**Before the**

**Federal Communications Commission**

**Washington, D.C. 20554**

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| In the Matter of:**Implementation of Sections 716 and 717 of the Communications Act of 1934****Rates for Interstate Inmate Calling Services****Consumer and Governmental Affairs, Media, and Wireless Telecommunications Bureaus Seek Update on Commission’s Fulfillment of the Twenty-First Century Communications and Video Accessibility Act** | ))))))))))))) | CG Docket No. 10-213WC Docket No. 12-375GN Docket No. 21-140 |

Reply Comments of Accessibility Advocacy and Research Organizations

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# Summary

The record in this proceeding underscores the critical importance of the Commission’s moving ahead to rectify the long-standing gap in its advanced communications services (ACS) rules by addressing the accessibility, usability, and compatibility of interoperable video conferencing services (IVCS) for people who are deaf, hard of hearing, or DeafBlind and those with other disabilities. Fortunately, the record reveals at least two clear paths for the Commission to break the logjam that ground its implementation of the IVCS portion of the ACS provisions of the Twenty-First Century Communications and Video Accessibility Act (CVAA) to a halt more than a decade ago.

First and foremost, the record strongly supports the most simple and straightforward solution before the Commission: it can simply affirm that the CVAA’s statutory definition of “interoperable video conferencing services,” already in the Commission’s rules, accurately and fully reflects Congress’s intent. The record supports that this result is both a sound exercise of statutory interpretation and would fulfill Congress’s intent to ensure the accessibility, usability, and compatibility of IVCS in implementing the CVAA.

Alternatively, the record supports independently defining the term “interoperable” to cover video conferencing services that are able to function inter-platform—able to be accessed on multiple operating systems—and inter-network—able to be accessed via the Internet. This multiple-operating-systems-and-Internet definition, proposed by CTIA and consistent with our comments, would capture a significant array of contemporary video conferencing services. While the definition raises some concerns about its long-term coverage of video conferencing systems—which counsel adopting and applying the statutory definition of IVCS—the multiple-operating-systems-and-Internet definition might stand as the most workable alternative proposal on the record, so long as the Commission provides clarity as to its scope.

Finally, the record strongly supports the Commission applying its current performance objectives for video conferencing services, as well as adopting additional performance objectives and other requirements specifically needed to ensure the accessibility, compatibility, and usability of IVCS. The Commission is well within its broad authority under the CVAA to adopt these objectives and obligations to address the functional performance of video conferencing systems without having to impose specific technical standards.

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# Discussion

The above-signed Accessibility Advocacy and Research Organizations respectfully reply to comments in response to the Commission’s Public Notice inviting comment in CG Docket No. 10-213 (“*2022* *IVCS* *PN*”).[[1]](#footnote-2) The record developed in response to the *PN* makes clear that the Commission must act urgently to ensure the usability, accessibility, and compatibility of interoperable video conferencing service (IVCS). The record confirms that adopting the statutory definition of IVCS in the Twenty-First Century Communications and Video Accessibility Act (CVAA) is the most straightforward and obvious way to proceed, but also reveals the potential for consensus around a multiple-operating-systems-and-Internet approach if the Commission nevertheless chooses to independently define the term “interoperable.” Finally, the record underscores the importance of the Commission moving quickly to apply its advanced communications services (ACS) rules to IVCS, adopting additional IVCS-specific functional performance objectives, and implementing a range of other specific recommendations.

## The record underscores the urgency of the Commission taking swift action to ensure the usability, accessibility and compatibility of IVCS.

As we explained in our comments, equitable access to IVCS is one of the most critical contemporary communications issues for people who are deaf, hard of hearing, or DeafBlind, as well as those with other disabilities, as has been made particularly apparent during the pandemic.[[2]](#footnote-3) In the intervening decade-plus since the *2011 ACS FNPRM*,[[3]](#footnote-4) the accessibility, usability, and compatibility of IVCS, which now dominate communications in nearly all social, business, education, healthcare, education, and other contexts, have failed to meet the needs of consumers with disabilities while the importance of IVCS has become ever more paramount.[[4]](#footnote-5)

The record underscores the importance of the Commission proceeding quickly to rectify this situation for a wide range of disability communities. As the American Council of the Blind (ACB) notes:

Over the past two years of the COVID-19 pandemic, technology and communications services have played an increasingly integral role in all aspects of our lives. Whether maintaining relationships with family and friends while socially isolated, continuing education through distance learning, sustaining workplace productivity through remote work, or preserving one’s wellbeing through telehealth consultations, the ability to access and communicate using video services have become ubiquitous and essential in the United States. More than ever, people with disabilities must have access to these services as well . . . .[[5]](#footnote-6)

The American Foundation for the Blind (AFB) concurs, noting “that “the accessibility of video communications has been an important factor in equal participation and inclusion of people who are blind or have low vision in many aspects of society throughout the pandemic.”[[6]](#footnote-7)

