

Proceeding: IMPLEMENTATION OF SECTION 255 OF THE TELECOMMUNICATIONS ACT Record, of,

Applicant Name: Center for Disability Rights

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Lawfirm Name: Center for Disability Rights

Contact Name: Bruce E. Darling 1 Contact Email: BEDar@aol.com

Address Line 1: 584 Lake Avenue

Address Line 2:

City: Rochester State: NY

Zip Code: 14613 Postal Code:

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Testimony FCC Proposed Rules:

The Center for Disability Rights is a non-traditionally-funded Center for Independent Living located in Rochester, New York. we represent over 300 people (with all types of disabilities) who receive services from our organization. We want the FCC to understand that it is making decisions that will have a tremendous impact on the accessibility of telephone equipment and services for many years to come.

Center staff held a focus group to identify the most common problems. our members described the barriers they encounter to using the telephone every day. Some of our members have mobility or dexterity impairments; they said that small buttons are extremely difficult to manipulate. Others are Deaf and said they were unable to access important information that is provided only in auditory format. Some are blind or have visual impairments and don't have access to key information provided on a telephone's visual display. Still others have a learning or cognitive disability and rapid-fire automated voice menu systems are difficult to follow, and Still others may have a speech disability and are disconnected when phone systems "time out".

We felt it was important to respond to this issue because telecommunications has become the lifeblood of American society. Access to telecommunications has become crucial to any meaningful participation. Because of the many barriers we face in other areas, telecommunications has already had a major impact on the ability and opportunity for people with disabilities to learn, work, and participate in the community, but much more needs to be done. As telecommunications has become increasingly important in the lives of Americans in general, its significance in the lives of people with disabilities is also destined to grow. CDR wants to encourage the FCC to have final rules that will be strong enough to make a difference in the way all members of society - including people with disabilities -- can use telecommunications.

1. Access Board Guidelines

The Access Board has issued guidelines which are both fair and would improve access to telecommunications products. Among other things, the guidelines suggest ways for the manufacturers to achieve access in the design of their products and require product information and instructions to be accessible to people with disabilities. It is crucial that the FCC to adopt the Access Board Section 255 guidelines for both manufacturers and service providers. These guidelines are needed to provide clear guidance on the obligations of companies to make their products and services accessible.

2. Readily Achievable

The term "readily achievable" has a long history, and for the most part involves a balancing of the costs of providing access with the overall financial resources of the company must provide such access. Congress adopted the "readily achievable" concept in Section 255 of the Telecommunications Act. Specifically, Section 255 requires telecommunications providers and manufacturers to provide access where it is readily achievable to do so.

In its proposed rules, the FCC has proposed to define readily achievable =

in a manner that is very different from the way that it was defined in the ADA. Among other things, the FCC wants to allow companies to be able to consider whether they will be able to recover the costs of providing access, and the extent to which they will be able to market an accessible product. These factors may allow a company to get out of its access obligations merely because the market for certain accessible products may be smaller. This goes against the whole purpose of Section 255. Section 255 was intended to require access to people with disabilities because market forces alone were not enough to ensure that access. Allowing a company to consider whether it will recover the costs of achieving such access has as never been permitted under other disability laws.

CDR opposes allowing companies to consider the extent to which the costs of providing access will be recovered. Allowing companies to consider the extent to which the costs of providing access will be recovered as a "readily achievable" factor would defeat the purposes of Section 255. People with disabilities worked to pass the ADA and other accessibility laws (such as Section 255) because the market has not responded to the needs of people with disabilities. A restaurant does not need to consider whether enough wheelchair users will patronize their facility when it determines whether a ramp is "readily achievable." Rather than redefine "readily achievable" in relation to Section 255, CDR encourages the FCC to follow the definition of "readily achievable" as it had been defined in the ADA.

3. Enhanced Services

The FCC's proposed rules do not cover "enhanced services" under Section 255 because these are considered "information," not "telecommunications" services. Enhanced services generally include more advanced telecommunications services, such as voice mail, electronic mail, interactive voice response systems (which use telephone prompts), and audio-text information.

Many of these services have become commonplace: yet they remain inaccessible.

CDR believes that Congress could not have intended to eliminate these very important and widely used services from the scope of Section 255. The whole purpose of Section 255 was to expand access to telecommunications.

