



# PUBLIC NOTICE

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**CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON THE  
ACCESSIBILITY OF COMMUNICATIONS TECHNOLOGIES FOR THE  
2014 BIENNIAL REPORT REQUIRED BY THE TWENTY-FIRST CENTURY  
COMMUNICATIONS AND VIDEO ACCESSIBILITY ACT**

**Pleading Cycle Established**  
**CG Docket No. 10-213**

**Comment Date: July 3, 2014**

## **I. Introduction**

1. By this Public Notice (Notice) and consistent with the requirements of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA),<sup>1</sup> the Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (FCC or Commission) hereby seeks comment from the public to inform the preparation of the biennial report required by the CVAA, to be submitted to Congress by October 8, 2014.<sup>2</sup> Public comment will assist the Commission in assessing the level of compliance with congressional mandates that telecommunications and advanced communications services and equipment be accessible to and usable by individuals with disabilities, the effect of related recordkeeping and enforcement requirements, and the extent to which accessibility barriers still exist with respect to new communications technologies. The Bureau will seek public comment on its tentative findings on these matters before the Commission submits the biennial report to Congress.<sup>3</sup>

## **II. Background**

2. The CVAA requires the Commission to take various steps to ensure that people with disabilities have access to emerging communications technologies in the 21<sup>st</sup> Century. The CVAA also requires the Commission to submit a report to Congress every two years on the level of compliance with the CVAA's communications accessibility obligations, the extent to which accessibility barriers still exist to new communications technologies, and related matters.<sup>4</sup> The first of these biennial reports was

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<sup>1</sup> Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified in various sections of 47 U.S.C.); Pub. L. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA).

<sup>2</sup> See Section 717(b)(1) of the Communications Act, as added by the CVAA, codified at 47 U.S.C. § 618(b)(1). The Bureau is preparing this biennial report pursuant to its delegated authority. 47 C.F.R. § 0.361.

<sup>3</sup> See 47 U.S.C. § 618(b)(2).

<sup>4</sup> *Id.*

submitted to Congress on October 5, 2012, two years after the CVAA was enacted.<sup>5</sup> In this Notice, we seek comment on a range of issues to inform the preparation of the biennial report for 2014.<sup>6</sup> As required by the CVAA, the Bureau also will seek comment on the tentative findings contained in this report before its submission to Congress.<sup>7</sup>

3. Among other things, the CVAA requires the Commission's biennial report to contain the following assessments, which are further described below:

- An assessment of the level of compliance with Sections 255, 716, and 718 of the Communications Act (Act);
- An evaluation of the extent to which any accessibility barriers still exist with respect to new communications technologies; and
- An assessment of the effect of the requirements of Section 717 of the Act on the development and deployment of new communications technologies.<sup>8</sup>

4. Pursuant to Section 255 of the Act and the Commission's implementing rules and requirements, telecommunications and interconnected voice over Internet protocol (VoIP) service providers and equipment manufacturers are required to make their services and equipment accessible to and usable by individuals with disabilities, if readily achievable (defined as "easily accomplishable and able to be carried out without much difficulty or expense").<sup>9</sup> The Commission has defined services

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<sup>5</sup> *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*, Biennial Report to Congress as Required by the Twenty-First Century Communications and Video Accessibility Act of 2010, DA 12-1602, 27 FCC Rcd 12204 (2012) (2012 CVAA Biennial Report) available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1602A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1602A1.pdf).

<sup>6</sup> In this Notice, as noted below, we seek comment only on those report-related issues that can be best informed by public input. For example, the CVAA requires the Commission to include information on the number and nature of complaints received by the Commission alleging violations of Sections 255, 716, and 718 of the Communications Act, a description of the actions taken to resolve such complaints, the length of time taken to resolve each complaint, and the extent to which any appeals or writs of mandamus have been filed in response to Commission actions to resolve those complaints. See 47 U.S.C. §§ 618(b)(1)(C)-(F). This information is already in the possession of the Commission and, therefore, is not the subject of this Notice.

<sup>7</sup> See 47 U.S.C. § 618(b)(2).

<sup>8</sup> See 47 U.S.C. §§ 618(b)(1)(A), (B), and (G).

