

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

In the Matter of)	
)	
Access to Video Conferencing)	CG Docket No. 23-161
)	
Implementation of Sections 716 and 717 of the Communications Act of 1934, as enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010)	CG Docket No. 10-213
)	
Telecommunications Relay Services and Speech- to-Speech Services for Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	

**COMMENTS OF
CONSUMER TECHNOLOGY ASSOCIATION**

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February 3, 2025

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Consumer Technology Association (CTA)^{®1} respectfully submits these comments in response to the Access to Video Conferencing Further Notice of Proposed Rulemaking in the above-captioned proceedings.²

I. INTRODUCTION AND SUMMARY

The Federal Communications Commission’s (“Commission’s” or “FCC’s”) flexible approach to advanced communications services (ACS), along with industry-advocate collaboration, is increasing access to video conferencing services for consumers with disabilities. Flexibility and collaboration are key to developing products and services that benefit all consumers in an evolving digital world.

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 *Access to Video Conferencing; Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010, et al.*, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 24-95 (rel. Sept. 27, 2024) (“*Second Report and Order*” and “*FNPRM*,” as appropriate).

CTA and its members share the FCC’s continuing commitment to improving access to consumer technologies for people with disabilities, particularly with respect to interoperable video conferencing services (IVCS). Video conferencing providers are delivering numerous accessibility features and are likely to deliver even more features in the near term, all while video conferencing technologies are changing rapidly. As such, the agency should decline to move forward with many of the proposals in the *FNPRM* that would inappropriately stifle innovation by dictating or otherwise locking in specific technical standards or user interface controls.

Less than two years ago, the Commission reinterpreted its authority to include all video conferencing services within the definition of IVCS for the purposes of the agency’s accessibility requirements, without regard to interoperability.³ This was a significant shift for the FCC and for industry. The agency then adopted new and comprehensive IVCS-specific performance objectives related to captions, sign language interpreting, user interface controls and user control of the activation and display of various accessibility features.⁴ In addition, the new rules require that IVCS enable users to “reconfigure the layout and visibility of video windows appearing on the users’ own device.”⁵

At the same time, the Commission wisely chose not to adopt new, detailed performance objectives that were not supported by the record and, concerningly, verged into impermissible technical mandates and other unlawful intrusions into the business and design decisions of IVCS

³ *Access to Video Conferencing; Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010, et al.*, Report and Order, Notice of Proposed Rulemaking, and Order, 38 FCC Rcd 6300, 6302 ¶ 3 (2023) (“*2023 NPRM*,” as appropriate) (explaining that the agency is “[r]evisiting the Commission’s previously stated views in light of changed circumstances”) (footnote omitted); *id.* at 6317 ¶ 40 (“We are ... revisiting the Commission’s prior assertion, in the *2011 ACS Report and Order*, of a perceived need to resolve, through further interpretation, the correct interpretation of the word ‘interoperable.’”).

⁴ See generally *Second Report and Order*.

⁵ *Id.* ¶ 58.

providers and device manufacturers.⁶ Ultimately, if adopted, the proposals in the *FNPRM*, no matter how well intentioned, could stymie future innovations that otherwise would have benefited individuals with disabilities.⁷

Even if the Commission decides to continue to explore the proposals in the *FNPRM* (which CTA opposes), it is not the right time to do so.⁸ IVCS providers and manufacturers have barely begun implementing new requirements adopted in September 2024—a mere four months ago.⁹ And, compliance with new performance objectives is not required until January 2027.¹⁰ As CTA previously explained, IVCS technology is rapidly evolving at an intense pace that will continue as providers and manufacturers work to implement the new rules.¹¹ It is far too soon for industry or accessibility organizations to be able to answer the questions in the *FNPRM*. No one yet knows how the newly adopted performance objectives will be implemented and whether the concerns raised in the *FNPRM* will even exist by the January 2027 compliance date for the recently adopted rules. Thus, the questions, while important, are preliminary at best and require significantly more stakeholder engagement and dialogue. It is simply premature for the Commission to issue new IVCS regulations.

