

Public Law 111-260
111th Congress
An Act

To increase the access of persons with disabilities to modern communications, and
for other purposes.

Oct. 8, 2010
[S. 3304]

*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.—**

Twenty-First
Century
Communications
and Video
Accessibility Act
of 2010.
47 USC 609 note.

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 advanced communications services and equipment.
Sec. 105. Universal service.
Sec. 106. Emergency Access Advisory Committee.

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.

SEC. 2. LIMITATION ON LIABILITY.

47 USC 153 note.

(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 who 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) with respect to video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services.

47 USC 153 note.

SEC. 3. PROPRIETARY TECHNOLOGY.

No action taken by the Federal Communications Commission to implement this Act or any amendment 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) interoperable video conferencing service.

“(54) CONSUMER GENERATED MEDIA.—The term ‘consumer generated media’ means content created and made available by consumers to online websites and services on the Internet, including video, audio, and multimedia content.

“(55) 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).

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

“(57) 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.

“(58) 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.

“(59) INTEROPERABLE VIDEO CONFERENCING SERVICE.—The term ‘interoperable video conferencing service’ means a service

that provides real-time video communications, including audio, to enable users to share information of the user's choosing.”; 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 communication 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)”;

(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.”.

Consultation.

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 hearing 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.

47 USC 616.

Deadline.

“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.”.

SEC. 104. ACCESS TO ADVANCED COMMUNICATIONS 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 ADVANCED COMMUNICATIONS SERVICES AND EQUIPMENT.

47 USC 617.

“(a) MANUFACTURING.—

“(1) IN GENERAL.—With respect to equipment manufactured after the effective date of the regulations established pursuant to subsection (e), and subject to those regulations, a manufacturer of equipment used for advanced communications services, including end user equipment, network equipment, and software, shall ensure that the equipment and software that such manufacturer offers for sale or otherwise distributes in interstate commerce shall be accessible to and usable by individuals with disabilities, unless the requirements of this subsection are not achievable.

“(2) 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) SERVICE PROVIDERS.—

“(1) IN GENERAL.—With respect to services provided after the effective date of the regulations established pursuant to subsection (e), and subject to those regulations, a provider of advanced communications services shall ensure that such services offered by such provider in or affecting interstate commerce are accessible to and usable by individuals with disabilities, unless the requirements of this subsection are 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 subsections (a) or (b) are not achievable, a manufacturer or provider shall ensure that its equipment or service is compatible with existing 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 do not impede accessibility or usability.

“(e) REGULATIONS.—

Deadline.

“(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;

“(C) determine the obligations under this section of manufacturers, service providers, and providers of applications or services accessed over service provider networks; and

“(D) not mandate technical standards, except that the Commission may adopt technical standards as a safe harbor for such compliance if necessary to facilitate the manufacturers’ and service providers’ compliance with sections (a) through (c).

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

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

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

“(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 of advanced communications services or any interested party, 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, for any provider of advanced communications services, or for any class of such services, 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.

47 USC 618.

Deadline.
Regulations.

“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) If the Commission determines that a violation has occurred, the Commission may, in the order issued under this subparagraph or in a subsequent order, direct the manufacturer or service provider to bring the service, or in the case of a manufacturer, the next generation of the equipment or device, into compliance with requirements of those sections within a reasonable time established by the Commission in its order.

“(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

Deadline.
Orders.

in such response any factors that are relevant to such determination. Before issuing a final order under paragraph (3)(B)(i), the Commission shall provide such party a reasonable opportunity to comment on any proposed remedial action.

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

Effective date.

“(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) 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).

Deadline.
Certification.

“(C) 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).

Applicability.

“(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) Whether, and to what extent (if any), the requirements of this section have an effect 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

Deadline.

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 information 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. 47 USC 619.

“(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. 47 USC 619 note.

(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. RELAY SERVICES FOR DEAF-BLIND INDIVIDUALS.