<sup>9</sup> See 47 U.S.C. § 255 (referencing 42 U.S.C. §12181(9)); see also 47 C.F.R. Part 6 and Part 7. When accessibility is not readily achievable, covered entities must ensure that their services and equipment are compatible with existing peripheral devices or specialized equipment commonly used by individuals with disabilities to achieve access, if readily achievable. *Id.* In 2007, the Commission extended the Section 255 accessibility obligations to interconnected VoIP service providers and equipment manufacturers. See *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, 22 FCC Rcd 11275 (2007). The Act defines "telecommunications" as the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." 47 U.S.C. § 153(50). It defines "telecommunications service" as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 U.S.C. § 153(53). The Act also defines "interconnected VoIP service" as such term is defined in section 9.3 of the Commission's rules, as such section may be amended from time to time. 47 U.S.C. § 153(25); 47 C.F.R. § 9.3. Section 9.3, in turn, defines interconnected VoIP as a service that (1) enables real-time, two-way voice

covered under Section 255 to include local and long distance telephone service, call waiting, speed dialing, call forwarding, computer-provided directory assistance, call monitoring, caller identification, call tracing, and repeat dialing.<sup>10</sup> Equipment covered under Section 255 includes, but is not limited to, customer premises equipment, such as wireline, cordless, and wireless telephones, fax machines, and answering machines.<sup>11</sup> In addition, the Commission's Section 255 rules cover voice mail and interactive voice response systems (phone systems that provide callers with menus of choices).<sup>12</sup>

5. Section 716 of the Act requires advanced communications service providers and equipment manufacturers to make their services and equipment accessible to and usable by individuals with disabilities, if achievable.<sup>13</sup> These requirements apply to providers of non-interconnected VoIP services, electronic messaging services, and interoperable video conferencing services, and to manufacturers of equipment used for these services.<sup>14</sup> Section 718 of the Act requires Internet browsers

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communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment; and (4) permits users generally to receive calls that originate on the public switched telephone network (PSTN) and to terminate calls to the PSTN. 47 C.F.R. § 9.3. In other words, interconnected VoIP services enable people to make calls to *and* receive calls from users of traditional telephone service.

<sup>10</sup> See *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities*, Report and Order and Further Notice of Inquiry, 16 FCC Rcd 6417, 6449, ¶ 77 (1999) (*Section 255 Order*). See also 47 C.F.R. Part 6.

<sup>11</sup> The Communications Act defines "telecommunications equipment," as "equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades)." 47 U.S.C. § 153(52). It defines "customer premises equipment" as "equipment employed on the premises of a person (other than a carrier) to originate, route or terminate telecommunications." 47 U.S.C. § 153(16).

<sup>12</sup> *Section 255 Order*, 16 FCC Rcd 6417, 6455-6462, ¶¶ 93-108; 47 C.F.R. Part 7.

<sup>13</sup> See 47 U.S.C. § 617. This section defines "achievable" to mean with reasonable effort or expense, listing four factors the Commission must consider when making such determinations. 47 U.S.C. § 617(g). See also 47 U.S.C. § 153(1) (defining "advanced communications services" as "(A) interconnected VoIP service; (B) non-interconnected VoIP service; (C) electronic messaging service; and (D) interoperable video conferencing service"). Although the Act's definition of "advanced communications services" also includes interconnected VoIP service, the accessibility obligations of interconnected VoIP service providers and equipment manufacturers are governed by the requirements of Section 255 of the Act. See 47 U.S.C. §§ 255 and 617(f). See also n.9, *supra*.

<sup>14</sup> See 47 U.S.C. §§ 617(a), (b), and (g). In contrast to interconnected VoIP services that enable people to make *and* receive calls over the Internet *and* the telephone system, non-interconnected VoIP services include services that enable people to make *or* receive calls over the Internet or enable real-time voice communications solely over the Internet. See 47 U.S.C. § 153(36). Electronic messaging services enable real-time or near real-time text messages between individuals over communications networks. See 47 U.S.C. § 153(19). Examples of electronic messaging services include e-mail, SMS text messaging, and instant messaging. See *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; 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; and In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket Nos. 10-213 and 10-145, WT Docket No. 96-198, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-151, 26 FCC Rcd 14557, 14574, ¶ 43 (2011) (*ACS Report and Order and ACS FNPRM*) available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-151A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-151A1.pdf). Interoperable video conferencing services are real-time video communications, including audio, to enable users to share information. See 47 U.S.C. § 153(27). The Commission is considering the definition of "interoperable" as it applies in the context of "interoperable video conferencing services" as part of its ongoing advanced communications rulemaking proceeding. See *ACS Report and Order and ACS FNPRM*, 26 FCC Rcd 14684-14687, ¶¶ 301-305. See also 47 C.F.R. Part 14.