If these services are excluded, then people with a variety of disabilities will remain second class citizens with respect to new telecommunications technological advances. People with disabilities will continue to have fewer employment opportunities and will not be able to fully participate in today's society. CDR urges the FCC to cover "enhanced services," because coverage of these services is critical to full telecommunications access.

4. Complaint Process

The FCC will enforce Section 255 with a complaint process. CDR supports the following proposals by the FCC:

A. There should be no filing fees for informal or formal complaints with the FCC against either manufacturers or service providers. Waiving these fees would be in the public interest.

B. There should not be any time limit for filing complaints, because one never knows when he or she will discover that a product or service is inaccessible.

C. Consumers with disabilities should be able to submit complaints by any

accessible means available.

D. Manufacturers and service providers should be required to establish contact points in their companies that are accessible to consumers with disabilities.

5. Member Comments

Additionally, several CDR members prepared their own comments which we have included for the FCC. In conclusion of our agency comments, CDR wants to encourage the FCC to publish final rules that will be strong enough to provide real access so that people with disabilities can fully participate in a society which relies on telecommunications. Thank you.

Member Comments of Patricia Carpenter

I have Cerebral Palsy which affects my mobility and fine motor control. I need bigger buttons on the telephone so I can use them. On days when I am more spastic, I have great difficulty using the phone. I urge the FCC to adopt the Access Board 255 Guidelines for both manufacturers and service providers to assure that I will be able to access telephone equipment. Thank you for your time and consideration.

Member Comments of Kevin Figler

I am a person with learning disabilities who has had difficulty accessing telecommunications. Automated voice answering systems and menus are EVERYWHERE. Often they are very fast and confusing. They need to operate at a slower pace. This would allow people with learning, cognitive or physical disabilities more time to react. I urge the FCC to cover "enhanced services" like voice answering systems and menus as part of their final rules.

I have many friends with physical disabilities who need specialized phone equipment. Often the high price of this equipment prohibits many people from being able to purchase it. Once they save enough money to buy the equipment it may break down. Thank you.

Member Comments of Carmen Hernandez

I have a physical disability (Muscular Dystrophy) that makes it very hard for me to do rapid dialing. Being able to access voice mail and phone menus has become a necessity. Many times I have difficulty using these services. I would like to urge the FCC to cover "enhanced services" in Section 255.

Too often people with disabilities can not use the phone equipment which is available. I would like to see manufacturers and service providers presenting new products to people with disabilities for input. We should not be paying higher rates than someone else because of the fixtures we need. I would like to urge the FCC to adopt the Access Board Section 255 guidelines.

People with disabilities need a complaint process which furthers their rights. I would also like to support the FCC's proposed complaint process.

Member Comments of Lisa Hoffman

I request that you issue regulations under Section 255 of the **Telecommuni-** cations Act of 1996. These regulations will create an **equal** opportunity f= or people who are blind, visually impaired, deaf or otherwise physically = disabled to access the new Frontier of Telecommunications products and se= rvices. In addition, the Commission should exercise its discretion to is= sue regulations governing video description of television and other progr= amming.

I urge the FCC to review "Tell It To Washington," a position paper from t= he American Council of the Blind and the American Foundation for the **Blin=** d. This document includes examples of technology that is inaccessible to= people who are blind or visually impaired. The writing of these **regulat=** ions is essential in providing access to this technology. Accessible **tec=** hnology will enable people who are blind or visually impaired to function= with greater independence both in the workplace and at home. Please inform me.

Member Comments of Ismael **Massa, Jr.**

I have a traumatic brain injury that prevents me from gathering infonnati= on quickly. That is why I need telephone systems to be accessible to me.=
I would encourage you to support access board guidelines 255. Enhanced= services are needed as part of the future in technology. I would appreci= ate your attention to this matter.

Member Comments of **Shelly Perrin**

I have a disability that makes it difficult and impossible to use buttons= that are too small because I can not use my hands and have to use my nos= e to dial my phone. This makes it difficult to use automated phone **system=** s because they are too fast. I am frustrated because I can not use these= systems on my own.

I also want to urge and support the proposed complaint process. I agree = that there should be:

->=09No filing fee for informal/formal complaints.

->=09No time limit for filing complaints because I won't know when **some=** thing is not accessible to me.

->=09**Able** to send my complaints in any format that is accessible to me or= any other person with disability.

->=09**Able** to have contact a person in the companies to help and be access= ible.

Thank you.

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