⁶ See, e.g., *Second Report and Order* ¶ 49 (declining to require IVCS to “provide” sign language interpretation); *id.* ¶ 72 (declining to require IVCS providers to offer a dial-in option via ten-digit number); *id.* ¶ 73 (declining to require that any accessibility requirements for IVCS apply if a video conference is recorded and subsequently shared); *id.* ¶ 74 (declining to require that all IVCS platforms use the universal captioning symbol to identify captioning settings).

⁷ See *FNPRM* ¶¶ 145-76.

⁸ CTA opposes amending and adding to Part 14 of the Commission’s rules; CTA does not comment on the proposals that would amend rules related to telecommunications relay services (Part 64).

⁹ See generally *Second Report and Order*.

¹⁰ See *Access to Video Conferencing*, Final rule, 89 Fed. Reg. 100878 (Dec. 13, 2024).

¹¹ See, e.g., Comments of CTA, CG Docket No. 23-161, et al. (filed Sept. 6, 2023) (“CTA Comments”).

Should the FCC forge ahead and impose rules even considering CTA’s concerns, CTA respectfully notes that the compliance date should be at least three years away, and any rules should be consistent with precedent regarding achievability, waiver and third-party solutions.

II. THE CONSUMER TECHNOLOGY INDUSTRY CONSISTENTLY PROVIDES NEW AND ENHANCED TOOLS TO EXPAND ACCESS TO COMMUNICATIONS TECHNOLOGIES VIA DIFFERENT IMPLEMENTATIONS

Since 2011, when the FCC issued its initial ACS rules, CTA and its members have continued to collaborate with advocates in the disability community to meet the communications needs of individuals with disabilities.¹² Communications technologies incorporate accessibility features and usable product information and support services. CTA’s members have strong incentives to develop new technologies and standards to stay competitive in a fast-changing market. Providing new and enhanced tools to expand access is an important differentiator for CTA’s members and is critical to attracting and retaining new users. Accessibility is a priority for both established companies and new start-ups, with each year bringing forth more innovations to incorporate accessibility into devices and services as envisioned by the CVAA.¹³

CES 2025 showcased thriving innovation to increase accessibility, both with respect to technology focused on enabling individuals with disabilities to communicate and with more mainstream technologies building in additional features to help all consumers have a better

¹² *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557 (2011) (*2011 Report and Order*).

¹³ *See* Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 (2010) (CVAA); Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-265, 124 Stat. 2795 (2010) (technical amendments to CVAA); *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Biennial Report to Congress as Required by the Twenty-First Century Communications and Video Accessibility Act of 2010, CG Docket No. 10-213, DA-24-1038 (CGB rel. Oct. 8, 2024) (*2024 Biennial Report*).

experience.¹⁴ CES 2025 also featured panels discussing both accessibility features of consumer technology products and services as well as products and services specifically aimed at making the world around us more accessible.¹⁵ For example, the CTA Foundation named five startups 2025 Eureka Park Accessibility Contest winners for developing new frontiers in technology designed to enable individuals with disabilities to better communicate, control other technology and navigate.¹⁶

CTA’s members already incorporate numerous accessibility features into their IVCS offerings and related equipment including:¹⁷

- Continued integration with AI. AI is being used to provide noise-cancellation and voice enhancement features, transcriptions, summaries of meetings and analytics.
- Increased options for customization.
- Integration with third-party apps.
- Continued integration with project management tools that foster real-time collaboration.
- More and better cross-platform compatibility to enable a more consistent user experience across platforms.

¹⁴ See, e.g., *CES Innovation Awards*®, CES <https://www.ces.tech/ces-innovation-awards/?category=Accessibility+%26+AgeTech> (last visited Jan. 28, 2025); Kate Sonka, *CES 2025 Retrospective*, LinkedIn (Jan. 18, 2025), <https://www.linkedin.com/pulse/ces-2025-retrospective-kate-sonka-dtfuc/> (CES 2025 Retrospective).

