



June 14, 2012

(Filed electronically)

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: **Comments of the Voice on the Net Coalition  
CG Docket No. 10-213**

Dear Ms. Dortch:

The Voice on the Net Coalition (“VON Coalition”)<sup>1</sup> hereby files this letter in response to the public notice seeking comments on the petition of the Entertainment Software Association (“ESA”) for a class waiver of the Commission’s requirements for access to advanced communications services (“ACS”) and equipment by people with disabilities.<sup>2</sup> ESA seeks a waiver with respect to three classes of video game products and services: (i) game consoles, both home and handheld, and their peripherals and integrated online networks; (ii) game distribution and online game play services; and (iii) game software.<sup>3</sup> For the reasons stated below, the VON Coalition supports grant of the Petition.

In the *ACS Order*, the Commission stated it would “focus [its] waiver inquiry on whether a multipurpose equipment or service has a feature or function that is capable of accessing ACS but is nonetheless designed primarily for purposes other than using ACS.”<sup>4</sup> As the VON Coalition has stated in prior filings in this proceeding, the primary purpose of video game products and services is not the provision of advanced communications services, but rather game playing.<sup>5</sup> The advanced communications functionality and capabilities present in video game products and services are secondary

<sup>1</sup> The VON Coalition works to advance regulatory policies that enable Americans to take advantage of the promise and potential of IP enabled communications. Its members – including AT&T, Broadvox, BT, Cloud Communications Alliance, Google, iBasis, Microsoft, Nextiva, Skype, Vonage, and Yahoo – are developing and delivering voice and other communications applications that may be used over the internet. See [www.von.org](http://www.von.org).

<sup>2</sup> Petition of the Entertainment Software Association (March 21, 2012) (“Petition”); “Request for Comment Petition for Class Waiver of Commission’s Rules for Access to Advanced Communications Services and Equipment by People with Disabilities,” Public Notice, DA 12-760 (May 15, 2012).

<sup>3</sup> See generally, Petition, at 11-27.

<sup>4</sup> *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*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557, at ¶ 181 (2011) (“*ACS Order*”).

<sup>5</sup> Comments of the Voice on the Net Coalition, at 10 (November 22, 2010) (“Gaming products such as the Xbox and Xbox Live Service is one of the clearest examples of a service and product that leverages advanced communications, but whose primary purpose is gaming and not the provision of advanced communications services.”); see also Comments of the Voice on the Net Coalition, at 6-7 (April 25, 2011).



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and primarily marketed and designed with the goal of enhancing the video game playing experience.<sup>6</sup> Importantly, such communications functionality and capabilities were not marketed or designed to be used primarily as advanced communications services.<sup>7</sup>

Additionally, good cause exists for grant of the Petition.<sup>8</sup> Grant of the class waiver request is essential to encourage manufacturers and service providers to build communications features into products and services that do not have as their core purpose advanced communications. Fostering this type of innovation enriches communications choices and solutions available to all consumers, including those with disabilities, furthering the goals of the Twenty-First Century Communications and Video Accessibility Act of 2010.<sup>9</sup> Moreover, in light of the common, well-defined characteristics associated with video gaming products and services, grant of the waiver on a class basis is justified and would conserve the Commission's limited resources.<sup>10</sup>

For the above reasons, as well as those stated in the Petition, the VON Coalition requests that the Commission grant ESA's waiver request of the ACS requirements with respect to the three specified classes of video game products and services. Please contact me directly if you have any questions.

Sincerely,

/s/

Glenn S. Richards  
Executive Director

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<sup>6</sup> See generally, Petition, at 11-17, 22-26, and 27-30.

<sup>7</sup> ACS Order, at ¶¶ 183-85 (Commission will consider the manufacturer's or provider's design and marketing of ACS capabilities in the product or service).

<sup>8</sup> ACS Order, at ¶ 188 (applicants for waiver of the ACS requirements must demonstrate good cause).

<sup>9</sup> Pub. L. No. 111-260, 124 Stat. 2751 (2010); Pub. L. No. 111-265, 124 Stat. 2795 (2010).

<sup>10</sup> ACS Order, at ¶ 193 ("We will exercise our authority to grant class waivers in instances in which classes are carefully defined and when doing so would promote greater predictability and certainty for all stakeholders.").