

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Updates to the Commission's Rules)	MB Docket No. 25-72
Implementing the Commercial Advertisement)	
Loudness Mitigation (CALM) Act)	

**REPLY COMMENTS OF
CONSUMER TECHNOLOGY ASSOCIATION**

Consumer Technology Association (CTA)^{®1} respectfully submits these reply comments in response to the record commenting on the need for updates to the Commission's rules implementing the Commercial Advertisement Loudness Mitigation (CALM) Act in the above-captioned proceeding.² The consumer technology industry provides consumers numerous features to enhance their video watching experience. CTA agrees with other commenters that, beyond the steps already taken to implement the CALM Act, the Federal Communications Commission (Commission) lacks the authority to regulate in this space.

I. INTRODUCTION

When it comes to video content, consumers have tremendous choice across a wide variety of devices and services. Consumers can enjoy video programming transmitted over-the-air, via cable and satellite or through online video distributors (OVDs) and on form factors that

¹ As North America's largest technology trade association, CTA[®] is the tech sector. Our members are the world's largest innovators—from startups to global brands—helping support more than 18 million American jobs. CTA owns and produces CES[®]—the most powerful tech event in the world.

² *Updates to the Commission's Rules Implementing the Commercial Advertisement Loudness Mitigation (CALM) Acts*, Notice of Proposed Rulemaking, MB Docket No. 25-72, FCC 25-16 (rel. Feb. 28, 2025) (*Notice*).

Unless otherwise noted, comments referenced herein were filed in MB Docket No. 25-72 on or about April 10, 2025.

range from palm-sized to room-sized. Through incredible industry collaboration over decades, consumers can mix and match content and screens with speakers, sound systems, wired headphones, wireless earbuds, hearing aids and more. Given the nearly infinite combinations and to meet the needs of all consumers—including consumers with disabilities—device manufacturers, operating system makers and content providers make available customizable settings to adjust the video content experience. Relevant to the inquiry in the *Notice*, the consumer technology industry provides consumers tools to adjust the audio of their video content—including commercials.

Video services compete to create the most attractive mix of content, pricing and presentation. To ensure that video programming is available at reasonable prices, many video providers include commercial breaks as well as other forms of advertising as part of the service. Indeed, advertising has been a key component of the video distribution model for decades. CTA’s broadcast television and multichannel video programming distributor (MVPD) members ensure the commercials they transmit are consistent with the CALM Act and the Commission’s implementing rules. Consumers also have options for customizing how they receive the audio portion of their video programming, for example, using headphones or with a soundbar. This creates a unique viewing experience for different consumers.

To address consumer concerns related to audio during commercials or video programming, CTA welcomes additional collaboration rather than new rules. History has shown the importance of public-industry collaboration on these types of issues.³ Additionally, as

³ See, e.g., Consumer Technology Association Public Notice Comments – Accessibility of Communications Technologies, CG Docket No. 10-213, at 4-7 (May 6, 2024) (discussing that voluntary, industry-led consensus standards are increasing the accessibility and usability of products and services as well as how CES® is an important link between industry and advocacy groups, while showcasing increasingly accessible technology).

recognized in the *Notice*, Congress provided specific and limited authority to the Commission to address the problem of too-loud commercials in the CALM Act with respect to broadcast television and MVPDs.⁴ This authority does not extend to streaming or other over-the-top services such as OVDs. Similarly, Congress provided a narrow mandate to the Commission in the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) that does not extend to regulating audio during video programming or commercial breaks whatever the delivery platform.⁵ Thus, continued collaboration in the marketplace is the best and only statutorily sound way to address any consumer concerns with respect to the volume of content, including commercials.

II. DEVICE MANUFACTURERS AND VIDEO SERVICE PROVIDERS OFFER TOOLS TO PERSONALIZE AND ENHANCE HOW CONSUMERS EXPERIENCE THE AUDIO PORTION OF THEIR VIDEO SERVICES

Sound is a unique experience based on the listener, their video services, and their related equipment.⁶ The record makes clear that a one-size-fits-all approach to audio regulation is neither workable, nor helpful because numerous factors affect how consumers experience the sound portion of their video services, including commercial breaks.⁷ Appropriately, the marketplace offers a variety of tools to adjust and customize sound settings to ensure that

⁴ *Notice* ¶ 2.

⁵ Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 (2010) (codified at 47 U.S.C. § 613).

⁶ *See Notice* ¶ 5 (inviting comment on experiences regarding the loudness of commercials during programming provided by television broadcasters and MVPDs); *id.* ¶ 6 (seeking comment on the ability to hear and understand dialogue in streamed shows and movies and whether sound degradation particularly affects those with disabilities).

