

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Implementation of Sections 716 and 717 of the
Communications Act of 1934, as Enacted by
the Twenty-First Century Communications and
Video Accessibility Act of 2010
CG Docket No. 10-213

BIENNIAL REPORT TO CONGRESS
AS REQUIRED BY THE
TWENTY-FIRST CENTURY COMMUNICATIONS
AND VIDEO ACCESSIBILITY ACT OF 2010

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By the Acting Chief, Consumer and Governmental Affairs Bureau:

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## I. INTRODUCTION AND OVERVIEW

1. The Consumer and Governmental Affairs Bureau (CGB) of the Federal Communications Commission (FCC or Commission), pursuant to its delegated authority,<sup>1</sup> prepared this Biennial Report (*Report*) for submission to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives (to the Committees or to Congress) in accordance with the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA).<sup>2</sup> The purpose of the CVAA is to “update the communications laws to help ensure that individuals with disabilities are able to fully utilize communications services and equipment and better access video programming.”<sup>3</sup> In enacting the CVAA, Congress noted that the communications marketplace had undergone a “fundamental transformation” since it last acted on these issues in 1996 when it added Section 255 to the Communications Act of 1934, as amended (Communications Act).<sup>4</sup> Although Section 255 addressed the accessibility of telecommunications services and equipment, Congress since concluded that people with disabilities often have not shared in the benefits of this rapid technological advancement.<sup>5</sup> Implementation of the CVAA is a critical step in addressing this inequity.

2. Following passage of the CVAA on October 8, 2010, the Commission began implementing this landmark legislation by releasing multiple public notices and six notices of proposed rulemakings seeking comment on CVAA-related issues. In addition, it established and has since overseen the work of two advisory committees required by the CVAA, both of which timely completed their CVAA-assigned charges.<sup>6</sup> Throughout this implementation period, the agency has worked with consumer, industry, and government stakeholders to ensure effective and

<sup>1</sup> 47 C.F.R. § 0.361.

<sup>2</sup> Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified in various sections of 47 U.S.C.); Pub. L. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA). The foregoing are collectively referred to hereinafter as the CVAA. *See also* CVAA, § 104(a); codified at 47 U.S.C. § 618(b). This *Report* is being submitted concurrently to Congress.

<sup>3</sup> S. Rep. No. 111-386 at 1 (2010) (Senate Report); H.R. Rep. No. 111-563 at 19 (2010) (House Report).

<sup>4</sup> *Id.*; 47 U.S.C. § 255.

<sup>5</sup> *See* Senate Report at 1-2; House Report at 19.

<sup>6</sup> CVAA, §§ 106 (Emergency Access Advisory Committee), 201 (Video Programming and Emergency Access Advisory Committee).

timely implementation of the new law. As a result, the Commission has, since passage of the new law, already released five reports and orders adopting rules to implement various provisions of the CVAA and has met every one of the CVAA's rigorous rulemaking deadlines.<sup>7</sup> Resources throughout the Commission, from virtually every bureau and office within the Commission, have contributed to this effort. We understand the importance of this legislation to the millions of Americans with disabilities and we are committed to continuing to fully meet our responsibilities under the CVAA.

3. In accordance with the CVAA, Section II of this *Report* presents information and assessments related to the accessibility of telecommunications and advanced communications services and equipment.<sup>8</sup> Section II.A provides a general overview of Sections 255, 716, and 718 of the Communications Act, which are the statutory provisions governing accessible communications, followed by a brief discussion of the Commission's actions to implement Section 716, 717(a), and 718, and the scope of this first biennial *Report*.<sup>9</sup> Sections 716, 717, and

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<sup>7</sup> Since the enactment of the CVAA, the Commission has released the following reports and orders:

*Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, CG Docket No. 10-210, Report and Order, FCC 11-56, 26 FCC Rcd 5640 (2011) (establishing the National Deaf-Blind Equipment Distribution Program), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-56A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-56A1.pdf).

*Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-43, Report and Order, FCC 11-126, 26 FCC Rcd 11847 (2011) (reinstating the Commission's video description rules, as modified by the CVAA), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-126A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-126A1.pdf).

*Contributions to the Telecommunications Relay Services (TRS) Fund*, CG Docket No. 11-47, Report and Order, FCC 11-150, 26 FCC Rcd 14532 (2011) (requiring VoIP service providers to contribute to the TRS Fund), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-150A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-150A1.pdf).

*Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; and In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket Nos. 10-213 and 10-145, WT Docket No. 96-198, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-151, 26 FCC Rcd 14557 (2011) (*ACS Report and Order* and *ACS FNPRM*) (requiring accessible advanced communications services and equipment and establishing recordkeeping and enforcement requirements for entities covered under Sections 255, 716, and 718 of the Communications Act), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-151A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-151A1.pdf).

*Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, Report and Order, FCC 12-9, 27 FCC Rcd 787 (2012) (requiring closed captioning of video programming delivered using Internet protocol after such programming was shown on television and updating apparatus closed captioning requirements), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-12-9A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-9A1.pdf).

<sup>8</sup> CVAA, § 104(a); codified at 47 U.S.C. § 618(b).

<sup>9</sup> 47 U.S.C. §§ 255, 617, 618(a), 619.

718 are among the new provisions added to the Communications Act by the CVAA.<sup>10</sup> Sections 716 and 718 expand the scope of the Communications Act's accessibility requirements to cover advanced communications services and equipment, and Internet browsers built into mobile phones, respectively. Section 717(a) addresses the recordkeeping and enforcement obligations of service providers and equipment manufacturers that are subject to Sections 255, 716, and 718.