Industry commenters likewise acknowledge the critical importance of video conferencing accessibility. CTIA notes “the emergence of video conferencing as a critical communications solution, particularly as the world went remote in the COVID-19 pandemic-era,” emphasizing that “American consumers, including people with disabilities, have embraced video conferencing services to connect with family and friends, schools, workplaces, healthcare services, and much more.”[[7]](#footnote-8) The Consumer Technology Association (CTA) likewise notes that “[t]he COVID-19 pandemic demonstrated that consumer access to [video conferencing] has never been more critical—whether for school, telehealth, remote work, civic engagement, news, comfort, entertainment or basic social interaction at an isolating time.”[[8]](#footnote-9)

As the *2022 IVCS PN* explains, the “[i]naccessibility of video conferencing platforms is increasingly described as a serious barrier to effective communication by people with disabilities.”[[9]](#footnote-10) CTIA and CTA acknowledge this, alluding to various industry-led accessibility initiatives[[10]](#footnote-11) and collaborative efforts between the consumer technology and accessibility advocates and researchers[[11]](#footnote-12) to resolve accessibility barriers to video conferencing.

The record makes clear that industry-led and collaborative efforts, however valuable and laudable, have not yielded sufficient accessibility, usability, and compatibility in the video conferencing services upon which people with disabilities have come to rely. As the Commission has recognized, disability communities, along with the Commission’s Disability Advisory Committee (DAC), have established a lengthy and detailed record of accessibility problems with video conferencing services[[12]](#footnote-13)—a record augmented by the more than two dozen disability organizations that commented in response to the PN.[[13]](#footnote-14) In addition to the specific accessibility and usability gaps experienced by people who are deaf, hard of hearing, or DeafBlind described in our initial comments,[[14]](#footnote-15) AFB details barriers faced by individuals who are blind and low vision, noting the “varying degrees of accessibility” in video conferencing services, problems navigating user interfaces, and inconsistencies on services across different devices.[[15]](#footnote-16)

Even CTA “recognizes the concerns” about the accessibility of video conferencing services, including “with respect to the integration of automated speech recognition (ASR) and CART (live interpreters).”[[16]](#footnote-17) To address these barriers, CTA says that its members provide a number of accessibility features in their video conferencing products and services.[[17]](#footnote-18)

We acknowledge that some video conferencing services are accessible to some people with some disabilities in some contexts. However, as the Commission designs its rules governing IVCS, it is important for it to recognize that users with disabilities often are not in a position to dictate what video conferencing service the person or people with whom they are conferencing will use. For example, a doctor working for a health care facility might use a standardized telehealth platform; a potential employer might specify a particular conferencing service for a job interview; and a college professor might be restricted to specified system for virtual teaching. Yet only some of these video conference services might be sufficiently accessible for people with disabilities to use effectively, and in many cases they will have no ability to request a different conferencing system with features that work for them. Indeed, the “varying degrees of accessibility” in video conferencing services and “inconsistencies on services across different devices” to which AFB refers means that even two people with different disabilities may encounter barriers communicating with each other using the same service because, at present, the needs of one user might be best met by a particular service that is not accessible to the other.[[18]](#footnote-19)

This is why it is critical for the full range of video conferencing platforms in use now and in the future to be equipped with accessible features that are commonly used by people with disabilities to make, receive and conduct calls. If this not the case, people with disabilities will not just be denied basic access to communication; they will be denied access to health care, employment, education, and a multitude of other services and opportunities.

Against this backdrop, there can be no question that it is time for the Commission to act. As ACB notes, “[m]ore than ever, people with disabilities must have access” to video conferencing services.”[[19]](#footnote-20) As AFB likewise explains, it is “imperative that these services be fully accessible to and usable by people with disabilities.”[[20]](#footnote-21) We agree, and encourage the Commission to proceed with urgency to the task at hand of fulfilling Congress’s mandate in the CVAA that all advanced communications services, including video conferencing systems, be made accessible, usable and compatible.[[21]](#footnote-22)

## The record supports adopting and applying the CVAA’s definition of IVCS as a matter of sound statutory interpretation and sound public policy.

As we explained in our comments, the Commission easily and lawfully can and must simplify its inquiry into the scope of “interoperable video conferencing service” by affirming its earlier decision to incorporate the statutory definition of the term—“a service that provides real-time video communications, including audio, to enable users to share information of the user’s choosing”[[22]](#footnote-23)—into its rules,[[23]](#footnote-24) and applying this definition to its ACS mandates.[[24]](#footnote-25) The record supports that adopting and applying the statutory definition is compelled by a straightforward reading of the statute and sound public policy.

