



NCTI 2010 Technology Innovators Conference

Tuesday Keynote Address

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Larry Goldberg, Director of [Media Access, WGBH](#) (Discussant)

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Summary: The latest policies that are having a direct impact on disability access and technology, specifically the 21st Century Act that Obama signed into law on October 8, 2010, were discussed.

Discussion

Larry Goldberg

- A couple of years ago “change” occurred here in Washington with the election of Obama. But what were we thinking? Has anything really changed? Karen [Peltz Strauss] is not one of those people who promises change and doesn’t deliver. Karen is a visionary because she has changed the face of telecommunications law. And, she is a utopian. I’ve known Karen for many years and there are many things I can tell you about her. She is deputy bureau chief at the FCC and the FCC’s chief disability policy advisor. Karen knows justice and she knows what the right thing is and then she does it. She believes in the better angels of our nature, but also realizes that sometimes they need incentives. They sometimes need the carrot or the stick. The evidence of Karen’s effectiveness to equal justice under the law can be seen in the Hearing Aid Compatibility Act and the Telecommunications Act of 1986. These laws had tangible effects on the lives of people with disabilities. Karen was the chief architect of a new law, the 21st Century Act, which will surpass all others in terms of effect. She negotiated and lobbied and gained wide consensus for this law. Now Karen and her team are responsible for implementing this law and for helping all of us turn the law that was signed into practice.
- Now, back to the political. Following the recent election, it has been said that America sent a message to Washington and there are messages that Washington sends to the American people. Karen believes that these messages have not been sent or received unless they are done so in a way that they are accessible to everyone. Let’s listen to and think about how we can help Karen and the FCC bring accessibility to everyone.

Karen

- 21st Century Act—I’ll begin with the framework for the legislation and then go from there. I’m going to take you back. Envision a master bedroom that served



as the main office, another bedroom that contained the shipping department and files that were being stored on the kitchen table. This group's newsletters came out once in a while. This was the nation's leading deaf advocacy group in the 1960s. It all began when they put together a network of volunteers who refurbished telecommunications systems and distributed them to deaf people in the nation. But, eventually this small organization became the hotbed for technology innovations for people with disabilities for the next 30 years.

- [Karen recounts a story about a family with a deaf mother who is extremely limited in her ability to communicate with others due to a lack of technology and a lack of accessible communication systems.]

TTYs made their appearance in America during this time. People delighted to see the TTYs even though they were huge and cumbersome. They were in deplorable condition, but they were all they had. I used to have to communicate with clients with one of these machines. We're talking about the 1980s. We really didn't use faxes very much, no email, no paging. I had to contact someone by letter or TTY, which by the way I had to share with others. But, just to have any telephone access was so much more than what deaf people had had or had dreamed about in the past that they were very desirable.

But the early years were very tough. There was not much information about the deaf community. The nation's only telephone company didn't know how to treat the deaf population. There was no operator assistance, no information or business office assistance for TTYs, and the cost of long distance calls using the TTY was much more expensive because it took so long to type on them. It took many years to rectify these disparities.

- In the 1980s and '90s a movement started growing to develop telecommunications relay services. This led the way for Congress to adopt a series of laws. One of the things that helped this was that deaf people could communicate with each other and push things forward, but it was an uphill battle. States reduced TTY rates, but did so for bizarre reasons. For example, their rationale was that deaf people were likely to limit their uses to calls of necessity and would not for convenience.

There was a major proceeding in the FCC in the 1970s to expand access through telecommunications. The phone company came back and said that deaf people only had limited communication with hearing people and that this was not due to accessibility. Also, TVs were not accessible which caused a huge cultural gap. I had one deaf client come to me very upset that some of her test results came back negative because she didn't realize that negative was good.

Starting in the 1980s, relay services were established, but they were seriously underfunded, which limited their use. Callers were restricted in hours of operation and length of calls.



- In the '70s and '80s—more in the '80s—closed captioning began, but CBS was a hold out. They didn't want to adopt it. When Sears decided to caption all of its commercials, CBS said that they would strip all captions. But, CBS is now very strong in this area.

