

**REMARKS OF
COMMISSIONER JESSICA ROSENWORCEL
TWENTY-THIRD TDI BIENNIAL CONFERENCE
“WITH ACCESS EVERYONE WINS”
GALLAUDET UNIVERSITY
WASHINGTON, DC
AUGUST 15, 2019**

Good morning. My name is Jessica Rosenworcel and I have the privilege of serving as a Commissioner at the Federal Communications Commission. From here on out I will leave the signing to the professionals, but I want you to know it is a real treat to join you today.

I'll start by acknowledging that this event is always special, but this year doubly so. That's because it is the last biennial conference that will feature your fearless leader Claude Stout in his role as Executive Director. He's a well-known champion for the deaf and hard of hearing. Plus, he's a workhorse. In his 23 years at the helm of TDI, he has been involved with over 1,200 filings at the FCC. I want to be able to say I read them all—but that would be stretching the truth. Still, I can vouch for the fact that he was among the earliest and most effective advocates for the legislation that became the Twenty-First Century Communications and Video Accessibility Act.

His coming retirement follows on the heels of another dynamo—Karen Peltz-Strauss—who stepped down from the Disability Rights Office at the FCC late last year was also part of the dream team that helped push that legislation over the finish line.

They're both heroes who walk among us. I am so proud to have worked closely with both, not just in my current role but when I served as congressional staff and helped shepherd this bill through the United States Senate. In fact, if you come to the FCC, you will find a signed picture of that legislation in a frame right outside my office—a reminder of the work I am most proud of and the work we have yet to do to connect us all.

We'll get to that legislation in a minute. But for now, I want to start by asking you to roll back. So imagine nearly three decades ago. Picture 1990.

It was a heady time. Just before the year got underway, the Berlin Wall came down. So much was changing. Margaret Thatcher announced her resignation and Nelson Mandela was released from prison and became the leader of the African National Congress. At the movies, we laughed as Macaulay Culkin was left Home Alone. On the small screen, we were introduced to the Simpsons in primetime and since then, cartoons have never been the same.

Technology saw big changes in 1990, too. It was the year that the Hubble Telescope was launched into space. It is still circling the earth today. In fact, it has logged more than four billion miles, collecting data that helps us understand the universe.

Back on the ground, 1990 also saw a scientist working at CERN, the European Organization for Nuclear Research, develop a hypertext proposal for something he called the

“WorldWideWeb.” By the end of the year, Tim Berners-Lee succeeded in getting the first web server and browser up and running. This might sound small, but it gave a big boost to the online world.

For our purposes today, the biggest change in 1990 was the Americans with Disabilities Act. This essential civil rights legislation was signed into law by President George H.W. Bush 29 years ago last month. Upon signing, he famously said: “Let the shameful walls of exclusion finally come tumbling down.” Exactly. Those words ring true today—just as they did in 1990. Because 29 years ago this law laid the foundation for the meaningful inclusion of 60 million Americans with disabilities in all aspects of modern life.

Title IV of the Americans with Disabilities Act became part of the Communications Act. It tasked the FCC with making sure that telecommunication relay services are widely available. This was our first national relay service policy. This was a big deal. Access for all was enshrined in the law.

A few years later, in the Telecommunications Act of 1996, the FCC was tasked by Congress with improving access to communications equipment, ensuring it is designed, developed, and accessible for those with disabilities. Once again, access for all was in the law.

But this effort reached new heights with the Twenty-First Century Communications and Video Accessibility Act. I know because I saw it up close in the work I did as congressional staff.

I also saw it the day it was signed into law in 2010, two decades after the Americans with Disabilities Act. I can still picture it clearly, the East Room of the White House with its golden drapes and glass chandeliers—and there was the President and Stevie Wonder was by his side! Because along with Claude Stout, Karen Peltz-Strauss, and so many others, the legendary musician was one of the great champions of this law. I regret to inform you that I didn’t get to listen to him sing that day. In the same spirit, I will tell you that I can’t hold a tune, so I’m pleased to inform you I won’t sing today—but signed, sealed, delivered, the Twenty-First Century Communications and Video Accessibility Act became the law of the land.

In the ensuing years, the FCC has done substantial work to implement this legislation. The FCC created the National Deaf-Blind Distribution Program to assist low-income individuals who are deaf-blind with access to equipment for phone and internet services. The FCC updated its hearing aid policies and put us on a pathway to have 100 percent of mobile phones hearing aid compatible. The FCC reinstated its video description rules and updated its closed captioning rules, increasing access to television content. And the FCC established new and streamlined procedures to handle complaints about accessibility matters. All of this was good stuff!