¹⁵ See CES 2025 Retrospective; *Discover*” Content Library, CES, <https://www.ces.tech/discover/?type=Video&q=accessibility&year=2025> (last visited Jan. 31, 2025) (including video from multiple panels held at CES including “Empowering Independence: How AI is Improving Daily Lives,” among many others).

¹⁶ *Consumer Technology Association Foundation*, LinkedIn, https://www.linkedin.com/posts/consumer-technology-association-foundation_ces2025-ctafoundation-accessibility-activity-7282471808069468160-ODsF (last visited Jan. 31, 2025).

¹⁷ See *FNPRM* ¶ 149 (seeking comment on “the range of video conferencing services currently offered or under development and how they currently address accessibility”).

- Integration with virtual reality technology, including hand gesture recognition in 3D immersive environments.¹⁸

Video conferencing is also increasingly tailored for different use cases, so that, for example, IVCS providers offer specialized tools and experiences to facilitate remote education and different tools and experiences for real-time monitoring for healthcare. IVCS also comes in many different implementations, for example, point-to-point video conferencing between two users, multi-point video conferencing (which can be centralized or decentralized) and virtual panels where only certain participants can be viewed/heard.¹⁹

Video conferencing can include desktop-based technology, room-based technology, access through a mobile device or access through technology that allows multiple video conferencing software systems to be used simultaneously.²⁰ Browsers can also be used to participate in video conferencing so that users can experience some functionality without having to download software. Such “light” implementations are important when a video conference is a one-off (such as a consumer inquiry or quick consultation) as well as when a user does not have administrator access to devices or cannot otherwise download software.

Each of these implementations may have different purposes, strengths and limitations that are appropriate for the use case. And importantly, different participants control different elements of the user experience and interface. IVCS is not a one-size-fits-all universe—making

¹⁸ See generally *2024 Biennial Report* ¶ 21; *Top 10 Features of Video Conferencing App You Should Know*, OneClick IT Consultancy (Jan 5, 2024), <https://www.oneclickitsolution.com/blog/features-in-video-conferencing-app>; Neil McAllister, *The Best Video Conferencing Software for 2025*, PC Mag, <https://www.pcmag.com/picks/the-best-video-conferencing-software> (updated Jan. 29, 2025).

¹⁹ See, e.g., *FNPRM* ¶ 149 (observing that IVCS “encompasses a wide variety of video communication services” including platforms large and small and those “designed primarily for one-to-one video calling”); *Conferencing Technology: What Are the Different Types?*, TrueConf <https://trueconf.com/blog/wiki/vks> (last visited Jan. 31, 2025).

²⁰ *FNPRM* ¶ 149 (seeking comment “about the range of video conferencing services currently offered or under development”).

flexibility key to regulation and underscoring the *FNPRM*'s observation that “[s]ome of the proposed performance objectives may not be relevant on such platforms.”²¹

III. RATHER THAN RUSHING TO ADOPT ADDITIONAL AND PREMATURE PERFORMANCE REQUIREMENTS FOR IVCS, THE FCC SHOULD SEEK FURTHER COMMENT AFTER THE PART 14 COMPLIANCE DEADLINE

The compliance date for video conferencing services to comply with Part 14 just passed, and the compliance date for the new rules is two years away.²² As the *FNPRM* asks many questions about this rapidly evolving technology, CTA respectfully requests that the Commission refrain from further exploring or imposing additional IVCS-specific at this time.

Service providers and manufacturers are at the beginning stage of understanding and implementing new requirements. Allowing for IVCS to comply with the existing ACS and new IVCS Part 14 rules before prematurely imposing new ones is the best course of action. IVCS is a segment of the communications technology industry that continues to develop swiftly, including by adding features to meet the needs of users with disabilities. It is also an area with significant start-ups and small businesses looking to either develop and offer IVCS or add IVCS as a communications method to reach their business. Saddling these businesses with new regulatory requirements would act as an unnecessary drag on innovation, especially when the IVCS providers are coming into compliance with recently adopted regulations.²³

²¹ *Id.*

²² *Access to Video Conferencing*, Final rule, 88 Fed. Reg. 50053 (Aug. 1, 2023) (setting a September 3, 2024 compliance date); *Access to Video Conferencing*, Final rule, 89 Fed. Reg. 100878 (Dec. 13, 2024).

