WRITTEN TESTIMONY OF LISE HAMLIN

ON BEHALF OF THE

HEARING LOSS ASSOCIATION OF AMERICA
AND THE
COALITION OF ORGANIZATIONS FOR ACCESSIBLE TECHNOLOGY

Subcommittee on Communications, Technology, and the Internet
Committee on Energy and Commerce
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Hearing on H.R. 3101,
The Twenty-first Century Communications and Video Accessibility Act of 2009

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Introduction

Good afternoon, Chairman Boucher, Ranking Member Stearns, and members of the Subcommittee on Communications, Technology, and the Internet. My name is Lise Hamlin and I am honored to have this opportunity to speak to you about the Twenty-first Century Communications and Video Accessibility Act of 2009 (H.R. 3101).

I am the Director of Public Policy for the Hearing Loss Association of American (HLAA). HLAA is the nation's leading organization representing people with hearing loss. Our advocacy efforts impact communication access, public policy, research, public awareness, and service delivery related to hearing loss. We also raise public awareness about hearing loss prevention, and provide assistance to individuals and their families to learn how to adjust to living with hearing loss. Our national support network includes an office in the Washington D.C. area, 14 state organizations, and 200 local chapters.

I am privileged to present this testimony on behalf of the HLAA and the Coalition of Organizations for Accessible Technology (COAT), which was founded in 2007. COAT is a

coalition of over 300 national, state, and community-based organizations dedicated to making sure that as our nation migrates from legacy telecommunications to more versatile and innovative digital communication technologies, people with disabilities will not be left behind.[1] This coalition's rapid growth and attraction to organizations across the country demonstrates the urgency of the issues being discussed at this hearing. COAT works on behalf of over 36 million individuals who are deaf or hard of hearing, more than 25 million individuals who are blind or who have vision loss, over 70,000 persons who are both deaf and blind, and millions of individuals with other disabilities who need accessible communications. HLAA and many HLAA chapters are COAT affiliates.

I would like to thank the Committee for providing communication access at this hearing in the form of CART (Communication Access Realtime Translation), ASL interpreters and assistive listening devices. These accommodations allow me, and others who are deaf or hard of hearing have full access to this hearing.

People who are deaf or hard of hearing cannot be approached with a "one size fits all" even when it comes to technology. People who age into hearing loss rely heavily on technology. As an individual's hearing changes and as technology changes, they need different accommodations. A person with a milder loss may make do with a simple volume control on their phones. As her hearing loss becomes worse, she may need a telecoil added to directly couple to the phone. When she is unable to hear well enough to make out most of what is said, she may rely on captioned telephones. At each stage, the person who has grown up using her hearing and her voice will seek to use what technology is available to augment her residual hearing. Providing these different kinds of access has proved time and again that it keeps people

[1] Information about COAT and a list of COAT affiliates is available at http://www.coataccess.org.

fully engaged in the life of their community at work and at home. If people no longer have access to technology as it pushes forward into the Internet age, we will clearly be left behind.

I rely on CART because I have a significant hearing loss. When I was 28 years old, I literally woke up one morning with a severe hearing loss. The first thing I purchased was a volume control handset for my phone. The second device I purchased was a closed captioned decoder. I still remember how I felt when I was able to use the phone again, and when I plugged that decoder in and could enjoy television with my family again. These two devices allowed me to feel that I was no longer shut off from the world I once new.

As wonderful as those devices were, that closed captioned decoder and even the clunky phone with the telecoil and volume control would not work at all with technology we use today. H.R. 3101 will ensure that anyone who is hard of hearing or deaf will have access to the Internet we have all come to depend upon.

Background

During the 1980s and 1990s, Congress took major steps to improve telecommunications access for people with disabilities. In fact, as you know, this Subcommittee was responsible for helping to pass several pieces of legislation requiring hearing aid compatibility, closed captioning, and access to telecommunications services and equipment. Nowadays, advanced communications technologies are changing even more the way our society stays in touch and does business. Now there are all kinds of new opportunities to communicate with anyone, anywhere, at any time. But many of these technologies and opportunities are not accessible to people with disabilities.

Today – nearly 20 years after the Americans with Disabilities Act (ADA) became law – it is important to ensure that millions of Americans who are deaf, hard of hearing, late-deafened,

deaf-blind, blind, or who have low vision have access to communication. Communication access enables equal opportunity to education, employment, and participation in the fullness of American civic life and society.

Technological advancements – from hearing aid compatible telephones, to text-based communications and relay services, and now video-based and captioned relay services and equipment – have enabled greater independence and greater freedom than we have ever known. Wireless pagers, e-mail, and text messaging have also enabled us to be more independent and self-reliant.

But many newer technologies, especially advanced communications technologies that use the Internet, are no longer covered by the federal accessibility laws. What this means is that millions of Americans who, like me, are hard of hearing, or who are deaf, may not be able to use these new technologies. That is why I am here today: to ask you to enact the Twenty-first Century Communications and Video Accessibility Act (H.R. 3101).

H.R. 3101 is a consensus bill – supported by COAT and key communications and video programming providers: AT&T, Verizon, US Telecom, and Windstream. H.R. 3101 will ensure that all Americans have access to advanced communications to maintain and increase their independence and productivity.