4. Sections II.B, C, D, and E of this *Report* present the information which the Commission must submit to Congress every two years after October 8, 2010, the date of enactment of the CVAA, as required by Section 717(b)(1) of the Communications Act.<sup>11</sup> The *Report* must include the following information and assessments:<sup>12</sup>

- (A) An assessment of the level of compliance with Sections 255 (accessibility of telecommunications services and equipment), 716 (accessibility of advanced communications services and equipment), and 718 (accessibility of Internet browsers built into mobile phones). *See, infra*, Section II.B.
- (B) An evaluation of the extent to which any accessibility barriers still exist with respect to new communications technologies. *See, infra*, Section II.C.
- (C) The number and nature of complaints received pursuant to Section 717(a) (recordkeeping and enforcement obligations of service providers and equipment manufacturers that are subject to Sections 255, 716, and 718) during the two years that are the subject of the report. *See, infra*, Section II.D.1.
- (D) A description of the actions taken to resolve such complaints, including forfeiture penalties assessed. *See, infra*, Section II.D.2.
- (E) The length of time that was taken by the Commission to resolve each such complaint. *See, infra*, Section II.D.3.
- (F) The number, status, nature, and outcome of any actions for mandamus filed and of any appeals filed. *See, infra*, Section II.D.4.
- (G) An assessment of the effect of the recordkeeping and enforcement requirements of Section 717 on the development and deployment of new communications technologies.<sup>13</sup> *See, infra*, Section II.E.

5. To inform the Commission's preparation of the report, the Commission released a public notice on July 12, 2012, inviting comments related to the development of the *Report* (the *CVAA Assessment PN*).<sup>14</sup> Those comments, though sparse, helped to inform the Commission's tentative findings.<sup>15</sup> On August 23, 2012, the Commission released a public notice seeking comment on its tentative findings pursuant to Section 717(b)(2) of the Communications Act (the

<sup>10</sup> CVAA, § 104(a); 47 U.S.C. §§ 617, 618, 619.

<sup>11</sup> 47 U.S.C. § 618(b)(1).

<sup>12</sup> For convenience, in the list of required information and assessments, each item is cross-referenced to the section of the *Report* addressing that item.

<sup>13</sup> 47 U.S.C. §§ 618(b)(1)(A)-(G).

<sup>14</sup> *Consumer and Governmental Affairs Bureau Seeks Comment on the Accessibility of Communications Technologies for the First Biennial Report Under the Twenty-First Century Communications and Video Accessibility Act*, CG Docket No. 10-213, Public Notice, DA 12-1125, 27 FCC Rcd 7693, released July 12, 2012 (*CVAA Assessment PN*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1125A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1125A1.pdf).

<sup>15</sup> Only four comments were filed by consumer groups and three industry parties filed comments. See Appendix A for a list of commenters.

*CVAA Tentative Findings PN*).<sup>16</sup> Comments in response to the *CVAA Tentative Findings PN* were also sparse.<sup>17</sup>

6. Section II.F concludes this section of the *Report* by summarizing the comments received in response to the *CVAA Tentative Findings PN* and affirming those tentative findings, which are presented as findings in this *Report*.<sup>18</sup>

7. Finally, Section III of this *Report* presents a summary of other actions taken by the Commission related to the CVAA during the previous two years.

## II. COMMUNICATIONS ACCESSIBILITY

### A. Background

#### 1. Section 255

8. Section 255 of the Communications Act, enacted in 1996, requires providers of telecommunications service and manufacturers of telecommunications equipment or customer premises equipment (CPE) to ensure that such services and equipment are accessible to and usable by individuals with disabilities, if readily achievable.<sup>19</sup> When these requirements are *not* readily achievable, covered entities must ensure that their services and equipment are compatible with existing peripheral devices or specialized CPE commonly used by individuals with disabilities to achieve access, if readily achievable.<sup>20</sup> The Commission's rules implementing Section 255 govern telecommunications services, including telephone calls, call waiting, speed dialing, call forwarding, computer-provided directory assistance, call monitoring, caller identification, call tracing, and repeat dialing.<sup>21</sup> Equipment covered under Section 255 includes, but is not limited to, CPE, such as wireline, cordless, and wireless telephones, fax machines, and answering machines.<sup>22</sup> In addition, the rules implementing Section 255 cover voice mail and

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<sup>16</sup> 47 U.S.C. § 618(b)(2); *Consumer and Governmental Affairs Bureau Seeks Comment on its Tentative Findings About the Accessibility of Communications Technologies for the First Biennial Report Under the Twenty-First Century Communications and Video Accessibility Act*, CG Docket No. 10-213, Public Notice, DA 12-1391, 27 FCC Rcd \_\_\_, released August 23, 2012 (*CVAA Tentative Findings PN*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1391A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1391A1.pdf).

<sup>17</sup> Only three consumer groups, one consumer, and two industry parties filed comments. See Appendix A for a list of commenters.

<sup>18</sup> See ¶¶ 39-41 (findings on compliance with Sections 255, 716, and 718), ¶¶ 45-46 (findings on accessibility barriers in new communications technologies), and ¶ 63 (findings on the effect of Section 717's recordkeeping and enforcement requirements on the development and deployment of new communications technologies).

<sup>19</sup> 47 U.S.C. §§ 255(b), (c). See also 47 C.F.R. Part 6 and Part 7. "Readily achievable" is defined as "easily accomplishable and able to be carried out without much difficulty or expense." 42 U.S.C. § 12181(9).

<sup>20</sup> 47 U.S.C. § 255(d).

<sup>21</sup> See *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities*, Report and Order and Further Notice of Inquiry, 16 FCC Rcd 6417, 6449, ¶ 77 (1999) (*Section 255 Order*). See also 47 C.F.R. Part 6.

