

Mr. PETRI. Mr. Speaker, I yield back the balance of my time.

Mr. POLIS. Mr. Speaker, again I would like to encourage my colleagues to support this important step and march forward for civil rights in our country, celebrating the work behind us and getting to work to complete the task of ensuring that every American has access to the great opportunities this country offers.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. POLIS) that the House suspend the rules and agree to the resolution, H. Res. 1504, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. POLIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 26, 2010.

Hon. NANCY PELOSI,
The Speaker, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on July 26, 2010 at 10:21 a.m.:

That the Senate disagrees to the House amendment to the Senate amendment H.R. 4899.

That the Senate passed without amendment H.R. 4684.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER.

TWENTY-FIRST CENTURY COMMUNICATIONS AND VIDEO ACCESSIBILITY ACT OF 2010

Mr. MARKEY of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3101) to ensure that individuals with disabilities have access to emerging Internet Protocol-based communication and video programming technologies in the 21st Century, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Twenty-First Century Communications and Video Accessibility Act of 2010”.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Limitation on liability.

Sec. 3. Proprietary technology.

TITLE I—COMMUNICATIONS ACCESS

Sec. 101. Definitions.

Sec. 102. Hearing aid compatibility.

Sec. 103. Relay services.

Sec. 104. Access to internet-based services and equipment.

Sec. 105. Emergency Access Advisory Committee.

Sec. 106. Relay services for deaf-blind individuals.

TITLE II—VIDEO PROGRAMMING

Sec. 201. Video Programming and Emergency Access Advisory Committee.

Sec. 202. Video description and closed captioning.

Sec. 203. Closed captioning decoder and video description capability.

Sec. 204. User interfaces on digital apparatus.

Sec. 205. Access to video programming guides and menus provided on navigation devices.

Sec. 206. Definitions.

TITLE III—PAYGO COMPLIANCE

Sec. 301. PAYGO Compliance.

SEC. 2. LIMITATION ON LIABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), no person shall be liable for a violation of the requirements of this Act (or of the provisions of the Communications Act of 1934 that are amended or added by this Act) with respect to video programming, online content, applications, services, 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 video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services.

(b) EXCEPTION.—The limitation on liability under subsection (a) shall not apply to any person to the extent such person relies on third party applications, services, software, hardware, or equipment to comply with the requirements of this Act (or of the provisions of the Communications Act of 1934 that are amended or added by this Act).

SEC. 3. PROPRIETARY TECHNOLOGY.

No action taken by the Commission to implement the requirements of this Act or the amendments made by this Act shall mandate the use or incorporation of proprietary technology.

TITLE I—COMMUNICATIONS ACCESS

SEC. 101. DEFINITIONS.

Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended—

(1) by adding at the end the following new paragraphs:

“(53) ADVANCED COMMUNICATIONS SERVICES.—The term ‘advanced communications services’ means—

“(A) interconnected VoIP service;

“(B) non-interconnected VoIP service;

“(C) electronic messaging service; and

“(D) video conferencing service.

“(54) DISABILITY.—The term ‘disability’ has the meaning given such term under section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

“(55) ELECTRONIC MESSAGING SERVICE.—The term ‘electronic messaging service’ means a service that provides non-voice messages in text form between individuals over communications networks.

“(56) INTERCONNECTED VOIP SERVICE.—The term ‘interconnected VoIP service’ has the meaning given such term under section 9.3 of title 47, Code of Federal Regulations, as such section may be amended from time to time.

“(57) NON-INTERCONNECTED VOIP SERVICE.—The term ‘non-interconnected VoIP service’—

“(A) means a service that—

“(i) enables real-time voice communications that originate from or terminate to the user’s location using Internet protocol or any successor protocol; and

“(ii) requires Internet protocol compatible customer premises equipment; and

“(B) does not include any service that is an interconnected VoIP service.

“(58) VIDEO CONFERENCING SERVICE.—The term ‘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.”; and

(2) by reordering paragraphs (1) through (52) and the paragraphs added by paragraph (1) of this section in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered.

SEC. 102. HEARING AID COMPATIBILITY.

(a) COMPATIBILITY REQUIREMENTS.—

(1) TELEPHONE SERVICE FOR THE DISABLED.—Section 710(b)(1) of the Communications Act of 1934 (47 U.S.C. 610(b)(1)) is amended to read as follows:

“(b)(1) Except as provided in paragraphs (2) and (3) and subsection (c), the Commission shall require that customer premises equipment described in this paragraph provide internal means for effective use with hearing aids that are designed to be compatible with telephones which meet established technical standards for hearing aid compatibility. Customer premises equipment described in this paragraph are the following:

“(A) All essential telephones.

“(B) All telephones manufactured in the United States (other than for export) more than one year after the date of enactment of the Hearing Aid Compatibility Act of 1988 or imported for use in the United States more than one year after such date.

“(C) All customer premises equipment used with advanced communications services that is designed to provide 2-way voice communications via a built-in speaker intended to be held to the ear in a manner functionally equivalent to a telephone, subject to the regulations prescribed by the Commission under subsection (e).”.

(2) ADDITIONAL AMENDMENTS.—Section 710(b) of the Communications Act of 1934 (47 U.S.C. 610(b)) is further amended—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i)—

(aa) by striking “initial”;

(bb) by striking “of this subsection after the date of enactment of the Hearing Aid Compatibility Act of 1988”; and

(cc) by striking “paragraph (1)(B) of this subsection” and inserting “subparagraphs (B) and (C) of paragraph (1)”; and

(II) by inserting “and” at the end of clause (ii);

(III) by striking clause (iii); and

(IV) by redesignating clause (iv) as clause (iii);

(ii) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(iii) in subparagraph (B) (as so redesignated)—

(I) by striking the first sentence and inserting “The Commission shall periodically assess the appropriateness of continuing in effect the exemptions for telephones and other customer premises equipment described in subparagraph (A) of this paragraph.”; and

(II) in each of clauses (iii) and (iv), by striking “paragraph (1)(B)” and inserting “subparagraph (B) or (C) of paragraph (1)”;

(B) in paragraph (4)(B)—

(i) by striking “public mobile” and inserting “telephones used with public mobile”;

(ii) by inserting “telephones and other customer premises equipment used in whole or in part with” after “means”;

(iii) by striking “and” after “public land mobile telephone service,” and inserting “or”;

(iv) by striking “part 22 of”; and

(v) by inserting after “Regulations” the following: “, or any functionally equivalent unlicensed wireless services”; and

(C) in paragraph (4)(C)—

(i) by striking “term ‘private radio services’” and inserting “term ‘telephones used with private radio services’”; and

(ii) by inserting “telephones and other customer premises equipment used in whole or in part with” after “means”.

(b) **TECHNICAL STANDARDS.**—Section 710(c) of the Communications Act of 1934 (47 U.S.C. 610(c)) is amended by adding at the end the following: “A telephone or other customer premises equipment that is compliant with relevant technical standards developed through a public participation process and in consultation with interested consumer stakeholders (designated by the Commission for the purposes of this section) will be considered hearing aid compatible for purposes of this section, until such time as the Commission may determine otherwise. The Commission shall consult with the public, including people with hearing loss, in establishing or approving such technical standards. The Commission may delegate this authority to an employee pursuant to section 5(c). The Commission shall remain the final arbiter as to whether the standards meet the requirements of this section.”.

(c) **RULEMAKING.**—Section 710(e) of the Communications Act of 1934 (47 U.S.C. 610(e)) is amended—

(1) by striking “impairments” and inserting “loss”; and

(2) by adding at the end the following sentence: “In implementing the provisions of subsection (b)(1)(C), the Commission shall use appropriate timetables or benchmarks to the extent necessary (1) due to technical feasibility, or (2) to ensure the marketability or availability of new technologies to users.”.

(d) **RULE OF CONSTRUCTION.**—Section 710(h) of the Communications Act of 1934 (47 U.S.C. 610(h)) is amended to read as follows:

“(h) **RULE OF CONSTRUCTION.**—Nothing in the Twenty-First Century Communications and Video Accessibility Act of 2010 shall be construed to modify the Commission’s regulations set forth in section 20.19 of title 47 of the Code of Federal Regulations, as in effect on the date of enactment of such Act.”.

SEC. 103. RELAY SERVICES.

(a) **DEFINITION.**—Paragraph (3) of section 225(a) of the Communications Act of 1934 (47 U.S.C. 225(a)(3)) is amended to read as follows:

“(3) **TELECOMMUNICATIONS RELAY SERVICES.**—The term ‘telecommunications relay services’ means telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hear-

ing individual who does not have a speech disability to communicate using voice communication services by wire or radio.”.

(b) **INTERNET PROTOCOL-BASED RELAY SERVICES.**—Title VII of such Act (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

“SEC. 715. INTERNET PROTOCOL-BASED RELAY SERVICES.

“Within one year after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, each interconnected VoIP service provider and each provider of non-interconnected VoIP service shall participate in and contribute to the Telecommunications Relay Services Fund established in section 64.604(c)(5)(iii) of title 47, Code of Federal Regulations, as in effect on the date of enactment of such Act, in a manner prescribed by the Commission by regulation to provide for obligations of such providers that are consistent with and comparable to the obligations of other contributors to such Fund.”.

(c) **TELECOMMUNICATIONS RELAY SERVICES POLICY ADVISORY COUNCIL.**—Section 225 of the Communications Act of 1934 (47 U.S.C. 225) is amended by adding at the end the following new subsection:

“(h) **TELECOMMUNICATIONS RELAY SERVICES POLICY ADVISORY COUNCIL.**—

“(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Chairman of the Commission shall establish an advisory committee to be known as the Telecommunications Relay Services Policy Advisory Council (in this section referred to as the ‘Policy Advisory Council’) and shall require the Policy Advisory Council—

“(A) to conduct their meetings in a manner that is open to the public;

“(B) to make a complete and comprehensive record of such proceedings publicly available;

“(C) to establish safeguards to identify and mitigate conflicts of interest with respect to members of the Policy Advisory Council; and

“(D) to advise the Commission in the development or proposal of any major changes or new rules relating to telecommunications relay services.

