

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Access to Video Conferencing)	CG Docket No. 23-161
)	
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
)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	
Petition of Sorenson Communications, LLC for a Limited Waiver of the Privacy Screen Rule)	

**COMMENTS OF
CONSUMER TECHNOLOGY ASSOCIATION**

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Consumer Technology Association (CTA)^{®1} respectfully submits these comments in response to the Access to Video Conferencing Notice of Proposed Rulemaking in the above-captioned proceedings.²

I. INTRODUCTION AND SUMMARY

As the leading U.S. trade association of the consumer technology industry, CTA has been deeply involved in the implementation of U.S. laws and regulations governing the accessibility of communications and video technology and services to people with disabilities, including the Federal Communications Commission’s (“Commission’s” or “FCC’s”) efforts to implement the

¹ As North America’s largest technology trade association, CTA[®] is the tech sector. Our members are the world’s leading innovators—from startups to global brands—helping support more than 18 million American jobs. CTA owns and produces CES[®]—the most influential tech event on the planet.

² *Access to Video Conferencing*, Report and Order, Notice of Proposed Rulemaking, Order, FCC 23-50 (rel. June 12, 2023) (“*Report and Order*” and “*NPRM*,” as appropriate).

Twenty-First Century Communications and Video Accessibility Act of 2010.³

The industry makes new and better tools available as quickly as possible, to ensure accessibility keeps pace with advancements in technology. Flexibility in regulations governing design and deployment has ensured that companies can consistently innovate and quickly bring new technologies to market. The FCC’s avoidance of overly prescriptive rules set the proper foundation for the consumer technology industry to deliver innovative technologies that are accessible to and usable by individuals with disabilities, when doing so is achievable. The Commission should employ such flexibility again here.

CTA and its members share the continuing commitment of the Commission to improving access to consumer technologies for people with disabilities,⁴ particularly with respect to interoperable video conferencing services (IVCS). As explained below:

- Video conferencing providers are delivering numerous accessibility features, and video conferencing technologies are changing rapidly. The Commission should not stifle innovation by dictating or otherwise locking in specific technical standards or user interface controls.
- The *NPRM* raises many important preliminary questions that require more stakeholder engagement and dialogue, including support for sign language users and caption quality.
- Given the lack of established or agreed-upon implementations for many of the proposals, it is premature for the FCC to issue new regulations.
- Following stakeholder dialogue consultations, and given the many open questions posed in the *NPRM*, a Further Notice of Proposed Rulemaking (*FNPRM*)—at least with respect to requirements for video conferencing providers—would be appropriate.

³ See Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 (2010) (CVAA); Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-265, 124 Stat. 2795 (2010) (technical amendments to CVAA).

⁴ The goals of the CVAA are as critical now as when the CVAA became law: “ensur[ing] that individuals with disabilities are able to fully utilize communications services and equipment and better access video programming.” S. Rep. No. 111–386, at 1 (2010) (describing the purpose of the CVAA).

- Should the Commission impose rules, the compliance date should be at least three years away, and the rules should be consistent with precedent regarding achievability, waiver and third-party solutions.

II. THE CONSUMER TECHNOLOGY INDUSTRY CONSISTENTLY PROVIDES NEW AND ENHANCED TOOLS TO EXPAND ACCESS TO COMMUNICATIONS TECHNOLOGIES

Video conferencing has been a particularly important part of ensuring connection and communications during the past several years, growing rapidly in both user adoption and consumer features. Innovators have introduced accessibility features that help to ensure that both individuals with and without disabilities can access communications technologies and product information on an equivalent basis. Going forward, video conferencing and other technologies with accessibility features will continue to be a catalyst for post-COVID economic recovery, opening important employment opportunities for traditionally underserved and underemployed communities.

A. The Commission’s Flexible Approach to Advanced Communications Services Is Ensuring Access and Encouraging Innovation

CTA has seen firsthand that the Commission’s flexible rules governing communications accessibility are working.⁵ For example, the technology industry is developing new multi-model inputs and interfaces.⁶ The FCC’s wise rejection of overly prescriptive rules set the proper foundation for the consumer technology industry to deliver innovative technologies that are accessible to individuals with disabilities, when achievable. As directed by Congress, the Commission set forth performance objectives regarding accessibility, usability and compatibility

⁵ See, e.g., Comments of Consumer Technology Association, CG Docket No. 10-213 (June 21, 2022) (discussing video conferencing technologies); Comments of Consumer Technology Association, CG Docket No. 10-213 (Apr. 4, 2022) (providing information to the Commission demonstrating that the consumer technology industry is complying with Section 255, 716, and 718 of the Communications Act, as amended) (2022 CVAA Report Comments).

