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another COLEM to readminister the examination element.

(3) Cancel the commercial operator license(s) of any licensee who fails to appear for re-administration of an examination when directed by the FCC, or who fails any required element that is re-administered. In case of such cancellation, the person will be issued an operator license consistent with completed examination elements that have not been invalidated by not appearing for, or by failing, the examination upon re-administration.

[58 FR 9124, Feb. 19, 1993, as amended at 78 FR 23154, Apr. 18, 2013]

§ 13.211 Commercial radio operator license examination.

(a) Each session where an examination for a commercial radio operator license is administered must be managed by a COLEM or the FCC.

(b) Each examination for a commercial radio operator license must be administered as determined by the COLEM.

(c) The COLEM may limit the number of candidates at any examination.

(d) The COLEM may prohibit from the examination area items the COLEM determines could compromise the integrity of an examination or distract examinees.

(e) Within 3 business days of completion of the examination Element(s), the COLEM must provide the results of the examination to the examinee and the COLEM must issue a PPC to an examinee who scores a passing grade on an examination Element.

(f) A PPC is valid for 365 days from the date it is issued.

[58 FR 9124, Feb. 19, 1993, as amended at 78 FR 23154, Apr. 18, 2013]

§ 13.213 COLEM qualifications.

No entity may serve as a COLEM unless it has entered into a written agreement with the FCC. In order to be eligible to be a COLEM, the entity must:

(a) Agree to abide by the terms of the agreement;

(b) Be capable of serving as a COLEM;

(c) Agree to coordinate examinations for one or more types of commercial radio operator licenses and/or endorsements;

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(d) Agree to assure that, for any examination, every examinee eligible under these rules is registered without regard to race, sex, religion, national origin or membership (or lack thereof) in any organization;

(e) Agree to make any examination records available to the FCC, upon request.

(f) Agree not to administer an examination to an employee, relative, or relative of an employee.

§ 13.215 Question pools.

The question pool for each written examination element will be composed of questions acceptable to the FCC. Each question pool must contain at least five (5) times the number of questions required for a single examination. The FCC will issue public announcements detailing the questions in the pool for each element. COLEMs must use only currently-authorized (through public notice or other appropriate means) question pools when preparing a question set for a written examination element.

[73 FR 4479, Jan. 25, 2008]

§ 13.217 Records.

Each COLEM recovering fees from examinees must maintain records of expenses and revenues, frequency of examinations administered, and examination pass rates. Records must cover the period from January 1 to December 31 of the preceding year and must be submitted as directed by the Commission. Each COLEM must retain records for 3 years and the records must be made available to the FCC upon request.

[78 FR 23154, Apr. 18, 2013]

PART 14—ACCESS TO ADVANCED COMMUNICATIONS SERVICES AND EQUIPMENT BY PEOPLE WITH DISABILITIES

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AUTHORITY: 47 U.S.C. 151–154, 255, 303, 403, 503, 617, 618, 619 unless otherwise noted.

SOURCE: 76 FR 82389, Dec. 30, 2011, unless otherwise noted.

Subpart A—Scope

§ 14.1 Applicability.

Except as provided in §§ 14.2, 14.3, 14.4 and 14.5 of this chapter, the rules in this part apply to:

(a) Any manufacturer of equipment used for advanced communications services, including end user equipment, network equipment, and software, that such manufacturer offers for sale or otherwise distributes in interstate commerce;

(b) Any provider of advanced communications services that such provider offers in or affecting interstate commerce.

§ 14.2 Limitations.

(a) Except as provided in paragraph (b) of this section no person shall be

liable for a violation of the requirements of the rules in this part with respect to advanced communications services or equipment used to provide or access advanced communications services to the extent such person—

(1) Transmits, routes, or stores in intermediate or transient storage the communications made available through the provision of advanced communications services by a third party; or

(2) Provides an information location tool, such as a directory, index, reference, pointer, menu, guide, user interface, or hypertext link, through which an end user obtains access to such advanced communications services or equipment used to provide or access advanced communications services.

(b) The limitation on liability under paragraph (a) of this section shall not apply to any person who relies on third party applications, services, software, hardware, or equipment to comply with the requirements of the rules in this part with respect to advanced communications services or equipment used to provide or access advanced communications services.

(c) The requirements of this part shall not apply to any equipment or services, including interconnected VoIP service, that were subject to the requirements of Section 255 of the Act on October 7, 2010, which remain subject to Section 255 of the Act, as amended, and subject to the rules in parts 6 and 7 of this chapter, as amended.