“(2) **MEMBERSHIP.**—As soon as practicable after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Chairman of the Commission shall appoint the members of the Policy Advisory Council, ensuring a balance between potential consumers and other stakeholders. Members of the Policy Advisory Council shall be selected from each of the following groups:

“(A) Individuals who are consumers of telecommunications relay services.

“(B) Representatives of State commissions with jurisdiction over intrastate telecommunications relay services.

“(C) Representatives of providers of telecommunications relay services.

“(3) **COLLECTION AND DISSEMINATION OF INFORMATION AND ADVICE.**—The Commission—

“(A) shall seek the advice of the Policy Advisory Council in assisting the Commission in developing or proposing any major changes or issuing any new rules relating to telecommunications relay services; and

“(B) shall, with the advice of the Policy Advisory Council, make all regulations, rules, and orders relating to telecommunications relay services fully and easily accessible to consumers of such services.

“(4) **FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Policy Advisory Council.”.

(d) **FOLLOWUP PROCEEDING.**—Section 225 of the Communications Act of 1934 (47 U.S.C.

225), as amended by subsection (c), is further amended by adding after subsection (h) the following new subsection:

“(i) **FOLLOWUP PROCEEDING.**—

“(1) **IN GENERAL.**—Not later than 30 months after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission, in consultation with all relevant Federal agencies, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report—

“(A) concerning how the Commission is ensuring that telecommunications relay service customers have access to improved technologies, interoperability, and functionalities; and

“(B) identifying impediments to the broad and efficient use of telecommunications relay services in the workplace.

“(2) **SUGGESTIONS FOR WORKPLACE ADOPTION.**—The Commission shall develop suggestions to facilitate broader and more efficient use of telecommunications relay services in the workplace, including suggestions for facilitating the replacement of outdated end-user telecommunications relay services equipment in public places and government offices.”.

SEC. 104. ACCESS TO INTERNET-BASED SERVICES AND EQUIPMENT.

(a) **TITLE VII AMENDMENT.**—Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.), as amended by section 103, is further amended by adding at the end the following new sections:

“SEC. 716. ACCESS TO INTERNET-BASED EQUIPMENT AND SERVICES.

“(a) **ACCESS TO EQUIPMENT.**—

“(1) **RIGHT TO ACCESSIBLE EQUIPMENT.**—With respect to equipment manufactured after the effective date of the regulations established pursuant to this section, and subject to those regulations, a manufacturer of equipment used for advanced communications, including end user equipment, network equipment, and software, shall ensure that such equipment that such manufacturer offers for sale or otherwise distributes in interstate commerce shall be accessible to and usable by individuals with disabilities, unless doing so is not achievable.

“(2) **INDUSTRY FLEXIBILITY.**—A manufacturer of equipment may satisfy the requirements of paragraph (1) with respect to such equipment by—

“(A) ensuring that the equipment that such manufacturer 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

“(B) if such manufacturer chooses, 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.

“(b) **ACCESS TO SERVICES.**—

“(1) **RIGHT TO ACCESSIBLE SERVICES.**—With respect to advanced communications services offered after the effective date of the regulations established pursuant to this section, and subject to those regulations, a provider of services used for advanced communications shall ensure that such services that such provider offers for sale or otherwise distributes in interstate commerce shall be accessible to and usable by individuals with disabilities, unless doing so is not achievable.

“(2) **INDUSTRY FLEXIBILITY.**—A provider of services may satisfy the requirements of paragraph (1) with respect to such services by—

“(A) ensuring that the services that such provider offers are accessible to and usable by individuals with disabilities without the use of third party applications, peripheral devices, software, hardware, or customer premises equipment; or

“(B) if such provider chooses, 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.

“(C) COMPATIBILITY.—Whenever the requirements of subsection (a) are not achievable for a manufacturer, or the requirements of subsection (b) are not achievable for a provider, a manufacturer or provider shall ensure that its equipment or service is compatible with peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, unless the requirement of this subsection is not achievable.

“(d) NETWORK FEATURES, FUNCTIONS, AND CAPABILITIES.—Each provider of advanced communications services has the duty not to install network features, functions, or capabilities that impede accessibility or usability of advanced communications services.

“(e) REGULATIONS.—

“(1) IN GENERAL.—Within one year after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall promulgate such regulations as are necessary to implement this section. In prescribing the regulations, the Commission shall—

“(A) include performance objectives to ensure the accessibility, usability, and compatibility of advanced communications services and the equipment used for advanced communications services by individuals with disabilities;

“(B) provide that advanced communications services, the equipment used for advanced communications services, and networks used to provide advanced communications services may not impair or impede the accessibility of information content when accessibility has been incorporated into that content for transmission through advanced communications services, equipment used for advanced communications services, or networks used to provide advanced communications services; and

“(C) determine the obligations under this section of manufacturers, service providers, and providers of applications.

“(2) PROSPECTIVE GUIDELINES.—The Commission shall issue prospective guidelines for a manufacturer or provider regarding the requirements of this section.

“(f) SERVICES AND EQUIPMENT SUBJECT TO SECTION 255.—The requirements of this section shall not apply to any equipment or services, including interconnected VoIP service, that are subject to the requirements of section 255 on the day before the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010. Such services and equipment shall remain subject to the requirements of section 255.

“(g) ACHIEVABLE DEFINED.—For purposes of this section and section 718, the term ‘achievable’ means with reasonable effort or expense, as determined by the Commission. In determining whether the requirements of a provision are achievable, the Commission shall consider the following factors:

“(1) The nature and cost of the steps needed to meet the requirements of this section with respect to the specific equipment or service in question.

“(2) The impact on the operations 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 financial resources of the manufacturer or provider.

“(4) The type of operations of the manufacturer or provider.

“(5) 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.

“(h) COMMISSION FLEXIBILITY.—

“(1) WAIVER.—The Commission shall have the authority, on its own motion or in response to a petition by a manufacturer or provider, to waive the requirements of this section for any feature or function of equipment used to provide or access advanced communications services, or for any class of such equipment, that—

“(A) is capable of accessing an advanced communications service; and

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

“(2) SMALL ENTITY EXEMPTION.—The Commission may exempt small entities from the requirements of this section.

“(i) CUSTOMIZED EQUIPMENT OR SERVICES.—The provisions of this section 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.

“(j) RULE OF CONSTRUCTION.—This section shall not be construed to require a manufacturer of equipment used for advanced communications or a provider of advanced communications services to make every feature and function of every device or service accessible for every disability.

“SEC. 717. ENFORCEMENT AND RECORDKEEPING OBLIGATIONS.

“(a) COMPLAINT AND ENFORCEMENT PROCEDURES.—Within one year after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall establish regulations that facilitate the filing of formal and informal complaints that allege a violation of section 255, 716, or 718, establish procedures for enforcement actions by the Commission with respect to such violations, and implement the recordkeeping obligations of paragraph (5) for manufacturers and providers subject to such sections. Such regulations shall include the following provisions:

“(1) NO FEE.—The Commission shall not charge any fee to an individual who files a complaint alleging a violation of section 255, 716, or 718.

“(2) RECEIPT OF COMPLAINTS.—The Commission shall establish separate and identifiable electronic, telephonic, and physical receptacles for the receipt of complaints filed under section 255, 716, or 718.

“(3) COMPLAINTS TO THE COMMISSION.—

“(A) IN GENERAL.—Any person alleging a violation of section 255, 716, or 718 by a manufacturer of equipment or provider of service subject to such sections may file a formal or informal complaint with the Commission.

“(B) INVESTIGATION OF INFORMAL COMPLAINT.—The Commission shall investigate the allegations in an informal complaint and, within 180 days after the date on which such complaint was filed with the Commission, issue an order concluding the investigation, unless such complaint is resolved before such time. The order shall include a determination whether any violation occurred.

“(i) VIOLATION.—If the Commission determines that a violation has occurred, the Commission may, in the order issued under this subparagraph or in a subsequent order, require the manufacturer or service provider

to take such action as is necessary to comply with the requirements of this section.

“(ii) NO VIOLATION.—If a determination is made that a violation has not occurred, the Commission shall provide the basis for such determination.

“(C) CONSOLIDATION OF COMPLAINTS.—The Commission may consolidate for investigation and resolution complaints alleging substantially the same violation.

“(4) OPPORTUNITY TO RESPOND.—Before the Commission makes a determination pursuant to paragraph (3), the party that is the subject of the complaint shall have a reasonable opportunity to respond to such complaint, and may include in such response any factors that are relevant to such determination.

“(5) RECORDKEEPING.—

“(A) IN GENERAL.—Beginning one year after the effective date of regulations promulgated pursuant to section 716(e), each manufacturer and provider subject to sections 255, 716, or 718 shall maintain, in the ordinary course of business and for a reasonable period, records of any efforts taken by such manufacturer or provider to implement sections 255, 716, or 718, including the following:

“(i) Information about the manufacturer's or provider's efforts to consult with individuals with disabilities.

“(ii) Descriptions of the accessibility features of its products and services.

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

“(B) SUBMISSION OF ANNUAL CERTIFICATION.—An officer of a manufacturer or provider shall submit to the Commission an annual certification that records are being kept in accordance with subparagraph (A).

“(C) COMMISSION REQUEST FOR RECORDS.—After the filing of a formal or informal complaint against a manufacturer or provider in the manner prescribed in paragraph (3), the Commission may request, and shall keep confidential, a copy of the records maintained by such manufacturer or provider pursuant to subparagraph (A) of this paragraph that are directly relevant to the equipment or service that is the subject of such complaint.

“(6) FAILURE TO ACT.—If the Commission fails to carry out any of its responsibilities to act upon a complaint in the manner prescribed in paragraph (3), the person that filed such complaint may bring an action in the nature of mandamus in the United States Court of Appeals for the District of Columbia to compel the Commission to carry out any such responsibility.

“(7) COMMISSION JURISDICTION.—The limitations of section 255(f) shall apply to any claim that alleges a violation of section 255, 716, or 718. Nothing in this paragraph affects or limits any action for mandamus under paragraph (6) or any appeal pursuant to section 402(b)(10).