⁶ See, e.g., Comments of Consumer Technology Association, GN Docket No. 21-140, at 7-9 (June 7, 2021) (discussing devices with multi-modal user interfaces).

for advanced communications services, including IVCS, in 2011.⁷ With this careful, flexible approach, the Commission has stimulated increasing levels of accessibility with CTA's members leading the way in global innovation, including the incredible advances that characterized the video conferencing marketplace both during and after the COVID-19 pandemic.

Within the CVAA's framework—which prohibits technical mandates—voluntary, industry-led consensus standards are increasing the accessibility and usability of products and services. CTA described several recent standards and industry practices in its 2022 CVAA Report Comments,⁸ and these are a small fraction of the many industry standards developed and incorporated into consumer technologies to facilitate accessibility, usability and compatibility since the enactment of the CVAA over a decade ago.

As described below, industry is introducing accessibility features into new commercial communications technologies. The rules continue to effectively motivate equipment makers and service providers to update offerings to ensure accessibility, usability and compatibility, unless not achievable.

B. The Consumer Technology Industry Is Collaborating with Advocates to Increase Access to Modern Communications, Including Video Conferencing Services

Since 2011, when the Commission issued its initial rules, CTA and its members have continued to collaborate with advocates in the disability community to meet the communications needs of individuals with disabilities. Communications technologies incorporate accessibility features and usable product information and support services. The consumer technology industry

⁷ See generally *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) (2011 ACS Order); 47 CFR § 14.21.

⁸ 2022 CVAA Report Comments at 6-7.

is delivering on the CVAA’s purpose “[t]o increase the access of persons with disabilities to modern communications.”⁹ CTA member companies are also continuing to innovate to meet the needs of all consumers, including consumers with disabilities using video conferencing platforms.

CTA’s members have strong incentives to develop new technologies and standards to stay competitive in a fast-changing market. Providing new and enhanced tools to expand access is an important differentiator for CTA’s members and is critical to attracting and retaining new users. Accessibility is a priority for both established companies and new start-ups, with each year bringing forth more innovations to incorporate accessibility into devices and services as envisioned by the CVAA.¹⁰

CTA regularly convenes industry and consumer groups with respect to advancing accessible communications and video. CTA and the CTA Foundation also actively participate in several fora alongside accessibility advocates. CTA has served on the FCC’s Disability Advisory Committee since it was chartered in 2014 and the Consumer Advisory Committee since 2004. The CTA Foundation hosts an annual Accessibility Roundtable at CES that brings together CTA member companies and representatives of consumer groups for direct dialogue and relationship building.¹¹ For many years, the CTA Foundation has also sponsored a group of Accessibility

⁹ See CVAA (“An Act To increase the access of persons with disabilities to modern communications, and for other purposes”).

¹⁰ See, e.g., Gary Shapiro, *Opinion – How tech innovation is changing the world for the better*, The Orange County Register (Feb. 27, 2023), <https://www.ocregister.com/2023/02/27/how-tech-innovation-is-changing-the-world-for-the-better> (describing new technologies for individuals with speech or language disorders to recreate their voice synthetically using neural text-to-speech technology and a video game controller designed for gamers with motor skill disabilities).

¹¹ Consumer Technology Association, *CTA Foundation at CES 2022*, <https://cta.tech/Who-We-Are/CTA-Foundation/CES-2022> (last visited Sept. 5, 2023).

Leaders to attend and tour CES.¹² These leaders learn from and provide valuable feedback to CES participants focused on assistive technology, as well as on technology displayed or demonstrated throughout the show.

CES 2023 once again featured numerous innovations to increase the accessibility and usability of technology.¹³ Dot Pad, a graphical display of hundreds of 8-pin Braille cells that connects via Bluetooth and USB-C to display images, graphics and charts in tactile form, won a Best of Innovation 2023 award for accessibility and was an Innovation Award honoree in the Mobile Devices & Accessories and Virtual & Augmented Reality categories.¹⁴ Dot Pad could be especially useful for conveying visual information—such as screens and images shared via videoconferences—to individuals with vision and cognitive disabilities. Among the CES 2022 Accessibility Contest Winners¹⁵ was GoVoBo: Universal Access Online Captioning, which is an app that provides universal captioning for online meetings for the deaf and hard of hearing community.¹⁶ The goal is to communicate across any platform in any language. GoVoBo was developed in partnership with Gallaudet University’s Technology Access Program, ensuring

¹² *See id.* (listing CES 2022 Accessibility Leaders Tour participants).