All the organizations representing disability communities in this proceeding concur that incorporating and applying the CVAA’s statutory definition is the best way for the Commission to proceed.[[25]](#footnote-26) As we did, ACB calls for the Commission to “maintain the statutory definition of IVCS passed by Congress and incorporated into the Commission’s rules.”[[26]](#footnote-27) AFB concurs, “urg[ing] the Commission to clarify in its rules that the definition of ‘interoperable video conferencing service’ is simply the one that is provided in statute and incorporated into the Commission’s rules.”[[27]](#footnote-28)

Moreover, the record contains no serious opposition to the threshold conclusion that the incorporation of the statutory definition is compelled by a straightforward reading of the CVAA’s text.[[28]](#footnote-29) As our comments explain, the CVAA fully and comprehensively defines IVCS as “service that provides real-time video communications, including audio, to enable users to share information of the user’s choosing” and provides no basis for the Commission to further limit the term by separately defining the term “interoperable.”[[29]](#footnote-30) Indeed, the Commission’s initial decision in the *2011 ACS FNPRM* to separately interpret this term was unsupported, resting on a faulty evaluation of the statutory text and legislative history, and failed entirely to consider that the statute comprehensively defined the term.[[30]](#footnote-31)

No commenters contest this straightforward and obvious result on its own terms. Nevertheless, CTIA and CTA maintain that separately defining the term “interoperable” is necessary to avoid “sweep[ing]” or “reading” the term “out of the [statute].”[[31]](#footnote-32) But the opposite is true.[[32]](#footnote-33) Contrary to CTIA’s and CTA’s arguments, it is *the exercise of separately defining the term “interoperable”* that would “sweep” Congress’s clear statutory structure out of the Commission’s interpretation and read in *new* limitations with no evidence that Congress intended their inclusion.[[33]](#footnote-34) As CTA concedes, “[t]he Commission need not guess at Congress’s intent in including the term ‘interoperable’”[[34]](#footnote-35)—because Congress made its intent clear by specifically defining the scope of “interoperable video conferencing services.

Finally, the record is clear that incorporating the CVAA’s definition of IVCS would be consistent with sound public policy and the CVAA’s goals of ensuring the accessibility, usability, and compatibility of video conferencing. As our comments explain, the CVAA’s definition would map neatly onto the landscape of contemporary video conferencing services and equipment.[[35]](#footnote-36) AFB similarly notes that the statutory term would fulfill Congress’ intent to cover a “large umbrella of services that would include, but not be limited to, two-way video calling, many webinar and webcast platforms, meeting services, and integrations within other services that enable users to communicate in real-time through both video and audio.”[[36]](#footnote-37) ACB likewise underscores that incorporating the statutory definition is critical to covering the full range of video conferencing services that consumers use and avoiding the exclusion of services in contravention of Congress’s intent.[[37]](#footnote-38)

## The record underscores that separately defining “interoperable” can cause disputes and confusion, though CTIA’s proposed multiple-operating-systems-and-Internet definition may be a plausible path forward.

As our comments explain, an additional advantage of the Commission simply adopting and applying the CVAA’s definition of IVCS is that it avoids the inevitable disputes and confusion in assigning independent meaning to the term “interoperable.”[[38]](#footnote-39) Nevertheless, the record has yielded discussion—and one potential point of consensus—that may provide a way for the Commission to proceed if it chooses to depart from the simplicity of the statutory definition and independently define “interoperable.”

To reiterate, the *2022 IVCS PN* articulates four distinct definitions, the first three pulled from the *2011 ACS FNPRM* and the fourth from a proposal in response to the *FNPRM*:

(1) able to function inter-platform, inter-network, and inter-provider;

(2) having published or otherwise agreed-upon standards that allow for manufacturers or service providers to develop products or services that operate with other equipment or services operating pursuant to the standards; or

(3) able to connect users among different video conferencing services, including video relay service (VRS).

…

[(4)] capable of being used on different types of hardware and different types of operating systems.[[39]](#footnote-40)

CTIA proposes to define “interoperable” as “able to function inter-platform and inter-network.”[[40]](#footnote-41) At first glance, this definition appears to track the Commission’s first definition—“able to function inter-platform, inter-network, and inter-provider”—minus “inter-provider.”[[41]](#footnote-42) However, CTIA appears to contemplate a different meaning that tracks more closely to the Commission’s *fourth* definition—“capable of being used on different types of hardware and different types of operating systems.” As CTIA explains, under its definition:

Inter-platform refers to the ability of a user to access a video conferencing service on multiple software platforms and operating systems, such as Google Android, Apple iOS, and Microsoft Windows. Inter-network refers to the ability of a user to access a video conferencing service via the internet and on data networks, such as through a broadband connection like 4G LTE or 5G.[[42]](#footnote-43)

It is our understanding that CTIA intends its definition to encompass all video conferencing services capable of being used on more than one operating system and via the Internet. Presuming that is correct, we agree, as our comments noted, that this definition could be workable.[[43]](#footnote-44) Indeed, most contemporary video conferencing services can be installed across different hardware and operating systems and used via the Internet.[[44]](#footnote-45)