“(8) PRIVATE RESOLUTIONS OF COMPLAINTS.—Nothing in the Commission's rules or this Act shall be construed to preclude a person who files a complaint and a manufacturer or provider from resolving a formal or informal complaint prior to the Commission's final determination in a complaint proceeding. In the event of such a resolution, the parties shall jointly request dismissal of the complaint and the Commission shall grant such request.

“(b) REPORTS TO CONGRESS.—

“(1) IN GENERAL.—Every two years after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall submit to the Committee on Commerce,

Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes the following:

“(A) An assessment of the level of compliance with sections 255, 716, and 718.

“(B) An evaluation of the extent to which any accessibility barriers still exist with respect to new communications technologies.

“(C) The number and nature of complaints received pursuant to subsection (a) during the two years that are the subject of the report.

“(D) A description of the actions taken to resolve such complaints under this section, including forfeiture penalties assessed.

“(E) The length of time that was taken by the Commission to resolve each such complaint.

“(F) The number, status, nature, and outcome of any actions for mandamus filed pursuant to subsection (a)(6) and the number, status, nature, and outcome of any appeals filed pursuant to section 402(b)(10).

“(G) An assessment of the effect of the requirements of this section on the development and deployment of new communications technologies.

“(2) PUBLIC COMMENT REQUIRED.—The Commission shall seek public comment on its tentative findings prior to submission to the Committees of the report under this subsection.

“(C) COMPTROLLER GENERAL ENFORCEMENT STUDY.—

“(1) IN GENERAL.—The Comptroller General shall conduct a study to consider and evaluate the following:

“(A) The Commission’s compliance with the requirements of this section, including the Commission’s level of compliance with the deadlines established under and pursuant to this section and deadlines for acting on complaints pursuant to subsection (a).

“(B) Whether the enforcement actions taken by the Commission pursuant to this section have been appropriate and effective in ensuring compliance with this section.

“(C) Whether the enforcement provisions under this section are adequate to ensure compliance with this section.

“(D) An assessment of the effect of the requirements of this section on the development and deployment of new communications technologies.

“(2) REPORT.—Not later than 5 years after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of the study required by paragraph (1), with recommendations for how the enforcement process and measures under this section may be modified or improved.

“(d) CLEARINGHOUSE.—Within one year after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall, in consultation with the Architectural and Transportation Barriers Compliance Board, the National Telecommunications and Information Administration, trade associations, and organizations representing individuals with disabilities, establish a clearinghouse of information on the availability of accessible products and services and accessibility solutions required under sections 255, 716, and 718. Such information shall be made publicly available on the Commission’s website and by other means, and shall include an annually updated list of products and services with access features.

“(e) OUTREACH AND EDUCATION.—Upon establishment of the clearinghouse of informa-

tion required under subsection (d), the Commission, in coordination with the National Telecommunications and Information Administration, shall conduct an informational and educational program designed to inform the public about the availability of the clearinghouse and the protections and remedies available under sections 255, 716, and 718.

“SEC. 718. INTERNET BROWSERS BUILT INTO TELEPHONES USED WITH PUBLIC MOBILE SERVICES.

“(a) ACCESSIBILITY.—If a manufacturer of a telephone used with public mobile services (as such term is defined in section 710(b)(4)(B)) 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 subsection 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 subsection (a) 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.”

(b) EFFECTIVE DATE FOR SECTION 718.—Section 718 of the Communications Act of 1934, as added by subsection (a), shall take effect 3 years after the date of enactment of this Act.

(c) TITLE V AMENDMENTS.—Section 503(b)(2) of such Act (47 U.S.C. 503(b)(2)) is amended by adding after subparagraph (E) the following:

“(F) Subject to paragraph (5) of this section, if the violator is a manufacturer or service provider subject to the requirements of section 255, 716, or 718, and is determined by the Commission to have violated any such requirement, the manufacturer or provider shall be liable to the United States for a forfeiture penalty of not more than \$100,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$1,000,000 for any single act or failure to act.”

(d) REVIEW OF COMMISSION DETERMINATIONS.—Section 402(b) of such Act (47 U.S.C. 402(b)) is amended by adding the following new paragraph:

“(10) By any person who is aggrieved or whose interests are adversely affected by a determination made by the Commission under section 717(a)(3).”

SEC. 105. EMERGENCY ACCESS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—For the purpose of achieving equal access to emergency services by individuals with disabilities, as a part of the migration to a national Internet pro-

ocol-enabled emergency network, not later than 60 days after the date of enactment of this Act, the Chairman of the Commission shall establish an advisory committee, to be known as the Emergency Access Advisory Committee (referred to in this section as the “Advisory Committee”).

(b) MEMBERSHIP.—As soon as practicable after the date of enactment of this Act, the Chairman of the Commission shall appoint the members of the Advisory Committee, ensuring a balance between individuals with disabilities and other stakeholders, and shall designate two such members as the co-chairs of the Committee. Members of the Advisory Committee shall be selected from the following groups:

(1) STATE AND LOCAL GOVERNMENT AND EMERGENCY RESPONDER REPRESENTATIVES.—Representatives of State and local governments and representatives of emergency response providers, selected from among individuals nominated by national organizations representing such governments and representatives.

(2) SUBJECT MATTER EXPERTS.—Individuals who have the technical knowledge and expertise to serve on the Advisory Committee in the fulfillment of its duties, including representatives of—

(A) providers of interconnected and non-interconnected VoIP services;

(B) vendors, developers, and manufacturers of systems, facilities, equipment, and capabilities for the provision of interconnected and non-interconnected VoIP services;

(C) national organizations representing individuals with disabilities and senior citizens;

(D) Federal agencies or departments responsible for the implementation of the Next Generation E 9-1-1 system;

(E) the National Institute of Standards and Technology; and

(F) other individuals with such technical knowledge and expertise.

(3) REPRESENTATIVES OF OTHER STAKEHOLDERS AND INTERESTED PARTIES.—Representatives of such other stakeholders and interested and affected parties as the Chairman of the Commission determines appropriate.

(c) DEVELOPMENT OF RECOMMENDATIONS.—Within one year after the completion of the member appointment process by the Chairman of the Commission pursuant to subsection (b), the Advisory Committee shall develop and submit to the Commission recommendations to implement such technologies and methods, including recommendations—

(1) with respect to what actions are necessary as a part of the migration to a national Internet protocol-enabled network to achieve reliable, interoperable communication transmitted over such network that will ensure access to emergency services by individuals with disabilities;

(2) for protocols, technical capabilities, and technical requirements to ensure reliability and interoperability necessary to ensure access to emergency services by individuals with disabilities;

(3) for the establishment of technical standards for use by public safety answering points, designated default answering points, and local emergency authorities;

(4) for relevant technical standards and requirements for communication devices and equipment and technologies to enable the use of reliable emergency access;

(5) for procedures to be followed by IP-enabled network providers to ensure that such providers do not install features, functions, or capabilities that would conflict with technical standards;

(6) for deadlines by which providers of interconnected and non-interconnected VoIP

services and manufacturers of equipment used for such services shall achieve the actions required in paragraphs (1) through (5), and for the possible phase out of the use of current-generation TTY technology to the extent that this technology is replaced with more effective and efficient technologies and methods to enable access to emergency services by individuals with disabilities; and

(7) for the establishment of rules to update the Commission's rules with respect to 9-1-1 services and E-911 services, as such term is defined in section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942), for users of telecommunications relay services as new technologies and methods for providing such relay services are adopted by providers of such relay services.

(d) MEETINGS.—

(1) INITIAL MEETING.—The initial meeting of the Advisory Committee shall take place not later than 45 days after the completion of the member appointment process by the Chairman of the Commission pursuant to subsection (b).

(2) OTHER MEETINGS.—After the initial meeting, the Advisory Committee shall meet at the call of the chairs, but no less than monthly until the recommendations required pursuant to subsection (c) are completed and submitted.

(3) NOTICE; OPEN MEETINGS.—Any meetings held by the Advisory Committee shall be duly noticed at least 14 days in advance and shall be open to the public.

(e) PROCEDURAL RULES.—

(1) QUORUM.—One-third of the members of the Advisory Committee shall constitute a quorum for conducting business of the Advisory Committee.

(2) SUBCOMMITTEES.—To assist the Advisory Committee in carrying out its functions, the chair may establish appropriate subcommittees composed of members of the Advisory Committee and other subject matter experts as determined to be necessary.

(3) ADDITIONAL PROCEDURAL RULES.—The Advisory Committee may adopt other procedural rules as needed.

(f) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.

(g) IMPLEMENTING RECOMMENDATIONS.—The Commission shall have the authority to promulgate regulations to implement the recommendations proposed by the Advisory Committee, as well as any other regulations as are necessary to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network.

(h) SURVEY.—Not later than 30 months after the date of enactment of this Act, the Commission shall conduct and publish the results of a national survey of individuals with disabilities concerning real time text, geolocation services, instant messaging services, and mobile telecommunications relay services. The survey shall seek to determine what individuals with disabilities believe to be the most effective and efficient technologies and methods by which to enable access to emergency services by individuals with disabilities.

(i) DEFINITIONS.—In this section—

(1) the term “Commission” means the Federal Communications Commission;

(2) the term “Chairman” means the Chairman of the Federal Communications Commission; and

(3) except as otherwise expressly provided, other terms have the meanings given such terms in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

SEC. 106. RELAY SERVICES FOR DEAF-BLIND INDIVIDUALS.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.), as amended by sections 103 and 104, is further amended by adding at the end the following:

“SEC. 719. RELAY SERVICES FOR DEAF-BLIND INDIVIDUALS.

“(a) IN GENERAL.—Within 6 months after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall establish rules that define as eligible for relay service support those programs that are approved by the Commission for the distribution of specialized customer premises equipment designed to make telecommunications service, Internet access service, and advanced communications, including inter-exchange services and advanced telecommunications and information services, accessible by low-income individuals who are deaf-blind.

“(b) INDIVIDUALS WHO ARE DEAF-BLIND DEFINED.—For purposes of this section, the term ‘individuals who are deaf-blind’ has the meaning given such term in section 206 of the Helen Keller National Center Act (29 U.S.C. 1905).

“(c) ANNUAL AMOUNT.—The total amount of support the Commission may provide from its Telecommunications Relay Services Fund for any fiscal year may not exceed \$10,000,000.”

