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Proceeding: IMPLEMENTATION OF SECTION 255 OF THE TELECOMMUNICATIONS AC Record 1 of 1
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William E. Kennard, Chairman
Office of the Secretary
Federal Communications Commission
Washington, DC 20554

June 29, 1997

Dear Mr. Kennard,

Subject: Section 255 of the Telecommunications Act of 1996

This letter covers four issues I consider to be crucially important in having the FCC adopt rules that really embody the spirit that it is believed Congress intended or perhaps should intend as the case may be.

Issue One:

At present it is not clear whether the FCC intends to adopt the Access Board guidelines, which were published in February 1998. Congress gave the Access Board authority for developing guidelines and indicated that the FCC guidelines must be consistent with those. Further, the FCC appears undecided as to whether the guidelines should be applied to service providers as well as manufacturers.

I urge the FCC to adopt the Access Board guidelines for both manufacturers and service providers. Please ensure that definitive wording to that effect is needed to ensure that manufacturers and providers clearly understand their access responsibilities and obligations in their design of new equipment.

One of my approaches to hearing better over the phone is to connect up a pocket talker (amplifier) to the speaker area of my speaker phone which permits me to comprehend better, perhaps twice as well. This is because I use a headset in the provided jack of the pocket talker, and this allows me to hear in both of my ears. This is the reason I began to use hearing aids in both ears. I understand that it is economically feasible to connect an adapter for a headset in most telephones. This would permit myself to simply have a headset with me wherever I go, and a speakerphone would not be needed. Such a system would be very usable by all **people** in the workplace and would have the privacy that the telephone handset allows and the workplace requires. I believe it will permit considerably more hard of hearing people to cope with job situations.

However I much fear that the NPRM as presently written will not result in many modestly priced telephones having the desired feature. I am sure there are other examples that can be furnished.

It seems the FCC may be planning to more or less ignore the work done by the Access Board as it relates to service providers. I really don't understand why the distinction should be made between manufactures and service providers but if it results in more confusion as to the access responsibility of each group then this should be avoided and this end will be better served by the FCC's adoption of the Access Board's guidelines.

Issue Two:

When Congress wrote the Telecommunications Act, it adopted the term "readily achievable" from the Americans with Disabilities Act (ADA) to describe a company's obligation to make products accessible. Under the ADA, entities are not expected to undertake changes that are difficult or involve a financial burden. The overall financial resources of the entity are a consideration meaning that large companies might be expected to provide an accommodation that would be out of the reach of a smaller concern.

The FCC deviates dramatically from the readily achievable standard that has traditionally been used in disability law by introducing the concept of "cost recovery." The FCC states that it is appropriate for a manufacturer or provider to consider whether or not it will recover the costs of increased accessibility in its assessment of the readily achievable standards.

The introduction of the cost recovery concept would undermine the concept of accessibility in our society. It is because market forces do not work that we have laws, such as the ADA, requiring accessibility. Entities already have protection from excessive cost impacts under the readily achievable standard. Allowing a company to determine if an accessibility feature will "pay for itself" is a major deviation from the way we have addressed accessibility in the past.

I draw attention to the fact that because telecoil (sound devices built into hearing aids permitting amplified hearing) compatibility were not mandated for cellular telephones, most analog cell phones still don't have telecoils for hearing aid users, limiting accessibility in many cases to 100%. This should not be permitted to happen in future technological improvements.

In the case of TV closed captioning that so many of us enjoy, is it likely that these would not have been required under a cost recovery concept? The fact is the FCC did make the closed caption chips a requirement, thus the present thinking appears inconsistent. The TV manufacturers did not necessarily charge more (perhaps some did) but it is safe to say they sold a lot more TV's than they would otherwise

Issue Three:

I understand the regulations will be enforced via a complaint procedure that will use "fast track" processes that ostensibly would resolve most consumer problems within five days. Consumers could contact the FCC directly via an 800 number and the FCC would facilitate the initial complaint. If resolution is not reached, then the complaint proceeds to the informal or formal complaint process.

The FCC has proposed that there be no filing fees for complaints directed against manufacturers or service providers. The FCC states that it will establish formal legal procedures for use only when the complainant requests these procedures and where the FCC permits the complainant to invoke these procedures. In other words, individuals would not have the right to take their case to court if the FCC chose to oppose such action. Conditioning formal complaints upon FCC approval is unprecedented.

While I think it would be wonderful if complaints of substance could be resolved in such a short period time. This is certainly insufficient time for companies to gather documentation--much less resolve a problem. I think that the fast track should be extended to 10 days and that companies which indicate that they need more time, could extend to a maximum of 30 days.

I do support the proposal not to require filing fees directed at manufacturers or service providers. I also believe the FCC should waive such fees for formal complaints against common carriers. It is in the public interest to allow individuals to easily lodge complaints.

I also believe individuals should not be denied their day in court rather than as proposed, which seems to be automatically to deny same.

Issue Four: (and most important with possible exception being the matter of right to courts)

Under your staff's interpretation it has recommended "Enhanced services" under the proposed rules are excluded from coverage under Section 255. Most of these services are very commonly used and include voice mail and automated voice response systems--both of which are inaccessible to many people with hearing loss. I believe Congress would not have intended to leave out these services. Doing this undermines the very purpose of the law.

I will appreciate it greatly if someone from your staff will send to me the rational why it is believed that "enhanced services", and especially the automated voice menus part, are not included under section 255. Being a layman it sometimes difficult to understand things. Is it perhaps because the Telecommunications act applies to manufacturers and service providers and not the manner in which the end user of telecommunications equipment might use such equipment and services?.