<sup>22</sup> The Communications Act defines telecommunications equipment as "equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software

interactive voice response systems (phone systems that provide callers with menus of choices).<sup>23</sup> In 2007, the Commission adopted rules extending Section 255's accessibility obligations to interconnected voice over Internet protocol (VoIP) service providers and interconnected VoIP equipment manufacturers.<sup>24</sup>

## 2. Section 716

9. Section 716 of the Communications Act requires providers of advanced communications services and manufacturers of equipment used for advanced communications services to ensure that their services and equipment are accessible to and usable by individuals with disabilities, unless doing so is not achievable (defined as "with reasonable effort or expense").<sup>25</sup> This requirement may be satisfied by: (1) building accessibility into the service or equipment;<sup>26</sup> or (2) by using third-party applications, peripheral devices, software, hardware, or CPE that is available to consumers at nominal cost and that individuals with disabilities can access.<sup>27</sup> When ensuring accessibility through either of those options is not achievable, covered entities must ensure that their services and equipment are compatible with existing peripheral devices or specialized CPE commonly used by individuals with disabilities to achieve access, unless that is not achievable.<sup>28</sup>

10. "Advanced communications services" include: (1) interconnected VoIP service; (2) non-interconnected VoIP service; (3) electronic messaging service; and (4) interoperable video conferencing service.<sup>29</sup> In contrast to interconnected VoIP services, which enable people to make *and* receive calls to and from the public switched telephone network (PSTN), non-interconnected VoIP services include services that enable real-time voice communications either to *or* from the PSTN (but not both) or which neither begin nor end on the PSTN at all.<sup>30</sup> Electronic messaging services, such as e-mail, short message service (SMS) text messaging, and instant messaging, enable real-time or near real-time text messages between individuals over communications networks.<sup>31</sup> Interoperable video conferencing services provide real-time video communications, including audio, to enable users to share information.<sup>32</sup>

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integral to such equipment (including upgrades)." 47 U.S.C. § 153(52). It defines "customer premises equipment" as "equipment employed on the premises of a person (other than a carrier) to originate, route or terminate telecommunications." 47 U.S.C. § 153(16).

<sup>23</sup> 47 C.F.R. Part 7. *See also* FCC Section 255 Consumer Guide available at <http://www.fcc.gov/guides/disabled-persons-telecommunications-access-section-255>.

<sup>24</sup> *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, FCC 07-110, 22 FCC Rcd 11275 (2007).

<sup>25</sup> 47 U.S.C. §§ 617(a)(1), (b)(1), (g).

<sup>26</sup> 47 U.S.C. §§ 617(a)(2)(A), (b)(2)(A).

<sup>27</sup> 47 U.S.C. §§ 617(a)(2)(B), (b)(2)(B).

<sup>28</sup> 47 U.S.C. §§ 617(c).

<sup>29</sup> 47 U.S.C. § 153(1). *See also* 47 C.F.R. § 14.10(c).

<sup>30</sup> *See* 47 U.S.C. §§ 153(25), 153(36); 47 C.F.R. § 9.3.

<sup>31</sup> 47 U.S.C. § 153(19).

<sup>32</sup> 47 U.S.C. § 153(27).



11. Section 716 of the Communications Act does not apply to services or equipment, including interconnected VoIP services and equipment, which were subject to Section 255 on October 7, 2010.<sup>33</sup> Those services and equipment remain subject to the requirements of Section 255.<sup>34</sup> As a result, Section 716 requirements apply to providers of non-interconnected VoIP services, electronic messaging services, and interoperable video conferencing services, and to manufacturers of equipment used for these services.

### 3. Section 718

12. Section 718 requires mobile phone service providers and manufacturers to make Internet browsers built into mobile phones accessible to and usable by people who are blind or have a visual impairment, unless doing so is not achievable.<sup>35</sup> This requirement may be satisfied with or without the use of third-party applications, peripheral devices, software, hardware, or CPE that is available to consumers at nominal cost and that individuals with disabilities can access.<sup>36</sup>

### 4. Implementation of Sections 716, 717, and 718

13. After the CVAA was enacted, the Commission sought comment on the new communications accessibility provisions of the CVAA.<sup>37</sup> The comments received in response to that public notice helped to inform the Commission's notice of proposed rulemaking, released March 3, 2011.<sup>38</sup> On October 7, 2011, the Commission released a report and order adopting rules to implement Sections 716 and 717 of the Communications Act and a further notice of proposed rulemaking addressing related matters and seeking comment on issues concerning the implementation of Section 718 of the Communications Act.<sup>39</sup>

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<sup>33</sup> 47 U.S.C. § 617(f).

<sup>34</sup> *Id.*

<sup>35</sup> 47 U.S.C. § 619(a).

<sup>36</sup> 47 U.S.C. § 619(b).

<sup>37</sup> *Consumer & Governmental Affairs Bureau and Wireless Telecommunications Bureau Seek Comment on Advanced Communication Provisions of the Twenty-First Century Communications and Video Accessibility Act of 2010*, CG Docket No. 10-213, Public Notice, DA 10-2029, 25 FCC Rcd 14589, released October 21, 2010 (*ACS PN*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2029A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2029A1.pdf).

<sup>38</sup> *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; and In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket Nos. 10-213 and 10-145, WT Docket No. 96-198, Notice of Proposed Rulemaking, FCC 11-37, 26 FCC Rcd 3133 (2011) (*ACS NPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-37A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-37A1.pdf).