TITLE II—VIDEO PROGRAMMING

SEC. 201. VIDEO PROGRAMMING AND EMERGENCY ACCESS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the Chairman shall establish an advisory committee to be known as the Video Programming and Emergency Access Advisory Committee.

(b) MEMBERSHIP.—As soon as practicable after the date of enactment of this Act, the Chairman shall appoint individuals who have the technical knowledge and engineering expertise to serve on the Advisory Committee in the fulfillment of its duties, including the following:

(1) Representatives of distributors and providers of video programming or national organizations representing such distributors and providers.

(2) Representatives of vendors, developers, and manufacturers of systems, facilities, equipment, and capabilities for the provision of video programming delivered using Internet protocol or a national organization representing such vendors, developers, or manufacturers.

(3) Representatives of manufacturers of consumer electronics or information technology equipment or a national organization representing such manufacturers.

(4) Representatives of national organizations representing accessibility advocates, including individuals with disabilities and the elderly.

(5) Representatives of the broadcast television industry or a national organization representing such industry.

(6) Other individuals with technical and engineering expertise, as the Chairman determines appropriate.

(c) COMMISSION OVERSIGHT.—The Chairman shall appoint a member of the Commission's staff to moderate and direct the work of the Advisory Committee.

(d) TECHNICAL STAFF.—The Commission shall appoint a member of the Commission's technical staff to provide technical assistance to the Advisory Committee.

(e) DEVELOPMENT OF RECOMMENDATIONS.—

(1) CLOSED CAPTIONING REPORT.—Within 6 months after the date of the first meeting of

the Advisory Committee, the Advisory Committee shall develop and submit to the Commission a report that includes the following:

(A) An identification of the performance objectives for protocols, technical capabilities, and technical procedures needed to permit content providers, content distributors, Internet service providers, software developers, and device manufacturers to reliably encode, transport, receive, and render closed captions of video programming delivered using Internet protocol.

(B) An identification of additional protocols, technical capabilities, and technical procedures beyond those available as of the date of enactment of this Act for the delivery of closed captions of video programming delivered using Internet protocol that are necessary to meet the performance objectives identified under subparagraph (A).

(C) A recommendation for any regulations that may be necessary to ensure compatibility between video programming delivered using Internet protocol and devices capable of receiving and displaying such programming in order to facilitate access to closed captions.

(2) VIDEO DESCRIPTION, EMERGENCY INFORMATION, USER INTERFACES, AND VIDEO PROGRAMMING GUIDES AND MENUS.—Within 18 months after the date of enactment of this Act, the Advisory Committee shall develop and submit to the Commission a report that includes the following:

(A) An identification of the performance objectives for protocols, technical capabilities, and technical procedures needed to permit content providers, content distributors, Internet service providers, software developers, and device manufacturers to reliably encode, transport, receive, and render video descriptions of video programming and emergency information delivered using Internet protocol or digital broadcast television.

(B) An identification of additional protocols, technical capabilities, and technical procedures beyond those available as of the date of enactment of this Act for the delivery of video descriptions of video programming and emergency information delivered using Internet protocol that are necessary to meet the performance objectives identified under subparagraph (A).

(C) A recommendation for any regulations that may be necessary to ensure compatibility between video programming delivered using Internet protocol and devices capable of receiving and displaying such programming in order to facilitate access to emergency information.

(D) With respect to user interfaces, a recommendation for the standards, protocols, and procedures used to enable the functions of apparatus designed to receive or display video programming transmitted simultaneously with sound (including apparatus designed to receive or display video programming transmitted by means of services using Internet protocol) to be accessible to and usable by individuals with disabilities.

(E) With respect to user interfaces, a recommendation for the standards, protocols, and procedures used to enable on-screen text menus and other visual indicators used to access the functions on an apparatus described in subparagraph (D) to be accompanied by audio output so that such menus or indicators are accessible to and usable by individuals with disabilities.

(F) A recommendation for the standards, protocols, and procedures used to enable the selection of video programming information on an apparatus or navigation device by means of a guide or menu to be accessible in real-time by individuals who are blind or have a visual impairment.

(3) CONSIDERATION OF STANDARDS, PROTOCOLS, AND PROCEDURES BY STANDARD-SETTING

ORGANIZATIONS.—The recommendations of the Advisory Committee shall, to the extent possible, incorporate the standards, protocols, and procedures that have been adopted by appropriate industry standard-setting organizations for the report requirements described in paragraphs (1) and (2).

(f) MEETINGS.—

(1) INITIAL MEETING.—The initial meeting of the Advisory Committee shall take place not later than 180 days after the date of the enactment of this Act.

(2) OTHER MEETINGS.—After the initial meeting, the Advisory Committee shall meet at the call of the Chairman.

(3) NOTICE; OPEN MEETINGS.—Any meeting held by the Advisory Committee shall be noticed at least 14 days before such meeting and shall be open to the public.

(g) PROCEDURAL RULES.—

(1) QUORUM.—The presence of one-third of the members of the Advisory Committee shall constitute a quorum for conducting the business of the Advisory Committee.

(2) SUBCOMMITTEES.—To assist the Advisory Committee in carrying out its functions, the Chairman may establish appropriate subcommittees composed of members of the Advisory Committee and other subject matter experts.

(3) ADDITIONAL PROCEDURAL RULES.—The Advisory Committee may adopt other procedural rules as needed.

(h) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.

SEC. 202. VIDEO DESCRIPTION AND CLOSED CAPTIONING.

(a) VIDEO DESCRIPTION.—Section 713 of the Communications Act of 1934 (47 U.S.C. 613) is amended—

(1) by striking subsections (f) and (g);

(2) by redesignating subsection (h) as subsection (j); and

(3) by inserting after subsection (e) the following:

“(f) VIDEO DESCRIPTION.—

“(1) REINSTATEMENT OF REGULATIONS.—On the day that is 1 year after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall, after a rulemaking, reinstate its video description regulations contained in the Implementation of Video Description of Video Programming Report and Order (15 F.C.C.R. 15,230 (2000)), modified as provided in paragraph (2).

“(2) MODIFICATIONS TO REINSTATED REGULATIONS.—Such regulations shall be modified only as follows:

“(A) The regulations shall apply to video programming, as defined in subsection (i), insofar as such programming is transmitted for display on television in digital format.

“(B) The Commission shall update the list of the top 25 Designated Market Areas, the list of the top 5 national nonbroadcast networks that have at least 50 hours per quarter of prime time programming that is not exempt under this paragraph, and the designation of the beginning calendar quarter for which compliance shall be calculated.

“(C) The regulations may permit a provider of video programming or a program owner to petition the Commission for an exemption from the requirements of this section upon a showing that the requirements contained in this section would be economically burdensome.

“(D) The Commission may exempt from the regulations established pursuant to paragraph (1) a service, class of services, program, class of programs, equipment, or class of equipment for which the Commission has determined that the application of such regulations would be economically burdensome

for the provider of such service, program, or equipment.

“(E) The regulations shall not apply to live or near-live programming.

“(F) The regulations shall provide for an appropriate phased schedule of deadlines for compliance.

“(3) INQUIRIES ON FURTHER VIDEO DESCRIPTION REQUIREMENTS.—The Commission shall commence the following inquiries not later than 1 year after the completion of the phase-in of the reinstated regulations and shall report to Congress 1 year thereafter on the findings for each of the following:

“(A) VIDEO DESCRIPTION IN TELEVISION PROGRAMMING.—The availability, use, and benefits of video description on video programming distributed on television, the technical and creative issues associated with providing such video description, and the financial costs of providing such video description for providers of video programming and program owners.

“(B) VIDEO DESCRIPTION IN VIDEO PROGRAMMING DISTRIBUTED ON THE INTERNET.—The technical and operational issues, costs, and benefits of providing video descriptions for video programming that is delivered using Internet protocol.

“(4) CONTINUING COMMISSION AUTHORITY.—

“(A) IN GENERAL.—The Commission may issue additional regulations if the Commission determines, at least 2 years after completing the reports required in paragraph (3), that the need for and benefits of providing video descriptions for video programming, insofar as such programming is transmitted for display on television, are greater than the technical and economic costs of providing such additional programming. If the Commission makes such a determination and issues additional regulations, the Commission may increase, in total, the hours requirement for described video programming, insofar as such programming is transmitted for display on television, up to 75 percent of the requirement in the regulations reinstated under paragraph (1).

“(B) FURTHER REQUIREMENTS.—

“(i) REPORT.—Nine years after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report assessing—

“(I) the types of described video programming that is available to consumers;

“(II) consumer use of such programming;

“(III) the costs to program owners, providers, and distributors of creating such programming;

“(IV) the benefits to consumers of such programming;

“(V) the amount of such programming currently available; and

“(VI) the need for additional described programming.

“(ii) INCREASED AVAILABILITY.—Ten years after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall have the authority, based upon the findings, conclusions, and recommendations contained in the report under clause (i), to increase the availability of such programming.

“(C) APPLICATION TO DESIGNATED MARKET AREAS.—

“(i) IN GENERAL.—After the Commission completes the study on video description, the Commission shall phase in the video description regulations for all designated market areas, except that the Commission may grant waivers to entities in specific designated market areas where it deems appropriate.

“(ii) PHASE-IN DEADLINE.—The phase-in described under clause (i) shall be completed not later than 6 years after the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010.

“(g) EMERGENCY INFORMATION.—Not later than 1 year after the Video Programming and Emergency Access Advisory Committee report under section 201(e)(2) of the Twenty-First Century Communications and Video Accessibility Act of 2010 is submitted to the Commission, the Commission shall complete a proceeding to—

“(1) identify methods to convey emergency information (as that term is defined in section 79.2 of title 47, Code of Federal Regulations) in a manner accessible to individuals who are blind or have a visual impairment; and

“(2) promulgate regulations that require certain designated video programming providers and video programming distributors (as those terms are defined in section 79.1 of title 47, Code of Federal Regulations) and program owners to convey such emergency information in a manner accessible to individuals who are blind or have a visual impairment.