¹³ *See, e.g.,* Gary Shapiro, *Tech Innovation is Making the World More Accessible and Inclusive*, LinkedIn (Aug. 10, 2023), <https://www.linkedin.com/pulse/tech-innovation-making-world-more-accessible-gary-shapiro/> (“We saw the transformative power of assistive technology earlier this year at CES 2023, the world’s most influential tech event, where dozens of disabled community leaders met and hundreds of tech industry leaders and startups showed their innovations, including many accessibility-focused solutions and devices for older adults and individuals with disabilities.”).

¹⁴ Consumer Technology Association, CES 2023 Innovation Award Product, *Dot Pad By Dot Incorporation*, <https://www.ces.tech/innovation-awards/honorees/2023/best-of/d/dot-pad.aspx> (last visited Sept. 5, 2023); *see also* Dot Incorporation, D2 Cell, <https://www.dotincorp.com/page/32?gbn2=DotCell> (last visited Sept. 5, 2023) (providing various use cases for an 8-pin tactile cell).

¹⁵ Dacia Turner, *Accessible Tech at CES*, Consumer Technology Association (Jan. 25, 2022), <https://cta.tech/Resources/i3-Magazine/i3-Issues/2022/January-February/Accessible-Tech-at-CES>.

¹⁶ GoVoBo, <https://www.govobo.io/> (last visited Sept. 5, 2023).

“close coordination with deaf and hard of hearing users, and with their specific needs in mind, to create a product that goes beyond the basic display of live captions.”¹⁷

CTA’s members already incorporate several accessibility features into their commercial video conferencing products and services, of which interoperable video conferencing services are a subset. Some of the most popular video conferencing services and devices include multiple accessibility features and did so before the FCC changed its interpretation of the CVAA. For example:

- FaceTime on iPhone and iPad can detect when someone is using sign language in group FaceTime calls and automatically makes them more prominent. And, Apple’s Sensory Alerts let users choose visual or vibrating alerts for incoming Phone and FaceTime calls, set an LED light flash for incoming calls, or have their iPhone display a photo of the caller.¹⁸
- Cisco’s Webex also includes support for screen readers, keyboard navigation, closed captioning, high contrast fonts and interpreter support, among other features.¹⁹
- Microsoft Teams can detect speech in a meeting and present real-time captions and live transcription that appears alongside the meeting video or audio, enable users to prioritize people using sign language, allow windows for meeting content and video to be viewed separately, and supports keyboard shortcuts for greater ease of control for meetings and communications, among other features.²⁰

¹⁷ Robert Weinstock, Gallaudet University and AppTek Announce GoVoBo – the Universal Automatic Captioning and Translation Application Designed to Create Equality for Deaf and Hard of Hearing Users, Gallaudet University (Dec. 16, 2021), <https://gallaudet.edu/university-communications/gallaudet-university-and-apptek-announce-govobo-the-universal-automatic-captioning-and-translation-application-designed-to-create-equality-for-deaf-and-hard-of-hearing-users/>.

¹⁸ Apple, Accessibility, *Hearing*, <https://www.apple.com/accessibility/hearing/> (last visited Sept. 5, 2023).

¹⁹ Webex by Cisco, Accessibility, *Collaboration that works for everyone*, <https://www.webex.com/-accessibility.html> (last visited Sept. 5, 2023).

²⁰ See Microsoft, Accessibility, *Screen reader support for Microsoft Teams*, <https://support.microsoft.com/en-us/office/accessibility-support-for-microsoft-teams-d12ee53f-d15f-445e-be8d-f0ba2c5ee68f> (last visited Sept. 5, 2023); Microsoft, Support, *Use live captions in a Teams meeting*, <https://support.microsoft.com/en-us/office/use-live-captions-in-a-teams-meeting-4be2d304-f675-4b57-8347-cbd000a21260> (last visited Sept. 5, 2023); Microsoft, Support, *View live transcription in a Teams meeting*, <https://support.microsoft.com/en-us/office/view-live-transcription-in-a-teams-meeting-dc1a8f23-2e20-4684-885e-2152e06a4a8b> (last visited Sept. 5, 2023).