built into mobile phones to be accessible to and usable by individuals who are blind or visually impaired, if achievable.<sup>15</sup> Section 717 of the Act added new recordkeeping and enforcement obligations for entities covered by the accessibility obligations contained in Sections 255, 716, and 718 of the Act.<sup>16</sup>

6. On October 7, 2011, the Commission adopted rules to implement the accessibility mandates of Section 716 for advanced communications services and equipment, and the recordkeeping and enforcement provisions of Section 717.<sup>17</sup> Covered entities were required to begin taking accessibility into account in the design of their products and services on January 30, 2012,<sup>18</sup> and keeping records pertaining to the accessibility of their products on January 30, 2013.<sup>19</sup> On April 26, 2013, the Commission adopted rules to implement the accessibility mandates for Internet browsers built into mobile phones under Section 718.<sup>20</sup> Full compliance with the rules implementing Sections 716, 717, and 718 of the Act was required for covered entities introducing new products and services into the marketplace or substantially upgrading existing products and services on or after October 8, 2013.<sup>21</sup> In addition, since October 2013, the Commission has been obligated to investigate an informal complaint alleging a violation of Section 255, 716, or 718 of the Act and issue an order concluding the investigation within 180 days of the filing of the complaint, unless the complaint is resolved before that time.<sup>22</sup> In this biennial report, the Commission will consider the impact that these CVAA provisions have had on the accessibility of covered products and services, as well as the extent to which generally industry has achieved compliance with these sections. It will also consider the extent to which accessibility barriers still exist with respect to new communications technologies, and the effect of the recordkeeping and enforcement requirements on the development and deployment of new communications technologies.

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<sup>15</sup> See 47 U.S.C. § 619.

<sup>16</sup> See 47 U.S.C. § 618.

<sup>17</sup> See, generally, *ACS Report and Order* and *ACS FNPRM*, 26 FCC Rcd 14557.

<sup>18</sup> The rules adopted by the Commission to implement Sections 716 and 717 of the Act became effective January 30, 2012, 30 days after publication in the Federal Register on December 30, 2011. See *ACS Report and Order* and *ACS FNPRM*, 26 FCC Rcd 14696, ¶ 328. See also 76 Fed. Reg. 82240 (Dec. 30, 2011).

<sup>19</sup> Specifically, covered entities must keep records of information about their efforts to consult with people with disabilities, descriptions of the accessibility features of their products and services, and information about the compatibility of these products and services with peripheral devices or specialized customer premises equipment commonly used by people with disabilities to achieve access. See 47 U.S.C. § 618(a)(5)(A). These recordkeeping requirements began January 30, 2013, one year after January 30, 2012, the effective date of the regulations. *Id.*

<sup>20</sup> See *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; 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; and In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket Nos. 10-213 and 10-145, WT Docket No. 96-198, Second Report and Order, FCC 13-57, 28 FCC Rcd 5957 (2013) (*ACS Second Report and Order*) available at [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-13-57A1\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-13-57A1_Rcd.pdf).

<sup>21</sup> See *ACS Report and Order*, 26 FCC Rcd at 14601, ¶ 107 (“By October 8, 2013, covered entities must be in compliance with all of the rules adopted herein.”). See also CVAA, Pub. L. No. 111-260, § 104(b) (establishing the effective date for Section 718 of the Communications Act as three years after the enactment of the CVAA).

<sup>22</sup> See 47 U.S.C. § 618(a)(3)(B). Before filing an informal complaint, a consumer must submit a “request for dispute assistance” with the FCC’s Disability Rights Office, which will work with the consumer and the service provider or equipment manufacturer for a minimum of 30 days to resolve the accessibility problem. See 47 C.F.R. § 14.32.