“(h) RESPONSIBILITIES.—

“(1) VIDEO PROGRAMMING OWNER.—A video programming owner shall ensure that any closed captioning and video description required pursuant to this section is provided in accordance with the technical standards, protocols, and procedures established by the Commission.

“(2) VIDEO PROGRAMMING PROVIDER OR DISTRIBUTOR.—A video programming provider or video programming distributor shall be deemed in compliance with this section and the rules and regulation promulgated thereunder if such provider or distributor enables the rendering or the pass through of closed captions and video description signals.

“(i) DEFINITIONS.—For purposes of this section, section 303, and section 330:

“(1) VIDEO DESCRIPTION.—The term ‘video description’ means the insertion of audio narrated descriptions of a television program’s key visual elements into natural pauses between the program’s dialogue.

“(2) VIDEO PROGRAMMING.—The term ‘video programming’ has the meaning given such term in section 602.”.

(b) CLOSED CAPTIONING ON VIDEO PROGRAMMING DELIVERED USING INTERNET PROTOCOL.—Section 713 of such Act is further amended by striking subsection (c) and inserting the following:

“(c) DEADLINES FOR CAPTIONING.—

“(1) IN GENERAL.—The regulations prescribed pursuant to subsection (b) shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming published or exhibited on television.

“(2) DEADLINES FOR PROGRAMMING DELIVERED USING INTERNET PROTOCOL.—

“(A) REGULATIONS ON CLOSED CAPTIONING ON VIDEO PROGRAMMING DELIVERED USING INTERNET PROTOCOL.—Not later than 6 months after the submission of the report to the Commission required by section 201(e)(1) of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall promulgate regulations to require the provision of closed captioning on video programming delivered using Internet protocol.

“(B) SCHEDULE.—The regulations prescribed under this paragraph shall include an appropriate schedule of decoding for the provision of closed captioning, taking into account whether such programming is prerecorded and edited for Internet distribution, or whether such programming is live or near-live and not edited for Internet distribution.

“(C) COST.—The Commission may delay or waive the regulation promulgated under subparagraph (A) to the extent the Commission finds that the application of the regulation to live video programming delivered using Internet protocol would be economically burdensome to providers of video programming or program owners.

“(D) REQUIREMENTS FOR REGULATIONS.—

“(i) IN GENERAL.—The regulations prescribed under this paragraph—

“(I) shall contain a definition of ‘near-live programming’ and ‘edited for Internet distribution’;

“(II) may exempt any service, class of service, program, class of program, equipment, or class of equipment for which the Commission has determined that the application of such regulations would be economically burdensome to the provider of such service, program, or equipment;

“(III) shall provide that de minimis failure to comply with such regulations by a provider of video programming or program owner shall not be treated as a violation of the regulations; and

“(IV) shall only apply to video programming that is transmitted for display on television with closed captioning after the effective date of the regulations issued pursuant to this section.

“(ii) ALTERNATE MEANS.—An entity may meet the requirements of this section through alternate means than those prescribed by regulations pursuant to paragraph (1) if the requirements of this section are met, as determined by the Commission.”.

(C) CONFORMING AMENDMENT.—Section 713(d) of such Act is amended by striking paragraph (3) and inserting the following:

“(3)(A) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section;

“(B) the Commission may grant such petition upon a showing that the requirements contained in this section would be economically burdensome;

“(C) during the pendency of such a petition, such provider or owner shall be exempt from the requirements of this section; and

“(D) the Commission shall act to grant or deny any such petition, in whole or in part, within 6 months after the Commission receives such petition, unless the Commission finds that an extension of the 6-month period is necessary to determine whether such requirements are economically burdensome.”.

(D) REPORTING REQUIREMENT.—Two years after the effective date of the regulations issued pursuant to this section, and biennially thereafter, each broadcast television network and each cable television network shall submit to the Commission a report containing the number of hours, in the applicable 2-year period, of video programming not published or exhibited on television after the date of enactment of this Act that was provided on the Internet with closed captioning.

(E) REPORT TO CONGRESS.—

(1) IN GENERAL.—Three years after the date of enactment of this Act, the Commission shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(A) assessing the technical, economic, and operational issues regarding the captioning of video programming that is distributed only over the Internet, including the types and amounts of such video programming that is or could be captioned, the types of entities producing such programming, and the effects a closed captioning requirement may have on the producers of such programming;

(B) assessing the benefits to and use by consumers of closed captioning of video pro-

gramming that is distributed only over the Internet for consumers; and

(C) making recommendations, if any, of whether Congress should adopt or the Commission should implement a closed captioning requirement for such programming.

(2) UPDATES.—The Commission shall periodically update the report to the Committees as it determines appropriate.

SEC. 203. CLOSED CAPTIONING DECODER AND VIDEO DESCRIPTION CAPABILITY.

(A) AUTHORITY TO REGULATE.—Section 303(u) of the Communications Act of 1934 (47 U.S.C. 303(u)) is amended to read as follows:

“(u) Require that—

“(1) apparatus designed to receive or play back video programming transmitted simultaneously with sound, if such apparatus is manufactured in the United States or imported for use in the United States and uses a picture screen of any size—

“(A) be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming;

“(B) have the capability to decode and make available the transmission and delivery of video description services as required by regulations reinstated and modified pursuant to section 713(f); and

“(C) have the capability to decode and make available emergency information (as that term is defined in section 79.2 of title 47, Code of Federal Regulations) in a manner that is accessible to individuals who are blind or have a visual impairment; and

“(2) notwithstanding paragraph (1) of this subsection—

“(A) apparatus described in such paragraph that use a picture screen that is less than 13 inches in size meet the requirements of subparagraphs (A), (B), and (C) of such paragraph only if the requirements of such subparagraphs are achievable (as defined in section 716);

“(B) any apparatus or class of apparatus that are display-only video monitors with no playback capability are exempt from the requirements of such paragraph; and

“(C) the Commission shall have the authority to waive the requirements of this subsection for any apparatus or class of apparatus.”.

(B) OTHER DEVICES.—Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is further amended by adding at the end the following new subsection:

“(z) Require that—

“(1) if achievable (as defined in section 716), apparatus designed to record video programming transmitted simultaneously with sound, if such apparatus is manufactured in the United States or imported for use in the United States, enable the rendering or the pass through of closed captions, video description signals, and emergency information (as that term is defined in section 79.2 of title 47, Code of Federal Regulations) so that viewers are able to activate and de-activate the closed captions and video description as the video programming is played back on a picture screen of any size; and

“(2) interconnection mechanisms and standards for digital video source devices are available to carry from the source device to the consumer equipment the information necessary to permit the display of closed captions and to make encoded video description and emergency information audible.”.

(C) SHIPMENT IN COMMERCE.—Section 330(b) of the Communications Act of 1934 (47 U.S.C. 330(b)) is amended—

(1) by striking “section 303(u)” in the first sentence and inserting “subsections (u) and (z) of section 303”;

(2) by striking the second sentence and inserting the following: “Such rules shall provide performance and display standards for

such built-in decoder circuitry or capability designed to display closed captioned video programming, the transmission and delivery of video description services, and the conveyance of emergency information as required by section 303 of this Act.”; and

(3) in the fourth sentence, by striking “closed-captioning service continues” and inserting “closed-captioning service and video description service continue”.

(D) IMPLEMENTING REGULATIONS.—

(1) IN GENERAL.—The Federal Communications Commission shall, after consideration of the Advisory Committee reports required by section 201(e), prescribe such regulations as are necessary to implement the requirements of sections 303(u), 303(z), and 330(b) of the Communications Act of 1934, as amended by this section, needed for the transmission of—

(A) closed captioning within 6 months after the submission to the Commission of the Advisory Committee report required by section 201(e)(1); and

(B) video description and emergency information within 12 months after the submission to the Commission of the Advisory Committee report required by section 201(e)(2).

(2) ALTERNATE MEANS.—An entity may meet the requirements of sections 303(u), 303(z), and 330(b) of the Communications Act of 1934 through alternate means than those prescribed by regulations pursuant to paragraph (1) if the requirements of such sections are met, as determined by the Commission.

SEC. 204. USER INTERFACES ON DIGITAL APPARATUS.

(A) AMENDMENT.—Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is further amended by adding after subsection (z), as added by section 203 of this Act, the following new subsection:

“(aa) Require—

“(1) if achievable (as defined in section 716), that digital apparatus designed to receive or play back video programming, that are shipped in interstate commerce or manufactured in the United States, transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, be designed, developed, and fabricated so that control of all built-in apparatus functions are accessible to and usable by individuals with disabilities;

“(2) that if on-screen text menus or other visual indicators built in to the digital apparatus are used to access the functions of the apparatus described in paragraph (1), such functions shall be accompanied by audio output that is either integrated or peripheral to the apparatus, so that such menus or indicators are accessible to and usable by individuals who are blind or have a visual impairment in real-time;

“(3) that built-in user controls on such apparatus shall be capable of accessing closed captioning, including—

“(A) if a remote control is provided with the apparatus—

“(i) a button, key, or icon on the remote control of such apparatus designated for activating closed captioning; or

“(ii) any other mechanism that provides a substantially equivalent level of accessibility; and

“(B) if on-screen menus are displayed on such apparatus—

“(i) the inclusion of ‘closed captions’ and ‘video description’ on the first menu that appears; or

“(ii) any other mechanism that provides a substantially equivalent level of accessibility; and

“(4) that in applying this subsection the term ‘apparatus’ does not include a navigation device, as such term is defined in section 76.1200 of title 47, Code of Federal Regulations.”.

(b) IMPLEMENTING REGULATIONS.—

(1) **IN GENERAL.**—Within 12 months after the submission to the Commission of the Advisory Committee report required by section 201(e)(2), the Commission shall prescribe such regulations as are necessary to implement the amendments made by subsection (a).

(2) **ALTERNATE MEANS.**—An entity may meet the requirements of sections 303(aa) of the Communications Act of 1934 through alternate means than those prescribed by regulations pursuant to paragraph (1) if the requirements of such section are met, as determined by the Commission.