Video conferencing services are often accessed on devices—like smartphones and laptops—that are also used for advanced communications services such as VoIP and texting. Such devices are accessible to and usable by individuals with disabilities, unless not achievable, as set forth in Part 14 of the FCC’s rules.²¹ And innovation is happening in that area as well, such as the Microsoft Surface Adaptive Kit, which enables customization of many types of devices using tactile tools to enhance accessibility.²²

III. THE COMMISSION SHOULD REASSESS WHETHER TO IMPOSE IVCS-SPECIFIC REQUIREMENTS AFTER ADDITIONAL STAKEHOLDER DIALOGUE AND THE PART 14 IVCS COMPLIANCE DATE

Given that the compliance date for video conferencing services is a year away²³ and that the *NPRM* asks many preliminary questions about rapidly evolving technology, CTA respectfully requests that the Commission wait to impose IVCS-specific rules until the agency can reassess and target consumer needs after the compliance date set forth in the *Report and Order* and after further stakeholder dialogue to determine needs, preferences and feasibility.

CTA reminds the Commission that it reinterpreted its authority to include *all* video conferencing services within the definition of IVCS, an unexpected outcome after a decade of interpreting “interoperable” and IVCS to require some sort of interoperability.²⁴ Industry is working quickly to adjust, and appreciates that the Commission set a compliance date a year

²¹ See 47 CFR pt. 14.

²² Microsoft, Support, Surface Adaptive Kit guide - Microsoft Support, <https://support.microsoft.com/en-us/surface/surface-adaptive-kit-guide-cfd6dd86-ea74-4eed-b5b7-3c6baecbc828> (last visited Sept. 5, 2023).

²³ Access to Video Conferencing, Final Rule, 88 Fed. Reg. 50053, 50053 (Aug. 1, 2023) (setting a compliance date of September 3, 2024 for compliance with IVCS rules in Part 14 of the Commission’s rules).

²⁴ See *Report and Order* ¶ 3 (explaining that the agency is “[r]evisiting the Commission’s previously stated views in light of changed circumstances”) (footnote omitted); *id.* ¶ 40 (“We are ... revisiting the Commission’s prior assertion, in the *2011 ACS Report and Order*, of a perceived need to resolve, through further interpretation, the correct interpretation of the word ‘interoperable.’”).

away for video conferencing services to comply with Part 14 of the Commission’s rule.²⁵ It is premature to impose specific IVCS rules and the Commission should allow for IVCS—including many services that were not clearly IVCS prior to the *Report and Order*—to comply with the existing ACS Part 14 rules before imposing new ones. As explained in the previous section, video conferencing providers are providing numerous accessibility features, and video conferencing services are dynamic. This is a segment of the communications technology industry that continues to develop swiftly, including by adding features to directly address the needs of individuals with disabilities.

The Congressional directive in the CVAA is for the FCC to balance the need to ensure access to technologies and services by individuals with disabilities with the need to preserve service providers’ and manufacturers’ continued abilities to innovate for the benefit of all consumers.²⁶ Within this context, CTA views many of the questions the *NPRM* asks as important, *preliminary* questions that require additional exploration of user needs and preferences, technical feasibility and regulatory clarity. For example, the *NPRM* proposes to require at least one mode with captions that are accurate and synchronous,²⁷ but several factors outside the control of the IVCS provider can affect caption quality such as hardware, broadband connection and speed, and external environmental noise (that is then picked up by the microphone/service). Modern AI caption technologies have technical limitations that cannot be eliminated without innovation. It is unclear how compliance would account for these factors.²⁸

²⁵ *Id.* ¶ 41.

²⁶ For example, the CVAA expressly allows for “industry flexibility” when ensuring products and services are accessible to and usable by individuals with disabilities. *See* 47 U.S.C. §§ 617(a)(2)(A) and (b)(2)(A).

²⁷ *NPRM* ¶ 50.

²⁸ These same factors affect sign language and other interpreting on video conferencing calls, as well.

To date, there has been no overlap between IVCS and telecommunications relay services (TRS) providers, and there is a lack of academic consensus on quality measures. In addition, the proposal would benchmark accuracy and synchronicity based on the unresolved TRS caption quality proceeding.²⁹ Covered IVCS providers simply would have no way of knowing if their captions would meet a standard that is “at minimum comparable to that provided on TRS Fund-supported captioned telephone services.”³⁰ It is clearly premature to impose such a regulatory requirement, and similar proposals in the *NPRM*, on IVCS providers.