§ 14.3 Exemption for Customized Equipment or Services.

(a) The rules in this part shall not apply to customized equipment or services that are not offered directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(b) A provider of advanced communications services or manufacturer of equipment used for advanced communications services may claim the exemption in paragraph (a) of this section as a defense in an enforcement proceeding pursuant to subpart D of this part, but is not otherwise required

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to seek such an affirmative determination from the Commission.

§ 14.4 Exemption for Small Entities.

(a) A provider of advanced communications services or a manufacturer of equipment used for advanced communications services to which this part applies is exempt from the obligations of this part if such provider or manufacturer, at the start of the design of a product or service:

(1) Qualifies as a business concern under 13 CFR 121.105; and

(2) Together with its affiliates, as determined by 13 CFR 121.103, meets the relevant small business size standard established in 13 CFR 121.201 for the primary industry in which it is engaged as determined by 13 CFR 121.107.

(b) A provider or manufacturer may claim this exemption as a defense in an enforcement proceeding pursuant to subpart D of this part, but is not otherwise required to seek such an affirmative determination from the Commission.

(c) This exemption will expire no later than October 8, 2013.

§ 14.5 Waivers—Multipurpose Services and Equipment.

(a) *Waiver.* (1) On its own motion or in response to a petition by a provider of advanced communications services, a manufacturer of equipment used for advanced communications services, or by any interested party, the Commission may waive the requirements of this part for any feature or function of equipment used to provide or access advanced communications services, or for any class of such equipment, for any provider of advanced communications services, or for any class of such services, that—

(i) Is capable of accessing an advanced communications service; and

(ii) Is designed for multiple purposes, but is designed primarily for purposes other than using advanced communications services.

(2) For any waiver petition under this section, the Commission will examine on a case-by-case basis—

(i) Whether the equipment or service is designed to be used for advanced communications purposes by the general public; and

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(ii) Whether and how the advanced communications functions or features are advertised, announced, or marketed.

(b) *Class Waiver.* For any petition for a waiver of more than one advanced communications service or one piece of equipment used for advanced communications services where the service or equipment share common defining characteristics, in addition to the requirements of §§14.5(a)(1) and (2), the Commission will examine the similarity of the service or equipment subject to the petition and the similarity of the advanced communications features or functions of such services or equipment.

(c) *Duration.* (1) A petition for a waiver of an individual advanced communications service or equipment used for advanced communications services may be granted for the life of the service or equipment as supported by evidence on the record, or for such time as the Commission determines based on evidence on the record.

(2) A petition for a class waiver may be granted for a time to be determined by the Commission based on evidence on the record, including the lifecycle of the equipment or service in the class. Any class waiver granted under this section will waive the obligations of this part for all advanced communications services and equipment used for advanced communications services subject to a class waiver and made available to the public prior to the expiration of such waiver.

(d) *Public notice.* All petitions for waiver filed pursuant to this section shall be put on public notice, with a minimum of a 30-day period for comments and oppositions.

Subpart B—Definitions

§ 14.10 Definitions.

(a) The term *accessible* shall have the meaning provided in §14.21(b).

(b) The term *achievable* shall mean with reasonable effort or expense, as determined by the Commission. In making such a determination, the Commission shall consider:

(1) The nature and cost of the steps needed to meet the requirements of section 716 of the Act and this part

with respect to the specific equipment or service in question;

(2) The technical and economic impact on the operation of the manufacturer or provider and on the operation of the specific equipment or service in question, including on the development and deployment of new communications technologies;

(3) The type of operations of the manufacturer or provider; and

(4) The extent to which the service provider or manufacturer in question offers accessible services or equipment containing varying degrees of functionality and features, and offered at differing price points.

(c) The term *advanced communications services* shall mean:

(1) Interconnected VoIP service, as that term is defined in this section;

(2) Non-interconnected VoIP service, as that term is defined in this section;

(3) Electronic messaging service, as that term is defined in this section; and

(4) Interoperable video conferencing service, as that term is defined in this section.

(d) The term *application* shall mean software designed to perform or to help the user perform a specific task or specific tasks, such as communicating by voice, electronic text messaging, or video conferencing.

(e) The term *compatible* shall have the meaning provided in §14.21(d).

(f) The term *customer premises equipment* shall mean equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

(g) The term *customized equipment or services* shall mean equipment and services that are produced or provided to meet unique specifications requested by a business or enterprise customer and not otherwise available to the general public, including public safety networks and devices.