(c) **DEFERRAL OF COMPLIANCE WITH ATSC MOBILE DTV STANDARD A/153.**—A digital apparatus designed and manufactured to receive or play back the Advanced Television Systems Committee’s Mobile DTV Standards A/153 shall not be required to meet the requirements of the regulations prescribed under subsection (b) for a period of not less than 24 months after the date on which the final regulations are published in the Federal Register.

SEC. 205. ACCESS TO VIDEO PROGRAMMING GUIDES AND MENUS PROVIDED ON NAVIGATION DEVICES.

(a) **AMENDMENT.**—Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is further amended by adding after subsection (aa), as added by section 204 of this Act, the following new subsection:

“(bb) **Require—**

“(1) if achievable (as defined in section 716), that the on-screen text menus and guides provided by navigation devices (as such term is defined in section 76.1200 of title 47, Code of Federal Regulations) for the display or selection of multichannel video programming are audibly accessible in real-time upon request by individuals who are blind or have a visual impairment, except that the Commission may not specify the technical standards, protocols, procedures, and other technical requirements for meeting this requirement; and

“(2) for navigation devices with built-in closed captioning capability, access to such capability through a button, key, or icon designated for activating the closed captioning, or through any other mechanism that provides a substantially equivalent level of accessibility.”

(b) IMPLEMENTING REGULATIONS.—

(1) **IN GENERAL.**—Within 12 months after the submission to the Commission of the Advisory Committee report required by section 201(e)(2), the Commission shall prescribe such regulations as are necessary to implement the amendment made by subsection (a).

(2) **EXEMPTION.**—Such regulations may provide an exemption from the regulations for cable systems serving 50,000 or fewer subscribers.

(3) **RESPONSIBILITY.**—An entity shall only be responsible for compliance with the requirements added by this section with respect to navigation devices that such entity provides to a requesting individual who is blind or has a visual impairment and shall make reasonable efforts to make such requirements known to consumers.

(4) SEPARATE EQUIPMENT OR SOFTWARE.—

(A) **IN GENERAL.**—Such regulations shall permit but not require the entity providing the navigation device to the requesting individual who is blind or has a visual impairment to comply with section 303(bb)(1) of the Communications Act of 1934 (as added by subsection (a) of this section) through such

entity’s use of software, a peripheral device, specialized consumer premises equipment, a network-based service, or other solution, and shall provide such entity with the flexibility to select the manner of compliance.

(B) **REQUIREMENTS.**—If an entity complies with section 303(bb)(1) of the Communications Act of 1934 (as added by subsection (a) of this section) under subparagraph (A) of this paragraph, such entity shall provide any such software, peripheral device, equipment, service, or solution at no additional charge and within a reasonable time to such individual.

(5) **USER CONTROLS FOR CLOSED CAPTIONING.**—Such regulations shall permit the entity providing the navigation device maximum flexibility in the selection of means for compliance with section 303(bb)(2) of the Communications Act of 1934 (as added by subsection (a) of this section).

(6) PHASE-IN.—

(A) **IN GENERAL.**—The Commission shall provide affected entities with—

(i) not less than 2 years after the adoption of such regulations to begin placing in service devices that comply with the requirements of section 303(bb)(2) of the Communications Act of 1934 (as added by subsection (a) of this section); and

(ii) not less than 3 years after the adoption of such regulations to begin placing in service devices that comply with the requirements of section 303(bb)(1) of the Communications Act of 1934 (as added by subsection (a) of this section).

(B) **APPLICATION.**—Such regulations shall apply only to devices manufactured or imported on or after the respective effective dates established in subparagraph (A).

SEC. 206. DEFINITIONS.

In this title:

(1) **ADVISORY COMMITTEE.**—The term “Advisory Committee” means the advisory committee established in section 201.

(2) **CHAIRMAN.**—The term “Chairman” means the Chairman of the Federal Communications Commission.

(3) **COMMISSION.**—The term “Commission” means the Federal Communications Commission.

(4) **EMERGENCY INFORMATION.**—The term “emergency information” has the meaning given such term in section 79.2 of title 47, Code of Federal Regulations.

(5) **INTERNET PROTOCOL.**—The term “Internet protocol” includes Transmission Control Protocol and a successor protocol or technology to Internet protocol.

(6) **NAVIGATION DEVICE.**—The term “navigation device” has the meaning given such term in section 76.1200 of title 47, Code of Federal Regulations.

(7) **VIDEO DESCRIPTION.**—The term “video description” has the meaning given such term in section 713 of the Communications Act of 1934 (47 U.S.C. 613).

(8) **VIDEO PROGRAMMING.**—The term “video programming” has the meaning given such term in section 713 of the Communications Act of 1934 (47 U.S.C. 613).

TITLE III—PAYGO COMPLIANCE

SEC. 301. PAYGO COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. MARKEY) and the

gentleman from Florida (Mr. STEARNS) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. MARKEY of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MARKEY of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is great to see you, my colleague from New England, presiding in the chair today at this historic moment. You are always going to have a permanent place in the history of our country. You are a great leader and an inspiration to all of us. And everything that we are doing today is inspired by your incredible personal courage. With the incredible example that your service to the House is providing, I am confident that you will not be the last who will sit up there and preside, but only the first in a long line.

Now since I introduced the legislation before us today, we have engaged in a bipartisan, extensive, and constructive process with stakeholders to find common ground on the legislative language and to move forward with this bill. I want to thank the leadership of Chairman HENRY WAXMAN, without whom we would not be here today, RICK BOUCHER, who worked over the last year to construct this legislation before us, to CLIFF STEARNS from Florida, who worked in a bipartisan fashion to craft this historic legislation which we are about to consider, to JOE BARTON from Texas, who ensured that from the very beginning this would be a bipartisan effort that we would put together in order to pass the historic legislation that is today before us.

I would like to think that Helen Keller and Annie Sullivan are looking down on us here this afternoon and that they are smiling. This picture of the two of them was taken in 1888 in Brewster, Massachusetts, on Cape Cod. I am so proud to have the Perkins School for the Blind, where Annie Sullivan graduated and Helen Keller was educated, in my congressional district in Watertown, Massachusetts.

When they met 122 years ago, they were a stunning study in contrast: Alabama and Massachusetts, a daughter of the south, a young woman of Irish descent traveling south from Boston. Nevertheless, they changed the world together, these two miracle workers.

□ 1500

They shattered expectations about what a person who was deaf or blind could achieve. Now, I am an American of Irish heritage from Boston, and my

mother was a Sullivan. She always told me that her relatives were a particularly smart and determined lot, but I can only imagine the bottomless resolve and resilience Annie Sullivan must have needed to navigate her way in the South in the aftermath of the Civil War.

Whether it is a Braille reader or broadband connection access to technology, it is not a political issue. It is a participation issue. Each of us should be able to participate in the world to the fullest extent possible; and the latest communications, video services and devices can enrich and ennoble how Americans experience and enjoy their lives.

We are debating this bill today on the 20th anniversary of the Americans with Disabilities Act, which the first President George Bush signed into law, underscoring the nonpartisan nature of this vital issue. The 20th anniversary is an opportunity to look back and to reflect on the progress which we have made. Coming out of the Energy and Commerce Committee's Telecommunications Subcommittee over the last two decades have been a whole series of legislative initiatives aimed at broadening the disabled community's access to technologies that can help them do things that most Americans take for granted.

In 1990, we made sure that Americans who are deaf could make telephone calls. In 1990, we mandated that television shows be closed-captioned for the deaf so that they could enjoy the same entertainment and other programming as other Americans. Many deaf and hard-of-hearing people say that closed-captioning is the single modern accessibility technology that has changed their lives the most. Then, in 1996, we inserted language which required the accessibility of all telephone equipment, including telephones, telephone calls, call waiting, speed dialing, caller ID, and related services.

Two decades ago, Americans with disabilities couldn't get around if buildings weren't wheelchair accessible. Today, they can't get around without being Web accessible. That is what we are talking about here today. Twenty years ago, the ADA mandated physical ramps into buildings. Today, individuals with disabilities need online ramps to the Internet so that they can get to the Web from wherever they happen to be.

From the time of Helen Keller and Annie Sullivan through the Americans with Disabilities Act, to closed-captioning for television programming, to the ability of the deaf to make telephone calls, and now to the 21st Century Communications and Video Accessibility Act on the floor today, we have made important progress. We have moved from Braille to broadcast TV, from broadband to the BlackBerry. We have moved to ensure that, in each area and today, we move to the Internet to ensure that everyone in our country has access to this key information technology.

Annie Sullivan used special language. She spelled in Helen Keller's palm. In the 21st century, we have moved from tracing the letters of the alphabet in a palm to navigating a Palm-Pilot, and we must make sure that all of these modern devices are accessible. Annie Sullivan was an incredibly dedicated and determined teacher. Now technology needs to be the teacher—the constant companion providing instruction and access to the world and opportunities that otherwise would be out of reach.

By age 10, Helen Keller had mastered reading, Braille and manual sign language. She then wanted to learn how to speak. At the Horace Mann School for the Deaf in Boston, Helen took lessons. Then Annie took over and worked with Helen. Helen did learn to speak, and Helen Keller is still speaking to us today about how all of us should make the most of our abilities and participate in society to the fullest, but we need the technologies to make that possible for every American.

The bill we are considering today significantly increases accessibility for Americans with disabilities to the indispensable telecommunications and video technology tools of the 21st century by making Web access easier through improved user interfaces for smartphones; by enabling Americans who are blind to enjoy TV fully through audible descriptions of the on-screen action; by making cable TV program guides and selection menus accessible to people with vision loss; by providing Americans who are deaf the ability to watch new TV programs online with the captions included; by mandating that remote controls have a button or a similar mechanism to easily access the closed-captioning on broadcast and pay TV; by requiring that telecom equipment used to make calls over the Internet is compatible with hearing aids; and by providing a share of the total of \$10 million per year of funding to purchase Internet access and telecom services for low-income Americans who are deaf and blind so that these individuals can more fully participate in society.

Today's miracle worker—today's technology, today's ability to be able to provide the technologies that people need today—is one that, as we move forward, we have to make sure has the accessibility for all Americans. That technology is the iPad. The iPad is something that today makes it possible for Annie Sullivan and Helen Keller to be able to access with a touch the technologies that the Helen Kellers and the Annie Sullivans of today need in order to be able to communicate with each other and with all of the rest of us. So it is not just like touching the palm like it was in Annie and Helen's day. It's about touching the pad, touching these devices, having them speak to them, and having the ability to be able to speak back in a way that has a conversation with all of the rest of us in society.

