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Federal Communications Commission

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JUN 30 1998  
FCC MAIL ROOM

In the Matter of ) WT Docket No. 96-198  
Implementation of Section 255 of the )  
Telecommunications Act of 1996 )

Comments of:

Wisconsin Association of the Deaf - Telecommunications  
Advocacy Network Members

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TELECOMMUNICATIONS ADVOCACY NETWORK

**I. Introduction**

The Wisconsin Association of the Deaf Telecommunications Advocacy Network members (WI-TAN) hereby submit these comments to the Federal Communications Commission (FCC) on its proposed Section 255 rules. WI-TAN members represent deaf consumers in the state of Wisconsin eager to speak up on behalf of the Wisconsin Association of the Deaf on telecommunications access concerns. We are a part of a national network established this year by the National Association of the Deaf Telecommunications Committee whose sole mission is to make sure the telecommunications access needs of the deaf community are realized. We do not have amongst us high paid lawyers, nor do we employ high-powered lobbyists, but we represent the most important group this proceeding serves...those who are intended to benefit from this landmark legislation-- the consumers! We are consumers who greatly desire access to the telecommunications revolution and all the promises it holds and are commenting today to make sure our community is heard!

We applaud the FCC for issuing proposed rules to implement Section 255 of the Telecommunications Act of 1996. WI-TAN believes increased access to telecommunications equipment is critical to expand employment, educational, social, and recreational opportunities for individuals who are deaf and hard of hearing. We urge the FCC to adopt the suggestions contained in these comments so that our needs are fully considered in the design, development, and fabrication of telecommunications products and services.

We cannot understate the importance of Section 255 to those with disabilities. Anyone who currently has barrier free access to every aspect of telecommunications equipment, customer premises equipment and telecommunication services, knows quite profoundly

how important this access is to the social, economical, business as well as emergency 'fabric of life.' We represent those who are climbing the professional ladder, yet facing missing rings on the ladder due to lack of access to vital telecommunications equipment and services. We represent parents, grandparents, singles, and youth who all want to function in our society with the same telecommunications opportunities as everyone else. We urge you to make sure your regulations are clear, concise and bring us all to this end result. Allow us to be full-fledged consumers and first class citizens. We urge you to take great caution to avoid creating regulations that are so vague they do not provide anyone -- the consumer nor industry-- with enough guidance to know what their rights or responsibilities are. For the deaf community, and our friends in the entire disability community this access is long overdue.

## II. Adoption of Access Board Guidelines

The FCC has caused an element of confusion in their NPRM by not clearly indicating their adoption of the Access Board's rules as they apply to telecommunications equipment and customer premises equipment. We strongly urge the Commission to adopt the Section 255 guidelines which were issued by the Architectural and Transportation Barriers Compliance Board (Access Board) on February 3, 1998. Congress had given the Access Board the primary authority to draft those guidelines, which should now be enforced by the FCC. Although the Access Board guidelines apply to equipment manufacturers, we recommend that the FCC apply these as well to service providers. The guidelines are comprehensive, and are the product of the Telecommunications Access Advisory Committee, which consisted of representatives from both consumer and industry organizations.

If our comments sound like a 'broken record' it is simply because the consumer community as a whole realize the importance of the Access Board's guidelines and what they represent. WI-TAN members urge the FCC to adopt and enforce the following guidelines for both service providers and equipment manufacturers:

- Where **market research** on products or services is performed, **individuals with disabilities should be included** in the populations researched;
- Where **product design trials** and pilot demonstrations are conducted, **individuals with disabilities should be included** in these activities;
- Reasonable efforts should be made to **validate access solutions** though **testing with individuals with disabilities** or related organizations;
- Manufacturers and service providers should be **required to provide access to product and service information and documentation** on products and services and their accessibility features, including information contained in user and installation guides. To the extent that such information is made available to the general public, it should be made available in accessible formats or modes upon request, at no extra charge.

Manufacturers should also include the name and contact means for obtaining information about (1) accessibility features and (2) how to obtain documents in alternate formats, in general product information. Additionally, customer and technical support provided at call and service centers should be accessible by people with disabilities. For people who are deaf or hard of hearing, captioning on video cassettes containing product instructions, direct TTY access to customer service lines, text transcriptions for audio output on Internet postings, automated TTY response systems that detect whether a caller is using voice or TTY and which enable the caller to complete the call in an accessible format, or text scripts offered to customers who reach tree-type systems with multiple layers of choices should be used to comply with these access requirements;

. The Access Board's guidelines set forth certain technical standards for compatibility with specialized customer premises equipment, including **compatibility with TTYs** and hearing aid compatible telephones. These are crucial to change in our access, thus, should be adopted in the FCC's final rules.

. Coverage of pay phones that offer accessible operability features and payment choice are of important as well. Being able to have choice of carrier or choice of payment options needs to be incorporated in the accessible pay phone models.

. The FCC's proposed rules say that software will be covered only if the software is included with a telecommunications product. **We oppose this interpretation** of Section 255. We believe **if software has functions that are integral to the provision of telecommunications, it should be covered** under the FCC's final rules. Once again we urge you to be consistent with the Access Board guidelines which cover software, hardware, or firmware that are integral to telecommunications and CPE equipment, as well as functions and features built into the product.

