR CLOSED CAPTIONING RELATED TO IP-DELIVERED VIDEO

In the Commission’s FNPRM, comment is sought on whether “the explicit inclusion of the term ‘accessibility features’ [by Congress] in Sections 303(aa)(3) and 303(bb)(2) of the CVAA...gives the Commission sufficient discretion to require the provision of a mechanism that is reasonably comparable to a button, key, or icon designated for accessing caption display settings.”⁴ TIA urges the Commission to decline to adopt any technical user display selection requirements for IP closed captioning.

³ See FNPRM at ¶ 140.

⁴ FNPRM at ¶ 142.

We urge the Commission to recognize that closed captioning user display requirements are new, applying only to devices manufactured after January 1, 2014.⁵ TIA members, consisting of numerous covered entities, have invested in meeting these Commission requirements in order to meet this January 1, 2014 deadline. While the Commission notes that some commenters have indicated dissatisfaction with the ease of accessing apparatus and navigation device features for closed captioning in years past,⁶ the record does not justify that, under the new rules, the IP delivered video marketplace will result in a similar situation for consumers as new and innovative consumer devices have been and continue to be marketed and sold in compliance with closed captioning user display requirements since January 1, 2014. Furthermore, as a matter of policy, the Commission should not base its decisions in an IP world on the experiences of legacy devices and services.

We also believe that the Commission should ensure that it allows for flexibility and technology neutrality in the implementation of its CVAA rules. The Commission should be wary of locking in a limited set of solutions (or excluding others) when new innovations are constantly being rolled out, some of which cannot be predicted. No industry illustrates the need for flexibility and technology neutrality more than the dynamic ICT industry. We strongly urge the Commission to allow covered entities the flexibility to innovate and design user interfaces that appropriately address how accessibility features are used by consumers.

⁵ See *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, Report and Order, 27 FCC Rcd 787 at ¶ 1.

⁶ See FNPRM at ¶ 142.

II. THE COMMISSION SHOULD DETERMINE THAT A “BUTTON, KEY OR ICON” REQUIREMENT IS NOT APPROPRIATE FOR SETTINGS WITH MULTIPLE OPTIONS

In the FNPRM, the Commission requests input on how it might implement a requirement to provide an activation mechanism reasonably comparable to a button, key, or icon with regard to user display settings for closed captioning, which it states at present usually requires the user to navigate through multiple on-screen text menus to select settings.⁷ TIA urges the Commission to determine that the “button, key or icon requirements in Section 303(aa)(3) and Section 303(bb)(2)⁸ do not apply to settings with multiple options, such as user display selections for closed captioning. Sections 204 and 205 of the CVAA unambiguously discuss means to turn on and off closed captioning or video description functions in its use of the phrasing, “designated for activating.”⁹ The CVAA’s “reasonably comparable” requirement in Section 204 is applied to “access [] closed captioning or video description features;”¹⁰ and the

⁷ See FNPRM at ¶ 143.

⁸ See Sections 303(aa)(3) and 303(bb)(2).

⁹ *Id.*

¹⁰ Section 303(aa)(3) (“...that for such apparatus equipped with the functions described in paragraphs (1) and (2) built in access to those closed captioning and video description features through a mechanism that is reasonably comparable to a button, key, or icon designated for activating the closed captioning or accessibility features...”).

CVAA's Section 205 merely discusses "access to" built-in "closed captioning" capabilities without making any sort of reference to video description.¹¹

TIA urges the Commission to agree that the fine-tuning of closed captioning settings after they have already been turned on (*e.g.*, altering font, color, size of captions, etc.) should not be considered an "activation" function when using the conventional definition of the word. TIA believes that "activations" in this context are binary actions – turning the feature on or off – which are equivalent to the use of a dedicated "button, key, or icon." Conversely, the various alteration settings that may be changed after activation (*e.g.*, font, color, size, etc.) allow for numerous choices and possibilities which cannot be reasonably managed using a dedicated "button, key, or icon." For example, TIA notes that the IP captioning rules on fonts for apparatus require that "fonts are available to implement the eight fonts required by CEA-708 and § 79.102(k). Users must be provided with the ability to assign the fonts included on their apparatus as the default font for each of the eight styles contained in § 79.102(k)."¹² In this instance, the Commission appropriately indicates that it does not consider it to be reasonable for a consumer to utilize a dedicated "button, key, or icon" to determine their choice of these eight fonts. We urge for a consistent approach in the matter at hand.

¹¹ Section 303(bb)(2) ("for navigation devices with built-in closed captioning capability, that access to that capability through a mechanism is reasonably comparable to a button, key, or icon designated for activating the closed captioning, or accessibility features"); *See also Accessibility of User Interfaces, and Video Programming Guides and Menus; Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket Nos. 12-108, 12-107, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-138 (rel. Oct. 31, 2013) at ¶ 85.

¹² *See* 47 C.F.R. 79.103(c)(5).

II. CONCLUSION

We thank the Commission for its public consultation and urge the careful consideration of the positions of the ICT manufacturer and vendor community offered above.

Respectfully submitted,

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