Is it likely that how the manufacturers and service providers when acting as end users would use the product, i.e. the manufactured equipment could be required to provide an "automatic **out**"? If so, then why would not other users also be subject. I guess this whole thing has me confused or maybe I have really got to the core of the matter. I will appreciate being enlightened.

I strongly believe that automated voice response systems which are classed as "enhanced services" should be regulated so that they are made as accessible as possible. At present millions of hard of **hearing** people who use voice

telephones find them difficult to use. Also the systems cannot be accessed by TTY relay services because of the short time the operator has to type the choice so the relay caller can respond.

Before voice menu technology became popular this was not a problem. Why should a simple "improvement" in technology helpful in labor savings to so many organizations be a step backward for the hard of hearing and deaf? It should not! I find myself increasingly wanting to avoid making calls to entities that may have the automatic voice menus and therefore spend a lot of time trying to learn things on my own without making calls. How much simpler it could be to get the information I seek if only I could navigate the voice menus. It is too bad the great majority have them.

In my earlier efforts to drum up support from the general public for seeking improvements I found it very easy to obtain signatures upon advising a prospect what it was I was concerned about. In other words I was learning from normal hearing how frustrating the voice menus were for them. This should be convincing evidence that improvements must be done. A good way for this to happen will be if the FCC includes at least this part of "services" as basic.

A very good procedure for the FCC to provide is that voice menus must always allow an option for an "automatic out" that connects to a real live person.

In keeping with the spirit of other ADA provisions this requirement could be mandatory for large companies.

Another procedure I believe could be adopted in conjunction with the "automatic out" is to provide an option for the caller to hear the same menu choices as the main body of choices at approximately twice as slow as the main one. (What I am suggesting is a system that is similar to what many organizations use for their Spanish speaking callers except the voices menus are spoken in Spanish rather than in a slow manner.)

I think it would be nice if an even slower version could be made available if the caller requests it.

As a part of the slow voices choice the "automatic out" could be offered and maybe the normal hearing callers will be less likely to "take advantage" if no earlier choice for an out is mentioned.

Now I know some will say that if you just hold on to the line long enough, a live person will come on line. This is not true in all too many cases so why not accommodate this by simply pressing "0" and making it a requirement for all users (callers) of such voice menu systems. Keep in mind there are a lot of them that have two and three tiers of menu choices and the end result often is to cut the caller off if he has not pressed a keypad item soon enough.

While I may be generalizing from the specific, I had one large company I called that took me probably four times longer to navigate as it would for a normal hearing person. During the course of this series of calls the representative I talked with said I should call a certain number for the hearing impaired (I had complained that I was having difficulty comprehending others within the same organization). When I called this number no one answered at all. I later learned the number was for TTY calls that the deaf use. I am not deaf. This happened with other organizations as well. When I wrote a letter of complaint with suggestions on how it could improve its telephone services I never received a reply.

What I am suggesting is that little or no improvements will ensue unless the users of voice menu systems are faced with regulations that require them to do better.

If the FCC does not feel it can be helpful I wish you will appeal to the congress to amend the laws so as to be helpful in this very serious lack of accessibility.

I would like for readers of this letter to be aware of how much "dead time" is already built into so many calls we make. "Dead time" refers to the frequent amount of music, some advertising, and the phrase "we are presently busy with other calls -----". To my way of thinking, asking for a slower and therefore more time consuming procedure, is not asking for very much at all under the circumstances.

Regarding voice mail accessibility, I don't have any technological suggestion to make except to say it would be helpful if telephones had a slow down feature similar to some answering machines and playbacks on some recorders

I am aware of some telephone reading service for low-vision people that permits a range of slower playing of the readings by pressing a key on the telephone pad. Perhaps the voice mail systems should have the feature built into them that the caller can hear the greeting messages much slower by pressing the one key or the pound key (also to hear a repeat by pressing "0").

Whether any of the above are feasible for inclusion with modestly priced telephones and equipment, I don't know but to automatically consider voice mail systems as "enhanced services" is a mistake in that it precludes what might eventually become useful features for the hard of hearing.

I would urge any educational programs that the FCC might eventually undertake, to teach users of all telecommunications devices and systems to always speak clearly which means in most cases to speak slower. This would be helpful to everyone because even normal hearing have difficulty when voices go too fast. If such educational programs are ever undertaken it could include a standardized list of words to represent each character of the alphabet like Adam for "A". Boston for "B" and so forth. This is especially useful regarding names and addresses.

This matter of "enhanced services" is a very critical access issue under Section 255 and leaving out such services severely limits educational and employment opportunities and interferes with full participation in today's society.

I call to attention that many financial and life insurance institutions are providing telephone information regarding a callers accounts as to balances, current values and so forth. I have personally had difficulties with these because they request information too rapidly. Why should hard of hearing be denied this valuable service ? If the FCC does not mandate an option to hear the questions in a slower manner because these are "enhanced services" we are effectively locked out.

Please keep in mind that our hard of hearing people are *increasing*

While I have written a lengthy letter I hope you will consider the difficulties we hard of hearing are coping with. I once heard it said that in any meeting of importance that the amount of time spent in attempting to resolve problems is usually in inverse proportion to the complexities involved.. I do hope that appropriate efforts are made to help us.

In conclusion , if you feel the FCC is without authority in *any* of the areas discussed I urge you to appeal to Congress on our behalf.

Thanks for all that you do.

Very truly yours

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