⁷ *See, e.g.,* Comments of NCTA – The Internet & Television Association at 2 (discussing that consumers complaints had various root causes: consumer-purchased equipment, an issue with the broadcast channel, faulty cable-provided set-top box, etc.) (NCTA Comments); Comments of the Streaming Innovation Alliance at 4-5 (discussing how a “uniform volume standard [is] inappropriate for IP-based streaming services”) (SIA Comments).

consumers have the best possible experience when viewing video, and this includes customizable audio settings.⁸

As an initial matter, individuals experience sound differently. A listener's physical characteristics, such as ear shape, hearing loss and more play a role;⁹ the equipment used for audio recording affects the sound captured and replayed to the listener;¹⁰ and the surrounding sounds affect loudness perception.¹¹ Fortunately for consumers seeking the best audio experience for their needs, the marketplace is vast with devices ranging from small smartphones to large projection televisions with giant speakers. Consumers can also add in third-party speakers or listen through earbuds, headphones and, often, hearing aids. These devices and equipment offer different customizations to consumers.

Further complicating the video experience is the myriad sources that supply content and commercials, even on the same video service. For example, commercials can be packaged with the video programming, or they can be added by the video distributor, or by another party.¹² As

⁸ See, e.g., SIA Comments at 6.

⁹ See, e.g., Haseung Song, et al, *The Effects of Ear Dimensions and Product Attributes on the Wearing Comfort of Wireless Earphones*, MDPI (Dec. 12, 2020), <https://www.mdpi.com/2076-3417/10/24/8890> (observing that ear sizes vary by age, gender, and ethnicity and that these characters can affect the wearing comfort of earphones).

¹⁰ See, e.g., Tina Tallon, *A Century of "Shrill": How Bias in Technology Has Hurt Women's Voices*, The New Yorker (Sep. 3, 2019), <https://www.newyorker.com/culture/cultural-comment/a-century-of-shrill-how-bias-in-technology-has-hurt-womens-voices> (noting that, traditionally, sound equipment limited signals to between three hundred and three thousand four hundred hertz, which causes "reduced ... intelligibility of female speech by cutting out the higher frequency components necessary for the perception of certain consonants.").

¹¹ See, e.g., Charlotte Bigras, et al., *Sensory and affective dimensions in loudness perception: Insights from young adults*, Hearing Research (Dec. 2024), <https://www.sciencedirect.com/science/article/pii/S0378595524002004?via%3Dihub> (loudness perception is affected by intensity, sound type, and surrounding sounds).

¹² See, e.g., SIA Comments at 4 (observing that many commercials on online platforms are dynamically inserted by third-party ad network and, as a result, "[s]treaming platforms often do not have direct control over the loudness levels of these ads, as they can be delivered as pre-encoded audio files with already

these content segments are strung together, the surrounding sounds will affect perception.¹³

Likewise the encoding of the delivered ads “in stereo 2.0 or 2.1 sound, which may not be optimized for playback on modern multi-channel sound systems, often causing a perceived increase in loudness.”¹⁴

Companies actively seek to attract consumers by providing the best user experience in the highly competitive video services and device marketplaces. Both device manufacturers and video service providers offer tools to help rationalize the video viewing experience for consumers with different audio priorities and device preferences.¹⁵ For example, an equalizer for speakers and headphones increases or decreases certain frequencies to highlight or deemphasize treble and bass.¹⁶ A stereo sound system can often be adjusted to switch to only the right or left side, or to play the same content.¹⁷ Headphones may have built-in capabilities to limit audio output to a specified, safe listening level.¹⁸

established volume level”); ATSC Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television (*A/85:2013*), Advanced Television Systems Committee (Mar. 12, 2013) (discussing how to integrate and transition interstitials from multiple sources into television content).

¹³ See Charlotte Bigras, et al., *supra* note 11.

¹⁴ SIA Comments at 4.

¹⁵ See, e.g., NCTA Comments at 3 (“Many televisions, sound bars, and home theater systems give consumers a wide array of options for automatically or manually calibrating sound, including options that intentionally increase the difference between soft and loud sounds.”)

¹⁶ Tim Gideon, *EQ 101: What Is an Equalizer and How Can It Improve Sound Quality?*, PCMag (May 4, 2022), <https://www.pcmag.com/how-to/eq-101-what-is-an-equalizer-and-how-can-it-improve-sound-quality> (explaining that an equalizer (or EQ) is a tool used to adjust the sound signature of headphones and speakers).

¹⁷ See, e.g., *Accessibility Features for Hearing on iPhone*, Apple, <https://support.apple.com/guide/iphone/overview-accessibility-features-hearing-iphb210be03a/18.0/ios/18.0> (last visited Apr. 23, 2025) (*Accessibility Features for Hearing on iPhones*).