<sup>39</sup> *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; and In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket Nos. 10-213 and 10-145, WT Docket No. 96-198, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-151, 26 FCC Rcd 14557 (2011) (*ACS Report and Order* when referring to the report and order portion; and *ACS FNPRM* when referring to the further notice of proposed rulemaking portion), available at

14. The rules adopted by the Commission in the *ACS Report and Order* became effective January 30, 2012.<sup>40</sup> Since that date, manufacturers and service providers have been required to take accessibility into account in the design of their products and services.<sup>41</sup> One year later, beginning on January 30, 2013, covered manufacturers and service providers must comply with recordkeeping requirements pertaining to the accessibility of their products and services.<sup>42</sup> Under the transition period established by the Commission, covered equipment and services must fully comply with the rules implementing Section 716 by October 8, 2013.<sup>43</sup> In accordance with the CVAA, Section 718 of the Communications Act also becomes effective on October 8, 2013.<sup>44</sup> Finally, the associated complaint procedures established pursuant to Section 717 of the Communications Act will be available to consumers on October 8, 2013.<sup>45</sup>

### 5. Scope of this First Biennial Report

15. The evaluation of compliance with Sections 716 and 718 in this first biennial Report is, of necessity, circumscribed by the transition period described above. Nonetheless, the Commission, pursuant to Section 255 of the Communications Act and its implementing rules, has established requirements and complaint procedures to ensure that telecommunications and interconnected VoIP services and equipment are accessible to and usable by individuals with disabilities.<sup>46</sup> As a result, for this first Report, the Commission provides information about complaints alleging violations of Section 255 filed under those existing procedures and an assessment of industry compliance with those accessibility requirements. The Commission also considers the extent to which initial industry efforts to comply with Section 716 have begun having an impact on the accessibility of services and equipment subject to Section 716. In addition, the Commission considers the extent to which initial efforts to maintain accessibility-related records have begun having an impact on the accessibility of services and equipment subject to Sections 255 and 716 and on the development and deployment of new communications technologies. Finally, this Report addresses accessibility barriers that still exist with respect to new communications technologies. This initial Report does not assess the accessibility of Internet browsers built into mobile phones, required under Section 718 of the Communications

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[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-151A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-151A1.pdf). The rules adopted in the *ACS Report and Order* are codified in 47 C.F.R. Part 14. The *ACS FNPRM* is discussed further in Section III.C, below.

<sup>40</sup> The rules became effective 30 days after their publication in the Federal Register on December 30, 2011. *ACS Report and Order* and *ACS FNPRM*, 26 FCC Rcd at 14696, ¶ 328. See also 76 Fed. Reg. 82240 (Dec. 30, 2011).

<sup>41</sup> See *ACS Report and Order*, 26 FCC Rcd at 14602, ¶ 108.

<sup>42</sup> Specifically, covered entities must keep records of their efforts to implement Sections 255, 716, and 718, including information about their efforts to consult with people with disabilities, descriptions of the accessibility features of their products and services, and information about the compatibility of these products and services with peripheral devices or specialized CPE commonly used by people with disabilities to achieve access. 47 U.S.C. § 618(a)(5)(A). These recordkeeping requirements are effective January 30, 2013, one year after the effective date of the regulations. *Id.*

<sup>43</sup> *ACS Report and Order*, 26 FCC Rcd at 14602-3, ¶ 110.

<sup>44</sup> CVAA, § 104(b).

<sup>45</sup> 47 C.F.R. §§ 14.30(c), 14.32-14.37.

<sup>46</sup> 47 U.S.C. § 255; 47 C.F.R. Part 6 and Part 7.



Act, however, because that provision will not take effect until October 8, 2013,<sup>47</sup> and the Commission has not yet issued final rules implementing that provision.

16. Given the competing requirements to submit this first biennial *Report* to Congress two years after the enactment of the CVAA on October 8, 2010, and the CVAA requirement to seek comment on our tentative findings before submitting this *Report*,<sup>48</sup> the time period covered by this first *Report* is less than a full two years. With respect to the Commission's assessment of complaints received, required by Sections 717(b)(1)(C)-(F) of the Communications Act, this *Report* covers the time period between October 8, 2010, and December 31, 2011. Limiting the review to complaints received as of December 31 was necessary to compile the relevant information and to seek comment on our tentative findings as required by the CVAA.<sup>49</sup> Subsequent biennial reports, however, will cover a full two years each, with each report covering a period beginning January 1 of the first year and ending December 31 of the second year, providing sufficient time for compilation, assessment, and the receipt of comments prior to submission to Congress on the October 8 anniversary of the CVAA enactment.<sup>50</sup>

#### **B. Compliance with Sections 255, 716, and 718**

17. Section 717(b)(1)(A) of the Communications Act requires the Commission to provide an assessment of the level of compliance with Sections 255, 716, and 718 of the Communications Act.<sup>51</sup> In the *CVAA Assessment PN*, the Commission sought comment on the level of compliance with pre-existing requirements, under the Commission's accessibility rules predating the CVAA, to make telecommunications and interconnected VoIP services and equipment accessible to people with disabilities since the enactment of the CVAA on October 8, 2010.<sup>52</sup> The Commission also sought comment on the extent to which initial industry efforts to comply with the CVAA have begun to have an impact on the accessibility of non-interconnected VoIP, electronic messaging, and interoperable video conferencing services and equipment.<sup>53</sup> In addition, the Commission asked for information about compliance by service providers and equipment manufacturers with respect to ensuring access to information and documentation, training of personnel having direct contact with the public, and the inclusion of people with disabilities through all stages of product and service development.<sup>54</sup> We discuss each of these issues, in turn, below.

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<sup>47</sup> CVAA, § 104(b).

<sup>48</sup> 47 U.S.C. §§ 618(b)(1) and (2).

<sup>49</sup> 47 U.S.C. § 618(b)(2).

<sup>50</sup> We believe it is most appropriate for these periodic reports to review complaints and other developments for the time period 1/1/20XX - 12/31/20XX+1. We find that this approach will allow the Commission adequate time to solicit public comment on the issues that it must address in such reports, consistent with Section 717(b)(2) and best achieves the CVAA's objectives.

<sup>51</sup> 47 U.S.C. § 618(b)(1)(A).

<sup>52</sup> *CVAA Assessment PN*, 27 FCC Rcd at 7696-7697, ¶ 7.

<sup>53</sup> *Id.*, 27 FCC Rcd at 7698, ¶ 9.

<sup>54</sup> *Id.*, 27 FCC Rcd at 7697, ¶ 8.