However, if the Commission pursues a definition of “interoperable” in the substantive vicinity of its fourth proposed definition or CTIA’s alternative formulation, the Commission should make clear that this definition reflects this shared understanding of its scope. This definition would need to incorporate CTIA’s substantive explanation, defining “interoperable” as —“able to function inter-platform—able to be accessed on multiple operating systems—and inter-network—able to be accessed via the Internet.” In other words, the Commission should not merely reiterate its *first* proposed definition, which, as we noted in our earlier comments and as the Commission has acknowledged, would be wholly ineffective at serving the CVAA’s purpose.[[45]](#footnote-46)

ACB raises concerns as to whether CTIA’s definition could risk in the long run excluding from the scope of the Commission’s rules vertically integrated equipment and services that would be covered under the CVAA’s definition.[[46]](#footnote-47) We agree that the Commission must be mindful of the likelihood that vertically integrated, single-operating-system video conferencing services may come to the market, especially in emerging technology spaces such as augmented and virtual reality. The long-term risks of excluding important video conferencing services from the Commission’s ACS rules counsel toward the more straightforward and legally principled approach of incorporating the CVAA’s statutory definition of IVCS.

Thus, if the Commission does choose to independently define the term “interoperable” using the multiple-operating-systems-and-Internet approach, the Commission should carefully monitor this market, and if necessary in the future, modify its accessibility rules governing video conferencing offerings as these evolve to ensure the continued accessibility, usability and compatibility of these services by people with disabilities. Such efforts will be necessary to ensure that the Commission continues to fulfill its responsibility under the CVAA to prevent the erection of new barriers that could impede access to these services.

## Other proposed definitions are unsupported and unworkable.

Beyond the multiple-operating-systems-and-the-Internet definition proposed by CTIA, no other definition of “interoperability” appears to have gained any traction in the record. As noted *supra*, the Commission’s first definition is unworkable because the Commission itself has disclaimed its suitability for meeting the CVAA’s purpose.[[47]](#footnote-48) As a practical matter, we agree with CTIA’s criticism of the Commission’s second definition, which relies on the widespread use of standards that simply are not reflected in today’s video conferencing services market.[[48]](#footnote-49)

CTA proposes yet a fifth definition that would assign to “interoperable” what CTA contends is its “ordinary and widely-held meaning.”[[49]](#footnote-50) Specifically, CTA concludes that “interoperable” means “the ability to operate among different platforms, networks and providers without special effort or modification by the end user.”[[50]](#footnote-51)

As proposed, CTA’s proposed definition appears unworkable, in significant part because CTA does not identify the scope of actual services and equipment that it would cover—and because the definition does not self-evidently illuminate that scope. Unlike CTIA’s proposal, CTA’s does not elaborate on any of the terms in the definition, including “platforms,” “networks,” “providers,” “special effort,” or “modification.” CTA simply suggests that the definition will limit the Commission’s ACS rules to “only the subset of video conferencing services that are *genuinely* interoperable.”[[51]](#footnote-52) Given the lack of a straightforward explanation of what services it would actually cover, it is not clear to us that CTA’s definition is intended to cover *any* widely used services.[[52]](#footnote-53)

The Commission must have at least a reasonable degree of certainty about how a definition of “interoperable” would meet Congress’s intent to ensure that video conferencing services are accessible, usable, and compatible. CTA’s definition, as proposed, appears to “exclude virtually all existing video conferencing services and equipment” in a way that would “undermine the [CVAA’s] intent”—a result that the Commission has correctly foreclosed.[[53]](#footnote-54) Unless CTA can clarify that the scope of its proposed definition actually covers existing video conferencing services that people commonly use, its proposal is a non-starter and the Commission must reject it.

More broadly, we acknowledge and share ACB’s general concern about the workability of the proposed definitions.[[54]](#footnote-55) Though the operating-systems-and-Internet definition provides the most plausible way forward if the Commission concludes it must define interoperability separately—again, a course of action with which we disagree—we again underscore our agreement with ACB and AFB that the best way forward is for the Commission to simply adopt and apply the CVAA’s definition.

Finally, if the Commission finds multiple definitions of “interoperable” appropriate, as our comments explained, we urge the Commission to treat any video conferencing service as sufficiently “interoperable” for coverage under the CVAA’s rules so long as it meets any one of those definitions. For example, our comments noted that the third definition, which hinges on VRS interoperability, also might provide a flawed but plausible path forward.[[55]](#footnote-56) While no other commenters specifically endorsed or criticized this approach, we reiterate the importance of applying definitions flexibly if the Commission chooses to adopt more than one.[[56]](#footnote-57)

## The record supports the Commission swiftly applying the ACS rules to IVCS, adopting IVCS-specific performance objectives, and implementing various other recommendations.

