

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	)	

**REPLY COMMENTS OF  
CONSUMER TECHNOLOGY ASSOCIATION**

Consumer Technology Association (CTA)<sup>®1</sup> respectfully replies to the record developed in response to the above-captioned Notice of Proposed Rulemaking (*NPRM*) seeking comment on additional performance objectives specific to interoperable video conferencing services (IVCS).<sup>2</sup> As CTA explained in its initial comments, the Commission’s flexible approach to advanced communications services, along with industry-advocate collaboration, is increasing access to video conferencing services for individuals with disabilities. The record confirms that it is premature to impose the new performance objectives proposed in the *NPRM*. In addition, CTA is concerned that some commenters propose technical mandates and other unlawful intrusion into the business and design decisions of IVCS providers and device manufacturers.

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<sup>1</sup> As North America’s largest technology trade association, CTA<sup>®</sup> 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<sup>®</sup>—the most influential tech event on the planet.

<sup>2</sup> *Access to Video Conferencing*, Report and Order, Notice of Proposed Rulemaking, Order, FCC 23-50 (rel. June 12, 2023) (*NPRM*).

## **I. RATHER THAN ADOPTING PREMATURE PERFORMANCE REQUIREMENTS FOR IVCS, THE COMMISSION SHOULD SEEK FURTHER COMMENT AFTER THE PART 14 COMPLIANCE DEADLINE**

As the compliance date for video conferencing services to comply with Part 14 is a year away<sup>3</sup> and the *NPRM* asks many preliminary questions about rapidly evolving technology, CTA respectfully requests that the Commission wait to impose IVCS-specific rules. The consumer technology industry has a proven track record of innovation toward inclusion and interoperability.<sup>4</sup> New burdensome requirements could ultimately harm that progress.<sup>5</sup> Additional stakeholder dialogue to determine needs, preferences and feasibility are critical to ensuring that the Commission only adopts those requirements that can address consumer needs effectively. Rather than rushing to new mandates, the Commission should issue a Further Notice of Proposed Rulemaking (*FNPRM*) to reassess needs and potential next steps following important stakeholder conversations and after the Part 14 compliance date.

The record confirms that allowing for IVCS to comply with the existing ACS Part 14 rules before prematurely imposing new ones is the best course of action.<sup>6</sup> This is a segment of

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<sup>3</sup> Access to Video Conferencing, Final Rule, 88 Fed. Reg. 50053, 50053 (Aug. 1, 2023) (requiring compliance with IVCS rules in Part 14 of the Commission’s rules by September 3, 2024).

<sup>4</sup> 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/>; Mark Barlet, *AbleGamers Levels Up for the Disabled*, CTA (May 22, 2023), <https://www.ces.tech/articles/2023/may/ablegamers-levels-up-for-the-disabled.aspx>; CTA Staff, *Accessibility in the Smart Home: 5 Tech Tools* (Apr. 26, 2023), <https://www.ces.tech/articles/2023/april/accessibility-in-the-smart-home-5-tech-tools.aspx> (highlighting just five of the many award-winning solutions displayed at CES 2023 focused on aiding individuals with disabilities).

<sup>5</sup> See generally Comments of Convo Communications, LLC, CG Docket Nos. 23-161, 10-213, 03-123 at 3 (Sept. 6, 2023) (urging additional coordination and experimentation before “locking in proscriptive VRS rules that may be a poor fit for developing IVCS technologies”) (Convo Comments).