(h) The term *disability* shall mean a physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such an impairment.

(i) The term *electronic messaging service* means a service that provides real-

time or near real-time non-voice messages in text form between individuals over communications networks.

(j) The term *end user equipment* shall mean equipment designed for consumer use. Such equipment may include both hardware and software components.

(k) The term *hardware* shall mean a tangible communications device, equipment, or physical component of communications technology, including peripheral devices, such as a smart phone, a laptop computer, a desktop computer, a screen, a keyboard, a speaker, or an amplifier.

(l) The term *interconnected VoIP service* shall have the same meaning as in §9.3 of this chapter, as such section may be amended from time to time.

(m) An *interoperable video conferencing service* means a service that provides real-time video communications, including audio, to enable users to share information of the user's choosing.

(n) The term *manufacturer* shall mean an entity that makes or produces a product, including equipment used for advanced communications services, including end user equipment, network equipment, and software.

(o) The term *network equipment* shall mean equipment facilitating the use of a network, including, routers, network interface cards, networking cables, modems, and other related hardware. Such equipment may include both hardware and software components.

(p) The term *nominal cost* in regard to accessibility and usability solutions shall mean small enough so as to generally not be a factor in the consumer's decision to acquire a product or service that the consumer otherwise desires.

(q) A *non-interconnected VoIP service* is a service that:

(1) Enables real-time voice communications that originate from or terminate to the user's location using Internet protocol or any successor protocol; and

(2) Requires Internet protocol compatible customer premises equipment; and

(3) Does not include any service that is an interconnected VoIP service.

(r) The term *peripheral devices* shall mean devices employed in connection with equipment, including software,

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covered by this part to translate, enhance, or otherwise transform advanced communications services into a form accessible to individuals with disabilities.

(s) The term *service provider* shall mean a provider of advanced communications services that are offered in or affecting interstate commerce, including a provider of applications and services that can be used for advanced communications services and that can be accessed (*i.e.*, downloaded or run) by users over any service provider network.

(t) The term *software* shall mean programs, procedures, rules, and related data and documentation that direct the use and operation of a computer or related device and instruct it to perform a given task or function.

(u) The term *specialized customer premises equipment* shall mean customer premise equipment which is commonly used by individuals with disabilities to achieve access.

(v) The term *usable* shall have the meaning provided in § 14.21(c).

(w) The term *real-time text* shall have the meaning set forth in § 67.1 of this chapter.

(x) The term *text-capable end user device* means end user equipment that is able to send, receive, and display text.

[76 FR 82389, Dec. 30, 2011, as amended at 82 FR 7707, Jan. 23, 2017]

Subpart C—Implementation Requirements—What Must Covered Entities Do?

§ 14.20 Obligations.

(a) *General Obligations.* (1) With respect to equipment manufactured after the effective date of this part, a manufacturer of equipment used for advanced communications services, including end user equipment, network equipment, and software, must ensure that the equipment and software that such manufacturer offers for sale or otherwise distributes in interstate commerce shall be accessible to and usable by individuals with disabilities, unless the requirements of this subsection are not achievable.

(2) With respect to services provided after the effective date of this part, a

provider of advanced communications services must ensure that services offered by such provider in or affecting interstate commerce are accessible to and usable by individuals with disabilities, unless the requirements of this paragraph are not achievable.

(3) If accessibility is not achievable either by building it in or by using third party accessibility solutions available to the consumer at nominal cost and that individuals with disabilities can access, then a manufacturer or service provider shall ensure that its equipment or service is compatible with existing peripheral devices or specialized customer premises equipment, unless the requirements of this subsection are not achievable.

(4) Providers of advanced communications services shall not install network features, functions, or capabilities that impede accessibility or usability.

(5) Providers of advanced communications services, manufacturers of equipment used with these services, and providers of networks used with these services may not impair or impede the accessibility of information content when accessibility has been incorporated into that content for transmission through such services, equipment or networks.

(b) *Product design, development, and evaluation.* (1) Manufacturers and service providers must consider performance objectives set forth in § 14.21 at the design stage as early as possible and must implement such performance objectives, to the extent that they are achievable.

(2) Manufacturers and service providers must identify barriers to accessibility and usability as part of such evaluation.