We all know that technology companies design their products and services for certain markets – generally young and able-bodied Americans with disposable income and a willingness to try and adopt new technologies. But often these products or services are not built for people who have difficulty hearing or seeing or both. Why don't companies include access when they develop services and products for the general public? I believe there are several reasons. Some may simply be unaware of the needs of people with disabilities. Other companies don't want to

use their resources to create accessible products if their competitors aren't doing the same thing. It is obvious from the dearth of accessible products and services that market pressures are insufficient to influence companies to design accessible products – especially when companies believe their money is better spent on trendy electronic features that appeal to a wider market. Accessibility, however, should not be subjected to a popularity contest.

This is why we are here today. When Congress directs all companies to make new Internet-based and digital innovations used for communication accessible, all companies will be affected equally and no one company will have an advantage over another. Even more importantly, accessibility requires and spurs innovation and makes products and services more useful to people without disabilities. When companies ensure that accessibility features are built into products, while they are being developed, the costs of including these features is a small fraction of the overall costs of producing these products. When these companies wait until later, after their products are already on the market, retrofitting costs a lot more and the resulting access is not as effective. These are the principles of universal design contained in Section 255 of the 1996 amendments to the Communications Act. They are the principles behind H.R. 3101.

People with disabilities do not want to and cannot afford to be relegated to obsolete technologies; to only high-end, high-tech, high-cost equipment; or to specialized equipment that is often hard to find and more expensive. They want and need an equal opportunity to benefit from the full range of advanced communication products and services available to and used by their family, friends, and colleagues at home, at work, or on the road. H.R. 3101 will help to accomplish these goals.

Not only will H.R. 3101 direct accessibility for Internet-enabled and digital communication technologies, it will also require the creation of a clearinghouse of information

on accessible advanced communication products and services. This clearinghouse, along with greater outreach and education by the Federal Communications Commission (FCC) will help educate consumers about accessibility and how to find products and services that they can use.

We believe that H.R. 3101 will achieve the greatest possible increase in communications access. We support its definition of covered advanced communications to include non-interconnected as well as interconnected VoIP, video conferencing, and electronic messaging (to ensure access to SMS text messaging, electronic mail, and instant messaging); adoption of the well-established and appropriate undue burden compliance standard for prospective obligations; extending relay service obligations to non-interconnected VoIP providers; and timely action by the delegated authority. These provisions will benefit the deaf and hard of hearing community and our friends who are blind or have low vision for whom these provisions are so vital to ensure truly equal access.

We are also pleased that H.R. 3101 includes provisions that require caption decoder circuitry or display capability in all video programming devices; extends closed captioning obligations to video programming distributed over the Internet; and requires easy access to closed captions via remote control and on-screen menus. H.R. 3101 will also require easy access to television controls and on-screen menus by people who are blind; restore video description rules; and require access to televised emergency information for people who are blind or have low vision.

Hearing Aid Compatibility

It took decades for us to achieve hearing aid compatibility for telephones. The Hearing Aid Compatibility Act (HAC) of 1988 required all wireline telephones to be HAC after August 1989. Cell phones were excluded from the HAC requirements. As far back as 1994, people with

hearing loss understood that being part of the future meant having access to those cell phones. It took many more years of consumers working with the FCC and industry. Finally, in 2001, an agreement was reached though intense consumer-industry negotiation that was adopted by the FCC. However, unlike all wireline phones, only a percentage of cell phones are required to be HAC. In addition, some new smart phones entering the marketplace are not HAC, and their coverage under this law has come under question. This highlights the need for a comprehensive legislation that includes a clearinghouse of accessibility information for consumers.

Now that phone use also means connecting to the Internet, an important provision in the bill will ensure that millions of people who use hearing aids, cochlear implants, and other assistive hearing devices, will be able to use these devices with telephones that connect via the Internet. With Baby Boomers starting to have hearing difficulties, we simply cannot go forward without ensuring that Internet-enabled phones are also hearing aid compatible.

Relay Services

When nationwide relay services were established 20 years ago, the only service available connected TTY users to telephone users. Today, I use a captioned telephone at home and at work. I do have friends and colleagues who communicate in American Sign Language and use video conferencing equipment. To call these people, we need to use both a captioned telephone relay service and a video relay service. An important provision to me in H.R. 3101 is that it will allow users of one type of relay service, such as a captioned telephone service, to call a user of another form of relay service, such as a video relay service. The FCC has been interpreting the Communications Act to mean that relay services can only be used to provide telephone services between a person with a hearing or speech disability and a person without a disability. The result has been that people with speech and hearing disabilities who use different technologies,

equipment, and relay services have not been able to call each other. This surely could not have been Congress's intent in 1990 when it directed the creation of a nationwide system of telecommunications relay services to integrate people with hearing and speech disabilities into the public telecommunications network!