18. **Section 255 Accessibility.** Comments on the state of compliance with Section 255 were received almost exclusively from consumer representatives.<sup>55</sup> From the perspective of the American Council of the Blind (ACB) and the American Foundation for the Blind (AFB), devices covered under Section 255 are pervasively not accessible; a state that they claim has remained constant since the passage of the CVAA.<sup>56</sup> According to ACB, the current Section 255 complaint process is inadequate, and thus has discouraged consumers from filing complaints, even though “[a]ccessibility of devices covered under Section 255 is abysmal.”<sup>57</sup>

19. AFB asserts that, with respect to achieving accessibility under Section 255, “Apple’s iPhone continues to be the only smart phone providing truly equal access at no extra cost to users with vision loss” and that “accessible choices in the feature phone market are not that much more extensive.”<sup>58</sup> In discussing the implementation of Section 255 (which requires accessible feature phones), ACB also appears to credit Panasonic for its efforts to produce devices that meet the needs of people who are blind and visually impaired.<sup>59</sup> However, ACB goes on to note that those efforts have not been enough to provide this consumer market with much choice.<sup>60</sup>

20. The Hearing Loss Association of America (HLAA) notes that mainstream “non-mobile”<sup>61</sup> analog and digital phones, especially phones at lower price points, often do not

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<sup>55</sup> Comments were received from both industry and consumer representatives with respect to the inclusion of people with disabilities through all stages of product and service development; information, documentation, and training; and service plans, which are discussed further in paragraphs 31 to 39, below.

<sup>56</sup> See ACB Comments at 1; AFB Comments at 2 (“we would be incredulous if anyone were to conclude that the status quo of pervasive inaccessibility has changed much . . . since the Fall of 2010”). As evidence, AFB cites their comments previously filed in CVAA and other accessibility-related proceedings, and asks that those comments be formally incorporated into this proceeding. See AFB Comments at 2. AFB’s view is also supported by comments filed in 2010 by other groups representing individuals who are blind or visually impaired. See, e.g., ACB Reply Comments, *State of Accessibility for Mobile Phone Devices for People Who Are Blind, Deaf Blind or Who Have Low Vision*, Docket 10-145 (Sept. 22, 2010), available at <http://apps.fcc.gov/ecfs/document/view?id=7020913421> (because “only one model of cell phone provides complete built-in accessibility . . . [and] only a select few models of smart phones are even compatible with add-on text to speech software that is often more costly than the device itself,” blind or visually impaired users are required to memorize phone numbers and specific key sequences to make calls, and have no access to “features such as battery status, message indicators, caller identification, and sending or receiving text messages”); National Federation of the Blind Reply Comments, *State of Accessibility for Mobile Phone Devices for People Who Are Blind, Deaf Blind or Who Have Low Vision*, Docket 10-145 (Oct. 14, 2010), available at <http://apps.fcc.gov/ecfs/document/view?id=7020916852> (“There is only *one* wireless device in the marketplace that is fully accessible to the blind user.”).

<sup>57</sup> ACB Comments at 1. See also Section II.D of this *Report* for information about complaints filed with the Commission since the enactment of the CVAA that allege violations of Section 255.

<sup>58</sup> AFB Comments at 2.

<sup>59</sup> See ACB Comments at 1.

<sup>60</sup> *Id.*

<sup>61</sup> In the *CVAA Assessment PN*, the Commission sought input on the state of accessibility of services and equipment used with the following: (1) “non-mobile” services, including, but not limited to analog and digital telephone handsets and cordless phones used with landline and interconnected VoIP services; and (2) “mobile” or wireless services, including basic phones used primarily or exclusively for voice calls and high-end wireless devices or smart phones that are used for voice, text, data and other computing capabilities. *CVAA Assessment PN*, 27 FCC Rcd at 7696-7697, ¶ 7.

incorporate ports that accept neck loops.<sup>62</sup> Further, HLAA asserts that some mainstream phones have speakerphone or Bluetooth features with sound quality that is inadequate for people with a significant hearing loss to understand what is being said.<sup>63</sup>

21. On the positive side, HLAA reports seeing “a steady improvement in the accessibility of both landline and mobile phones for people with hearing loss, and that is a credit to both the manufacturers and service providers who make [hearing aid compatible] phones available.”<sup>64</sup> The Telecommunications Industry Association (TIA) further notes its development of hearing aid compatible standards, specifically, TIA-1083, defining measurement procedures and performance requirements for the handset-generated audio band magnetic noise of wireline telephones,<sup>65</sup> and ANSI/TIA 4965, a new standard using Conversational Gain, which provides test methods for both analog and digital telephones and, according to TIA, “is expected to play a significant role in efforts to reduce interference problems experienced by people using hearing aids with digital cordless telephones.”<sup>66</sup> Consumer Groups also report that the response time provided by interactive voice response phone systems has lengthened, making such systems easier for callers to use, even for deaf or hard of hearing callers who use relay services.<sup>67</sup> They also report that some deaf or hard of hearing people are able to access voice mail messages by using Google Talk, an application that transcribes messages into text using speech recognition technology.<sup>68</sup> According to Consumer Groups, users report that this feature works fairly well for calls where the speaker can be clearly heard with minimal background noise.<sup>69</sup>

22. **Section 716 Accessibility.** Comments on the state of compliance with Section 716 were received almost exclusively from industry representatives.<sup>70</sup> The Consumer Electronics Association (CEA) reports that manufacturers and providers are in the process of determining which of their equipment and services are subject to the new accessibility requirements, ensuring that their business units and product development teams understand the substantive accessibility

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<sup>62</sup> HLAA Comments at 2.

