

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

In the Matter of)
)
Implementation of Section 255 of the)
Telecommunications Act of 1996)
) WT Docket No. 96-198
Access to Telecommunications Services,)
Telecommunications Equipment, and Customer)
Premises Equipment by Persons with Disabilities)
)
)

**COMMENTS OF
THE MULTIMEDIA TELECOMMUNICATIONS ASSOCIATION**

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January 13, 2000

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In the Matter of)
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Implementation of Sections 255 and 251(a)(2) of the)
Communications Act of 1934, as Enacted by the)
Telecommunications Act of 1996) WT Docket No. 96-198
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Access to Telecommunications Service,)
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Premises Equipment by Persons with Disabilities)
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**COMMENTS OF
THE MULTIMEDIA TELECOMMUNICATIONS ASSOCIATION**

The Multi-Media Telecommunications Association (“MMTA”) submits the following comments in response to the Commission’s Further Notice of Inquiry, released September 29, 1999, regarding the application of Section 255 of the Communications Act to computer equipment. See Report and Order and Further Notice of Inquiry, FCC 99-181, released September 29, 1999, ¶¶ 173-85 (“FNOI”).

STATEMENT OF INTEREST

MMTA is a national trade association of manufacturers, suppliers, distributors, retailers and users of customer-premises business telecommunications systems. Founded in 1970 as the North American Telephone Association (“NATA”), MMTA acquired its present name in 1995, when it reorganized to reflect a broadened focus on the diversity of technologies and media now available to business telecommunications users. In 1997,

MMTA became affiliated with the Telecommunications Industry Association (“TIA”). MMTA exists to promote competitive markets and healthy sales and support channels for users of business communications products and services. An active participant in regulatory proceedings affecting customer premises equipment (“CPE”) markets, MMTA supports regulatory policies that promote fair competition in the telecommunications equipment and services distribution marketplace. MMTA has actively participated in this proceeding and in dialogues with the disability community to assist its members to incorporate accessibility into their manufacturing processes.

DISCUSSION

I. THE APPLICATION OF ACCESSIBILITY REQUIREMENTS TO PREMISES EQUIPMENT SHOULD NOT TURN ON WHETHER AN EQUIPMENT FUNCTION IS PROVIDED THROUGH A PBX OR A STAND-ALONE COMPUTER

The Commission states that certain kinds of computer-based equipment used on customer premises but “not typically regarded as CPE” deliver the same functions that the Commission is seeking to make accessible when they are offered through telecommunications network equipment or CPE. ENOI, ¶183. Examples of such equipment, in the Commission’s view, include equipment that is used to provide voicemail, interactive menus, or phone-to-phone IP telephony. Id. The Commission asks whether this kind of equipment should be included as CPE or should be otherwise subject to the Commission’s rules. Id., ¶185.

With respect to voicemail and interactive menus, the Commission has determined, in the Report and Order accompanying the ENOI, that it is necessary and appropriate “to

extend accessibility requirements to the providers of voicemail and interactive menu service *and to the manufacturers of the equipment that perform those functions.*” *Id.*, ¶93 (emphasis added). In the ENOI, however, the Commission appears to express some uncertainty as to which types of voicemail or interactive menu equipment are or should be covered by accessibility requirements. The Commission specifically distinguishes voicemail and interactive menus that are “provided via software and a private branch exchange (PBX),” from voicemail and interactive menus that are “provided through a computer that connects with the PBX, but is not generally regarded as part of the PBX.” *Id.*, ¶183. While the Commission apparently deems the former to be covered under the Report and Order, the Commission expresses some uncertainty as to whether the latter is, or should be, covered.

MMTA does not believe that the coverage of equipment under accessibility requirements does or should turn on whether equipment is “regarded as part of the PBX.” Voicemail that is provided as part of a PBX are functionally, and often technologically, identical to voicemail that is provided as part of a separate computer that connects with the PBX. In terms of function, there is no difference between the two configurations. Both enable users to store and retrieve messages received from callers dialing into the PBX, or from other users served by the PBX. In terms of technology, the same computer technology is likely to be used in both cases: in one case the computer device that stores the messages is incorporated into the PBX, while in the other the computer device is in

separate equipment. But the technology is generally the same. Both methods of providing voicemail functions have been in use for many years.¹

The same analysis also applies to interactive menus, or any function that the Commission deems subject to Section 255 requirements. Where the function and technology is essentially the same, it would be irrational to make the application of accessibility requirements turn on whether these functions are “internal” or “external” to the PBX. Such an approach would make enforcement of accessibility rather haphazard and would effectively penalize manufacturers that have chosen to incorporate these functions into the PBX. These manufacturers would incur accessibility compliance costs not incurred by competing manufacturers.

Furthermore, the Commission’s legal rationale for asserting jurisdiction over voicemail and interactive menu equipment, based on the theory of ancillary jurisdiction, appears to have the same degree of applicability to equipment that is internal or external to the PBX.

Therefore, the Commission should make clear that its existing rules do not treat equipment that is incorporated into PBXs differently from equipment that is separate from,

¹ By contrast, internet telephony (and associated equipment), which is also to be addressed in this FNOI, utilizes a different technology from conventional telephony. Because internet telephony technology was developed relatively recently, it can be argued that internet telephony equipment should be provided a temporary exemption from certain otherwise applicable regulatory requirements in order to avoid stifling development of the technology. As discussed above, this rationale does not apply to “outboard” voicemail and interactive menu products that connect to a PBX system that uses conventional telephony. To the extent that voicemail and interactive menu products are designed for use only with internet telephony, they should generally be subject to the same regulatory treatment as other equipment used with internet telephony.

but connected to, a PBX in terms of the applicability of accessibility requirements to these products. The only relevant distinction is that a different manufacturer is responsible for compliance. When a PBX manufacturer incorporates voicemail or interactive menus, or other functions as part of the PBX, and controls the design, development and fabrication of the product that includes such functions, then the PBX manufacturer is responsible for compliance. However, when another manufacturer designs, develops and fabricates a product with voicemail, interactive menus, or other functions, which may be connected to a PBXs, then that manufacturer, not the PBX manufacturer, is responsible for compliance.

January 13, 2000

Respectfully submitted,

A handwritten signature in black ink, reading "Robert F. Aldrich", written over a horizontal line.

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