¹⁸ See e.g., Tina Sieber, *What is a volume limited and why does it matter?*, Sound Guys (Dec. 18, 2024), <https://www.soundguys.com/volume-limiter-guide-58264>.

Both the industry and individual streaming services offer additional tools to assist specifically with enhancing the experience of streamed video, given all the different factors that can and will affect the consumer video experience. CTA's loudness standard for online video and Dialogue Boost on Amazon Prime Video, which allows self-selection of dialogue volume levels, are examples.¹⁹ The consumer technology industry makes available several features to enhance the listening experience of consumers viewing video. For example, both iOS and Android allow users to audio balance right/left and pair with hearing devices.²⁰ Samsung TVs allow consumers to connect to a hearing aid while the TV is playing the audio aloud through its multi-output audio setting.²¹

The marketplace already offers consumers options when it comes to customizing their video content, including the audio portion of that content. Regulation in this space is not necessary, and as discussed below, the Commission has limited authority to regulate in this space in any event.

¹⁹ *Loudness Standard for Over-the-Top Television and Online Video Distribution for Mobile and Fixed Devices*, ANSI/CTA-2075, CTA (Jan. 2020), <https://shop.cta.tech/products/cta-2075>; *Prime Video Launches a New Accessibility Feature That Makes It Easier To Hear Dialogue In Your Favorite Movies and Series*, Amazon (Apr. 18, 2023), <https://www.aboutamazon.com/news/entertainment/prime-video-dialogue-boost>; see also *Change audio settings on Apple TV*, Apple Support, <https://support.apple.com/guide/tv/change-audio-settings-atvba773c3c9/18.0/tvos/18.0> (last visited Apr. 25, 2025); SIA Comments at 5 (discussing AES71-2018 (r2023), ITU-R BS.1770-4, EBU R 128, and Dolby's AC-4 Advanced Loudness Processing standard).

²⁰ *Accessibility Features for Hearing on iPhones*, *supra* note 17; *Amplify What Matters with Audio Tools*, Android, <https://www.android.com/accessibility/audio/> (last visited Apr. 23, 2025).

²¹ *Closed caption and other accessibility settings for your Samsung TV*, Samsung, <https://www.samsung.com/us/support/answer/ANS00062238> (last visited Apr. 20, 2025).

III. THE COMMISSION HAS LIMITED AUTHORITY TO ADOPT REGULATIONS TO ADDRESS LOUD COMMERCIALS

Congress has provided the Commission with extremely narrow authority when it comes to regulating loud commercials.²² Commenters agree that authority does not permit the Commission to regulate the audio of commercial breaks on streaming video services.²³ Accordingly, CTA encourages the Commission to refrain from regulating or proposing rules to regulate the commercials on streaming video services.²⁴ Hewing close to the statute is consistent with recent developments, such as *Loper Bright*, Executive Order 14219 and the Commission’s own *Delete, Delete, Delete* proceeding.²⁵

The CALM Act is a short, focused statute that does not extend to streaming platforms.²⁶

The relevant authority to the Commission is fully contained in one paragraph:

(a) RULEMAKING REQUIRED.—Within 1 year after the date of enactment of this Act, the Federal Communications Commission shall prescribe pursuant to the Communications Act of 1934 (47 U.S.C. 151 et seq.) a regulation **that is limited to incorporating by reference and making mandatory** (subject to any waivers the Commission may grant) the “Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television” (A/85), and any successor thereto, approved by the Advanced Television Systems Committee, **only insofar as such recommended practice concerns the transmission of**

²² Notice ¶¶ 5-6 (seeking comments on the Commission’s authority to adopt regulations in this area); NCTA Comments at 4 (“The Commission also lacks authority to change the standard or impose new rules regarding audio quality or loudness on MVPDs, broadcasters, or streaming services.”).

²³ See SIA Comments at 2-3; NCTA Comments at 4.

²⁴ See Notice ¶ 6 (affirming that this Notice does not “propose any specific regulations on streaming providers” and that “[t]he Commission will not proceed with any such regulation against any streaming provider without first seeking public comment in a subsequent notice of proposed rulemaking.”).

²⁵ See *Loper Bright Ent. v. Raimondo*, 144 S. Ct. 2244, 2273 (2024) (focusing courts on whether “an agency has acted within its statutory authority, as the APA requires”); Exec. Order 14192: Unleashing Prosperity Through Deregulation, 24 Fed. Reg. 9065 (Feb. 6, 2025) (requiring agency heads to review all regulations for consistency with law and the Administration’s policies); *In re: Delete, Delete, Delete*, Public Notice, GN Docket No. 25-133, DA 25-219 (rel. Mar. 12, 2025).