<sup>6</sup> See, e.g., Comments of Sorenson Communications, LLC, CG Docket Nos. 23-161, 10-213, 03-123, at 38 (Sept. 6, 2023) (“the Commission should give IVCS and TRS providers sufficient time to work together to implement integration solutions that meet the current Part 14 performance obligations before imposing additional obligations.”) (Sorenson Comments).

the communications technology industry that continues to develop swiftly, including by adding features to meet the needs of users with disabilities.<sup>7</sup> For example, video relay services (VRS) provider Sorenson reported that it has partnered with one IVCS provider to provide two alternatives for using its VRS on a video conference.<sup>8</sup> But additional developments will take time, especially for smaller IVCS providers that may not have the scale to attract participation from telecommunications relay services (TRS) providers or lack the present resources to engage with willing TRS providers. CTA and other commenters have cautioned that hasty Commission action to adopt rules that impose granular requirements risks stifling the innovation that often leads to accessibility features.<sup>9</sup>

Multiple commenters observe that the questions asked in the *NPRM* require further regulatory development and additional exploration of user needs and preferences, technical feasibility and regulatory clarity.<sup>10</sup> For example, Hamilton Relay and Convo both support the

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<sup>7</sup> See, e.g., Comments of Consumer Technology Association, CG Docket Nos. 23-161, 10-213, 03-123, at 6-8 (Sept. 6, 2023) (describing numerous accessibility innovations including DotPad and GoVoBro and features built into Apple’s FaceTime, Cisco’s Webex, and Microsoft’s Teams video conferencing services) (CTA Comments); Sorenson Comments at 11 (observing that IVCS platforms have “rolled out their own accessibility features, which improve the Deaf user experience”).

<sup>8</sup> Sorenson Comments at 8-12; see also Comments of Hamilton Relay, Inc., CG Docket Nos. 23-161, 10-213, 03-123, at 3 (Sept. 6, 2023) (observing that “there are solutions today for using IP CTS with IVCS which, although not a complete solution, could be improved over time through increased coordination with all stakeholders”) (Hamilton Comments).

<sup>9</sup> CTA Comments at 10 (noting, for example, that the *NPRM* seeks comment on requiring several different specific requirements for captioning, interpreting, and user interface controls); Sorenson Comments at 43 (“Rather than attempting to forecast what specific requirements are needed before the industry has gained much experience, the Commission should instead encourage [coordination between IVCS and TRS providers]”); Convo Comments at 6 (observing that “top-down governmental mandates are not effective at achieving interoperability. They can lead to false starts and abandoned technologies.”).

<sup>10</sup> See Convo Comments at 4-5 (“It is important to fully understand the technical challenges imposed...and how to accomplish the best user experience, which may take some time and experimentation.”); Sorenson Comments at 43 (“Input from Deaf users will undoubtedly lead to refinements and improvements.”); Hamilton Comments at 5-6 (describing several “questions [that] need to be addressed as part of this rulemaking.”); Comments of LanguageLine Solutions, CG Docket No. 23-161 at 1-2 (Sept. 6, 2023) (noting possible unintended consequences of the FCC’s proposals, such as

formation of a Commission-approved group to explore issues related to IVCS providers and relay prior to the adoption of new rules.<sup>11</sup> Sorenson also urges the Commission to “[w]ait” before imposing specific obligations regarding Internet Protocol Captioned Telephone Service (IP CTS) on IVCS calls because swift action “would not allow IP CTS and IVCS providers time to collaborate and develop creative, user-focused solutions.”<sup>12</sup>

The Commission’s questions are ripe for further dialogue—indeed, 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 align with the recommendation of the Disability Advisory Committee in its 2022 Report for the Commission.<sup>13</sup> Given the many open questions posed in the *NPRM*, an *FNPRM* would be an appropriate next step to facilitate further dialogue on the topic.

## **II. THE COMMISSION MAY NOT IMPOSE TECHNICAL MANDATES OR SUCH GRANULAR REQUIREMENTS THAT THEY BECOME *DE FACTO* TECHNICAL MANDATES**

CTA is concerned that certain proposals appear to be so burdensome and granular that they would rise to the level of unlawful technical mandates and otherwise make business and design decisions solely for compliance rather than to benefit consumers. The Congressional directive in the CVAA instructs the FCC to balance the need for access to technologies and

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regulatory uncertainties regarding the interaction of the FCC’s rules with other federal requirements and the potential detrimental impact on smaller language services entities).