Title VII of the Communications Act of 1934, as amended by section 104, is further amended by adding at the end the following:

47 USC 620.

Deadline.
Regulations.

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

“(a) IN GENERAL.—Within 6 months after the date of enactment of the Equal Access to 21st Century Communications Act, 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 interexchange services and advanced telecommunications and information services, accessible by individuals who are deaf-blind.

“(b) INDIVIDUALS WHO ARE DEAF-BLIND DEFINED.—For purposes of this subsection, the term ‘individuals who are deaf-blind’ has the same meaning given such term in the Helen Keller National Center Act, as amended by the Rehabilitation Act Amendments of 1992 (29 U.S.C. 1905(2)).

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

47 USC 615c.

Deadline.

SEC. 106. 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 protocol-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 1 year after the completion of the member appointment process by the Chairman of the Commission pursuant to subsection (b), the Advisory Committee shall conduct a national survey of individuals with disabilities, seeking input from the groups described in subsection (b)(2), to determine the most effective and efficient technologies and methods by which to enable access to emergency services by individuals with disabilities and shall develop and submit to the Commission recommendations to implement such technologies and methods, including recommendations—

Deadline.

(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 the 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), where achievable, 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;

(7) for the establishment of rules to update the Commission's rules with respect to 9-1-1 services and E-911 services

(as defined in section 158(e)(4) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(e)(4))), for users of telecommunications relay services as new technologies and methods for providing such relay services are adopted by providers of such relay services; and

(8) that take into account what is technically and economically feasible.

(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.

Deadline.

(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) 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 RULES.—The Advisory Committee may adopt other 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, technical standards, protocols, and procedures as are necessary to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network, where achievable and technically feasible.

(h) 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).

TITLE II—VIDEO PROGRAMMING

47 USC 613 note.

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

Deadline.

(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 a national organization representing such distributors.

(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 video programming producers or a national organization representing such producers.

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

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

(7) 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) A recommended schedule of deadlines for the provision of closed captioning service.

(B) An identification of the performance requirement 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, except for consumer generated media, delivered using Internet protocol.

(C) An identification of additional protocols, technical capabilities, and technical procedures beyond those available as of the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010 for the delivery of closed captions of video programming, except for consumer generated media, delivered using Internet protocol that are necessary to meet the performance objectives identified under subparagraph (B).

Deadline.
Reports.

(D) A recommendation for technical standards to address the performance objectives identified in subparagraph (B).

(E) A recommendation for any regulations that may be necessary to ensure compatibility between video programming, except for consumer generated media, 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) A recommended schedule of deadlines for the provision of video description and emergency information.

(B) An identification of the performance requirement 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, except for consumer generated media, and emergency information delivered using Internet protocol or digital broadcast television.

(C) An identification of additional protocols, technical capabilities, and technical procedures beyond those available as of the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010 for the delivery of video descriptions of video programming, except for consumer generated media, and emergency information delivered using Internet protocol that are necessary to meet the performance objectives identified under subparagraph (B).

(D) A recommendation for technical standards to address the performance objectives identified in subparagraph (B).

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

(F) 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.

(G) 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 (F) to be accompanied by audio output so that such

menus or indicators are accessible to and usable by individuals with disabilities.

(H) With respect to video programming guides and menus, a recommendation for the standards, protocols, and procedures used to enable video programming information and selection provided by means of a navigation device, guide, or menu to be accessible in real-time by individuals who are blind or visually impaired.

(3) CONSIDERATION OF WORK BY STANDARD-SETTING ORGANIZATIONS.—The recommendations of the advisory committee shall, insofar as possible, incorporate the standards, protocols, and procedures that have been adopted by recognized industry standard-setting organizations for each of the purposes 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. Deadline.

(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. Deadline.

(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)), recon. granted in part and denied in part, (16 F.C.C.R. 1251 (2001)), modified as provided in paragraph (2). Deadline.

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

Applicability.

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

Lists.
Deadlines.