As we explained in our comments, it is critical for the Commission to apply and update its performance objectives to address the specific accessibility, usability, and compatibility shortcomings routinely encountered by users with disabilities.[[57]](#footnote-58) To this end, we again urge the Commission to mandate the inclusion of essential accessibility features on video conferencing systems, including built-in closed captioning functionality, integrated support for third-party captioning services and third-party video interpreting services, compatibility with and access to current and next-generation relay services, and accessible user controls for the activation and customization of all video conferencing features, including the appearance of captions, ASL interpreters, and cued language transliterators.[[58]](#footnote-59)

In the course of doing so, the Commission should not abide CTIA’s contention that the Commission cannot mandate particular capabilities for video conferencing services.[[59]](#footnote-60) While the CVAA forecloses the adoption of specific *technical standards*,[[60]](#footnote-61) it specifically contemplates that the Commission will adopt *performance objectives* that “ensure the accessibility, usability, and compatibility” of ACS, including IVCS.[[61]](#footnote-62) As the *2011 ACS NPRM* explains, performance objectives may “clearly define the outcome needed to be achieved” so long as they do not limit the means for accomplishing that outcome to a specific technical standard—an approach that many commenters, including CTIA, approved.[[62]](#footnote-63)

The performance objectives currently in the Commission’s ACS rules reflect that the Commission already has adopted general requirements for the accessibility, usability, and compatibility features such as those listed above—and that it may do so again, consistent with the CVAA’s authorization to adopt performance objectives that do not mandate specific technical standards. Moreover, while some of the ACS rules’ performance objectives focus only at a high level on what a product or service must do to address various functional limitations—e.g., be operable without vision, hearing, or speech[[63]](#footnote-64)—others require specific functionalities—*e.g.*, the availability of audio cutoff, non-interference with hearing technologies, hearing aid coupling, and the provision of real-time text.[[64]](#footnote-65) These requirements are analogous to those that we have proposed above for video conferencing systems—such as providing support for captioning, interpreting, and relay services, as well as ensuring accessible user controls—as these are all functional requirements that would ensure the accessibility, usability, and compatibility of IVCS while leaving providers with the requisite flexibility to execute implementation of these features by tailoring them to specific services and equipment.

Finally, we reiterate that the Commission should also proceed with haste to implement the accessibility features identified by people with other types of disabilities, as well as other recommendations in the DAC’s *TRS-Video Conferencing Report*.[[65]](#footnote-66) This outcome is strongly supported by the record. The record also includes a number of other specific recommendations that we support,[[66]](#footnote-67) including the Prison Policy Institute (PPI)’s call for the Commission to clarify that the CVAA’s coverage of IVCS under the ACS accessibility and usability requirements does not preempt state regulation of ICS video calling rates.[[67]](#footnote-68)

\* \* \*

The Commission has before it an opportunity to resolve a critical and long-standing gap in its implementation of the CVAA and in so doing, to address the accessibility, usability, and compatibility of one of the most important communications modalities in contemporary American life. We urge the Commission to take this opportunity to proceed with haste and broadly articulate the scope of IVCS as necessary to vindicate the civil right of Americans with disabilities to have full and equal access to video conferencing services and equipment.