<sup>11</sup> See Hamilton Comments at 3 (“Recognizing that these technical and policy impediments would need to be resolved, Hamilton supports the formation of a stakeholder group, through the auspices of the Disability Advisory Committee (“DAC”) or another appropriate, Commission-approved group to explore these issues with consumers, IVCS providers, and the relay community.”); Convo Comments at 5-7.

<sup>12</sup> Sorenson Comments at 44.

<sup>13</sup> 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>.

services by individuals with disabilities with the need to preserve service providers’ and manufacturers’ continued abilities to innovate for the benefit of all consumers.<sup>14</sup> Indeed, the CVAA expressly prohibits the Commission from imposing technical mandates.<sup>15</sup> In addition, the record indicates that some of the Commission’s proposals are not achievable, as explained below.

Technological innovation has changed the lives of Americans for the better, and the flexibility of the Commission’s approach has allowed innovators to make crucial design and business decisions that have benefited all consumers, including those with disabilities. Congress recognized the importance of flexibility in the CVAA, and the Commission may not exceed its Congressional mandate and impose technical mandates.

Of concern to CTA are the numerous and minute details in the record of not only granular performance objectives, but *non-compliance* conditions. One filing requests sixteen multi-part performance objectives and then enumerates dozens of ways that the IVCS could violate these performance objectives.<sup>16</sup> As a threshold issue, Congress only authorized the Commission prescribe affirmative performance objectives.

Many of the proposals in the record are equivalent to technical mandates that would force innovators into confined design choices. For example, one performance objective would require tablet support, a stifling condition for an industry where many innovators first offered their products via web-only implementations and others are offered as easy on-adds and plug-ins to

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<sup>14</sup> 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).

<sup>15</sup> CVAA § 104, codified at 47 USC § 617(e)(1)(D) (prohibiting the Commission from mandating technical mandates).

<sup>16</sup> *See* Comments of Communications Equality Advocates, CG Docket Nos. 23-161, 10-213, 03-123, at App. A (Sept. 6, 2023) (Advocates’ Comments).

others' websites.<sup>17</sup> Performance objectives focused on the look and sufficiency of videos also appear to assume multi-point connectivity, when some services, by design, only offer one-to-one video conferencing.<sup>18</sup> As discussed in initial comments, different participants in the video conferencing ecosystem control different elements of the user experience and interface.<sup>19</sup> Naming degraded video quality as non-compliance inappropriately assigns liability.<sup>20</sup> These are only a few of the many problematic new performance objectives suggested in the record that would amount to heavy-handed government design of IVCS. The Commission should be mindful not to stifle innovation by dictating or otherwise locking in specific technical standards or user interface controls.<sup>21</sup>

As provided by Congress, IVCS providers and manufacturers must ensure that services and equipment are accessible to and usable by individuals with disabilities, unless not “achievable,” which means with reasonable effort or expense.<sup>22</sup> The multiple features and capabilities of the most popular IVCS represent years of investment both in terms of dollars and

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<sup>17</sup> *Id.* at 35-36 (a service would be non-compliant if the “user interface is not tablet-friendly, resulting in a frustrating experience for tablet users”). CTA also cautions that the Commission should not set the dangerous precedent of determining that “frustration” with a service would be a violation of the law.

<sup>18</sup> *Id.* at 31-35.

<sup>19</sup> CTA Comments at 13.

<sup>20</sup> Advocates Comments at 34 (“A Service would be non-compliant if: 1. The platform cannot support a sufficient number of videos, leading to degraded video quality or dropped connections; 2. Video quality is compromised due to inadequate bandwidth management; or 3. The platform does not adapt video resolution based on available bandwidth, resulting in poor video playback or bad network.”). In addition, the proposal may require IVCS providers to buy specific quality of service or prioritization and/or require network operators to manage their networks in ways that may run afoul of new proposed rules regarding the management of broadband service. *See Safeguarding and Securing the Open Internet*, Draft Notice of Proposed Rulemaking, FCC-CIRC2310-01 ¶¶ 157-62 (rel. Sept. 28, 2023).