²³ See Gary Shapiro, *An Innovation Agenda for President Trump*, LinkedIn (Jan. 20, 2025), <https://www.linkedin.com/pulse/innovation-agenda-president-trump-gary-shapiro-rpwoe> (“As CEO and Vice Chair of the Consumer Technology Association, which represents some 1300 technology businesses both big and small, I hear daily from industry leaders. Many were frustrated by choking regulations, a lack of business understanding, and a ‘big is bad’ attitude from the Biden administration that tanked investment in small business and punished our most innovative companies for their own success.”).

The consumer technology industry has a proven track record of innovation toward inclusion and interoperability.²⁴ The implementation process for the new performance objectives will include collaborating with disabilities groups as CTA’s members have strong commitments to accessibility-by-design.²⁵ New features and tools are likely to be developed and implemented on this strong foundation. Adding more burdensome requirements now could ultimately harm that progress. IVCS providers and manufacturers must have an opportunity for continued stakeholder dialogue to determine needs, preferences and feasibility before they can adequately answer the questions raised in the *FNPRM*. Those answers are critical to ensuring that the FCC only adopts those requirements that can address consumer needs effectively without thwarting innovation.

The record already before the Commission is clear that it is too soon to adopt additional requirements for IVCS. In response to the *2023 NPRM*, multiple commenters observed that the questions asked required further regulatory development and additional exploration of user needs and preferences, technical feasibility and regulatory clarity.²⁶ The FCC appropriately declined to act on many questions and proposals in the *2023 NPRM* and proposals raised for the first time in

²⁴ See, e.g., *2024 Biennial Report* ¶ 3 (“In this Biennial Report, we find that this progress has continued over the last two years. Companies launched new products with accessibility features built-in and introduced new accessibility interfaces.”).

²⁵ The CTA Foundation hosts an annual Accessibility Roundtable at CES that brings together CTA member companies and representatives of consumer groups for direct dialogue and relationship building. See, e.g., Consumer Technology Association Foundation, LinkedIn, https://www.linkedin.com/posts/consumer-technology-association-foundation_ces2025-ces-activity-7283709749743824896-JxNu?utm_source=share&utm_medium=member_desktop (last visited Jan. 31, 2025). For many years, the CTA Foundation has also sponsored a group of Accessibility Leaders to attend and tour CES.

²⁶ See, e.g., CTA Comments; Comments of Convo Communications, LLC, CG Docket Nos. 23-161, 10-213, 03-123 (Sept. 6, 2023); Comments of Sorenson Communications, LLC, CG Docket Nos. 23-161, 10-213, 03-123 (Sept. 6, 2023); Comments of LanguageLine Solutions, CG Docket Nos. 23-161 (Sept. 6, 2023); Comments of Hamilton Relay, Inc., CG Docket Nos. 23-161, 10-213, 03-123 (Sept. 6, 2023).

the record, which the agency now seeks comment on in the *FNPRM*. Although CTA appreciates that the FCC heeded its call for further record development,²⁷ the *FNPRM* remains premature as many of the same issues and questions that counseled caution remain: the dynamic nature of the technology, innovators increasing accessibility without regulatory mandates, ambiguity in user needs and preferences, etc. No further action should be taken at this time.