### **III. Product vs. Product Line**

One critical aspect of the success of these regulations lies heavily on the concept of implementing access via each product vs. the product line. WI-TAN supports the FCC's decision to require an assessment of accessibility and compatibility for **each** product when it is readily achievable to do so. We recognize, however, that in some cases an increase in access will occur if after determining a universal design is not readily achievable in all regards, the manufacturer or telecommunications provider offers a "functionally similar" product at a comparable price within their product line. We believe the manufacturer and provider should first attempt to provide access in each product, and will not, automatically "bypassed [access provisions] simply because another product is already accessible." The goal of Section 255 is to achieve, where readily achievable, universal design for as many disabilities as possible. Only if that is not achievable, then is it reasonable to view the overall accessibility of the provider's products or services to determine how other functionally similar products and services can be made accessible. We believe by offering this flexibility the results should bring about a win-win situation for all involved.

#### IV. Enhanced Services

WI- TAN members are appalled that enhanced services may not be covered under the FCC's new rules. The nation's community of those with disabilities surely have been misled by Congress' intent if this is the case. The Telecommunications Act of 1996 emphasized the need to bring all citizens in American the benefits of advanced telecommunications technologies. Frankly, it would be absurd if such 'basic, every day telecommunications occurrences such as voice mail, interactive telephone prompt systems, and Internet telephony are excluded from inclusion of Section 255. These services have currently become very much a part of mainstream services and are critical to successfully participating and competing in our society. These services must be made accessible if the true intent of Section 255 - to achieve universal telecommunications access is to be realized. In our experience, the current telecommunications relay services are **not** equipped nor capable of handling these services in a functionally equivalent, effective manner. We believe the FCC has the capability of changing the status of these services to 'basic services' based on other changes the NPRM cited have been made in past years!

#### V. Readily Achievable Factors

We understand that under Section 255, manufacturers must make their products accessible or compatible if it is readily achievable to do so. The "readily achievable" language is from the Americans with Disabilities Act (ADA) and involves a balancing of the nature and costs of including an access feature with the overall financial resources of the covered entity (and the resources of its parent corporation, where applicable). Although we believe this is covered under the readily achievable definition, we accept the FCC's suggestion that technical feasibility be considered in determining whether access to a product or service can be achieved. Obviously, if it is technically infeasible to provide access it cannot be achieved. However, the manufacturer or provider should continue over time to strive to **find** solutions.

WI-TAN does not support the cost recovery nor market consideration aspect as proposed in the FCC's rules. In general, cost recovery considerations are done on all products as a whole. Market considerations are done on all and any product designed. **The** notion of introducing a concept to the readily achievable factor that is not a permissible factors under the ADA has the potential of destroying everything we have accomplished in disability law to date. We also find it hard to believe that the industry would want to reveal their costs, when asked, to prove that it was truly not possible for them to recover costs on the accessibility features. We commend the FCC for *attempting to* improve on the definition of readily achievable, but quite frankly you have accomplished just the opposite. We recommend that you incorporate the factors on readily achievable suggested by the Access Board in their guideline's appendix.

## VI. Complaint Process

The complaint process section is designed for lawyers, and we suspect even lawyers would find it confusing! WI-TAN is a bit uncertain as to when an individual has the right to move **from** the “fast track” to the “informal” or “formal” complaint processes, or when a complaint would be moved to an alternative dispute resolution process. We request clarification of these points in the final rules, so that consumers may fully understand the means available to seek redress under Section 255.

Additionally, we strongly oppose a rule that would require consumers to first receive approval from the FCC before being permitted to bring a formal FCC complaint. This is not a requirement for other formal complaints brought before the Commission thus appears to be discriminatory against individuals with disabilities.

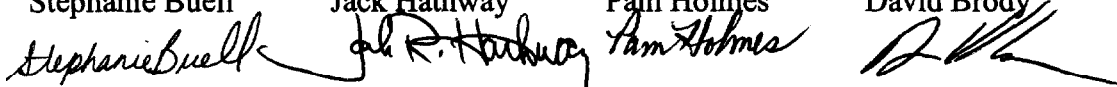
We do support the following FCC proposals concerning consumer complaints:

- . There should be **no filing fees for informal or formal complaints**, and fees that currently exist for filing complaints against common carriers should be waived for complaints brought under Section 255. We understand you are allowed to waive these fees when it is in the public interest.
- . There should be **no time limit for filing complaints**, because one never knows when he or she will discover that a product or service is inaccessible.
- . Consumers with disabilities should be **able to submit complaints by any accessible means** available.
- . Manufacturers and service providers should be **urged to establish contact points** in their companies that are accessible to consumers with disabilities. These contact points should be TTY accessible.

## VII. Conclusion

WI-TAN members urge the FCC to act promptly in issuing rules that will fully ensure telecommunications access by individuals with disabilities. We thank you for the opportunity to share our comments with you and urge you to remember the intent of Congress as you deliberate on Section 255’s final rules.

Respectfully submitted,

Stephanie Buell      Jack Hathway      Pam Holmes      David Brody  


Wisconsin Association of the Deaf - Telecommunications Advocacy Network Members