<sup>21</sup> To the extent the Commission imposes even some of the requested additional performance objectives, the rules should expressly allow for flexibility and exceptions for screen size, form factor, and similar variety and technology innovations.

<sup>22</sup> CVAA § 716(b)(1), (g); 47 CFR § 14.10(b); *see also NPRM* ¶ 62 (requesting comment on whether the proposed performance objectives are “achievable”).

human ingenuity. It is simply incorrect to suggest that adding numerous features and new functionalities that would radically change the fundamental workings and user interfaces of IVCS “is merely a matter of a software update” that would not require “expensive R&D.”<sup>23</sup> As just one example, the *NPRM* would require IVCS to provide automatic captioning that is functionally equivalent to that available via TRS.<sup>24</sup> Yet, ClearCaptions explained that its functionally-equivalent captioning service required *seven* years of research and development and still requires human monitoring.<sup>25</sup> ClearCaptions is a certificated IP CTS provider and therefore a *Commission-recognized expert* in captioning. Small IVCS providers don’t stand a chance.<sup>26</sup> Indeed, CTA understands that automatic speech, sign language and visual information are all still very much in the experimentation and developmental phase.<sup>27</sup> At present, the software required

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<sup>23</sup> Advocates’ Comments 19. For example, certain proposals would make it unlawful to not offer *text* chat and direct messaging capabilities in a *video* conferencing product. *Id.* at 38 (a service would be non-compliant if “[t]here is no separate text-based channel within the platform”). CTA reminds the Commission that the subject of this proceeding is interoperable *video* conferencing services and equipment. Many IVCS products do not interconnect with the public switched telephone network (PSTN), include an audio-only option (i.e., no video), or include text/messaging capabilities. Some products offer only “real-time video communications, including audio.” See 47 CFR § 14.10(m). The fact that some IVCS products include video along with options for PSTN dial-in, audio-only, and/or messaging, is not license for the Commission to require all IVCS to become similarly “unified” communications products. Indeed, the Commission may not use this proceeding to mandate interoperability among IVCS or interconnection with the PSTN. See *generally NPRM* n.114 (reiterating the Commission’s decision from 2011 that “There is no language in the CVAA supporting the view that interoperability is required or should be required as a subset of ‘accessibility,’ ‘usability,’ or ‘compatibility.’”). Web-only/over-the-top products are widely used by consumers and provide an easier entry to market for smaller innovators than multimodal services or services that connect with the PSTN.

<sup>24</sup> *NPRM* ¶ 50.

<sup>25</sup> Comments of ClearCaptions, CG Docket Nos. 23-161, 10-213, 03-123, at 2-3 (Sept. 6, 2023).

<sup>26</sup> See *NPRM* ¶ 60 (requesting comment on the costs and benefits of the FCC’s proposals).

<sup>27</sup> See, e.g., *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*, Memorandum Opinion and Order, DA 23-451 ¶ 7 (MB rel. May 26, 2023) (determining that there is not a commercially available automated technical solution for describing visual information).

to implement the types of functionalities being contemplated would require significantly more than reasonable effort or expense.<sup>28</sup>

CTA continues to urge the Commission to proceed with caution with respect to any IVCS-specific rules so that they fulfilling the directive set by Congress in the CVAA.

### III. CONCLUSION

The Commission should refrain from adopting any IVCS-specific rules at this time, and allow additional time for collaboration, technological development and needs assessment. Importantly, the Commission must stay within the bounds set forth by Congress and refrain from imposing any technical mandates or such granular requirements that the Commission would effectively be imposing technical mandates. The current rules continue to effectively motivate equipment makers and service providers to innovate and enhance offerings to ensure accessibility, usability and compatibility, unless not achievable.

Respectfully submitted,

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<sup>28</sup> To the extent the Commission proceeds to adopt new performance objectives, the FCC must provide for a reasonable compliance deadline. CTA Comments at 12-13.