

STATEMENT OF COMMISSIONER AJIT PAI
APPROVING IN PART AND CONCURRING IN PART

Re: *Accessibility of User Interfaces, and Video Programming Guides and Menus*, MB Docket No. 12-108.

Today the Commission takes another step towards fulfilling the promise of the Twenty-First Century Communications and Video Accessibility Act. I support many of the proposals and tentative conclusions contained in this Notice of Proposed Rulemaking, which begins the process of implementing sections 204 and 205 of the Act, and I appreciate the willingness of my colleagues to incorporate many of my suggestions into this item.

While I am largely in agreement with my colleagues, I concur in part because I have a different view with respect to section III.A.1 of the NPRM, which addresses the categories of devices covered under sections 204 and 205. In particular, it would seem that the plain language of the statute precludes us from narrowing section 205 to cover only navigation devices provided by MVPDs and expanding section 204 to include navigation devices sold at retail along with other digital apparatus. Section 205 of the Act covers “navigation devices (as such term is defined in section 76.1200 of title 47, Code of Federal Regulations).”¹ And section 204 of the Act specifically provides that “the term ‘apparatus’ does *not* include a navigation device, as such term is defined in section 76.1200 of the Commission’s rules (47 CFR 76.1200).”² Given this straightforward language, I have difficulty seeing how any equipment that qualifies as a navigation device under our rules could be exempt from section 205 and covered instead as an apparatus under section 204 of the Act. The text of section 205 and the specific navigation-device carve-out from section 204 appear to apply to all navigation devices, regardless of whether they are supplied by MVPDs or obtained by consumers in another manner.

That having been said, I look forward to studying the comments that will be submitted in response to this NPRM and will review the record with an open mind. By continuing to work together in a collaborative manner, I am optimistic that the Commission will be able to enact rules consistent with the text of sections 204 and 205 of the Act by the statutory deadline.

¹ See 47 U.S.C. § 303(bb)(1).

² See 47 U.S.C. § 303(aa)(4) (emphasis added).