



NEWS

Federal Communications Commission
419 M Street, N.W.

Washington, D. C. 20554

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See *MCI v. FCC*, 515 F.2d 385 (D.C. Circ 1974).

News media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

Report No. WT 98-10

WIRELESS TELECOMMUNICATIONS ACTION

April 2, 1998

FCC PROPOSES RULES TO PROMOTE ACCESS TO TELECOMMUNICATIONS SERVICES AND EQUIPMENT TO AMERICANS WITH DISABILITIES (WT Docket No. 96-198)

Today the Commission adopted a *Notice of Proposed Rulemaking* ("*NPRM*") to implement Section 255 of the Telecommunications Act of 1996 ("the Act"). Section 255 represents the most significant governmental action for people with disabilities since the passage of the Americans With Disabilities Act of 1990 ("ADA"). It is one of the key provisions of the Act promoting the goal of universal access and seeks to increase the accessibility of telecommunications services and equipment to the 54 million Americans with disabilities.

In Section 255, Congress set forth a broad but practical mandate: telecommunications service providers and equipment manufacturers must make their services and equipment accessible to people with disabilities, to the extent that it is readily achievable to do so. Congress gave responsibilities both to the Commission and the Architectural and Transportation Barrier Compliance Board ("Access Board"), an independent federal agency whose primary mission is promoting accessibility for persons with disabilities. The Access Board, in conjunction with the Commission, was responsible for developing guidelines for equipment accessibility. The Commission is responsible for the overall implementation and enforcement of access requirements for both telecommunications services and equipment.

The *NPRM* proposes to adopt key substantive requirements of the Access Board's guidelines, which were released in February 1998. It also draws extensively from comments the Commission received in response to its *Notice of Inquiry*, issued in September 1996.

Under the rules proposed today, companies will be given a great deal of flexibility concerning how they carry out the mandate. They are responsible for ensuring that their products are accessible to persons with the full range of disabilities recognized under the ADA, to the extent that it is readily achievable to do so, but the Commission does not propose to prescribe detailed implementation rules that companies must follow.

For companies who need guidance on how to make their products accessible, the Commission does propose processes that it would expect companies to undertake to meet their obligations under Section 255. Under the proposal, companies would be expected to have processes in place that ensure the consideration of accessibility issues at the beginning of the design and development process and on an ongoing basis. These would be internal processes as well as outreach efforts to disabilities groups. Companies would assess whether it is readily achievable to make their products accessible to the full range of disabilities, and if not, why not.

The Commission proposes to adopt the ADA definition of readily achievable, which is "easily accomplishable and able to be carried out without much difficulty or expense." The Commission also proposes to analyze whether a particular telecommunications accessibility feature is "readily achievable" based on feasibility, expense, and practicality.

The Commission believes that by having incentives in place for companies to consider accessibility issues early and on an ongoing basis, it can significantly reduce the number of complaints that it will receive. Furthermore, the Commission will encourage any consumer who has not contacted the company in an attempt to resolve a problem to do so before filing a complaint with the FCC.

The *NPRM* proposes adoption of a "fast track" process for Section 255 complaints. The Commission believes that the fast-track approach will resolve many accessibility problems informally, providing consumers rapid relief and enabling manufacturers and service providers to apply their resources to solving access problems rather than subjecting them to burdensome procedural requirements. The Commission proposes that more traditional enforcement processes will be used in cases where companies do not comply with Section 255.

Once the *NPRM* is released, it will be available on the FCC's Internet home page at <http://www.fcc.gov/e-file/>. It can also be accessed through the FCC's Disabilities Issues Task Force web site at <http://www.fcc.gov/df>. Once the *NPRM* is released, if you are interested in getting it in an alternative format, please contact the FCC's Office of Public Affairs, Public Service Division at (202) 418-0260, TTY (202) 418-2555, or e-mail at psd@fcc.gov.

To file electronic comments in this proceeding, you may use the electronic filing interface available on the FCC's World Wide Web site at <http://dettifoss.fcc.gov:8080/cgi-bin/ws.exe/beta/ecfs/upload.hts>. Further information on the process of submitting comments electronically is available at that location and at <http://www.fcc.gov/e-file/>.

Action by the Commission, April 2, 1998, by *Notice of Proposed Rulemaking* (FCC 98-55). Chairman Kennard, Commissioners Ness, Furchtgott-Roth, Powell and Tristani with Chairman Kennard, Commissioners Furchtgott-Roth, Powell and Tristani issuing separate statements.