<sup>63</sup> *Id.* HLAA and Consumer Groups note also that hearing aid compatibility ratings are not currently required by the U.S. Food and Drug Administration for hearing aids, making the task of finding a hearing aid compatible phone even more challenging for consumers. HLAA Comments at 4; Consumer Groups Comments at 7-8. “Consumer Groups” consist of the following organizations: Telecommunications for the Deaf and Hard of Hearing, Inc.; National Association of the Deaf; Association of Late-Deafened Adults, Inc.; Deaf and Hard of Hearing Consumer Advocacy Network; Cerebral Palsy and Deaf Organization; and the Technology Access Program at Gallaudet University.

<sup>64</sup> HLAA Comments at 4.

<sup>65</sup> TIA Comments on Tentative Findings at 2-3. The full name for the TIA-1083 standard is the “Telephone Terminal Equipment Handset Magnetic Measurement procedure and Performance Requirements.”

<sup>66</sup> *Id.* at 3. “Conversational Gain” is a new method of measuring telephone speech amplification. TIA Comments at 6. TIA further notes that a package label is being created to help hearing aid users identify products with reduced interference potential. TIA Comments on Tentative Findings at 3.

<sup>67</sup> Consumer Groups Comments at 8.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> The American Foundation for the Blind (AFB) urges the Commission “to avoid making any precipitous analysis” of the impact of the Section 716 accessibility obligations, because any such analysis at this early date would “need to rely almost exclusively on claims by covered industry players.” AFB Comments at 2.

requirements, and modifying their internal business processes and systems to perform the tasks needed to comply with the new rules.<sup>71</sup>

23. Comments of CTIA-The Wireless Association (CTIA) provide an extensive list of actions that CTIA asserts are being taken by its members to address compliance with Section 716. In general, CTIA contends that the wireless industry currently actively considers accessibility for persons with all types of disabilities, takes the necessary steps to ensure that such disabilities are considered at the beginning of product and service design, and regularly integrates accessibility considerations into their business operations.<sup>72</sup> CTIA also reports that, since the enactment of the CVAA, AT&T has incorporated “accessibility checklists” into its standard project process and expanded efforts to collaborate with handset manufacturers and third-party stakeholders on optimum accessibility specifications.<sup>73</sup> In addition, according to CTIA, Verizon Wireless is standardizing its processes to ensure that accessibility issues are considered throughout the design, build, and refresh/updating periods.<sup>74</sup>

24. Regarding specific accessibility developments, CTIA reports that wireless manufacturers have designed equipment with built-in accessibility solutions, such as text-to-speech and screen readers, hearing aid compatibility, haptic (tactile) feedback, text communications, and voice activated features.<sup>75</sup> In addition, CTIA adds:

Many wireless devices today include built-in features including visual and vibrating alerts and notifications, speakerphones, text and IM applications, tactilely discernible keypads (e.g. QWERTY) and shortcut keys, displays with adjustable brightness and font sizes, predictive text and word completion (e.g. AutoText) and spell check, multiple device form factors (e.g. touch, flip, candy bar, etc.), and, more recently, voice activated features.<sup>76</sup>

25. CTIA mentions that BlackBerry® and Nokia devices include many of these features, and that the DROID™ by Motorola embeds accessibility features, such as a large backlit touch screen and keypad with raised keys.<sup>77</sup> CTIA also notes that Apple’s iPhone includes accessibility features, such as screen magnification and VoiceOver screen reader technology,<sup>78</sup> and “Samsung’s Galaxy Nexus using Google’s Android operating system has preinstalled software that provides spoken, vibration and sound feedback to notify and alert users about various actions, such as launching an application, upcoming events, and receiving incoming calls.”<sup>79</sup> CTIA also reports that, in 2012, RIM introduced BlackBerry® Screen Reader, which provides audible output of the visual information displayed on the screen.<sup>80</sup>

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<sup>71</sup> CEA Comments at 5.

<sup>72</sup> CTIA Comments at 16.

<sup>73</sup> *Id.* at 17.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at 4.

<sup>76</sup> *Id.* at 8.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at 9.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at 8.

26. CTIA explains further that wireless manufacturers, such as RIM, Inc., incorporate accessible features into their application requirements that encourage applications developers to utilize built-in accessibility features.<sup>81</sup> CTIA also notes that AT&T has been developing a speech recognition application programming interface (API) that was recently opened up to developers to permit such developers to integrate the API's speech capabilities into their applications.<sup>82</sup>

27. Wireless manufacturers, according to CTIA, also design devices to be compatible with assistive technology accessibility hardware and software solutions, such as alternate entry devices, TTYs, adaptive keyboards, screen readers, magnifiers, text-to-speech, and speech-to-text technology.<sup>83</sup> Wireless service providers, CTIA adds, are making third-party applications available to consumers to improve accessibility, particularly for individuals who are blind or visually impaired.<sup>84</sup> For example, AT&T offers Mobile Accessibility Lite for Android; Sprint, Boost Mobile, and Virgin Mobile USA offer "Wireless Accessibility" for Android users; and Verizon Wireless offers text-to-speech TALKS™ software for certain devices.<sup>85</sup>

28. Notwithstanding all of these efforts, CTIA urges the Commission to develop prospective guidelines so "wireless entities understand precisely what they must do for a product or service to be considered 'accessible.'"<sup>86</sup>

29. Comments filed by the Consumer Groups are mixed with respect to their opinions about the availability of accessible advanced communications products and services. First, Consumer Groups express concerns about the lack of interoperable video conferencing services and inaccessible advanced communications service components of video gaming.<sup>87</sup> They also note with dismay that the iPhone 4S with Siri is not hearing aid compatible. Nevertheless, Consumer Groups applaud some industry initiatives, such as offering text/data-only plans for people who cannot make voice telephone calls, and web portals linked to services for people with disabilities.<sup>88</sup> Consumer Groups further recognize Apple, Inc., as "an example of a leading manufacturer that embraces accessibility throughout many of its products by featuring universal design principles."<sup>89</sup>

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<sup>81</sup> *Id.*

<sup>82</sup> *Id.* at 7.