1. *Consumer and Governmental Affairs Bureau Seeks to Refresh the Record on Interoperable Video Conferencing Services*, Public Notice, CG Docket No. 10-213 (Apr. 27, 2022) (“*2022* *IVCS PN*”), <https://www.fcc.gov/document/pn-refresh-record-re-interoperable-video-conferencing>. Responsive filings included Comments of TDI, et al. (June 21, 2022) (“Accessibility Coalition Comments”), <https://www.fcc.gov/ecfs/search/search-filings/filing/106211604611836>; Comments of the American Council of the Blind (ACB) (June 21, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/106221849015517>; Comments of ClearCaptions (June 21, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/10622065407165>; Comments of CTIA (June 21, 2022); <https://www.fcc.gov/ecfs/search/search-filings/filing/10621007711611>; Comments of the Consumer Technology Association (CTA) (June 21, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/106212455123631>; Comments of the Prison Policy Initiative (PPI) (June 21, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/106213040427742>; Comments of the American Foundation for the Blind (AFB) (June 20, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/1062017977461>. [↑](#footnote-ref-2)
2. Accessibility Coalition Comments at 1. [↑](#footnote-ref-3)
3. *Implementation of Sections 716 and 717 of the Communications Act of 1934*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket Nos. 10-213 and WT Docket No. 96-198, 26 FCC Rcd. 14,557, 14,684–87, ¶¶ 301–305 (Oct. 7, 2011) (“*2011 ACS Order and FNPRM*”), <https://www.fcc.gov/document/accessibility-rules-advanced-communications-services-0>. [↑](#footnote-ref-4)
4. *See* Accessibility Coalition Comments at 1–2(citing *2022 IVCS PN* at 3 & nn.20–21). [↑](#footnote-ref-5)
5. ACB Comments at 1. [↑](#footnote-ref-6)
6. AFB Comments at 2. [↑](#footnote-ref-7)
7. CTIA Comments at 2. CTIA also suggests that 4G and 5G networking have played a role in spurring increased use of video conferencing. *Id.* at 5–6. [↑](#footnote-ref-8)
8. CTIA Comments at 4. [↑](#footnote-ref-9)
9. *2022 IVCS PN* at 3. [↑](#footnote-ref-10)
10. CTIA Comments at 2, 7–9, 13; CTA Comments at 4–5. [↑](#footnote-ref-11)
11. CTA Comments at 5–9. [↑](#footnote-ref-12)
12. *2022 IVCS PN* at 3–5 & nn.21–29 (internal citations omitted for brevity). [↑](#footnote-ref-13)
13. Accessibility Coalition Comments at 1–2; AFB Comments at 1; *see* ACB Comments at 2. [↑](#footnote-ref-14)
14. Accessibility Coalition Comments at 1–2. [↑](#footnote-ref-15)
15. AFB Comments at 1. [↑](#footnote-ref-16)
16. CTA Comments at 8–9. [↑](#footnote-ref-17)
17. *Id.* at 7-8. [↑](#footnote-ref-18)
18. *See* AFB Comments at 1. [↑](#footnote-ref-19)
19. *Id*. at 1. [↑](#footnote-ref-20)
20. AFB Comments at 2. [↑](#footnote-ref-21)
21. *See* 47 U.S.C. §§ 153(1)(A) (including IVCS in the definition of advanced communications services (ACS)), 617(a)–(b) (requiring ACS to be accessible and usable); *see also* Advocacy Coalition Comments at 4 (further explaining the CVAA’s mechanics). [↑](#footnote-ref-22)
22. 47 U.S.C. § 153(27). [↑](#footnote-ref-23)
23. *See* 47 C.F.R. § 14.10(m); *e.g.*, Comments of TDI, et al., CG Docket No. 10-213 at 6-7 (Feb. 12, 2012) (“*2012 ACS FNPRM Comments*”), <https://www.fcc.gov/ecfs/search/search-filings/filing/6016985604>; *2021 Omnibus Comments* at 12–14. [↑](#footnote-ref-24)
24. Accessibility Coalition Comments at 3. [↑](#footnote-ref-25)
25. *Id.* at 3–13; ACB Comments at 2–3; AFB Comments at 2. [↑](#footnote-ref-26)
26. ACB Comments at 2–3. [↑](#footnote-ref-27)
27. AFB Comments at 2. [↑](#footnote-ref-28)
28. Accessibility Coalition Comments at 4–9; *see also* ACB Comments at 2–3; AFB Comments at 2. [↑](#footnote-ref-29)
29. Accessibility Coalition Comments at 4–5 (internal citations omitted). [↑](#footnote-ref-30)
30. *Id.* at 6–9. CTA briefly gestures at this argument without citation or further explanation. *See* CTA Comments at 10 (“The FCC should take this opportunity to give effect to Congress’s inclusion of the term ‘interoperable,’ which was added during the legislative process, even though other portions of the statutory definition were unchanged). CTA’s cursory parroting of the *2011 ACS NPRM*’s argumentis unavailing for the same reasons that the *NPRM*’s is. *See* Accessibility Coalition Comments at 6-9. [↑](#footnote-ref-31)
31. CTIA Comments at 2, 9; CTA Comments at 10. [↑](#footnote-ref-32)
32. *See* Accessibility Coalition Comments at 5–6. [↑](#footnote-ref-33)
33. *See* Accessibility Coalition Comments at 4–9. [↑](#footnote-ref-34)
34. CTA Comments at 10. [↑](#footnote-ref-35)
35. Accessibility Coalition Comments at 9–13. CTIA objects to incorporating the CVAA’s definition, but its concern seems primarily focused on giving meaning to the term “interoperable,” both as a general matter of statutory interpretation and to avoid an interpretation that would *require* video conferencing services to interoperate with each other, and does not seem to suggest that there is a substantial difference between the specific services it believes would be covered by the statutory definition and its proposed definition, discussed *infra* part III. *See* CTIA Comments at 2, 12. [↑](#footnote-ref-36)
36. AFB Comments at 2. [↑](#footnote-ref-37)
37. ACB Comments at 3. [↑](#footnote-ref-38)
38. Accessibility Coalition Comments at 13. [↑](#footnote-ref-39)
39. *2022 IVCS PN* at 2–3. [↑](#footnote-ref-40)