There were those in the movie industry who said that lyrics were subordinate to the actual music to get out of captioning. They argued that the lyrics may be objectionable and offensive when seen in text, although fine when heard.

- Many acts passed in the 1990s. Larry [Goldberg] has been wonderful at the National Center for Accessible Media. None of this would have happened without them. Their support has been completely invaluable. All of these laws relied on this notion of universal service. Universal service has since taken on a different meaning and refers more toward rural communities, but it essentially means that everyone in America should have access. Competition works in a lot of areas, but not with people with disabilities. The groups of people with disabilities are divided up into different disabilities and each in itself not a powerful enough source to push anything through. These laws recognize this. They also recognize the pervasiveness of communication in everything—the marketplace, jobs, education, etc.
- It was very interesting what happened after the laws passed. In the early part of the 21st century, I attended a talk at Gallaudet University. The FCC was being honored for improving telecommunications access. While the presenter gave his speech, I noticed that no one was listening to him. I was upset that the students were not mesmerized by his remarks. Didn't they recognize the struggles that had occurred to get to where we are today? I realized that they had already grown up with all of these technologies—they had closed captioning, relay services, etc. Not only had they not been denied basic access, but they even had choices. So, the speech didn't make much sense to them, they didn't see the significance.

But things are starting to change and the gains made in the earlier part of the century are being challenged as new technologies develop. We have to start all over again. Closed captions are not required on the Internet. The Decoder Act requires screens with 13 inches or larger to have closed captioning, but not smaller screen TVs. But now what do we have? iPhones, iPads, etc. All of these can also receive TV programming and they don't have to provide captions. The laws requiring telephone accessibility do not apply to advanced Internet technology and so access is threatened. Access has come and gone. The Hearing Aid Compatibility Act focused on wire line phones, and there was no law in place for digital phones. So after wireless phones were invented, about 10 years went by before they were included and the deaf community could benefit from this new technology.



Also, graphical interfaces on computers have created barriers for screen readers. More recently, there have been problems with captioning in digital TVs. To make sure this didn't happen, in 2007 I created the Coalition for Persons with Disabilities that would ensure continued access to people with disabilities. We knew that diverse innovations would bring promised gains to persons with disabilities if there were features built in for such persons. But history told us this wasn't going to happen on its own. We went to Congress and got a law on the books. There was huge support by organizations for this law.

- It took about three years to get the law passed and now on Oct 8, 2010, Obama signed the 21st Century Act. I just set the stage, so what does the law say? There are two titles to the law:
 1. Communications access
 2. Video programming access

Communications access expands current access to telecommunications equipment and products. It expands to emerging technologies. It includes interconnected voiceover calls and noninterconnected voiceover calls. Noninterconnected voiceover calls are more like Skype. Many of the FCC's disability laws already apply to interconnected voiceover calls. The law also covers e-messaging for the first time and videoconferencing. There are a lot of changes in the enforcement section of the law. There have been problems in past with compliance or implementation. This law beefs up the complaints process. There are significant obligations on the FCC to respond to complaints and report back to Congress. A five-year report has to be put together by the Comptroller General on the FCC as well.

The law extends the Hearing Aid Compatibility mandates and requires access to web browsers. Also, people who are blind and use cell phones—there must be features on mobile devices so that blind people are able to ramp on to Internet services. Although the actual web content is not covered, except with captioning. It updates the definition of teleconference relay services. For sign language relay services, there are caption telephone relay services, and a speech-to-speech version of relay services. Over time because there were different relay services, it was difficult to talk to people using relay services that were different. This law expands this so you can use different kinds of relay services to communicate. It also incorporates the deaf-blind population into the relay services and communication context. Also it will require a study, and ultimately rules, on requiring reliable and operable access to 911—911 will move to a text and video service and need to make sure it meets the needs of people with disabilities. However, all of this requires outreach in all of the above provisions so people know the provisions.