<sup>83</sup> *Id.* at 9.

<sup>84</sup> *Id.* at 10.

<sup>85</sup> *Id.* at 10-11. *But see* Letter from Tamara Preiss, Vice President, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 10-213 (filed Sept. 6, 2012) ("To clarify, Verizon Wireless previously marketed devices that provided TALKS, but transitioned to a text-to-speech software called 'Mobile Accessibility' in mid-2012 for certain devices marketed after that time and available on a greater number of Android devices.").

<sup>86</sup> *Id.* at 18. *But see* 47 C.F.R. §§ 6.3(a), 7.3(a), 14.21(b).

<sup>87</sup> Consumer Groups Comments at 9-13. *See also* ¶ 44, *infra*.

<sup>88</sup> Consumer Groups Comments at 6.

<sup>89</sup> *Id.* The term "universal design" means "a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly accessible (without requiring assistive technologies) and

30. ***Inclusion of people with disabilities through all stages of product and service development.***<sup>90</sup> Various industry associations report that their members are taking steps to consult with people with disabilities and the accessibility community.<sup>91</sup> For example, CTIA reports that AT&T has an Advisory Panel on Access and Aging.<sup>92</sup> Also according to CTIA, Verizon Wireless conducts quarterly calls with leading national disability advocates and has shared handsets with the American Foundation for the Blind Labs to evaluate and offer recommendations for their next generation of devices.<sup>93</sup> Similarly, CTIA adds, Motorola has “increased efforts to reach out regularly to disability advocacy groups, standards agencies and research organizations, and to work closely with the manufacturers of devices for people with accessibility needs.”<sup>94</sup>

31. TIA states that its members “have also been (and plan to continue to) liaising with the disability community to develop and share best practices and to develop standards for inclusive design.”<sup>95</sup> As an example, TIA notes that its members consulted with the disability community in the development of voluntary industry Conversational Gain standards for wireline phones.<sup>96</sup> TIA states that it is actively involved in further development of the hearing aid compatibility standard for wireless devices, and that the percentage of hearing aid compatible phones across offering tiers and models has increased over time.<sup>97</sup>

32. One consumer advocacy group, however, reports that it is “unaware of mainstream mobile phone manufacturers or service providers who include people with hearing loss in their market research, product design, testing, pilot demonstrations or product trials.”<sup>98</sup> According to HLAA, while some mobile phone manufacturers are working with non-consumer entities, such as hearing aid companies and research institutions, at least on a limited basis, manufacturers have not sought much input from HLAA about features that would make mobile phones accessible and usable for people with hearing loss since the ATIS hearing aid compatibility incubator group disbanded around 2010.<sup>99</sup>

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products and services that are interoperable with assistive technologies.” 29 U.S.C. § 3002(a)(19). *See also ACS Report and Order* and *ACS FNPRM*, 26 FCC Rcd at 14620, ¶ 151.

<sup>90</sup> *See* 47 C.F.R. §§ 6.7(b)(3), 7.7(b)(3). Beginning January 30, 2013, covered entities must keep records of information about their efforts to consult with people with disabilities. *See* 47 U.S.C. § 618(a)(5)(A); 47 C.F.R. § 14.31(a)(1).

<sup>91</sup> *See* CEA Comments at 5; CTIA Comments at 4; TIA Comments at 4.

<sup>92</sup> CTIA Comments at 17.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> TIA Comments at 4-5.

<sup>96</sup> *Id.* at 5. “Conversational Gain” is a new method of measuring telephone speech amplification. *Id.* at 6.

<sup>97</sup> *Id.* at 5-6.

<sup>98</sup> HLAA Comments at 3.

<sup>99</sup> *See* HLAA Comments at 4. The ATIS hearing aid compatibility incubator group was formed by the Alliance for Telecommunications Industry Solutions (ATIS) to “investigate performance between hearing aids (HAs) and Wireless Device (WDs) to determine methods of enhancing interoperability and usability for consumers with hearing aids in order for those in the hearing aid and cellular wireless industries to meet the requirements of the [Federal Communications Commission]” and completed its work in November



33. **Information, documentation, and training.**<sup>100</sup> CTIA reports that Verizon offers free 411 assistance for individuals who are blind, or who have low vision, dexterity disabilities, or cognitive disabilities, and provides these customers with bills and other print material in alternate formats such as in Braille and large print.<sup>101</sup> Likewise, CTIA states that U.S. Cellular provides written material in Braille and large print for individuals who are visually impaired.<sup>102</sup>

34. CTIA claims that wireless service providers and manufacturers train and educate personnel about accessibility issues, citing AT&T's customer service center for customers with disabilities and RIM's internal training module on accessibility.<sup>103</sup> As a result, industry believes that the disability community "is better informed about the diverse range of wireless services, equipment and applications that are available to meet their needs."<sup>104</sup>

35. CTIA also claims that persons with disabilities are better informed because of CTIA's award-winning website AccessWireless.org and other collaborative efforts by the wireless industry and the accessibility community.<sup>105</sup> According to CTIA, the recently revamped and re-launched AccessWireless.org site features direct links to service provider and manufacturer accessibility websites; information relevant to individuals who are senior citizens, deaf or hard of hearing, blind, and physically, cognitively or speech impaired; tools for service providers' retail store employees to help customers; and other features.<sup>106</sup> In addition, "CTIA also has partnered with the Mobile Manufacturers Forum ('MMF') to bring the Global Accessibility Reporting Initiative ('GARI') to AccessWireless.org," to provide an online database that consumers can use to search for wireless handsets based on built-in accessibility features.<sup>107</sup>

36. Notwithstanding these efforts by industry, some consumers complain about the training of customer service personnel. HLAA reports that "personnel often do not know what a [hearing aid compatible] phone is or how to find which phones are [hearing aid compatible] among those the service provider sells."<sup>108</sup> As a result, consumers shopping for hearing aid

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2010. ATIS: Hearing Aid Compatibility Incubator at <http://www.atis.org/hac/index.asp> (viewed August 10, 2012).