40. CTIA Comments at 3, 10–11. [↑](#footnote-ref-41)
41. *2011 ACS* NPRM, 26 FCC Rcd. at 3151, ¶ 45; *2011 ACS FNPRM*, 26 FCC Rcd. at 14,684–05, ¶ 301). [↑](#footnote-ref-42)
42. CTIA Comments at 10. [↑](#footnote-ref-43)
43. *See* Accessibility Coalition Comments at 15–16. [↑](#footnote-ref-44)
44. *Id.* at 15. *See generally id.* at 9–13. CTA also briefly appears to endorse this notion of “interoperability,” CTA Comments at 12 & n.37 (lauding the example of a service that is available ‘regardless of desktop operating system,’ browser, mobile device, or virtual desktop infrastructure) (citation omitted), though as discussed *infra*, it is not clear how it squares this point with its own proposed definition or commentary thereon. [↑](#footnote-ref-45)
45. The first definition is unworkable, not least because the Commission has said it would “undermine the statute’s intent” and “exclude virtually all existing video conferencing services and equipment.” Accessibility Coalition Comments at 17 (quoting *2011 ACS* NPRM, 26 FCC Rcd. at 3151, ¶ 45; *2011 ACS FNPRM*, 26 FCC Rcd. at 14,684–05, ¶ 301). [↑](#footnote-ref-46)
46. ACB Comments at 2–3. [↑](#footnote-ref-47)
47. *See 2011 ACS* NPRM, 26 FCC Rcd. at 3151, ¶ 45; *2011 ACS FNPRM*, 26 FCC Rcd. at 14,684–05, ¶ 301. [↑](#footnote-ref-48)
48. CTIA Comments at 11; *accord* Accessibility Coalition Comments at 18–19. CTA argues that “standards have become more widespread over time, allowing for the interoperability of video conferencing services among different platforms, networks and providers without special effort or modification by the end user.” CTA Commentsat 12. But as our comments explain, we are aware of no widely used video conferencing service that has been developed since the *2011* *FNPRM* whose provider publishes and adheres to a set of common standards that allow its interoperation with other services, Accessibility Coalition Comments at 18–19. It is also not clear how CTA’s commentary on standards is intended to square with its proposed definition. See discussion *infra*. [↑](#footnote-ref-49)
49. CTA Comments at 11. [↑](#footnote-ref-50)
50. *Id.* [↑](#footnote-ref-51)
51. *Id.* at 13 (emphasis added). [↑](#footnote-ref-52)
52. As an example of what might be covered, CTA cites to the ability of some services’ dedicated enterprise hardware to be used with other services, but this appears to contradict own belief, appearing several sentences later, that its definition would exclude “certain enterprise video conferencing equipment that may support connections with other manufacturers’ equipment.” *Compare* CTA Comments at 12 & n.37 *with* CTA Comments at 13. [↑](#footnote-ref-53)
53. *See 2011 ACS* NPRM, 26 FCC Rcd. at 3151, ¶ 45; *2011 ACS FNPRM*, 26 FCC Rcd. at 14,684–05, ¶ 301. [↑](#footnote-ref-54)
54. *See* ACB Comments at 2. [↑](#footnote-ref-55)
55. Accessibility Coalition Comments at 14–15. [↑](#footnote-ref-56)
56. CTIA also argues that “[t]he Commission should also affirm its holding that the CVAA and ACS rules apply *only* to those functionalities and services that meet one of the categories of ACS.” CTIA Comments at 3 (emphasis original). From the other direction, ACB arrives at a similar point, noting that it is critical for IVCS to be covered when it is included as a part of a broader, multifaceted service offering such as a patient management system, a social media platform, a learning management system, or a connected fitness system. ACB Comments at 2–3. As a threshold matter, the Commission has made clear that ACS components of a larger system that includes non-ACS components are subject to the rules. *See, e.g.*, *2011 ACS Order*, 26 FCC Rcd. at 14,575–76, ¶ 43 (concluding, based on the CVAA’s Senate and House Reports, that even if messages posted on social networking websites are excluded from the CVAA’s ACS coverage, to the extent that two way interactive services “are provided through a social networking or related site, they are subject to Sections 716 and 717 of the Act”); *Implementation of Sections 716 and 717,* Order,27 FCC Rcd. 12970, 12987–88, ¶ 36 (2012) (rejecting the proposition that “online communication that occurs through gaming systems and services should be excluded from the coverage of section 716,” and concluding instead that “the denial of communications access during gaming—even if it is communication designed to better one’s participation in the task created by the game, by conferring and strategizing with others—is included within the kinds of barriers that Congress intended to address in the CVAA”). *See generally 2021 Omnibus Comments*. Comments of TDI, et al., GN Docket No. 21-140 at 8–12 (June 7, 2021), <https://www.fcc.gov/ecfs/search/search-filings/filing/106082300102808> (discussing the Commission’s treatment of components of multimodal services in further detail). The Commission should affirm that IVCS will be covered by its accessibility, usability, and compatibility rules even if such services are integrated into other service or product offerings, such as those identified by ACB. Relatedly, the Commission should take care to avoid drawing jurisdictional lines so sharply or in such a siloed fashion that it discourages providers of ACS, including of services and equipment with IVCS components, from making non-ACS features of their services accessible and usable. Beyond these threshold points, the complex issues set of issues surrounding multimodal services, including services with discrete and interwoven non-ACS components and the possibility that the Commission might exercise plenary or ancillary jurisdiction over them, goes beyond the scope of this proceeding. [↑](#footnote-ref-57)