### III. Comment Sought on Industry Compliance with Sections 255, 716, and 718

7. We seek comment on the level of compliance with the obligations of Section 255 and the Commission's implementing rules and requirements to make telecommunications and interconnected VoIP services and equipment used with these services accessible by people with disabilities since the *2012 CVAA Biennial Report* was released on October 5, 2012.<sup>23</sup> Specifically, we seek input on the state of accessibility of services and equipment used with the following: (1) "non-mobile" services, including, but not limited to analog and digital telephone handsets and cordless phones used with landline and interconnected VoIP services; and (2) "mobile" or wireless services, including basic phones and smart phones.<sup>24</sup> Are manufacturers and service providers including people with disabilities in their market research, product design, testing, pilot demonstrations, and product trials?<sup>25</sup> To what extent are covered entities working cooperatively with disability-related organizations in their efforts to incorporate accessibility, usability, and compatibility of equipment and services throughout their processes for product design, development, and fabrication?<sup>26</sup> Are covered entities making reasonable efforts to validate unproven access solutions through testing with people with disabilities or with organizations that have expertise with people with disabilities?<sup>27</sup> For guidance on determining the state of accessibility, we direct commenters to the definition of "accessible" that governs Section 255 obligations, contained in Parts 6 and 7 of the Commission's rules.<sup>28</sup> For example, to what extent do the input and output controls of these telecommunications and interconnected VoIP services and devices used with these services offer redundant capabilities, so that people without hearing, vision, or speech, or with limited manual dexterity, cognitive skills, or other abilities can operate them? To the extent that accessible services and devices are available, how easy is it to locate these services and devices in mainstream retail establishments? To what extent are services and devices offered with a range of low-end and high-end features, functions, and prices available to the general public also accessible to individuals with disabilities? Where services and devices are not accessible, to what extent are service providers and manufacturers making these compatible with peripheral devices and specialized customer premises equipment commonly used by people with disabilities to achieve access?<sup>29</sup> Generally, to what extent do barriers still exist with respect to products and services covered under Section 255 of the Act? We note that the *2012 CVAA Biennial Report* concluded that "feature phones continue to offer only limited accessibility for consumers who are blind or visually impaired."<sup>30</sup> We are particularly interested, therefore, in learning to what extent devices that are used with non-mobile (landline and interconnected VoIP) services and mobile (wireless) services, including basic feature phones and smart phones, are accessible to individuals who are blind or visually impaired.

8. To what extent are telecommunications and interconnected VoIP service providers and equipment manufacturers ensuring access to information and documentation – including user guides,

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<sup>23</sup> See n.5, *supra*.

<sup>24</sup> We seek comment on the full range of mobile phones and other wireless devices that are used for telecommunications or interconnected VoIP services, including basic mobile phones used primarily or exclusively for voice calls, as well as high-end wireless devices that are used for voice, text, data and other computing capabilities.

<sup>25</sup> See 47 C.F.R. §§ 6.7(1), (2); 7.7 (1), (2).

<sup>26</sup> See 47 C.F.R. §§ 6.7(b)(3); 7.7(b)(3).

<sup>27</sup> See 47 C.F.R. §§ 6.7(b)(4); 7.7(b)(4).

<sup>28</sup> See 47 C.F.R. §§ 6.3(a); 7.3(a).

<sup>29</sup> See 47 C.F.R. §§ 6.3(b); 7.3(b).

<sup>30</sup> See *2012 CVAA Biennial Report*, 27 FCC Rcd at 12219, ¶ 39.

bills, installation guides, and product support communications – for people with disabilities?<sup>31</sup> For example, are companies providing information in Braille and other alternate formats? To what extent are companies providing training on the accessibility of their products and services to customer service representatives, technical support personnel and others having direct contact with the public? Finally, we seek comment on any other issues relevant to assessing the level of compliance with Section 255 and the Commission’s implementing rules, as these pertain to the accessibility and usability of telecommunications and interconnected VoIP services and equipment.

9. As noted above, full compliance with the rules implementing Section 716 of the Act has been required for covered entities introducing new products and services into the marketplace or substantially upgrading existing products and services since October 8, 2013.<sup>32</sup> The *2012 CVAA Biennial Report* concluded that industry was taking multiple steps to comply with these requirements and we expected that such steps would result in the availability of accessible equipment used for advanced communications services with a diverse range of low-end and high-end features, functions, and prices by October 8, 2013.<sup>33</sup> To what extent are these obligations impacting the accessibility of advanced communications services (e.g., non-interconnected VoIP and electronic messaging services) and the devices used to access these services? Are manufacturers and service providers consulting with people with disabilities in their market research, product design, testing, pilot demonstrations, and product trials? To what extent are covered entities working cooperatively with organizations that have expertise with people with disabilities in their efforts to incorporate accessibility, usability, and compatibility of equipment and services throughout their processes for product design, development, and fabrication? For guidance in determining the state of accessibility, we direct commenters to the definition of “accessible” that governs Section 716 obligations, contained in Part 14 of the Commission’ rules.<sup>34</sup> For example, to what extent are the input, control, and mechanical functions of devices used with advanced communications services locatable, identifiable, and operable by people without vision, hearing, or speech, or with limited vision, hearing, manual dexterity, or cognitive skills? To the extent that accessible services and devices are available, how easy is it to locate these services and devices in mainstream retail establishments? To what extent are services and devices offered with a range of low-end and high-end features, functions, and prices available to the general public also accessible to individuals with disabilities? Where services and devices are not accessible, to what extent are service providers and manufacturers making these compatible with peripheral devices and specialized customer premises equipment commonly used by people with disabilities to achieve access?<sup>35</sup> We seek comment on any other ways in which Section 716 has had an impact on the accessibility of advanced communications services and equipment to date.