(c) *Information Pass Through.* Equipment used for advanced communications services, including end user equipment, network equipment, and software must pass through cross-manufacturer, nonproprietary, industry-standard codes, translation protocols, formats or other information necessary to provide advanced communications services in an accessible format, if achievable. Signal compression technologies shall not remove information

needed for access or shall restore it upon decompression.

(d) *Information, documentation, and training.* Manufacturers and service providers must ensure that the information and documentation that they provide to customers is accessible, if achievable. Such information and documentation includes, but is not limited to, user guides, bills, installation guides for end user devices, and product support communications. The requirement to ensure the information is accessible also includes ensuring that individuals with disabilities can access, at no extra cost, call centers and customer support regarding both the product generally and the accessibility features of the product.

§ 14.21 Performance Objectives.

(a) *Generally.* Manufacturers and service providers shall ensure that equipment and services covered by this part are accessible, usable, and compatible as those terms are defined in paragraphs (b) through (d) of this section.

(b) *Accessible.* The term accessible shall mean that:

(1) Input, control, and mechanical functions shall be locatable, identifiable, and operable in accordance with each of the following, assessed independently:

(i) *Operable without vision.* Provide at least one mode that does not require user vision.

(ii) *Operable with low vision and limited or no hearing.* Provide at least one mode that permits operation by users with visual acuity between 20/70 and 20/200, without relying on audio output.

(iii) *Operable with little or no color perception.* Provide at least one mode that does not require user color perception.

(iv) *Operable without hearing.* Provide at least one mode that does not require user auditory perception.

(v) *Operable with limited manual dexterity.* Provide at least one mode that does not require user fine motor control or simultaneous actions.

(vi) *Operable with limited reach and strength.* Provide at least one mode that is operable with user limited reach and strength.

(vii) *Operable with a Prosthetic Device.* Controls shall be operable without re-

quiring body contact or close body proximity.

(viii) *Operable without time-dependent controls.* Provide at least one mode that does not require a response time or allows response time to be by-passed or adjusted by the user over a wide range.

(ix) *Operable without speech.* Provide at least one mode that does not require user speech.

(x) *Operable with limited cognitive skills.* Provide at least one mode that minimizes the cognitive, memory, language, and learning skills required of the user.

(2) All information necessary to operate and use the product, including but not limited to, text, static or dynamic images, icons, labels, sounds, or incidental operating cues, [shall] comply with each of the following, assessed independently:

(i) *Availability of visual information.* Provide visual information through at least one mode in auditory form.

(ii) *Availability of visual information for low vision users.* Provide visual information through at least one mode to users with visual acuity between 20/70 and 20/200 without relying on audio.

(iii) *Access to moving text.* Provide moving text in at least one static presentation mode at the option of the user.

(iv) *Availability of auditory information.* Provide auditory information through at least one mode in visual form and, where appropriate, in tactile form.

(v) *Availability of auditory information for people who are hard of hearing.* Provide audio or acoustic information, including any auditory feedback tones that are important for the use of the product, through at least one mode in enhanced auditory fashion (*i.e.*, increased amplification, increased signal-to-noise ratio, or combination).

(vi) *Prevention of visually-induced seizures.* Visual displays and indicators shall minimize visual flicker that might induce seizures in people with photosensitive epilepsy.

(vii) *Availability of audio cutoff.* Where a product delivers audio output through an external speaker, provide an industry standard connector for headphones or personal listening devices (*e.g.*, phone-like handset or

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earcup) which cuts off the speaker(s) when used.

(viii) *Non-interference with hearing technologies.* Reduce interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) to the lowest possible level that allows a user to utilize the product.

(ix) *Hearing aid coupling.* Where a product delivers output by an audio transducer which is normally held up to the ear, provide a means for effective wireless coupling to hearing aids.

(3) *Real-Time Text.* Wireless interconnected VoIP services subject to this part and text-capable end user devices used with such services that do not themselves provide TTY functionality, may provide TTY connectability and signal compatibility pursuant to paragraphs (b)(3) and (4) of this section, or support real-time text communications, in accordance with 47 CFR part 67.

(c) *Usable.* The term usable shall mean that individuals with disabilities have access to the full functionality and documentation for the product, including instructions, product information (including accessible feature information), documentation and technical support functionally equivalent to that provided to individuals without disabilities.

(d) *Compatible.* The term *compatible* shall mean compatible with peripheral devices and specialized customer premises equipment, and in compliance with the following provisions, as applicable:

(1) *External electronic access to all information and control mechanisms.* Information needed for the operation of products (including output, alerts, icons, on-line help, and documentation) shall be available in a standard electronic text format on a cross-industry standard port and all input to and control of a product shall allow for real time operation by electronic text input into a cross-industry standard external port and in cross-industry standard format. The cross-industry standard port shall not require manipulation of a connector by the user.