This morning, I did a teleconference with a group of phenomenal students from the Perkins School for the Blind and the Carroll Center for the Blind. These young people were born before President Bush signed the ADA into law. They were born before the BF era, before Facebook. That's how long ago all of this is. These two schools are led by two extraordinary visionaries who serve with amazing passion and commitment—Steve Rothstein of Perkins and Mike Festa of Carroll.

Opportunity, independence, equal access for all—that's what this legislation is all about. These are timeless American values that were as relevant when Annie Sullivan and Helen Keller were working together as they are today. When we maximize participation for all Americans, we move forward as a country. When we expand the circle of inclusion, we evolve as a people. When we increase accessibility for Americans with disabilities, we get closer to fulfilling the ideals of our Nation's Founders that all men and women are endowed by their Creator with certain inalienable rights. Among these are life, liberty and the pursuit of happiness.

This legislation which we are considering today is intended to increase access for all Americans with disabilities to the technological tools to succeed in today's interconnected world.

Again, I want to thank the entire disabled community, the deaf and the blind communities that have advocated for years for this incredible revolution that is happening here on the floor of the House of Representatives today. We are in your debt for being the advocates, for being the witnesses to history so that we make this change today.

Again, I want to thank Chairman WAXMAN, Mr. BOUCHER, Mr. BARTON, Mr. STEARNS, and all of the Members who worked together in order to make today the great historic success it is going to be.

Mr. Speaker, I reserve the balance of my time.

□ 1510

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Let me also, at this point, thank Mr. MARKEY for his eloquent remarks. But also, he is steadfast in pushing this bill. He has been working on this bill for almost 4 years.

Oftentimes, when you come to the floor on a suspension like this, many Members do not realize the amount of work that goes into a bill like this. And I know the ranking member before Mr. MARKEY had talked to us about the possibility of this 2 years ago, 3 years ago, 4 years ago, so I'm glad it's culminated as it is today, 20 years after the anniversary of the Americans with Disabilities Act.

And obviously, I'd also like to compliment the gentleman from Rhode Island for being in the chair. It's altogether appropriate, historic and important.

I think many of us have come out of the House floor and walked into the halls of Congress and saw veterans in wheelchairs. We've seen men and women without legs. We've seen men and women without arms, hands, some of them practically blind. Shouldn't they have the opportunity to come back from Afghanistan and Iraq and have the full benefits of the electronic media? Before this bill passed, they might not have had the complete opportunity, but now, with this bill they will.

So I rise in strong support of H.R. 3101, the Twenty-First Century Communications and Video Accessibility Act. We know there's all kinds of new devices coming on. Mr. MARKEY mentioned the iPad.

And as I mentioned, it's important that people with disabilities are not left behind, have access and are afforded the opportunity to enjoy this wide variety of technology. And in many cases, through the Internet it's going to be life saving, through telemedicine and from other ways that we can help the handicapped, the people that are at home through emergency calls, and, ultimately, the D spectrum, when we have that kind of spectrum set aside just for safety and security.

Whenever you do a bill like this, it gets complicated, because lots of people want to use a lot of mandates for the United States Government to mandate through the FCC. But I think, as Mr. MARKEY pointed out with the iPad, oftentimes industry can come to the front and voluntarily do it.

We, in the United States Congress, if we mandate certain technologies, we attempt to pick winners or losers. The best approach to ensuring accessibility is to establish accessibility goals, but not dictate how to accomplish them. We need to encourage innovation to flourish and, my colleagues, this bill does that.

Now, obviously, all legislation we bring up here is not perfect, and this bill, obviously, needs some additional improvements. Perhaps the FCC can do that. Nevertheless, I think, as Mr. MARKEY pointed out, through the bipartisan process we have had here, Republicans and Democrats, we achieved a consensus, which is not altogether an everyday occurrence here in Congress.

So I think, in many ways, we can compliment ourselves, both as Democrats and Republicans, that we came together on a very important issue which affects a huge number of manufacturing companies in this United States and throughout the world. We came together in a consensus.

And, of course, I would like to thank Chairman WAXMAN for doing this, Subcommittee Chairman BOUCHER from Virginia, JOE BARTON, the ranking member from Texas, and my staff, particularly Neil, who worked with the Democrat staff to bring this consensus together. A collaboration of this kind doesn't often happen in such a short amount of time.

My main concern was that the legislation was extremely broad in its original scope, and included unnecessary mandates. Changes that were adopted at the committee markup addressed many of my concerns. Language was added that explicitly states that the relevant section shall not be construed to require every feature and every function of every device or service to be accessible for every disability.

So that the record is clear regarding the intentions that underlie this bill, I want to offer some guidance to the FCC regarding the way it should view several key provisions in this legislation.

First, my colleagues, the bill creates a new achievable standard to guide manufacturers' and service providers' efforts to provide accessibility to the disabled. Under section 255 of the Communications Act, telecommunications services and equipment must be accessible if the provision of accessibility is "readily achievable."

As introduced, H.R. 3101 proposed moving to a significantly higher standard under which accessibility would be required unless it imposed an "undue burden." The "achievable" standard we adopt today is a compromise, a very simple compromise, very important compromise, between these two positions.

The committee also recognized that it is not necessary for a manufacturer or service provider to make every piece of equipment or service accessible, if it offers or directs such person to functionally equivalent accessible alternatives to the equipment or service in question. This was a source of concern and confusion by many Members, and contention, early in the legislative process. And I'm pleased that this bill we are considering today resolves this issue by adopting clarifying language that makes this point in a clear and unambiguous manner.

Finally, my colleagues, the bill before us also recognizes that advanced communication services and applications may be offered by third parties, and that manufacturers and network operators should not be held responsible for ensuring these third party advanced communication services comply with the act.

Thus, section 2 makes clear that no person is liable for a violation of this Act to the extent that such person transmits, routes or provides intermediate or transient storage for content or communications, or provides an information location tool used to obtain access to content or information. These are the details that make for a sound bill.

As I said previously, this legislation is not perfect, but it is much, much improved due to the hard work of industry and the disability community who came together, and the staff on both sides of the aisle. This legislation, Mr. Speaker, goes a long, long way to ensuring that people with disabilities can utilize all the new and exciting products, services and applications in the years ahead. I urge its passage.

And for those veterans coming home, this will ensure that you have access to those new financial programs, those new video devices, those new devices that are going to make your life a lot easier.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY of Massachusetts. The legislation would not be here today without the incredible leadership of the Chairman of the Energy and Commerce Committee. He resolved the most nettlesome of issues in the final week in a way that has made it possible for us to bring this historic legislation here to the floor. I yield 3 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I'm pleased to rise in support of this very important legislation.

It was in 1934 when the Communications Act was adopted that it set out that they would have the goal, in this country, of making available, so far as possible, to all people without discrimination on the basis of race, color, religion, national origin or sex, a rapid, efficient, nationwide, and worldwide wire and radio communications service.

Well, this legislation before us today furthers this core principle by ensuring that Americans with disabilities can access the latest communications technology. It's only fitting that we're taking this bill up today, the 20th anniversary of the landmark Americans with Disabilities Act.

Although the ADA remains a critical protection for Americans with disabilities, our communications laws have not been updated since 1996 when Congress required that plain old telephone service be accessible to individuals with disabilities.

Fourteen years is more than a lifetime in technology policy, especially in the Internet age. The world of communications has been transformed, and we need to update relevant laws so that individuals with disabilities can share in the amazing benefits these products and services have to offer.

□ 1520

H.R. 3101 updates these laws in a number of important ways. Among other things, the bill requires that advanced communications services such as videoconferencing and text messaging be accessible to individuals with disabilities. It ensures that Internet browsers on smartphones are accessible, and that TV programming distributed over the Internet contains captions. It reinstates video description rules designed to ensure that individuals with vision impairment have better access to TV programming, and it ensures the emergency alert scrolls that warn consumers of hazardous weather and other conditions can be heard by those who have vision impairments.

Although the legislation requires access to up-to-date communications devices and video programming for individuals with disabilities, it's crafted to

allow the industry great flexibility in achieving these goals. Given the pace of technological change, industry should be allowed to meet the bill's requirements by utilizing the best, least expensive technology or application. So not only is the legislation the right thing to do for the millions of Americans with disabilities, it is friendly to business and encourages innovative solutions.

I would like to recognize the bill's sponsor, Mr. MARKEY, for his ongoing dedication and passion for this cause. I want to commend Chairman BOUCHER for his leadership in guiding the bill through his subcommittee. I want to thank Ranking Member BARTON and Ranking Member STEARNS as well, and their staff, for their very significant contributions to this bill.

As I said when we marked up this legislation at the Energy and Commerce Committee, H.R. 3101 is truly bipartisan, a consensus measure. It demonstrates what Congress can accomplish when we work together. H.R. 3101 will improve the lives of millions of Americans. And on this 20th anniversary of the Americans with Disabilities Act, I urge every Member to vote in support of this measure.

Mr. STEARNS. Mr. Speaker, I just want to speak briefly and sort of follow up with the gentleman from Massachusetts when he displayed in his hand the iPad.

I think it's a good example of what Apple has done with the iPad and how they voluntarily went about to help the people who are impaired by sight and hearing. They took the necessary steps to make certain that their product and their applications are acceptable to all people.

For example, when you look at the iPad, all of us think it's sort of, in a way, revolutionary. It gives you, at a touch of the fingers, an opportunity to go through and look at newspapers and magazines, to go on the Internet, to check your email effortlessly. It's sort of using technology that's breakthrough.

Is it possible that this breakthrough technology could help people who are disabled? Absolutely.

For example, Mr. Speaker, the iPad comes with a screen reader, support for playback of the closed caption content, and other innovative universal access features. This was done right out of the box. Apple did this voluntarily. These features make iPad easier to use for people who have vision impairment, are deaf or hard of hearing, or if they have a physical or learning disability. In addition, the iPad includes VoiceOver, a gesture-based screen reader for the blind. Instead of memorizing keyboard commands or pressing tiny arrow keys, you can simply touch the screen to hear a description of the item under your finger, then double-tap, drag, or flip to control the iPad.