10. As noted above, full compliance with the rules implementing Section 718 of the Act has been required for covered entities introducing new mobile phones into the marketplace or substantially upgrading existing mobile phones since October 8, 2013.<sup>36</sup> To what extent have these obligations had an impact on the accessibility of Internet browsers on mobile phones for individuals who are blind or visually impaired? Are manufacturers and service providers consulting with people with disabilities in their market research, product design, testing, pilot demonstrations, and product trials? To what extent

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<sup>31</sup> See 47 C.F.R. §§ 6.11; 7.11.

<sup>32</sup> See ¶ 6, *supra*.

<sup>33</sup> See *2012 CVAA Biennial Report*, 27 FCC Rcd at 12220, ¶ 40.

<sup>34</sup> See 47 C.F.R. §§ 14.21(b).

<sup>35</sup> See 47 C.F.R. § 14.20(a)(3).

<sup>36</sup> See ¶ 6, *supra*. As a result, the *2012 CVAA Biennial Report* was unable to present findings with respect to the level of compliance with that provision in 2012. See *2012 CVAA Biennial Report*, 27 FCC Rcd at 12220, ¶ 41.

are covered entities working cooperatively with organizations that have expertise with people with disabilities in their efforts to incorporate accessibility, usability, and compatibility of equipment and services throughout their processes for product design, development, and fabrication? For guidance on determining the state of accessibility, we direct commenters to the definition of “accessible” that governs Section 718 obligations, contained in Part 14 of the Commission’s rules.<sup>37</sup> For example, to what extent are the input, control, and mechanical functions of Internet browsers built into mobile phones locatable, identifiable, and operable by people without vision or with limited vision? To the extent that accessible Internet browsers on mobile phones are available, how easy is it to find them in mainstream retail establishments? To what extent are accessible Internet browsers offered in mobile phones with a range of low-end and high-end features, functions, and prices available to the general public? We seek comment on any other ways in which Section 718 has had an impact on the accessibility of Internet browsers built into mobile phones to date.

11. To what extent are service providers and equipment manufacturers that are subject to Section 716 or 718 ensuring access to information and documentation that they provide to customers with disabilities?<sup>38</sup> For example, to what extent are companies providing training on the accessibility of their products and services to customer service representatives, technical support personnel and others having direct contact with the public? We seek comment on any other issues relevant to assessing the level of compliance with Sections 716 and 718 and the Commission’s implementing rules, as these pertain to the accessibility and usability of advanced communications services and equipment, and Internet browsers built into mobile phones.

#### **IV. Accessibility Barriers to New Communications Technologies**

12. The CVAA requires the Commission to include, in its biennial report, an evaluation of the extent to which any accessibility barriers still exist with respect to new communications technologies.<sup>39</sup> Our assessment of “new communications technologies” is not limited to telecommunications, advanced communications, or Internet browser technologies covered under Sections 255, 716, and 718 of the Act.<sup>40</sup> Instead, we seek comment on accessibility barriers with respect to “new communications technologies” that are both within and outside the scope of the Act.<sup>41</sup> The *2012 CVAA Biennial Report* predicted that “many accessibility barriers in new communications technologies will likely be addressed by industry compliance with the new accessibility requirements under Section 716 and Section 718 when those requirements are fully effective.”<sup>42</sup> We now seek comment on the extent to which this expectation been met. To what extent have new types of communications services, hardware, software, applications, or plug-ins been deployed to the general public since the *2012 CVAA Biennial Report*? What accessibility barriers still exist with respect to these or other relatively new communications technologies? We seek comment on any other issues relevant to evaluating the extent to which accessibility barriers to new communications technologies still exist.

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<sup>37</sup> See 47 C.F.R. §§ 14.21(b) (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(2)(i), (b)(2)(ii), (b)(2)(iii), (b)(2)(vii).

