



August 15, 2013

BY ELECTRONIC FILING

Marlene H. Dortch
445 12th Street, SW
Room TW-A325
Washington, DC 20554

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

Dear Ms. Dortch:

Pursuant to the Federal Communications Commission's (FCC's or Commission's) Rules, we are filing this *ex parte* notice pertaining to the above-captioned docket. On Thursday, August 15, 2013, Jamie Belcore Saloom, Assistant Chief Counsel for Telecommunications at the U.S. Small Business Administration Office of Advocacy (Advocacy) met with Commission staff to discuss the above-referenced Notice of Proposed Rulemaking implementing sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act (CVAA). FCC Media Bureau staff present at the meeting included: Maria Mullarkey, Adam Copeland, Evan Baranoff, Brendan Murray, Steven Broeckaert, and Mary Beth Murphy. FCC Consumer and Governmental Affairs staff present included Eliot Greenwald and Rosaline Crawford. Additionally, Belford Lawson of the FCC Office of Communications Business Opportunities was present.

Advocacy forwarded the concerns of small multichannel video programming distributors (MVPDs), including those affiliated with rural local exchange carriers, regarding the potential

for the proposed rule to place a disproportionate economic impact on small MVPDs. Advocacy shared that smaller MVPDs will face higher costs while possessing less of an ability to absorb or pass-through those costs to consumers—because of their relatively diminished purchasing power, small MVPDs will likely face higher prices than large MVPDs for technology solutions developed to meet any accessibility standard adopted by the Commission. Advocacy pointed to comments and reply comments filed by the American Cable Association, the National Cable and Telecommunications Association, and the National Telecommunications Cooperative Association for specific examples of the challenges small MVPDs will face in their efforts to comply with the proposed standards.

In light of the small business concerns above, Advocacy recommended that the Commission implement regulatory alternatives that would mitigate the potential for disproportionate impacts discussed above. Namely, Advocacy recommended that the Commission exercise its authority to exempt small MVPDs serving fewer than 20,000 subscribers from the proposed rule.

Additionally, Advocacy recommended that the Commission adopt a delayed compliance schedule for all small MVPD's. Advocacy noted that the CVAA directs the Commission to impose accessibility standards on MVPDs to the extent achievable—further noting that if the Commission does exempt MVPDs with fewer than 20,000 subscribers, the Commission has the authority to revisit the issue following the start of the compliance period to determine if the standards are achievable by MVPD's with fewer than 20,000 subscribers at that time. Advocacy also noted that, while the CVAA gives MVPDs flexibility to adopt any technology that can meet the accessibility standards set by the Commission, smaller MVPDs have indicated that they will rely on the research and development efforts of larger operators before adopting technology solutions that meet the performance standards finalized by the Commission. Given this reality, as well as the uncertain economic impact of the proposed rule on small entities, Advocacy expressed its belief that the Commission has ample justification to exempt MVPDs with fewer than 20,000 subscribers and to implement a delayed compliance date for all small MVPDs.

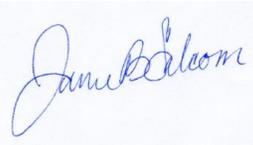
Finally, Advocacy shared its concerns that the Commission has not adequately complied with the Regulatory Flexibility Act (RFA) for this rulemaking. While Advocacy understands that the economic impacts of the rule are uncertain at this time, the RFA is explicit in its requirement that

an agency describe the economic impact of a proposed rule in any initial regulatory flexibility analysis (IRFA). Advocacy noted that the Commission has not provided any quantitative or qualitative analysis of the potential impacts of the rule on small MVPDs in its IRFA, and recommended that it include a discussion of such impacts in its final rule, as well as a discussion of any steps taken to mitigate those impacts in the final rule.

Sincerely,

A handwritten signature in black ink that reads "Winslow Sargeant". The signature is written in a cursive style with a large initial "W".

Winslow L. Sargeant, Ph.D.
Chief Counsel

A handwritten signature in blue ink that reads "Jamie Belcore Saloom". The signature is written in a cursive style with a large initial "J".

Jamie Belcore Saloom
Assistant Chief Counsel