“(B) The Commission shall update the list of the top 25 designated market areas, the list of the top 5 national nonbroadcast networks that at least 50 hours per quarter of prime time programming that is not exempt under this paragraph, and 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 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.

“(G) The Commission shall consider extending the exemptions and limitations in the reinstated regulations for technical capability reasons to all providers and owners of video programming.

Deadlines.
Reports.

“(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.

Determination.

“(4) CONTINUING COMMISSION AUTHORITY.—

“(A) IN GENERAL.—The Commission may not issue additional regulations unless the Commission determines, at least 2 years after completing the reports required in paragraph (3), that the need for and benefits of providing video description 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.

“(B) LIMITATION.—If the Commission makes the determination under subparagraph (A) and issues additional

regulations, the Commission may not increase, in total, the hour requirement for additional described programming by more than 75 percent of the requirement in the regulations reinstated under paragraph (1).

“(C) APPLICATION TO DESIGNATED MARKET AREAS.—

“(i) IN GENERAL.—After the Commission completes the reports on video description required in paragraph (3), the Commission shall phase in the video description regulations for the top 60 designated market areas, except that the Commission may grant waivers to entities in specific designated market areas where it deems appropriate.

Waiver authority.

“(ii) PHASE-IN DEADLINE.—The phase-in described in 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.

“(iii) 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 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 potential costs to program owners, providers, and distributors in designated market areas outside of the top 60 of creating such programming;

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

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

“(VII) the need for additional described programming in designated market areas outside the top 60.

“(iv) ADDITIONAL MARKET AREAS.—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 (iii), to phase in the video description regulations for up to an additional 10 designated market areas each year—

“(I) if the costs of implementing the video description regulations to program owners, providers, and distributors in those additional markets are reasonable, as determined by the Commission; and

“(II) except that the Commission may grant waivers to entities in specific designated market areas where it deems appropriate.

Waiver authority.

Deadline.

“(g) EMERGENCY INFORMATION.—Not later than 1 year after the Advisory Committee report under subsection (e)(2) 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 visually impaired; and

Regulations.

“(2) promulgate regulations that require 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 visually impaired.

“(h) 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’ means programming by, or generally considered comparable to programming provided by a television broadcast station, but not including consumer-generated media (as defined in section 3).

47 USC 613.

(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 once 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 subsection (e)(1) of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall revise its regulations to require the provision of closed captioning on video programming delivered using Internet protocol that was published or exhibited on television with captions after the effective date of such regulations.

“(B) SCHEDULE.—The regulations prescribed under this paragraph shall include an appropriate schedule of deadlines 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.

Waiver authority.

“(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 with captions after the effective date of such

regulations would be economically burdensome to providers of video programming or program owners.

“(D) REQUIREMENTS FOR REGULATIONS.—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 for the provider of such service, program, or equipment;

“(iii) shall clarify that, for the purposes of implementation, of this subsection, the terms ‘video programming distribution’ and ‘video programming providers’ include an entity that makes available directly to the end user video programming through a distribution method that uses Internet protocol;

“(iv) and describe the responsibilities of video programming providers or distributors and video programming owners;

“(v) shall establish a mechanism to make available to video programming providers and distributors information on video programming subject to the Act on an ongoing basis;

“(vi) shall consider that the video programming provider or distributor shall be deemed in compliance if such entity enables the rendering or pass through of closed captions and video description signals and make a good faith effort to identify video programming subject to the Act using the mechanism created in (v); and

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

“(3) ALTERNATE MEANS OF COMPLIANCE.—An entity may meet the requirements of this section through alternate means than those prescribed by regulations pursuant to subsection (b), as revised pursuant to paragraph (2)(A) of this subsection, 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 provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would be economically burdensome. During the pendency of such a petition, such provider or owner shall be exempt from the requirements of this section. 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.”.

47 USC 613.

Deadline.