CTA also cautions that some of the proposals make assumptions about user needs and preferences that would lock in user interface designs and video conferencing capabilities in ways that would ultimately stifle innovation, including accessibility features. For example, the *NPRM* asks about alternative captioning methods,³¹ overriding native IVCS captioning to display TRS captioning,³² sign language interpreting³³ and specific user interface controls for granular accessibility features.³⁴ CTA urges the Commission to resist making regulatory choices that will necessarily limit the ability of IVCS providers and equipment manufacturers to shape and adjust their user interfaces.

IVCS and TRS, including but not limited to video relay services, are separate technologies that often serve different purposes such that they are not so easily combined

²⁹ *NPRM* ¶ 50 n.161.

³⁰ *See id.* ¶ 50.

³¹ *See id.* ¶ 53 (seeking comment on whether the FCC should specify that IVCS enable the use of alternative captioning methods).

³² *See id.* (asking if TRS Fund-supported captioning should be displayed if requested by a TRS user).

³³ *See id.* ¶ 55. As noted above, numerous factors outside the IVCS control affect video quality. Creating certain spotlighting or video movement features for a signing participant—features already in place for many services—has a different scale of difficulty and coordination than enabling third-party access to video conferencing, which necessarily implicates interoperability and security concerns.

³⁴ *See id.* ¶¶ 58-59 & n.179.

technologically or regulatorily. As one example, confidentiality as to conversation content is rightfully a lodestar for TRS,³⁵ but open captioning, recording and cloud-stored transcripts are common and legitimate video conferencing features that the Commission should not inadvertently cut off by forcing integration too soon.³⁶ Indeed, integration of TRS and IVCS can mean many things to different people and has non-obvious solutions given the diversity of IVCS and TRS technologies.³⁷ For example, IP Relay is not a commonly used form of TRS, and IP Relay/IVCS integration is an example of an issue that would benefit from further stakeholder engagement to understand implementation expectations.³⁸ The *NPRM* also raises questions as to the relative responsibilities of IVCS and TRS providers and how other important interests, like security, can be preserved when introducing TRS interoperability.

Relatedly, the FCC proposes a text-to-speech functionality requirement,³⁹ but support for typed text to be converted into audio during a video conference and implementation in complex multiparty scenarios is still nascent. These questions are ripe for stakeholder dialogue to ensure that Commission regulations do not lock in approaches that can be outdated and are meeting the

³⁵ See, e.g., 47 CFR § 64.604(a)(2).

³⁶ See Pandemic Communication Access Working Group, Recommendation of the FCC Disability Advisory Committee on Concerns and Lessons Learned Regarding Communication Access for People with Disabilities During the Pandemic, at 5 (Sept. 2021), <https://www.fcc.gov/file/21920/download> (recommending that the FCC consider providing guidance that qualified TRS consumers on a video conference call are permitted under TRS privacy or other rules to share generated text, e.g., from IP CTS, with other participants in the same video call).

³⁷ See Video Conferencing Accessibility Working Group, Recommendation of the Federal Communications Commission (FCC) Disability Advisory Committee (DAC) on Telecommunications Relay Service (TRS) Use on Video Conferencing Platforms (Feb. 24, 2022), <https://www.fcc.gov/file/-22912/download> (identifying numerous challenges to the use of TRS with video conferencing services without obvious answers, such as legal restrictions on the use of TRS in certain circumstances, the lack of PSTN interconnection with many video conferencing services, the challenges of handling multiple TRS users on a call, etc. and recommending further coordination among stakeholders to address some of the challenges).

³⁸ *NPRM* ¶ 54.

³⁹ *Id.*

needs of individuals with various types of disabilities that rely on their preferred communications methods.

The many important preliminary questions in the *NPRM* require additional stakeholder engagement and technology development. In light of the lack of established and agreed-upon implementations for many of the proposals, it is premature for the Commission to issue new IVCS-specific regulations. For the same reason, industry cannot gauge the cost and benefits of the specific performance objectives. Providing an opportunity for stakeholders to engage on what is possible technologically and what is needed to further use of IVCS by people with disabilities would be in keeping with the recommendation of the Disability Advisory Committee in its 2022 Report for the Commission. Following stakeholder dialogue consultations, and given the many open questions posed in the *NPRM*, an *FNPRM*—at least with respect to new requirements for video conferencing providers—would be appropriate.