IV. THE COMMISSION MAY NOT IMPOSE TECHNICAL MANDATES OR SUCH GRANULAR REQUIREMENTS THAT THEY BECOME *DE FACTO* TECHNICAL MANDATES

Setting aside whether the time is even ripe to further discuss or adopt additional IVCS rules, CTA is concerned that many of the proposals in the *FNPRM* appear to be so burdensome and granular that they would rise to the level of unlawful technical mandate. *Adoption of proposals in the FNPRM would likely cause companies to make business and design decisions solely for compliance rather than to benefit consumers.*

The Congressional directive in the CVAA instructs the Commission to balance mandating access to technologies and services by individuals with disabilities with preserving service providers' and manufacturers' continued abilities to innovate for the benefit of all consumers.²⁸ Among other things, the CVAA expressly prohibits the agency from imposing technical mandates.²⁹ Technological innovation has changed the lives of Americans for the better, and the flexibility of the FCC's approach has allowed innovators to make crucial design and business decisions that have benefited all consumers, including those with disabilities.

²⁷ CTA Comments at 3.

²⁸ For example, the CVAA expressly allows for "industry flexibility" when ensuring products and services are accessible to and usable by individuals with disabilities. *See* 47 U.S.C. §§ 617(a)(2)(A), (b)(2)(A).

²⁹ *Id.* § 617(e)(1)(D).

Congress recognized the importance of flexibility in the CVAA, and the FCC may not exceed its Congressional authority to impose technical mandates.

The *FNPRM* seeks comment on whether to adopt certain performance objectives proposed in the *2023 NPRM* or in comments stemming from the *2023 NPRM*, that involve accessibility problems that are already sufficiently addressed by the existing performance objectives, may not actually be achievable given the vast number of participants in the IVCS implementation process (e.g., IVCS provider, equipment manufacturer, network, etc.), would unduly constrain the design of video conferencing platforms and services and, at the very least, would be significantly premature given the lack of needed stakeholder dialogue in connection with the implementation of the recently adopted performance objectives. Among other proposals and questions, the following suffer from the defects described above:

- A proposal to specify text-to-speech functionality, speech-to-speech functionality or both.³⁰
- A proposal to require that IVCS “provide” rather than “enable” sign language interpretation.³¹
- Questions related to whether additional user-control performance objectives are necessary to further ensure accessibility of IVCS.³²

³⁰ *FNPRM* ¶¶ 151-53. Although the Commission cites an example where ASR technology has been applied to speech-to-speech scenarios, such technology is not widely available or ready for integration with IVCS on a commercial scale. Automated technology is in the early stages of development and, in some instances, highly customized.

³¹ *Id.* ¶¶ 154-55. The *FNPRM* also asks about standards related to the accuracy and reliability of automatic sign-language interpretation. CTA understands that this technology is still in the very early phases of development, largely being led by startups, such as 2025 Eureka Park Accessibility Contest winner Sign-Speak. It is too early for the FCC to impose any type of accuracy/reliability standards on such new technology, let alone mandate that it be widely commercially deployed or integrated into IVCS.

³² *Id.* ¶¶ 156-60. One of the performance objectives adopted in the *Second Report and Order* already requires IVCS providers to allow video conference participants to independently alter the font, size, location, color, and opacity of the captions and caption backgrounds appearing on the participant’s screen. It also requires, where relevant, participant access to pinning and multi-pinning, spotlighting and video window reconfiguration features. *Second Report and Order* ¶¶ 57-61.

- Proposals related to new requirements that IVCS (i) provide a gallery view mode; (ii) ensure that a sufficient number of videos is supported without degrading the quality of the video or audio; (iii) ensure that video functionality, screen sharing, video window re-sizing and video sharing be compatible with tablets and (iv) include dedicated text and video side channels.³³
- Questions related to whether (i) to amend the Part 14 rules so that the availability of visual information performance objective specifies audio description and visual image descriptive functionality, (ii) the provision of audio description of video and visual images implicit in the existing performance objective and (iii) to mandate compatibility with third-party description services including the scope of visual information that should be provided through audio description in IVCS.³⁴
- Whether the performance objectives should be adopted or amended to require that IVCS (and other types of ACS) be operable and visual information be available in tactile mode.³⁵
- Whether there should be a more specific performance objectives to address the challenges people with cognitive and mobility disabilities face when attempting to access video conferencing services—including a usability-related performance objective, specifying the provision of plain and simple language and iconography on instructional materials on how to activate a video conferencing session.³⁶
- Whether there should be a more specific performance objective to ensure that people with mobility disabilities can access and use IVCS.³⁷
- Whether amendments to the rules are needed to ensure the accessibility of IVCS equipment and software.³⁸