-FCC-

News Media contact: Meribeth McCarrick at 202-418-0654, TTY at (202) 418-7233 or e-mail at mmccarri@fcc.gov

Wireless Telecommunications Bureau contacts: Elizabeth Lyle at (202) 418-0600 or e-mail at elyle@fcc.gov and John Spencer at (202) 418-1310 or e-mail at jspencer@fcc.gov; TTY for both at (202) 418-7233

Public Service Division Contact: Martha Contee at (202) 418-0260, TTY at (202) 418-2555 or e-mail at psd@fcc.gov

Statement of Chairman William E. Kennard
In the Matter of Implementation of Section 255 of the Telecommunications Act
of 1996

Section 255 represents the most significant opportunity for people with disabilities since the passage of the Americans with Disabilities Act in 1990. We cannot overstate its importance to the 54 million Americans with disabilities. To be unable to use telecommunications makes it next to impossible to get a job, call 911, things many of us take for granted.

For this reason alone, the failure to ensure access for people with disabilities comes at great cost. After all, limiting access for 54 million Americans deprives this country of a wealth of ideas and ability. However, there is another important benefit that comes from this proceeding: we all are better off as our society becomes more and more accessible. We all benefit when people with disabilities become active in our communities and in society as a whole. In addition, curb cuts, speaker phones, and vibrating pagers, things we all now take for granted, were all originally designed as "disability solutions."

Section 255 mandates that telecommunications service providers and equipment manufacturers make their products accessible to people with disabilities, if it is readily achievable to do so. In complying with this mandate, I want industry to focus its resources on achieving the end goal: getting as many accessible products in the hands of consumers as possible. I understand that flexibility helps companies to innovate, and innovation will yield the most accessible products.

For companies needing guidance on how to make their products accessible, this NPRM proposes processes that we would expect companies to undertake to meet their obligations. Companies should have processes in place to ensure the consideration of accessibility issues at the beginning of their design and development process -- and on an ongoing basis. These should include internal processes as well as outreach efforts to disabilities groups. Companies should assess whether it is readily achievable to make their products accessible to the full range of disabilities, including those affecting hearing, vision, movement, manipulation, speech, and interpretation of information.

I hope that by having incentives in place for companies to consider accessibility issues on an early and ongoing basis we can significantly reduce the number of complaints that reach us. I also hope that consumers and companies will attempt to work out accessibility problems before we get involved, and we will encourage consumers who have not contacted their equipment or services providers to do so.

But once we do get a complaint, we should treat it as a high priority. Today we are proposing a special "fast track" process for Section 255 complaints, designed to resolve many accessibility complaints informally and providing consumers quick solutions and freeing manufacturers and service providers from the burden of more structured complaint resolutions. We will not hesitate to use our more traditional enforcement processes, however, in cases in

which our fast track procedures do not result in solutions. And let me be clear: given the importance of Section 255, we propose to employ the full range of penalties available to us under the Communications Act to enforce Section 255 wherever necessary to ensure compliance.

Finally, I want to emphasize that the implementation of Section 255 is a priority of the Commission's and a personal priority for me. I pledge to commit the resources, staff, and training to give meaning to this mandate -- and to ensure that no American is left behind in the telecommunications revolution.

Separate Statement of Commissioner Harold W. Furchtgott-Roth

In re: Notice of Proposed Rulemaking

**Implementation of Section 255 of the Telecommunications Act of 1996 --
Access to Telecommunications Service, Telecommunications Equipment, and
Customer Premises Equipment by Persons with Disabilities.**

Today we initiate a proceeding to adopt rules to implement yet another important section of the Telecommunications Act of 1996. I support this action.

In this proceeding, the Commission will develop new rules to enable persons with disabilities to participate in the telecommunications revolution that has become such an important facet of our society and economy. I look forward to adopting these rules later this year.

My support for new regulations may be somewhat surprising, for I have the well-deserved reputation of one who often favors *de*-regulation. A more accurate characterization of my views, however, is that I favor *rational* regulation. This rationality is achieved only when the benefits of our rules significantly outweigh the costs of our rules.

Undoubtedly, the new rules we eventually adopt in this proceeding will impose some costs on industry and consumers. Nevertheless, I am confident that, in meeting the requirements of the Telecommunications Act, we will adopt rules that have benefits that significantly exceed these costs. In addition, this particular area of regulation may well be a rare instance of where the involvement of federal government introduces efficiencies unlikely to develop in the market. Thus, we have here an opportunity for rational regulation and an appropriate role for the federal government.

* * * * *

SEPARATE STATEMENT OF COMMISSIONER MICHAEL POWELL

Re: Implementation of Section 255 of the Telecommunications Act of 1996 -- Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons with Disabilities, Notice of Proposed Rulemaking (WT Docket No. 96-198)

It is the law, and should be the law, that manufacturers of telecommunications equipment and customer premises equipment (CPE) and providers of telecommunications services shall ensure that such equipment and services are accessible to and usable by individuals with disabilities. If accessibility is not "readily achievable," manufacturers and service providers are required to ensure that their equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access. It is the Commission's job (exclusively) to enforce this law, which Congress in its wisdom included in the historic 1996 Telecommunications Act.