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, if technically feasible—

“(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 the Commission’s regulations (47 CFR 79.2)) in a manner that is accessible to individuals who are blind or visually impaired; 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 subparagraph (A), (B), or (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, on its own motion or in response to a petition by a manufacturer, to waive the requirements of this subsection for any apparatus or class of apparatus—

“(i) primarily designed for activities other than receiving or playing back video programming transmitted simultaneously with sound; or

“(ii) for equipment designed for multiple purposes, capable of receiving or playing video programming transmitted simultaneously with sound but whose essential utility is derived from other purposes.”.

(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,

Waiver authority.

Code of Federal Regulations) such 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 or render 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 “303(u)” in the first sentence and inserting “303(u) and (z)”;.

(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.—The Federal Communications Commission shall 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, including any technical standards, protocols, and procedures needed for the transmission of—

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

(2) video description and emergency information within 18 months after the submission to the Commission of the Advisory Committee report required by section 201(e)(2).

(e) ALTERNATE MEANS OF COMPLIANCE.—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 subsection (d) if the requirements of those sections are met, as determined by the Commission.

47 USC 303 note.

47 USC 303 note.

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 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 appropriate built-in apparatus functions are accessible to and usable by individuals who are blind or visually impaired, except that the Commission may not

specify the technical standards, protocols, procedures, and other technical requirements for meeting this requirement;

“(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 visually impaired in real-time;

“(3) that for such apparatus equipped with the functions described in paragraphs (1) and (2) built in access to those closed captioning and video description features through a mechanism that is reasonably comparable to a button, key, or icon designated by activating the closed captioning or accessibility features; 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 the Commission’s rules (47 CFR 76.1200).”

Deadline.
47 USC 303 note.

(b) IMPLEMENTING REGULATIONS.—Within 18 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).

47 USC 303 note.

(c) ALTERNATE MEANS OF COMPLIANCE.—An entity may meet the requirements of section 303(aa) of the Communications Act of 1934 through alternate means than those prescribed by regulations pursuant to subsection (b) if the requirements of those sections are met, as determined by the Commission.

47 USC 303 note.
Time period.
Federal Register,
publication.

(d) 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 multi-channel video programming are audibly accessible in real-time upon request by individuals who are blind or visually impaired, 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, that access to that capability through a mechanism

is reasonably comparable to a button, key, or icon designated for activating the closed captioning, or accessibility features. With respect to apparatus features and functions delivered in software, the requirements set forth in this subsection shall apply to the manufacturer of such software. With respect to apparatus features and functions delivered in hardware, the requirements set forth in this subsection shall apply to the manufacturer of such hardware.”.

Applicability.

(b) IMPLEMENTING REGULATIONS.—

(1) IN GENERAL.—Within 18 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).

47 USC 303 note.
Deadline.

(2) EXEMPTION.—Such regulations may provide an exemption from the regulations for cable systems serving 20,000 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 it provides to a requesting blind or visually impaired individual.

(4) SEPARATE EQUIPMENT OR SOFTWARE.—

(A) IN GENERAL.—Such regulations shall permit but not require the entity providing the navigation device to the requesting blind or visually impaired individual to comply with section 303(bb)(1) of the Communications Act of 1934 through that entity’s use of software, a peripheral device, specialized consumer premises equipment, a network-based service or other solution, and shall provide the maximum flexibility to select the manner of compliance.

(B) REQUIREMENTS.—If an entity complies with section 303(bb)(1) of the Communications Act of 1934 under subparagraph (A), the entity providing the navigation device to the requesting blind or visually impaired individual shall provide any such software, peripheral device, equipment, service, or solution at no additional charge and within a reasonable time to such individual and shall ensure that such software, device, equipment, service, or solution provides the access required by such regulations.

(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).

Deadlines.

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

47 USC 153 note. **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).

Approved October 8, 2010.

LEGISLATIVE HISTORY—S. 3304:

CONGRESSIONAL RECORD, Vol. 156 (2010):
Aug. 5, considered and passed Senate.
Sept. 28, considered and passed House.