IV. ANY NEW REQUIREMENTS SHOULD PROVIDE INDUSTRY WITH MAXIMUM FLEXIBILITY TO MEET THE CVAA’S OBJECTIVES, BE TAILORED AND PROVIDE FOR A REASONABLE IMPLEMENTATION PERIOD

When determining whether to impose regulations, and what any of those regulations should be, the Commission should be mindful not to stifle innovation by dictating or otherwise locking in specific technical standards or user interface controls. Should the Commission adopt a rule, it must provide a reasonable implementation deadline and targeted exemptions as with other accessibility rules.

Many of the proposals in the *NPRM* would impose new design and testing requirements, which will take significant time and resources to accomplish. A reasonable interval for compliance, such as three years measured from the date of device manufacture or software release, reflects the product development timelines for today’s sophisticated video conferencing

products and services and would be consistent with Commission precedent for the implementation of new rules. The Commission should avoid one-size-fits-all regulatory mandates and assign compliance responsibility appropriately. For instance, VRS providers may be able to simply connect to a video conference via an API or plug-in, without harming critical features, such as encryption, that a user may consider in choosing their preferred IVCS provider. By contrast, other legacy services, like TTY, might necessarily have more limited functionality and less clear ways of connecting to IVCS. Solutions to enable accessibility will reasonably differ by platform and can be native or third-party.

CTA appreciates the clear statement in the *NPRM* that, consistent with the CVAA, IVCS providers may choose whether to satisfy their accessibility obligations by including certain features as native applications or by using third-party applications, peripheral devices, software, hardware, or CPE that is available to the consumer at nominal cost and that individuals with disabilities can access.⁴⁰ The CVAA also prohibited the FCC from imposing design mandates, allowing for some limited technical safe harbors when necessary.⁴¹ CTA cautions that safe harbors should only be used in limited circumstances to avoid the risk and potential harm of creating *de facto* mandates. Here, video conferencing technologies are still rapidly evolving, and it is often unclear around which proposed standards industry will coalesce.

The Commission's rules should recognize that different participants in the video conferencing ecosystem control different elements of the user experience and interface. IVCS providers do not control the quality of connections between users and the platform, as that is a function of the users' telecommunications carrier or ISP. Device manufacturers have no ability to

⁴⁰ *Id.* ¶ 47.

⁴¹ *See id.* ¶ 65 (citing 47 USC § 617(e)(1)(D)).

control the interface of IVCS applications, whether preinstalled or downloaded. Neither IVCS providers nor device manufacturers control the interfaces a TRS provider might use to communicate with an IVCS user.

Acknowledging the dynamic nature of the consumer technology industry, and consistent with Section 1.3 of its rules, the Commission also should make clear that safety valves, such as waivers, are available if complying with a rule is technically infeasible. Similarly, the FCC should maintain its use of the achievability standard, consistent with its prior practice under the CVAA, and as proposed by the *NPRM*.⁴² Consistent with past practice, the Commission should recognize that a fundamental alteration is *per se* not achievable and affirm that manufacturers and providers are not required to retrofit equipment or services, respectively.⁴³ The availability of such narrowly tailored exemptions is consistent with Congressional intent and past FCC practice and has led to more innovation without consumer harm.

V. CONCLUSION

CTA has seen firsthand that the Commission's flexible rules governing communications accessibility are working. The agency's wise rejection of overly prescriptive rules set a solid foundation for the consumer technology industry to deliver innovative technologies that are accessible to individuals with a disability, when achievable. With this careful, flexible approach, the Commission has boosted increased accessibility as CTA's members lead the way in global innovation. The rules continue to effectively motivate equipment makers and service providers to

⁴² See generally *2011 ACS Order*, 26 FCC Rcd 14557; *NPRM* ¶ 62.

⁴³ *2011 ACS Order*, 26 FCC Rcd at 14610 ¶ 128 (“Consistent with the House Report, we find that if the inclusion of an accessibility feature in a product or service results in a fundamental alteration of that product or service, then it is *per se* not achievable to include that accessibility function.”); *id.* at 14560-61 ¶ 4 (“Our rules encourage efficient accessibility solutions and do not require the retrofitting of equipment or services.”).

update and enhance offerings to ensure accessibility, usability and compatibility, unless not achievable.

Respectfully submitted,

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