(2) *Connection point for external audio processing devices.* Products providing auditory output shall provide the auditory signal at a standard signal level

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through an industry standard connector.

(3) *TTY connectability.* Products that provide a function allowing voice communication and which do not themselves provide a TTY functionality shall provide a standard non-acoustic connection point for TTYs. It shall also be possible for the user to easily turn any microphone on and off to allow the user to intermix speech with TTY use.

(4) *TTY signal compatibility.* Products, including those providing voice communication functionality, shall support use of all cross-manufacturer non-proprietary standard signals used by TTYs.

(5) *TTY Support Exemption.* Interconnected and non-interconnected VoIP services subject to this part that are provided over wireless IP facilities and equipment are not required to provide TTY connectability and TTY signal compatibility if such services and equipment support real-time text, in accordance with 47 CFR part 67.

[76 FR 82389, Dec. 30, 2011, as amended at 82 FR 7707, Jan. 23, 2017]

Subpart D—Recordkeeping, Consumer Dispute Assistance, and Enforcement

§ 14.30 Generally.

(a) The rules in this subpart regarding recordkeeping and enforcement are applicable to all manufacturers and service providers that are subject to the requirements of sections 255, 716, and 718 of the Act and parts 6, 7 and 14 of this chapter.

(b) The requirements set forth in § 14.31 of this subpart shall be effective January 30, 2013.

(c) The requirements set forth in §§ 14.32 through 14.37 of this subpart shall be effective on October 8, 2013.

§ 14.31 Recordkeeping.

(a) Each manufacturer and service provider subject to section 255, 716, or 718 of the Act, must create and maintain, in the ordinary course of business and for a two year period from the date a product ceases to be manufactured or a service ceases to be offered, records

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of the efforts taken by such manufacturer or provider to implement sections 255, 716, and 718 with regard to this product or service, as applicable, including:

(1) Information about the manufacturer's or service provider's efforts to consult with individuals with disabilities;

(2) Descriptions of the accessibility features of its products and services; and

(3) Information about the compatibility of its products and services with peripheral devices or specialized customer premise equipment commonly used by individuals with disabilities to achieve access.

(b) An officer of each manufacturer and service provider subject to section 255, 716, or 718 of the Act, must sign and file an annual compliance certificate with the Commission.

(1) The certificate must state that the manufacturer or service provider, as applicable, has established operating procedures that are adequate to ensure compliance with the recordkeeping rules in this subpart and that records are being kept in accordance with this section and be supported with an affidavit or declaration under penalty of perjury, signed and dated by the authorized officer of the company with personal knowledge of the representations provided in the company's certification, verifying the truth and accuracy of the information therein.

(2) The certificate shall identify the name and contact details of the person or persons within the company that are authorized to resolve complaints alleging violations of our accessibility rules and sections 255, 716, and 718 of the Act, and the agent designated for service pursuant to §14.35(b) of this subpart and provide contact information for this agent. Contact information shall include, for the manufacturer or the service provider, a name or department designation, business address, telephone number, and, if available TTY number, facsimile number, and email address.

(3) The annual certification must be filed with the Commission on April 1, 2013 and annually thereafter for records pertaining to the previous calendar year. The certificate must be updated

when necessary to keep the contact information current.

(c) Upon the service of a complaint, formal or informal, on a manufacturer or service provider under this subpart, a manufacturer or service provider must produce to the Commission, upon request, records covered by this section and may assert a statutory request for confidentiality for these records under 47 U.S.C. 618(a)(5)(C) and §0.457(c) of this chapter. All other information submitted to the Commission pursuant to this subpart or pursuant to any other request by the Commission may be submitted pursuant to a request for confidentiality in accordance with §0.459 of this chapter.

§ 14.32 Consumer Dispute Assistance.

(a) A consumer or any other party may transmit a Request for Dispute Assistance to the Consumer and Governmental Affairs Bureau by any reasonable means, including by the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or email to dro@fcc.gov. Any Requests filed using a method other than the Commission's online system should include a cover letter that references section 255, 716, or 718 or the rules of parts 6, 7, or 14 of this chapter and should be addressed to the Consumer and Governmental Affairs Bureau. Any party with a question about information that should be included in a Request for Dispute Assistance should email the Commission's Disability Rights Office at dro@fcc.gov or call (202) 418-2517 (voice), (202) 418-2922 (TTY).