There are numerous and minute details that would need to be determined for such granular performance objectives, and most of the proposals and questions raised would create obligations

³³ *FNPRM* ¶¶ 161-63. Among other things, these proposals assume multipoint video and much more extensive software, hardware, and connection requirements than those that power IVCS communications though, for example, one-to-one browser or simple app add-in implementations.

³⁴ *Id.* ¶¶ 164-71. CTA understands that there are significant technical impediments to providing audio descriptions of visual information in IVCS. This is a prime example of a proposal that is not ready for prime time and that, if adopted, could undermine the usability of existing products.

³⁵ *Id.* ¶¶ 169-71.

³⁶ *FNPRM* ¶¶ 172-76.

³⁷ *Id.*

³⁸ *Id.* ¶¶ 177-78.

equivalent to technical mandates that would force innovators into confined design choices. In addition, any such objectives must be carefully evaluated by businesses to ensure appropriate steps to protect privacy and network security. Technical mandates that fail to consider such topics are especially problematic.

One proposed performance objective would require tablet support, a stifling condition for an industry where many innovators often first offer their products via web-only implementations and others are offered as easy on-adds and plug-ins to others' websites.³⁹ Likewise, performance objectives focused on the look and sufficiency of videos also appear to assume multi-point connectivity, when some services, by design, only offer one-to-one video conferencing. As discussed in initial comments, different participants in the video conferencing ecosystem control different elements of the user experience and interface.⁴⁰ These are only a few of the many problematic new performance objectives suggested in the record that would amount to heavy-handed government design of IVCS. The Commission should be mindful not to stifle innovation by dictating or otherwise locking in specific technical standards or user interface controls.

CTA continues to urge the Commission to proceed with caution with respect to any IVCS-specific rules so that they fulfill the directive set by Congress in the CVAA.

³⁹ See *FNPRM* ¶ 162; Reply Comments of CTA, CG Docket No. 23-161 et al., at 5-6 (filed Oct. 6, 2023).

⁴⁰ CTA Comments at 13-14.

V. ANY NEW REQUIREMENTS SHOULD PROVIDE INDUSTRY WITH FLEXIBILITY TO MEET THE CVAA’S OBJECTIVES, BE TAILORED AND PROVIDE FOR A REASONABLE IMPLEMENTATION PERIOD

When determining whether to impose regulations, and what any of those regulations should be, the Commission should be mindful not to stifle innovation by dictating or otherwise locking in specific technical standards or user interface controls. Should the FCC adopt a rule, it must provide a reasonable implementation deadline and targeted exemptions as with other accessibility rules.

A Reasonable Implementation Period. Many of the proposals in the *FNPRM*, if adopted, would impose new design and testing requirements that would take significant time and resources to accomplish. Although CTA opposes action, if the Commission moves forward, a reasonable interval for compliance, such as three years measured from the date of device manufacture or software release, would reflect the product development timelines for today’s sophisticated video conferencing products and services and would be consistent with FCC precedent for the implementation of new rules.⁴¹

Incorporating Third-Party Solutions. CTA appreciates the Commission’s clear statement that, consistent with the CVAA, IVCS providers may choose whether to satisfy their accessibility obligations by including certain features as native applications or by using third-party applications, peripheral devices, software, hardware or CPE that is available to the consumer at nominal cost and that individuals with disabilities can access.⁴² The CVAA also

⁴¹ Although the most recent IVCS rules adopted a two-year implementation period, CTA reiterates that it is premature to adopt any new rules. As such an implementation of at least three years is appropriate should the FCC adopt new IVCS-specific rules in response to the *FNPRM*.