VoiceOver speaks 21 languages and works with all of the applications built into the iPad. Let me repeat that. The

VoiceOver speaks 21 languages and works with all the applications built into the iPad—a phenomenon. Apple also enables software developers to create applications for iPad that work with VoiceOver.

Furthermore, every iPad can display subtitles and closed captioning for the deaf and hard of hearing when playing movies and podcasts that support it. Movies and podcasts with closed captioning are available on the iTunes Store, and can be downloaded directly to iPad or synced to the iPad using iTunes.

It is important for my colleagues to remember that a company like Apple included these features without any government mandate. This suggests that the broader market could be providing better access to people with disabilities than it does today. This bill will go a long way towards doing that.

The FCC should remember, when they come asking for comments, when they have responses, and they have an advisory committee that's all involved with this, the key for the FCC is for them to be flexible in their response so that industry, like Apple did with the iPad, has the flexibility to develop the most sound and comprehensive ways to help our disabled today.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Speaker, would you advise us as to how much time is remaining on either side?

The SPEAKER pro tempore. The gentleman from Massachusetts has 3½ minutes remaining, and the gentleman from Florida has 8½ minutes remaining.

Mr. MARKEY of Massachusetts. I reserve the balance of my time.

Mr. STEARNS. In conclusion, I think, as has been pointed out by Mr. MARKEY, this is a historic day. Twenty years ago, the Americans with Disabilities Act passed. I voted for it, I supported it. I think many people in my district and many of my friends have children who have disabilities. It's important that these individuals do not feel left out.

I think the eloquent arguments that we had 20 years ago are no less important today, particularly in light of the fact that the veterans that are coming home from Iraq and Afghanistan are coming home with disabilities that will impair them. And they're in their twenties. These are young men and women that want to work. And for many of them, they'd like to go back to their team, but they can't. They must find employment. They must, in many ways, adjust and transition.

How much better will it be if they can use the Internet, if they can use the wireless devices that we have? And not to mention the myriad of new devices that are coming out. How important is this for them? Very important. So, today, I join with Mr. MARKEY and others to commend him for his hard work here and his effort, and I urge all my colleagues to support this bill.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. MARKEY of Massachusetts. I yield myself such time as I may consume.

I thank the gentleman from Florida again for his work on this legislation, and to Mr. BARTON and to all of the Members on the minority, we could not be here without their cooperation today.

This is a very complex piece of legislation. It's historic, but it required a lot of bipartisan work to bring us to this point.

I want to thank Neil Fried and Will Carty on the minority staff for their work on this legislation. On the majority side, I want to thank Roger Sherman, Tim Powderly, Amy Levine, Sarah Fisher. For many years, Colin Crowell, on my staff, worked on this legislation. But over the last 1 year, Mark Bayer has worked every day on this bill. And I thank you, Mark, for your incredible effort on this issue. We could not be here without the incredible work that was put in by all of these people.

Back 20 years ago, we had a force of nature, Tony Coelho, the majority whip, who said it's time for us to ensure that all Americans have access to all this great bounty in our country. And he had a handicap himself, and he inspired all the rest of us. A force of nature. And former Congressman Tony Coelho is out here on the floor with us today, and he was an inspiration to us.

That inspiration was carried by STENY HOYER to ensure that that legislation did pass here in 1990. It was signed by President Bush into law. And all of the advances that were made thus far that make it possible for the historic moment where we have a Speaker who is sitting up there today, Mr. LANGEVIN from Rhode Island, and all the people who are using today's devices to gain access to the modern Internet technologies are benefited from the laws that have been put on the books today.

□ 1530

For the 21st century, this law may be the most important law. Because people now have wheelchair access, access to the Web. Access to information is what this century, this information century, is going to be all about. And the deaf and the blind, because of this legislation, will be able to make their contributions to our country and the world.

And let's not kid ourselves. The technologies that are developed here in the United States are going to spread across the whole world for every deaf and blind person. And that's quite a gift that the people who are here in the Congress can make.

So I thank the community. I thank you all. I know that so many of you are here and so many of you are watching and listening. I can only pledge to you that we will continue to ensure that access is something that we guarantee

as a right to be an American in every year that we will serve here in Congress.

Mr. Speaker, it's my honor to have been here on the floor with you presiding over this historic 21st century legislation. You are the right person to be here to create a ramp for the Internet, for the 21st century, for all Americans. I urge an "aye" vote on this legislation.

Mr. BOUCHER. Madam Speaker, today the House takes up a very important measure introduced by our colleague Mr. MARKEY that seeks to update the laws governing access to communications services by individuals with disabilities. Floor consideration of this measure marks the end of two years of effort by the gentleman from Massachusetts, and I commend him for his dedication to this critical issue.

I would also like to recognize the gentleman from Rhode Island, Mr. LANGEVIN, who is presiding over the House of Representatives for the first time today. Mr. LANGEVIN co-chairs the Bipartisan Disabilities Caucus and has been a champion of efforts to make the Capitol complex, including the Speaker's rostrum, accessible. It is therefore fitting that he is in the Chair as we consider this bipartisan, historic measure to make much needed updates to our communications laws.

Today marks the 20th anniversary of the Americans with Disabilities Act. It is a significant milestone, and we have come a long way in the two decades since 1990.

We have also seen significant technological change since Congress enacted the ADA, including the emergence of the Internet as a core communications infrastructure; the daily use by many Americans of email, text messaging and video conferencing both at home and at work; and increasing use of the Internet to view video programming.

It is therefore timely to update our communications laws to ensure that new technologies are accessible to individuals with visual or hearing impairments.

As we learned at a legislative hearing before the Subcommittee on Communications, Technology, and the Internet on this measure last this month, there are close to one million Americans who have severe or profound hearing loss and more than one million who are legally blind. Four percent of our population has great difficulty hearing, and an additional three percent are visually impaired.

Moreover, as much as some of us might not want to admit it, Americans are aging. There are approximately 40 million people over the age of 65 living in the United States today, or 13 percent of the population. One estimate shows that by 2050, that number will more than double to 88.5 million, or an estimated one-fifth of the population. Naturally, this growth will be accompanied by an increase in the number of Americans who are vision or hearing-impaired and who will need accessible communications products and services.

With the explosion in Internet-delivered services, both the variety of information and entertainment offerings and the complexity and variety of the devices that receive those services have multiplied. Our challenge is to assure that all Americans can benefit from those advances, including individuals with vision or hearing impairments.

The measure we take up today:

Requires that advanced communications services, including voice over Internet protocol, electronic messaging and video conferencing services, are accessible to the disabled if doing so is achievable.

Sets forth a list of factors the Federal Communications Commission shall consider to determine if making a product or service accessible is achievable, including whether the manufacturer or service provider makes available a range of accessible products with varying functionality and offered at different price points. A manufacturer or service provider may make a product accessible either by embedding accessibility in the device or relying on third-party applications that are available to consumers at nominal cost. To avoid stifling innovation, H.R. 3101 also allows the Commission to waive the accessibility requirements for small entities.

Requires the closed captioning of video programming on the Internet that has been displayed on television.

Reinstates Commission regulations regarding the provision of video described video programming that were previously invalidated by the D.C. Circuit Court of Appeals on jurisdictional grounds and allows for future expansion of the video description requirements.

Requires that emergency information, such as screen crawls, be made accessible to persons with disabilities.

Ensures that Internet browsers on smart phones enable the disabled to navigate the Internet, if doing so is achievable.

Ensures that the Commission does not, in implementing the requirements of the Act, mandate the use of any technology that might result in one entity unfairly profiting from such a mandate or requirement.

These and other provisions in this measure will help ensure that persons with disabilities are not left behind as communications technology continues to advance.

I appreciate all of the stakeholders who have been working diligently with myself, Chairman WAXMAN, Mr. MARKEY, Ranking Members BARTON and STEARNS and our staffs on a bipartisan basis to reach consensus on this measure. I look forward to our continued work together to promote accessibility and innovation, as well as to House passage of this historic legislation.

Mr. MARKEY of Massachusetts. I yield back the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings is in violation of the rules of the House.

The question is on the motion offered by the gentleman from Massachusetts (Mr. MARKEY) that the House suspend the rules and pass the bill, H.R. 3101, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. MARKEY of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the

Chair's prior announcement, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess for a period less than 15 minutes.

Accordingly (at 3 o'clock and 31 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1540

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. RICHARDSON) at 3 o'clock and 40 minutes p.m.

HONORING SOJOURN TO THE PAST ON ITS 10TH ANNIVERSARY

Mr. POLIS. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1058) honoring and praising the Sojourn to the Past organization on the occasion of its 10th anniversary, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1058

Whereas the civil rights movement helped to better the lives of millions of people and secured equality, civil rights, and human rights for all people in the Nation;

Whereas in 1999, California public high school teacher Jeff Steinberg combined a civil rights history lesson and a field trip to civil rights movement landmarks to create the educational program Sojourn to the Past;

Whereas Sojourn to the Past takes high school students on a 10-day excursion along the path of the civil rights movement in the Southern United States, engaging them with historical sites and talks with prominent veteran leaders of the civil rights movement;

Whereas the goal of Sojourn to the Past is to inspire students to become civic leaders with a duty and ability to unite people in the communities in equality and justice, through knowledge, understanding, and compassion;

Whereas Sojourn to the Past is the longest running civil rights education and outreach program in the United States;

Whereas Sojourn to the Past has conducted 55 sojourns and introduced over 5,000 high school juniors and seniors to the lessons, locations, and leaders of the civil rights movement;

Whereas Sojourn to the Past teaches high school students how the history of the civil rights movement is relevant to ending discrimination, violence, hatred, bigotry, and inequity in schools and communities;

Whereas Sojourn to the Past's mission of making the civil rights movement relevant for younger generations strengthens society in the United States by promoting civil rights and equality; and

Whereas Sojourn to the Past continues to teach younger generations of people in the United States about the civil rights movement and challenges young people to define and defend individual conceptions of justice