(b) A Request for Dispute Assistance shall include:

(1) The name, address, email address, and telephone number of the party making the Request (Requester);

(2) The name of the manufacturer or service provider that the requester believes is in violation of section 255, 716, or 718 or the rules in this part, and the name, address, and telephone number of the manufacturer or service provider, if known;

(3) An explanation of why the requester believes the manufacturer or service provider is in violation of section 255, 716, or 718 or the rules in this part, including details regarding the

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service or equipment and the relief requested, and all documentation that supports the requester's contention;

(4) The date or dates on which the requester either purchased, acquired, or used (or attempted to purchase, acquire, or use) the equipment or service in question;

(5) The Requester's preferred format or method of response to its Request for Dispute Assistance by CGB or the manufacturer or service provider (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), email, audio-cassette recording, Braille, or some other method that will best accommodate the Requester's disability, if any);

(6) Any other information that may be helpful to CGB and the manufacturer or service provider to understand the nature of the dispute;

(7) Description of any contacts with the manufacturer or service provider to resolve the dispute, including, but not limited to, dates or approximate dates, any offers to settle, *etc.*; and

(8) What the Requester is seeking to resolve the dispute.

(c) CGB shall forward the Request for Dispute Assistance to the manufacturer or service provider named in the Request. CGB shall serve the manufacturer or service provider using the contact details of the certification to be filed pursuant to §14.31(b). Service using contact details provided pursuant to §14.31(b) is deemed served. Failure by a manufacturer or service provider to file or keep the contact information current will not be a defense of lack of service.

(d) CGB will assist the Requester and the manufacturer or service provider in reaching a settlement of the dispute.

(e) Thirty days after the Request for Dispute Assistance was filed, if a settlement has not been reached between the Requester and the manufacturer or service provider, the Requester may file an informal complaint with the Commission;

(f) When a Requester files an informal complaint with the Enforcement Bureau, as provided in §14.34, the Commission will deem the CGB dispute assistance process closed and the requester and manufacturer or service provider shall be barred from further use of the Commission's dispute assist-

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ance process so long as a complaint is pending.

§ 14.33 Informal or formal complaints.

Complaints against manufacturers or service providers, as defined under this subpart, for alleged violations of this subpart may be either informal or formal.

§ 14.34 Informal complaints; form, filing, content, and consumer assistance.

(a) An informal complaint alleging a violation of section 255, 716 or 718 of the Act or parts 6, 7, or 14 of this chapter may be transmitted to the Enforcement Bureau by any reasonable means, including the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or email. Any Requests filed using a method other than the Commission's online system should include a cover letter that references section 255, 716, or 718 or the rules of parts 6, 7, or 14 of this chapter and should be addressed to the Enforcement Bureau.

(b) An informal complaint shall include:

(1) The name, address, email address, and telephone number of the complainant;

(2) The name, address, and telephone number of the manufacturer or service provider defendant against whom the complaint is made;

(3) The date or dates on which the complainant or person(s) on whose behalf the complaint is being filed either purchased, acquired, or used or attempted to purchase, acquire, or use the equipment or service about which the complaint is being made;

(4) A complete statement of fact explaining why the complainant contends that the defendant manufacturer or provider is in violation of section 255, 716 or 718 of the Act or the Commission's rules, including details regarding the service or equipment and the relief requested, and all documentation that supports the complainant's contention;

(5) A certification that the complainant submitted to the Commission a Request for Dispute Assistance, pursuant to §14.32, no less than 30 days before the complaint is filed;

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(6) The complainant's preferred format or method of response to the complaint by the Commission and defendant (e.g., letter, facsimile transmissions, telephone (voice/TRS/TTY), email, audio-cassette recording, Braille, or some other method that will best accommodate the complainant's disability, if any); and

(7) Any other information that is required by the Commission's accessibility complaint form.

(c) Any party with a question about information that should be included in an Informal Complaint should email the Commission's Disability Rights Office at dro@fcc.gov or call (202) 418-2517 (voice), (202) 418-2922 (TTY).

§ 14.35 Procedure; designation of agents for service.

(a) The Commission shall forward any informal complaint meeting the requirements of § 14.34 of this subpart to each manufacturer and service provider named in or determined by the staff to be implicated by the complaint.