⁴² See *Second Report and Order* ¶ 3. CTA notes however that the Commission should be careful not to require third-party access, which could break encryption or lead to network vulnerabilities. Businesses must carefully assess whether and how they make their platforms available to third parties. To the extent the FCC further considers various proposals in the *FNPRM* it may wish to seek comment on this issue.

prohibits the FCC from imposing design mandates, allowing for some limited technical safe harbors when necessary.⁴³ CTA cautions that reliance on safe harbors in connection with performance objectives should be carefully implemented to avoid creating *de facto* mandates. Here, video conferencing technologies are still rapidly evolving, and it is often unclear around which proposed standards industry will coalesce. Adopting detailed performance objectives, even with a safe harbor, will not avoid the creation of a *de facto* technical standard.

Assigning Liability Appropriately. Any new rules should recognize that different participants in the video conferencing ecosystem control different elements of the user experience and interface and not hold IVCS providers or device manufacturers responsible for performance objectives beyond their control.⁴⁴ IVCS providers do not control the quality of connections between users and the platform, as that is a function of the users' telecommunications carrier or internet service provider. Device manufacturers have no ability to control the interface of IVCS applications, whether preinstalled or downloaded. Neither IVCS providers nor device manufacturers control the interfaces a telecommunications relay services provider might use to communicate with an IVCS user.

Ensuring the Availability of Waivers. Acknowledging the dynamic nature of the consumer technology industry, and consistent with Section 1.3 of Commission's rules and ACS precedent, in adopting any IVCS rules, the FCC also should make clear that safety valves, such as waivers, are available if complying with a rule is technically infeasible.⁴⁵

⁴³ 47 U.S.C. § 617(e)(1)(D).

⁴⁴ See *FNPRM* ¶ 149.

⁴⁵ See 47 C.F.R. § 14.3 (exemption for customized equipment or services); *id.* § 14.5 (waivers for multipurpose services and equipment).

Recognizing Achievability. Similarly, the Commission should maintain its use of the achievability standard, consistent with its prior practice under the CVAA.⁴⁶ As provided by Congress, IVCS providers and manufacturers must ensure that services and equipment are accessible to and usable by individuals with disabilities, unless not “achievable,” which means with reasonable effort or expense. The multiple features and capabilities of the most popular IVCS represent years of investment both in terms of dollars and human ingenuity. Adding numerous features and new functionalities that would radically change the fundamental workings and user interfaces of IVCS would require significant research and development and expense. Indeed, CTA understands that automatic speech, automated sign language and visual information description are all still very much in the experimentation and developmental phase. At present, the software required to implement the types of functionalities being contemplated would require significantly more than reasonable effort or expense.

Consistent with past practice, the Commission should recognize that a fundamental alteration is *per se* not achievable and affirm that manufacturers and providers are not required to retrofit equipment or services, respectively.⁴⁷ The availability of such narrowly tailored exemptions is consistent with Congressional intent and past FCC practice and has led to more innovation without consumer harm.

⁴⁶ See 47 U.S.C. § 617(a)(1), (b)(1); 47 CFR § 14.20; see also *id.* § 14.10(b) (defining “achievable”); *FNPRM* ¶¶ 147-48.

⁴⁷ *2011 Report and Order*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd at 14610 ¶ 128 (“Consistent with the House Report, we find that if the inclusion of an accessibility feature in a product or service results in a fundamental alteration of that product or service, then it is *per se* not achievable to include that accessibility function.”) (footnote omitted); *id.* at 14560-61 ¶ 4 (“Our rules encourage efficient accessibility solutions and do not require the retrofitting of equipment or services.”).

VI. CONCLUSION

The Commission should refrain from adopting additional IVCS-specific rules, and allow more time for collaboration, technological development and needs assessment. Importantly, the agency must stay within the bounds set forth by Congress and refrain from imposing any technical mandates or such granular requirements that the FCC would effectively be imposing technical mandates. The current rules continue to effectively motivate equipment makers and service providers to innovate and enhance offerings to ensure accessibility, usability and compatibility, unless not achievable.

Respectfully submitted,

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