

**STATEMENT OF COMMISSIONERS MICHAEL J. COPPS  
APPROVING IN PART AND DISSENTING IN PART**

*Re: 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; 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, WT Docket No. 96-198; In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision, CG Docket No. 10-145, FCC 11-151.*

Last October, I was thrilled to watch the President sign into law the Twenty First Century Communications and Video Accessibility Act. Thanks to champions on Capitol Hill including Congressman Markey and Senators Pryor and Kerry, the most sweeping civil rights legislation since the Americans with Disabilities Act became the law of the land. The statute confers a great responsibility on the FCC to craft new rules to ensure that the 54 million Americans with disabilities have access to advanced communications services and equipment that are essential for participation in our society. Access to advanced communications services is no longer a luxury, it's a necessity.

Working with many disabilities communities has been one of the great joys of my time at the Commission. These advocates have helped me understand the magnitude and importance of the challenges faced by so many people with disabilities, but also to realize the opportunity we have to apply the wonders of new technologies to help overcome those challenges. Their tireless advocacy is another reason the CVAA is a reality.

There is much to commend about the Order and Further Notice of Proposed Rulemaking the Commission adopts today. In most ways, we have struck the right balance between accessibility requirements and industry flexibility that promotes continued innovation. In particular, I am pleased that the item adopts an interim exemption for small businesses with a definite sunset date that requires the Commission to revisit these definitions in a careful and measured way, based on a full record. Anything less could mean denying people with disabilities in more rural locations served by small providers the benefits of this empowering law. I am also pleased that, while we allow an appropriate amount of time for industry to comply with our new rules, we also make clear that the Commission's door is open to help consumers resolve accessibility problems in the interim.

I thank the Chairman and my fellow Commissioners for working together to greatly improve the process through which the Commission will deal with requests for waiver from the rules. On this point, the Order recognizes the need to process waiver requests in a timely manner, while giving Commission staff the time necessary to review the requests. This will, in my view, prove to be a critical piece of our implementation. I want to caution, though, that this is an area where the exception could swallow the rule if we're not diligent. The convergence of multiple services into single electronic devices is now the norm – for example, even gaming devices increasingly have functionality that looks like advanced communications services. As we work through these questions, we

must be mindful of Congress' intent that people with disabilities have access to new technologies and services.

There is one area, however, where I cannot join in approving the item. I believe that section 716(a)(1) of the Act is clear that all software is subject to accessibility requirements. The Order instead finds the Act ambiguous on this point, and concludes that it's best to read this ambiguity to narrow the Act's accessibility reach. The Order says that much of the same software will be made accessible through a broader interpretation of section 716(b)(1), which governs service providers. Confused? So am I. When Congress said "software," I don't think it was ambiguous. Even if it were ambiguous, I think the better course, one more consistent with the goals of the Act, would be to interpret the ambiguity in favor of greater accessibility, rather than less. It's hard for me to understand why Congress would think that advanced communications software already loaded into a device should be accessible, but the same software bought separately, shouldn't. As a result, I must dissent from this part of the Order.

I want to again thank the Chairman and my fellow Commissioners for meaningful give-and-take as we worked through the legal and technical issues of this proceeding. I also thank the Wireless Telecommunications and Consumer and Governmental Affairs bureaus for bringing us this item. I am pleased that, on balance, what we do today will bring advanced communications and expanded opportunities to people with disabilities. They have been waiting a long time – and we still have much work to do.