(b) To ensure prompt and effective service of informal and formal complaints filed under this subpart, every manufacturer and service provider subject to the requirements of section 255, 716, or 718 of the Act and parts 6, 7, or 14 of this chapter shall designate an agent, and may designate additional agents if it so chooses, upon whom service may be made of all notices, inquiries, orders, decisions, and other pronouncements of the Commission in any matter before the Commission. The agent shall be designated in the manufacturer or service provider's annual certification pursuant to § 14.31.

§ 14.36 Answers and replies to informal complaints.

(a) After a complainant makes a *prima facie* case by asserting that a product or service is not accessible, the manufacturer or service provider to whom the informal complaint is directed bears the burden of proving that the product or service is accessible or, if not accessible, that accessibility is not achievable under this part or readily achievable under parts 6 and 7. To carry its burden of proof, a manufacturer or service provider must produce

documents demonstrating its due diligence in exploring accessibility and achievability, as required by parts 6, 7, or 14 of this chapter throughout the design, development, testing, and deployment stages of a product or service. Conclusory and unsupported claims are insufficient to carry this burden of proof.

(b) Any manufacturer or service provider to whom an informal complaint is served by the Commission under this subpart shall file and serve an answer responsive to the complaint and any inquiries set forth by the Commission.

(1) The answer shall:

(i) Be filed with the Commission within twenty days of service of the complaint, unless the Commission or its staff specifies another time period;

(ii) Respond specifically to each material allegation in the complaint and assert any defenses that the manufacturer or service provider claim;

(iii) Include a declaration by an officer of the manufacturer or service provider attesting to the truth of the facts asserted in the answer;

(iv) Set forth any remedial actions already taken or proposed alternative relief without any prejudice to any denials or defenses raised;

(v) Provide any other information or materials specified by the Commission as relevant to its consideration of the complaint; and

(vi) Be prepared or formatted, including in electronic readable format compatible with the Commission's Summation or other software in the manner requested by the Commission and the complainant, unless otherwise permitted by the Commission for good cause shown.

(2) If the manufacturer's or service provider's answer includes the defense that it was not achievable for the manufacturer or service provider to make its product or service accessible, the manufacturer or service provider shall carry the burden of proof on the defense and the answer shall:

(i) Set forth the steps taken by the manufacturer or service provider to make the product or service accessible and usable;

(ii) Set forth the procedures and processes used by the manufacturer or service provider to evaluate whether it

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was achievable to make the product or service accessible and usable in cases where the manufacturer or service provider alleges it was not achievable to do so;

(iii) Set forth the manufacturer's basis for determining that it was not achievable to make the product or service accessible and usable in cases where the manufacturer or service provider so alleges; and

(iv) Provide all documents supporting the manufacturer's or service provider's conclusion that it was not achievable to make the product or service accessible and usable in cases where the manufacturer or service provider so alleges.

(c) Any manufacturer or service provider to whom an informal complaint is served by the Commission under this subpart shall serve the complainant and the Commission with a non-confidential summary of the answer filed with the Commission within twenty days of service of the complaint. The non-confidential summary must contain the essential elements of the answer, including, but not limited to, any asserted defenses to the complaint, must address the material elements of its answer, and include sufficient information to allow the complainant to file a reply, if the complainant chooses to do so.

(d) The complainant may file and serve a reply. The reply shall:

(1) Be served on the Commission and the manufacturer or service provider that is subject of the complaint within ten days after service of answer, unless otherwise directed by the Commission;

(2) Be responsive to matters contained in the answer and shall not contain new matters.

§ 14.37 Review and disposition of informal complaints.

(a) The Commission will investigate the allegations in any informal complaint filed that satisfies the requirements of § 14.34(b) of this subpart, and, within 180 days after the date on which such complaint was filed with the Commission, issue an order finding whether the manufacturer or service provider that is the subject of the complaint violated section 255, 716, or 718 of the Act, or the Commission's imple-

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menting rules, and provide a basis therefore, unless such complaint is resolved before that time.

(b) If the Commission determines in an order issued pursuant to paragraph (a) of this section that the manufacturer or service provider violated section 255, 716, or 718 of the Act, or the Commission's implementing rules, the Commission may, in such order, or in a subsequent order:

(1) Direct the manufacturer or service provider to bring the service, or in the case of a manufacturer, the next generation of the equipment or device, into compliance with the requirements of section 255, 716, or 718 of the Act, and the Commission's rules, within a reasonable period of time; and

(2) Take such other enforcement action as the Commission is authorized and as it deems appropriate.