57. Accessibility Coalition Comments at 20. [↑](#footnote-ref-58)
58. 2021 Omnibus Comments at 14–15 (detailing the application of the ACS rules to modern multimodal services). [↑](#footnote-ref-59)
59. CTIA Comments at 3–4, 14–15. [↑](#footnote-ref-60)
60. 47 U.S.C. § 617(e)(1)(D) (“The Commission shall . . . not mandate technical standards, except that the Commission may adopt technical standards as a safe harbor for such compliance if necessary to facilitate the manufacturers’ and service providers’ compliance with sections  (a) through (c).”). [↑](#footnote-ref-61)
61. *See* 47 U.S.C. § 617(e)(1)(A). [↑](#footnote-ref-62)
62. 26 FCC Rcd. at 3172–73, ¶ 105 & n.304 (citing Comments of CTIA at 8 (Dec. 7, 2010), <https://www.fcc.gov/ecfs/search/search-filings/filing/6016063189> (“With regard to the performance objectives and prospective guidelines, there was strong consensus among manufacturers, providers and the accessibility community that the Commission should focus on the general outcome to be achieved,” subject to the caveat that the Commission should “refrain from dictating any particular technology or standard for how to achieve that outcome.”)). [↑](#footnote-ref-63)
63. *See* 47 C.F.R. § 14.21(b)(1)(i), (iv), (ix). [↑](#footnote-ref-64)
64. *See* 47 C.F.R. § 14.21(b)(2)(vii), (viii), (ix), (3).. [↑](#footnote-ref-65)
65. *See Recommendation of the FCC Disability Advisory Committee on TRS Use on Video Conferencing Platforms* at 5–6 (Feb. 4, 2022) (“*TRS–Video Conferencing Report*”), <https://www.fcc.gov/file/22912/download>. [↑](#footnote-ref-66)
66. *See* Accessibility Coalition Comments at 19; ACB Comments at 3 (“An initial step that the Commission could take is to implement the Commission’s Disability Advisory Committee’s consensus recommendations on ensuring that Telecommunications Relay Services are compatible with IVCS.”). We also endorse ACB’s suggestion that “the Commission should encourage the creation and adoption of industry standards to ensure that hardware and software necessary for IVCS are accessible, useable and compatible for people who are blind, low vision, and Deafblind,” and that IVCS be accessible to DeafBlind users of equipment distributed via the National Deaf-Blind Equipment Distribution Program. *See* ACB Comments at 3. In addition, we agree with ClearCaptions that important technical improvements are necessary to facilitate the interconnection of IVCS to Internet Protocol Captioned Telephone Service (IP CTS), while at the same time agree that in certain situations, automatic speech recognition (ASR) systems used for IP CTS or other captioning purposes lack sufficient quality to meet the requirement of functional equivalance under Title IV of the Americans with Disabilities Act. *See* ClearCaptions Comments at 2–4, 8–9. Finally, we agree that high-quality IP CTS services—and other relay services, including VRS—provided in conjunction with video conferencing systems should be compensable via the Interstate Telecommunications Relay Service (TRS) Fund. *See* ClearCaptions Comments at 4–8. [↑](#footnote-ref-67)
67. PPI Comments at 4. Many of the Accessibility Advocacy and Research Organizations have been outspoken on the importance of carceral communications justice, which disproportionately harms incarcerated people with disabilities. *E.g.*, Ex Parte of HEARD, TDI, et al., Docket No. 12-375 (June 15, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/1061575462475>. Against this backdrop, we note with concern PPI’s account of an inmate calling service (ICS) invoking the CVAA to preempt states from imposing rate regulation on ICS video calling. *See* PPI Comments at 3–4. PPI’s proposal that the Commission define IVCS as a telecommunications service under Title II of the Communications Act of 1934, PPI Comments at 4 (citing 47 U.S.C. § 153(53)), raises a number of complex issues beyond the scope of this proceeding, including the fact that the accessibility, usability, and compatibility of telecommunications services is governed under Section 255 of the 1934 Act, 47 U.S.C. § 255(c), while ACS (including IVCS) are separately governed under Section 716 of the Communications Act (as added by the CVAA), 47 U.S.C. § 617(a)–(b). *See generally 2011 ACS Order*, 26 FCC Rcd. at 14,570–14,573, ¶¶ 30–39 (describing the Commission’s framework for handling some of the complex overlap between Section 255 and Section 716). While those issues are better left for another day, in the meantime we support PPI’s alternative proposal for the Commission to simply clarify that the CVAA’s coverage of IVCS under the ACS accessibility and usability requirements in no way preempts state regulation of ICS video calling rates. *See* PPI Comments at 4. Though we are not familiar with the complex proceedings before the California Public Utilities Commission cited by PPI, we agree with PPI that an argument that “the CVAA preempts states from regulating ICS video calling” would represent a “perplexing assertion that finds no support in the text of the CVAA or the Commission’s rules,” *see* PPI Comments at 3, and we would support the Commission issuing a brief statement to that effect. [↑](#footnote-ref-68)