²⁶ CALM Act Pub. L. No. 111-311, 124 Stat. 3294 (2010).

commercial advertisements by a television broadcast station, cable operator, or other multichannel video programming distributor.²⁷

The Commission incorporated A/85 into its rules over a decade ago, with minor updates since then, fulfilling Congress’s direction.²⁸

As used in the CALM Act, “television broadcast station,” “cable operator,” and “multichannel video programming distributor” are all defined by cross referencing the statutory definitions in the Communications Act of 1934, as amended, and these statutory definitions clearly do not encompass streaming services or platforms and would not have encompassed streaming services or platforms at the time of the CALM Act’s enactment.²⁹ As referenced in the *Notice*, a bill to extend the CALM Act to other platforms was introduced in Congress, indicating that Congress also understood that it needed to pass new legislation to permit the Commission to regulate loud commercials on streaming platforms.³⁰ The bill was not enacted, and the lead sponsor in the House has since retired.³¹ As a result, the Commission’s authority remains restricted to applying A/85 to television broadcast stations, cable operators and other MVPDs—not OVDs.

²⁷ *Id.* at 3294 (emphasis added).

²⁸ See *Notice* ¶¶ 2, 4 n.4; NCTA Comments at 4 (“The Commission has already fulfilled this directive [from the CALM Act] and has no authority to regulate commercial loudness beyond this”).

²⁹ CALM Act at 124 STAT. 3295.

³⁰ *Notice* n.10 (citing to Press Release, Sen. Whitehouse, Rep. Eshoo Reintroduce Bill to Stop Excessively Loud Commercials (Mar. 31, 2023), <https://www.whitehouse.senate.gov/news/release/sen-whitehouse-rep-eshoo-reintroduce-bill-to-stop-excessivelyloud-commercials/>).

³¹ See H.R.2422 - CALM Modernization Act of 2023, Congress.gov, <https://www.congress.gov/bill/118th-congress/house-bill/2422> (last visited Apr. 23, 2025); Farnoush Amiri, *Democratic Rep. Anna Eshoo announces retirement after three decades in Congress*, AP (Nov. 21, 2023), <https://apnews.com/article/congress-retirement-house-members-anna-eshoo-0704b27d8211127e34b7be586d05c8f3>.

IV. THE CVAA DOES NOT PROVIDE THE COMMISSION AUTHORITY TO REGULATE EITHER LOUD COMMERCIALS ON STREAMING PLATFORMS OR SOUND QUALITY IN THE VIDEO MARKETPLACE

Although a broader statute than the CALM Act, the CVAA also provides a confined regulatory directive to the Commission that does not extend to the issues raised in the *Notice*.³² With respect to video programming, the CVAA set forth targeted grants of authority related to standing up a new advisory committee, reinstating audio description rules for television and MVPDs,³³ ensuring access to emergency information, mechanisms for activating closed captioning/audio description, and ensuring user interfaces and video programming guides and menus are accessible to individuals who are blind or have low vision.³⁴ These topics are far afield from the issues of commercial loudness and sound quality. As such, they neither empower the Commission to prescribe regulations related to commercial volume or sound quality for television broadcast stations, cable operators, and other MVPDs nor for OVDs.³⁵

The CVAA's specific discussion of online video is even narrower: "revis[ing] its regulations to require the provision of closed captioning on video programming delivered using Internet protocol that was published or exhibited on television with captions after the effective date of such regulations."³⁶ CTA agrees with NCTA that the CVAA "cannot serve as a source of authority either to impose new obligations on those entities covered by the CALM Act or to expand the scope of the Commission's CALM Act authority to streaming services, particularly in

³² See *Notice* ¶ 6 (inviting "comments that address the Commission's authority to regulate in this area under the CVAA").

³³ Then called "video description."

³⁴ See, e.g., CVAA, tit. II, 124 Stat. at 2764-76; NCTA Comments at 4 (observing that the FCC's "authority over video programming transmittal pursuant to the [CVAA] is limited to specified closed captioning and audio description regulations").

³⁵ See generally CVAA tit. II, 124 Stat. at 2764-76.

³⁶ 47 U.S.C. § 613(c)(2)(A).

light of the specificity of the direction in the CALM Act.”³⁷ Indeed, the Commission may not stretch its authority to cover commercial breaks in online video programming or to the sound quality of online video programming, generally.

V. CONCLUSION

The consumer technology industry innovates to meet the needs of all video programming users and welcomes the opportunity for additional collaboration and discussion to address any consumer concerns regarding commercial volume or any other sound quality issues. CTA’s members provide numerous tools to enhance the consumer video and audio experience. Looking ahead, the Commission should refrain from adopting additional rules to regulate loud commercials, especially for streaming platforms. The agency must stay within the limits set forth by Congress.

Respectfully submitted,

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³⁷ NCTA Comments at 5.