Real-Time Text

One of the most important things that H.R. 3101 does is that it guarantees deaf and hard of hearing people who rely on text to communicate (rather than or in addition to voice) the ability to continue having conversations in real-time as communications move to digital and Internet-based technologies. In 1990, when the ADA was passed, deaf and hard of hearing people were limited to using TTYs to communicate over the telephone network. TTYs use very old ("Baudot") technology. These devices are also very slow (transmitting a maximum of 60 words per minute), work only in one direction at a time (you have to wait until one party finishes typing before you can respond), and generally are not reliable over Internet networks. Their many drawbacks led many people who are deaf or hard of hearing to use text messaging and instant messaging as their principal means of text communication. These newer methods of text communication, however, do not transmit letters as they are typed (as TTYs did). Instead, individuals type and then send text in bursts of phrases, lines, or sentence-by-sentence, rather than sending each character as it is typed.

For millions of people who are deaf or hard of hearing, particularly people who do not communicate in American Sign Language, communicating by text is functionally equivalent to communicating by voice. Just like there are times when hearing people need to have a conversation in real-time (as compared to sending text messages on cell phones or instant messages over a computer), there are times that people who cannot hear need to have their

message received as it is being sent. For example, in emergencies it is very important to be able to convey and receive every piece of information as quickly as possible and at the exact time that it is happening.[2] To illustrate this point, receiving every character of a message as it is typed (such as I_a-m_h-a-v-i-n-g_a_h-e-a-r-t_a-t-t-) can provide critical information if the sender becomes unable to complete or send the full message. H.R. 3101 will ensure that there is a uniform and reliable real-time text standard so that people who are deaf, hard of hearing or who have a speech disability can communicate in a manner that is more functionally equivalent to communication between people who can use their voices.

Universal Service

In addition to using text-messaging through hand-held devices, a great number of deaf and hard of hearing people now use Internet-based forms of relay services, and in particular Internet Protocol text and captioned telephone services, and video relay services. The reason is simple: these forms of relay service offer far more effective ways to communicate than traditional TTY relay services. Internet-based text and captioned telephone relay services allow the transmission of text at much faster speeds than TTYs, and enables conversations to travel simultaneously in both directions. Video relay service enables individuals who use American Sign Language to have conversations that flow more naturally and quickly between the parties. These relay services achieve a telephone experience that more closely parallels the experience of people without hearing disabilities. Approximately one million deaf individuals who sign can

[2]AOL began offering real time text communication in 2008. Their press release explained: "The new real-time IM feature within AIM enhances instant message conversations by enabling users to see each letter that a buddy types rather than waiting for a friend to press the send button to view and read a message. This enables deaf users to respond and react to words as they are typed just as hearing people would do as words are spoken in a voice conversation." AOL Press Release, "AOL Launches Real-Time Instant Messaging Targeted to Deaf and Hard of Hearing Users" (January 15, 2008)

benefit from video relay service as well as from being able to have video conversations with other people who sign. In addition, millions more people who are hard of hearing will be able to benefit from Internet based video conference connections when such conferencing is captioned, so that people can use their residual hearing to get what they can from the audio, rely on the captioning for words they missed, and see all that is captured on the video. Likewise, more than 2.5 million people whose speech is difficult to understand may benefit from video communication because their gestures and facial expressions can be seen by the parties to the call.

Unfortunately, many of these individuals cannot afford to pay for the high speed broadband Internet service that is needed to support Internet-based text, captioned, or video communication. Some of these individuals meet the income criteria to be eligible for Lifeline/Link-Up phone service subsidies, but they cannot use these discounts toward the cost of broadband services. Because the Lifeline and Link-Up programs are tied to telephone network-based services, these programs offer no financial assistance for low income individuals with disabilities who want to replace their TTYs with improved, Internet-based forms of communication. Under H.R. 3101, individuals with disabilities who need the Internet to communicate over distances would be able to choose whether to use their Lifeline or Link-Up subsidies for telephone network-based services or high speed broadband services.

A second universal service provision addressed by H.R. 3101 will greatly impact people who are both deaf and blind. Although the universal service provisions enacted by Congress in 1996 were designed to make sure that everyone in America has access to telephone services, one group of Americans – deaf-blind Americans – continue to be denied this promise. Although a few states have programs that distribute specialized customer premises telephone equipment, the vast majority of these programs do not provide telecommunications equipment that is accessible

to deaf-blind people. One reason is that typically this equipment (such as communication devices with refreshable Braille key pads) costs thousands of dollars per unit. The result is that of all people with disabilities, deaf-blind individuals are the least able to access current telecommunications systems.

It is for this reason that we are asking for a very small portion of the Universal Service Fund (USF) – $10 million annually – to be set aside each year to fund the distribution of specialized telecommunications devices needed by approximately 100,000 Americans who are deaf-blind. The small size of this targeted amount will not be overly burdensome for the USF, but will make a huge difference in the lives of people who are deaf-blind, the most underserved population in telecommunications history.

Conclusion

Mr. Chairman, this concludes my testimony. We call upon Congress to ensure that people with disabilities – including the rapidly growing population of senior citizens who experience hearing loss with increasing frequency and our returning veterans with hearing loss – are not left behind as communication technologies move to new digital and Internet technologies. Thank you for this opportunity today. I hope my testimony has given you more insight into why H.R. 3101 is important for people who are deaf and hard of hearing.