

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.