



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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DA 16-1236  
Released: October 31, 2016

**REQUEST FOR COMMENT**  
**PETITION FOR EXTENSION OF VIDEO GAME SOFTWARE CLASS WAIVER OF**  
**COMMISSION'S RULES FOR ACCESS TO ADVANCED COMMUNICATIONS SERVICES**  
**AND EQUIPMENT BY PEOPLE WITH DISABILITIES**

**CG Docket No. 10-213**

**Comments Due: November 30, 2016**  
**Reply Comments Due: December 15, 2016**

This Public Notice seeks comment on a petition filed by the Entertainment Software Association (ESA) on October 19, 2016, requesting an extension of a class waiver of the advanced communications services (ACS) accessibility requirements for video game software for 12 months, until January 1, 2018.<sup>1</sup>

*Background.* In response to a petition filed by ESA in 2012, the Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (FCC or Commission) granted a waiver of the Commission's requirements for access to ACS and equipment used for ACS by people with disabilities for three classes of game-related equipment until October 8, 2015.<sup>2</sup> On September 16, 2015, the Bureau granted ESA's request for a partial extension of the class waiver of the Commission's ACS accessibility requirements for one class of equipment – video game software – until January 1, 2017.<sup>3</sup>

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<sup>1</sup> Petition for Extension of Waiver of the Entertainment Software Association, CG Docket No. 10-213 (filed Oct. 19, 2016), <https://www.fcc.gov/ecfs/filing/1019285494250> (2016 ESA Petition).

<sup>2</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; Consumer Electronics Association; National Cable & Telecommunications Association; Entertainment Software Association; Petitions for Class Waivers of Sections 716 and 717 of the Communications Act and Part 14 of the Commission's Rules Requiring Access to Advanced Communications Services (ACS) and Equipment by People with Disabilities*, Order, 27 FCC Rcd 12970 (CGB 2012) (CEA, NCTA, ESA Waiver Order). See also 47 U.S.C. § 617(h)(1); 47 CFR §§ 1.3, 14.5. The three classes of equipment were: Class I – game consoles, both home and handheld, and their peripherals and integrated online networks; Class II – game distribution and online game play services that distribute game software or enable online game play across a network, regardless of the device from which it is accessed; and Class III – game software used for game play. CEA, NCTA, ESA Waiver Order, 27 FCC Rcd at 12982, para. 23.

<sup>3</sup> ESA did not request an extension of the waivers previously granted by the Bureau for the other two classes of equipment: video game consoles; and video game distribution platforms. CEA, NCTA, ESA Waiver Order, 27 FCC Rcd at 10020, para. 10. As a result, the waivers of the Commission's ACS rules for covered video game consoles and video game distribution platforms expired on October 8, 2015.

*2016 ESA Petition.* In its petition, ESA claims that an extension of the waiver for 12 months, until January 1, 2018, is warranted because video game software “continues to be designed primarily for the purpose of game play, not ACS,” and therefore qualifies for a waiver from the Commission’s ACS accessibility rules.<sup>4</sup> ESA also describes industry engagement with consumers on accessibility issues and improvements in the accessibility of video game consoles and game playing.<sup>5</sup> It suggests further that “extending the waiver period will continue to encourage industry to pursue further experimentation with other accessibility features as it explores ACS solutions.”<sup>6</sup>

The Commission invites comments on the 2016 ESA Petition. Pursuant to the Commission’s rules,<sup>7</sup> comments are due within 30 days from the date of this Public Notice. Reply comments are due within 15 days after the time for filing comments has expired.

*Ex Parte Rules.* The proceeding this Public Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>8</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 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).<sup>9</sup> 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).<sup>10</sup> Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

*Filing Instructions.* Pursuant to sections 1.415 and 1.419 of the Commission’s rules,<sup>11</sup> interested parties may file comments and reply comments on or before the dates indicated on the first page of this document.

- *Electronic Filers:* Comments and reply comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) at <https://www.fcc.gov/ecfs/filings>.<sup>12</sup>

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<sup>4</sup> 2016 ESA Petition at 2-3. ESA further claims that “[t]he importance of ACS features to the overall game experience has not changed over the past year.” *Id.* at 3.

<sup>5</sup> *Id.* at 8-17.

<sup>6</sup> *Id.* at 24.

<sup>7</sup> 47 CFR § 14.5(d).

<sup>8</sup> 47 CFR § 1.1200 *et seq.*

<sup>9</sup> 47 CFR § 1.1206(b).

<sup>10</sup> 47 CFR § 1.49(f).

<sup>11</sup> 47 CFR §§ 1.415, 1.419.

<sup>12</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (May 1, 1998).

- *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> Street, 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.

People with Disabilities. To request materials in accessible formats (such as braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 844-432-2275 (videophone), or 202-418-0432 (TTY). This Public Notice can also be downloaded in Word and Portable Document Format at <http://www.fcc.gov/encyclopedia/advanced-communications-services-acf>.

Additional Information. For additional information on this proceeding, please contact Rosaline Crawford, Disability Rights Office, Consumer and Governmental Affairs Bureau, at 202-418-2075 or e-mail [Rosaline.Crawford@fcc.gov](mailto:Rosaline.Crawford@fcc.gov).

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