Now fast forward to the present. It’s been nearly a decade since the Twenty-First Century Communications and Video Accessibility Act was signed. And the pace of technological change since? Well, there’s a good case to be made it is now quicker now than ever before. Just look at the technologies that are coming our way—artificial intelligence, augmented reality, virtual reality, automatic speech recognition, and the internet of things.

Powered by cloud computing and network virtualization, these are forces that will change our world.

So how do we keep up? Well, the good news is that so many new services and technologies are now being developed with accessibility in mind. But the laws that came before still matter. Our policies still matter. And the values that informed them still matter.

The way I see it is that there are three values at the heart of the Americans with Disabilities Act and its successors, like the Twenty-First Century Communications and Video Accessibility Act. They have brought us this far. I believe they can carry us into the future. They can serve as the guideposts for what comes next and how we navigate accessibility for all. They are the principles of non-discrimination, functional equivalency, and inclusion.

First, non-discrimination. This has long been an important value in communications law. It also is at the heart of the Americans with Disabilities Act. After all, the law was expressly designed “to establish a clear and comprehensive prohibition of discrimination on the basis of disability.”

Right now, there is a petition at the FCC that represents a challenge to the principle of non-discrimination. It asks the agency to bless separating out telecommunications relay service fees on consumer bills. This issue is not new. It has a long history. At the time of passage of the Americans with Disabilities Act, the question of separate fees for disabilities access was a contentious one. Advocates were concerned that this could single out accessible services in an undesirable way. So as the FCC looks at this issue, it needs to remember the principle of non-discrimination. It needs to remember history. I think it should also heed the advice of the National Council on Disability, which has warned that the relief requested in this petition is antithetical to the Americans with Disabilities Act.

Second, under the Americans with Disabilities Act, functional equivalency has been the foundation of our telecommunications relay service policies. Now functional equivalency may sound like the kind of regulatory lingo that only a lawyer could love. But for millions of Americans with hearing and speech impairments, it means they have the right and ability to pick up the phone, reach out and connect, and participate more fully in the world.

As some of you may know, last year the FCC updated its relay policies for Internet Protocol Captioned Telephone Service, or IP CTS. I think the agency rushed ahead to include automatic speech recognition in IP CTS without first asking does it meet the threshold of functional equivalency. In other words, we got ahead of ourselves. But we did seek comment on what functional equivalency means with this technology. That’s a big and important question. To this end, I’m pleased that the FCC sought comment on a definition of functional equivalency offered by disability rights organizations back in 2011. Going forward, I believe we’re going to need your input to get it right.

Third, inclusion. One area where the FCC has done significant work to promote inclusion involves closed captioning. Over the last several years, the FCC made significant improvements to its captioning policies, putting a new premium on accuracy and completeness.

To this end, the FCC has put in place rules for captioning using electric newsroom technique and clarified the lines of responsibility between video programmers and distributors. That's progress, but there is more work to do.

What better place to do it than where we are today—at Gallaudet University, the nation's premier university for the deaf and hard of hearing. And right now Gallaudet University has funding from the Department of Health and Human Services to study the feasibility of consumer-based metrics for caption quality. I also know that a coalition of disability rights organizations, including TDI, called on the FCC to develop a rulemaking about metrics for captioning live television programming. Like I said, there is more work to do. But with this combination of stakeholders, I think we can make progress—improving closed captioning and enhancing inclusion.

So that's where things stand at the FCC right now. I think where we go from here needs to be guided by the values that have always informed the best work in accessibility—non-discrimination, functional equivalency, and inclusion.

I'll close by telling you where I most recently saw all three values at work. It was just a few blocks from here. I joined a group of advocates for the deaf and hard of hearing at a coffee spot. It was an outpost of a nation chain, but here's the thing—instead of the usual noise and shuffle, it was all quiet inside. This quiet was revolutionary. That's because this location is the first signing coffee store designed for and staffed by those who are deaf and hard of hearing. And when I went there it was bustling. What better place to sit with a tall, steaming cup of coffee and discuss the promise of new technologies and the opportunities to bring those with disabilities deeper into our civic and commercial life. Because that promise was all around us.

I feel it here, too. In this room. At this conference. And it makes me optimistic that together we can build a future with accessibility for all. After all, with access everyone wins.

Thank you.