<sup>38</sup> See 47 C.F.R. §§ 14.21(c); 14.60(b)(4)-(5).

<sup>39</sup> See 47 U.S.C. § 618(b)(1)(B).

<sup>40</sup> See *2012 CVAA Biennial Report*, 27 FCC Rcd at 12220, ¶ 43.

<sup>41</sup> The *2012 CVAA Biennial Report* rejected assertions that we should only consider “new communications technologies” that are not covered by the Communications Act and only those accessibility barriers that could not be eliminated with reasonable effort and expense. See *2012 CVAA Biennial Report*, 27 FCC Rcd at 12222, ¶ 45. Here, too, we seek comment on the full spectrum of new communications technologies.

<sup>42</sup> *2012 CVAA Biennial Report*, 27 FCC Rcd at 12222, ¶ 46.

## V. Effect of Accessibility Recordkeeping and Enforcement Requirements

13. As noted above, the CVAA requires the Commission to include in its biennial report an assessment of the effect of the accessibility recordkeeping and enforcement requirements on the development and deployment of new communications technologies. Entities that must provide accessible telecommunications and advanced communications services and equipment, as well as accessible Internet browsers built into mobile phones, have been required to keep records pertaining to the accessibility of their products and services since January 30, 2013. Covered entities must also certify to the Commission by April 1<sup>st</sup> every year that they have kept such records. Service providers and equipment manufacturers must also maintain records to demonstrate compliance with Sections 255, 716, and 718, which could be requested by the Commission when a complaint is filed. As noted above, since October 2013, the Commission also has been required to investigate complaints filed under these sections and to issue orders on such investigations within 180 days after an informal complaint is filed, unless the complaint is resolved before that time.

14. What impact, if any, have the CVAA's recordkeeping requirements had on the development and deployment of accessible new communications technologies since these requirements became effective January 30, 2013?<sup>43</sup> Have companies identified best practices with respect to these recordkeeping requirements that can be shared with others? What impact, if any, have the enforcement measures contained in the CVAA, and the requirement for consumers to request dispute assistance from the Commission as a prerequisite to filing an informal complaint, had on the development and deployment of new communications technologies that are accessible to and usable by individuals with disabilities?<sup>44</sup> To what extent have these recordkeeping and enforcement obligations increased collaboration among industry, consumers with disabilities, and other stakeholders? We seek comment on any other ways in which the accessibility recordkeeping and enforcement requirements have had an effect on the development and deployment of new communications technologies that fall within and outside the scope of the Communications Act.

## VI. Procedural Matters

15. *Ex Parte Rules.* The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>45</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or

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<sup>43</sup> The 2012 CVAA Biennial Report concluded that there was nothing in the record to suggest that the recordkeeping obligations would hinder the development and deployment of new communications technologies. See 2012 CVAA Biennial Report, 27 FCC Rcd at 12228, ¶ 63. Now that the recordkeeping obligations have taken effect, we again seek comment on this.

<sup>44</sup> At the time that the Commission submitted the 2012 CVAA Biennial Report, it was too early, given the compliance deadlines, to assess whether the CVAA's enforcement measures would result in new communications technologies that are accessible to and usable by individuals with disabilities. See ¶ 6, *supra*. See also 2012 CVAA Biennial Report, 27 FCC Rcd at 12224, n.148 (expressing an expectation that the dispute resolution process will resolve consumer concerns before complaints are filed and will encourage service providers and equipment manufacturers to comply with the accessibility rules).

<sup>45</sup> 47 C.F.R. §§ 1.1200 *et seq.*



arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

16. *Filing Requirements.* Interested parties may file comments on or before the date indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). All comments should refer to **CG Docket No. 10-213**. Please title comments responsive to this Notice as "PN Comments – Accessibility of Communications Technologies." Further, we strongly encourage parties to develop responses to this Notice that adhere to the organization and structure of the questions in this Notice.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
  - Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

17. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202- 418-0530 (voice), 202- 418-0432 (TTY). Individuals with disabilities may request assistance from the Disability Rights Office to file comments in the Commission's Electronic Comment Filing System by sending an e-mail to [dro@fcc.gov](mailto:dro@fcc.gov).

18. *Additional Information.* For further information about this Public Notice, please contact Rosaline Crawford at 202- 418-2075 or by e-mail to [Rosaline.Crawford@fcc.gov](mailto:Rosaline.Crawford@fcc.gov), Disability Rights Office, Consumer and Governmental Affairs Bureau, Federal Communications Commission.

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