The video programming section restores video description rules. WGBH was instrumental in pushing this. These are the narratives in video programming



when there is no audio. For example, it explains to a blind person what is happening when there is action on screen, but no audio. It also says that programs that are already captioned on TV have to be captioned when they go on the Internet. It doesn't cover user-generated videos—like YouTube. It requires audio output from the TV or an adjunct device attached for blind people to access TV controls. We are currently gathering together anecdotes for how the law will change people's lives for our upcoming presentation on how the law will be implemented.

The law also expands the types of devices that have to display closed captions. There is no minimum screen size anymore. The iPod and iPhone have to have captions, for example. It also requires emergency programming shown on television to be accessible to the blind.

It tightens the deadlines for the commission to respond to closed captioning complaints.

- We have to develop two advisory committees and we are in the process of putting these together. We're going to be announcing our implementation plan for this act. We've gotten a quick start. We have a notice out on the Hearing Aid Compatibility Act; we have put out two public notices for the advisory committee. We are selecting members. We also put out a notice to get initial information on advanced services.

Discussion and Q&A

Comment (Larry Goldberg, Discussant): To add on to what Karen said earlier, the Redskins were arguing that they did not want to show captions on the big screen because they were worried about obscene words of songs like Soldier Boy being on the screen, but then why play the song at all? Also, the four commercial networks will have to start doing video description, and when those programs show up on the web, they will have to use video description.

- **Karen Peltz Strauss:** It's a lot of one step forward, two steps back...I don't know what will be happening in the next few years, but I think there will be other laws that will be passed. There are some gaps in the law.

Question: Do you see a different need for students with cochlear implants?

- **Karen Peltz Strauss:** Most of the rules we'll be developing will apply equally. We want to make sure there are not technical issues with cochlear implants.

Question: Can you comment on mobile video phones and on the universal access tax?

- **Karen Peltz Strauss:** Mobile phones and mobile video phones are covered. They have to provide captions under the law. I mentioned video relay services. If I'm a deaf person and use sign language I can log on to a video relay service to connect with an interpreter and the interpreter speaks what I sign and vice versa. Relay services have come under some difficulties in recent years. We have a



major effort for video relay service reform—this is occurring outside of the law. What's happened is that now we're in a new generation with mainstream devices. There are now a lot of different devices that are video communication that are mainstream. We are looking at how to possibly migrate people from these specialized phones to more modern phones. But the bill does not currently address this.

As for the universal service tax, it's not really a tax, but a fund all subscribers give to to cover costs of relay services. Now, all providers must also contribute to that fund.

Question: Does it cover Spanish networks?

- **Larry Goldberg:** No, these networks are not covered. And, no live programming like sports on ESPN. These are not covered.
- **Karen Peltz Strauss:** Spanish language captioning is nearly 100% for new programming.

Question: Does the bill look at any strategies or software that will allow users to caption their videos?

- **Karen Peltz Strauss:** No. The bill stays away from any real technical standards. We didn't want the bill to be specific in any regard. It's vague in terms of how the bill's requirements can be achieved.

Comment: Getting a video caption is very expensive, limiting the choices of using videos in the classroom. If there were a way to more easily capture video captions that would be helpful.

- **Larry Goldberg:** There is software that generates captions. In terms of price, whatever you use to create captions, it's up to the marketplace.

Question (Heidi Silver-Pacuilla, NCTI): Can you reflect, Larry and Karen, on what this all means for educational materials?

- **Karen Peltz Strauss:** Any time that you have a law that requires accessible technologies, it's going to spill over into the education field. Think about mobile web browsers—educational training via a mobile device. Making that training accessible is going to be important.
- **Larry Goldberg:** The Justice Department has rules on web accessibility and universities already have requirements for web accessibility. These laws already exist, so the law doesn't do much more in this regard.
- **Karen Peltz Strauss:** To the extent that any educational facility uses some mainstream programming, they will be impacted at least indirectly. They will see the effect more in terms of the interaction with the school with the program, and in accessing the programs than with accessing the actual materials.