It is only right that Congress included this provision (section 255) in the Act. It understood that as it unleashed a largely unregulated and highly competitive telecommunications industry, it needed to ensure that people with disabilities were not strewn aside in the battle for customers and subscribers. It is only right that manufacturers and service providers should be ready, willing and able to step up to welcome and accept this task to ensure that a significant portion of their customers are properly accommodated -- without the need for significant government intrusion into their businesses. And, it is only right that this Commission must set forth rules, guidelines and enforcement procedures so that the industry and, especially, individuals with disabilities, know how to comply with the law and what to expect from the agency tasked to enforce it.

I fully expect (and will demand) that every industry participant will comply with the letter and the spirit of this law. I know that this is an area where free market forces alone are unlikely to address the specific needs of individuals, who solely because of life's unpredictability and randomness find themselves restricted by physical adversity. This is an area where government can help this community enjoy the fruits of independence that the seeds of telecommunications can yield and that the Act envisioned. The principle of universal service is ultimately inclusion, and the disabled community should not be overlooked.

I know personally the frustrations of being relegated to the outskirts of "normal" society because of the inability to access the necessary instruments of daily life, for I suffer from physical limitations that resulted from a serious jeep accident. I recall vividly the feelings of helplessness brought on by the inability to help myself with basic life functions. I recall during my year-long convalescence, preferring the hospital over my home: home was the real world of difficult stairways to navigate, rather than the ramps of the hospital, it was bathrooms that were a nightmare to get to and use, and it was inhospitable beds and chairs. It was a place where I watched fully functional people move easily in and out of every day, living normal unencumbered lives. I can easily imagine how it must feel to be unable to even make a phone call.

As the Commission seeks to accommodate the needs of the disabled, however, we must be careful in our zeal not to stigmatize those that section 255 was designed to help, and we must be careful to avoid creating disincentives for those in industry that actually can help. This is why I strongly support the proposed "fast-track" problem solving process and guiding principles laid out in this Notice. This process emphasizes timely and informal resolution, with the promise that the vast majority of accessibility problems will be resolved by the manufacturer or service provider without the need for resort to formal "complaints."

I look forward to reviewing the comments in this proceeding and welcome any and all suggestions on how the Commission can improve upon the enforcement procedures we propose so that this important law we are tasked with enforcing will be subject to the fullest compliance.

**Statement of Commissioner Gloria Tristani
on the Adoption of a Notice of Proposed Rulemaking
on Access to Telecommunications Services,
Telecommunications Equipment, and Customer Premises Equipment
by Persons with Disabilities**

April 2, 1998

Today we take concrete steps to assure that the tremendous benefits of the telecommunications sector will be available to people with disabilities. Telecommunications is at the core of our society -- it is, increasingly, how we communicate with one another, how we learn, how we work. To be denied access to those activities would be, in essence, to be relegated to the sidelines of our national life. Congress wisely acknowledged this in enacting Section 255, mandating that telecommunications services and equipment be accessible to people with disabilities, where readily achievable.

I firmly believe that few actions we take as commissioners could be as important as those promoting real, meaningful access to telecommunications for all Americans. So we have worked, for example, to facilitate access for people in rural and high cost areas, to connect our schools and libraries, and to guarantee that wireless callers -- including TTY users -- have the benefit of E-911 services.

In my mind, this NPRM is long overdue. I believe that the guidelines and procedural rules we propose will have substantial impact in the lives of the 54 million Americans with disabilities. Imagine, for example, the frustration felt by someone using a voice board (an augmentative or alternative communications device) when they call emergency or directory assistance (911 or 411), only to be disconnected because the person answering does not understand that this is a real call. Imagine someone with cerebral palsy or multiple sclerosis, who then faces the prospect of using a TTY device, yet may not have the manual dexterity necessary to do so. Imagine doing that in an emergency.

These are striking examples. But they portend larger social and economic realities. Unemployment among people with disabilities is roughly 73 percent. And those who are employed earn on average only one-third the income of the non-disabled population. In our world today, access to telecommunications services and equipment translates into opportunity and participation.

I am committed to doing all I can to make that access happen. Today we set forth a number of proposals, relating to both the substantive mandates of Section 255 and the procedures for enforcing it. I believe we have proposed a workable framework for cooperation and creativity in finding innovative access solutions. I recognize that this is a beginning, and I look forward to working with both industry and consumers to build on this framework.