(c) Any manufacturer or service provider that is the subject of an order issued pursuant to paragraph (b)(1) of this section shall have a reasonable opportunity, as established by the Commission, to comment on the Commission's proposed remedial action before the Commission issues a final order with respect to that action.

§ 14.38 Formal complaints.

Formal complaint proceedings alleging a violation of 47 U.S.C. 255, 617, or 619, or parts 6, 7, or 14 of this chapter, shall be governed by the formal complaint rules in subpart E of part 1, §§ 1.7201.740.

(a) Pleadings must be clear, concise, and explicit. All matters concerning a claim, defense or requested remedy, including damages, should be pleaded fully and with specificity.

(b) Pleadings must contain facts which, if true, are sufficient to constitute a violation of the Act or Commission order or regulation, or a defense to such alleged violation.

(c) Facts must be supported by relevant documentation or affidavit.

(d) Legal arguments must be supported by appropriate judicial, Commission, or statutory authority.

(e) Opposing authorities must be distinguished.

(f) Copies must be provided of all non-Commission authorities relied upon which are not routinely available

in national reporting systems, such as unpublished decisions or slip opinions of courts or administrative agencies.

(g) Parties are responsible for the continuing accuracy and completeness of all information and supporting authority furnished in a pending complaint proceeding. Information submitted, as well as relevant legal authorities, must be current and updated as necessary and in a timely manner at any time before a decision is rendered on the merits of the complaint.

(h) All statements purporting to summarize or explain Commission orders or policies must cite, in standard legal form, the Commission ruling upon which such statements are based.

(i) Pleadings shall identify the name, address, telephone number, and facsimile transmission number for either the filing party's attorney or, where a party is not represented by an attorney, the filing party.

[76 FR 82389, Dec. 30, 2011, as amended at 83 FR 44842, Sept. 4, 2018]

Subpart E—Internet Browsers Built Into Telephones Used With Public Mobile Services.

SOURCE: 78 FR 30230, May 22, 2013, unless otherwise noted.

§ 14.60 Applicability.

(a) This subpart E shall apply to a manufacturer of a telephone used with public mobile services (as such term is defined in 47 U.S.C. 710(b)(4)(B)) that includes an Internet browser in such telephone that is offered for sale or otherwise distributed in interstate commerce, or a provider of mobile services that arranges for the inclusion of a browser in telephones to sell or otherwise distribute to customers in interstate commerce.

(b) Only the following enumerated provisions contained in this part 14 shall apply to this subpart E.

(1) The limitations contained in § 14.2 shall apply to this subpart E.

(2) The definitions contained in § 14.10 shall apply to this subpart E.

(3) The product design, development and evaluation provisions contained in § 14.20(b) shall apply to this subpart E.

(4) The information, documentation, and training provisions contained in § 14.20(d) shall apply to this subpart E.

(5) The performance objectives provisions contained in § 14.21(a), (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(2)(i), (b)(2)(ii), (b)(2)(iii), (b)(2)(vii), and (c) shall apply to this subpart E.

(6) All of subpart D shall apply to this subpart E.

§ 14.61 Obligations with respect to internet browsers built into mobile phones.

(a) *Accessibility.* If on or after October 8, 2013 a manufacturer of a telephone used with public mobile services includes an Internet browser in such telephone, or if a provider of mobile service arranges for the inclusion of a browser in telephones to sell to customers, the manufacturer or provider shall ensure that the functions of the included browser (including the ability to launch the browser) are accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable, except that this subpart shall not impose any requirement on such manufacturer or provider—

(1) To make accessible or usable any Internet browser other than a browser that such manufacturer or provider includes or arranges to include in the telephone; or

(2) To make Internet content, applications, or services accessible or usable (other than enabling individuals with disabilities to use an included browser to access such content, applications, or services).

(b) *Industry flexibility.* A manufacturer or provider may satisfy the requirements of this subpart with respect to such telephone or services by—

(1) Ensuring that the telephone or services that such manufacturer or provider offers is accessible to and usable by individuals with disabilities without the use of third-party applications, peripheral devices, software, hardware, or customer premises equipment; or

(2) Using third-party applications, peripheral devices, software, hardware, or customer premises equipment that is available to the consumer at nominal

cost and that individuals with disabilities can access.

PART 15—RADIO FREQUENCY DEVICES

Subpart A—General

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RADIATED EMISSION LIMITS, ADDITIONAL PROVISIONS

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- 15.247 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz.
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