<sup>100</sup> See 47 C.F.R. §§ 6.11, 7.11, 14.20(d).

<sup>101</sup> CTIA Comments at 7.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.* at 14-15.

<sup>104</sup> *Id.* at 15.

<sup>105</sup> *Id.* at 4. AccessWireless.org was a recipient of an FCC Chairman's Award for Advancement in Accessibility in 2011. *FCC Chairman Julius Genachowski Joins Commissioner Michael Copps to Honor Innovators in Accessibility Communications Technologies*, October 28, 2011, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-310717A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-310717A1.pdf).

<sup>106</sup> CTIA Comments at 4.

<sup>107</sup> *Id.* at 13. TIA, many of whose members are also members of the MMF, notes that the FCC incorporated GARI on its Accessibility Clearinghouse website. TIA Comments at 7.

<sup>108</sup> HLAA Comments at 3.

compatible mobile phones in retail stores may not find what they need unless the store staff is in fact well trained and knowledgeable.<sup>109</sup>

37. **Service plans.** CTIA states that wireless service providers such as CTIA members Sprint, AT&T, T-Mobile, Verizon Wireless, and U.S. Cellular are offering voice, text, and data service plans specifically for persons with disabilities, including unlimited text or data plans or message- or data-only plans for people who are deaf, hard of hearing or have a speech disability.<sup>110</sup>

38. Consumer Groups, however, are concerned about the growing trend towards metering and capping data plans, particularly because of the impact on deaf and hard of hearing individuals who rely on video technology for direct communication and for telecommunications through a relay service.<sup>111</sup> Consumer Groups report that some of their members are exceeding wireless monthly 2 GB and 3 GB data caps and that many are paying overage fees, which advocates predict will become a larger problem as wireless network speeds improve and video availability and use increases.<sup>112</sup> Consumer Groups contend that these increasing costs add to the higher costs that people who are deaf or hard of hearing already pay for equipment and services to achieve functionally equivalent telecommunications.<sup>113</sup> Consumer Groups and the major wireless providers are engaged in discussions about possible solutions to ensure that the deaf and hard of hearing community does not experience a significant disparity in costs.<sup>114</sup>

39. **Findings on compliance with Sections 255, 716, and 718.**<sup>115</sup> With respect to Section 255, based on the limited record provided in response to the *CVAA Assessment PN*, the Commission finds that services and equipment subject to this longstanding statutory obligation generally are meeting the hearing aid compatibility needs of people with hearing loss, and that feature phones continue to offer only limited accessibility for consumers who are blind or visually impaired. The record indicates that consumers who are blind or visually impaired have consistently and persistently expressed frustration with the overall inaccessibility of telecommunications equipment that has grown increasingly complex over time.<sup>116</sup> Although the Commission has successfully resolved some informal Section 255 complaints,<sup>117</sup> we agree with

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<sup>109</sup> See *id.* But see Letter from Tamara Preiss, Vice President, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 10-213 (filed Sept. 6, 2012) (noting that HAC ratings are included on the call-out-cards located adjacent to handsets in Verizon stores; HAC information and HAC ratings are available on Verizon Wireless' website; customer service representatives cannot advise consumers whether a particular handset will meet a particular consumer's needs; and handsets are available for in-store testing with a consumer's hearing aid).

<sup>110</sup> CTIA Comments at 6.

<sup>111</sup> Consumer Groups Comments at 13.

<sup>112</sup> *Id.* at 14.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> As noted above, see ¶ 5, *supra*, in the *CVAA Tentative Findings PN*, the Commission sought comment on these findings pursuant to Section 717(b)(2) of the Communications Act. 47 U.S.C. § 618(b)(2); *CVAA Tentative Findings PN*, 27 FCC Rcd \_\_\_\_\_. See also Section II.F of this *Report, infra* (summarizing the comments received and affirming these findings).

<sup>116</sup> See, e.g., ¶ 18 of this *Report, supra*.

<sup>117</sup> See Section II.D of this *Report, infra*.

ACB that the resolution of Section 255 complaints during this reporting period does not necessarily “provide the entire picture” with respect to compliance.<sup>118</sup> The complaint data indicate that the Section 255 complaint process has resolved relatively simple complaints;<sup>119</sup> thus we find that the resolution of these types of complaints is only one factor in assessing the level of compliance with Section 255.

40. The Commission is currently without sufficient information to accurately assess the level of compliance with Section 716 of the Communications Act. The Commission expects to be better informed after October 8, 2013, when Section 716 and the recordkeeping and enforcement provisions of Section 717 are fully effective.<sup>120</sup> However, the Commission finds that industry is taking multiple steps to comply with the communications accessibility provisions of the CVAA, and we expect that such steps will result in the availability of accessible equipment used for advanced communications services with a diverse range of low-end and high-end features, functions, and prices when Section 716 is fully effective.

41. Because Section 718 is not yet effective, the Commission is unable to present findings with respect to the level of compliance with that provision.

### C. Accessibility Barriers in New Communications Technologies

42. Section 717(b)(1)(B) of the Communications Act requires the Commission to provide an evaluation of the extent to which any accessibility barriers still exist with respect to new communications technologies.<sup>121</sup> In the *CVAA Assessment PN*, the Commission noted that the CVAA does not define “new communications technologies” in this context, and sought comment on whether the scope of this inquiry may be broader than “telecommunications” and “advanced communications services” technologies covered under Section 255 and Section 716.<sup>122</sup> The Commission also sought comment on the extent to which new communications services or equipment have been deployed for the general public, the accessibility barriers that still exist with respect to these new communications technologies, and whether these barriers will be addressed by accessibility obligations under Section 716 or the mobile phone Internet browser accessibility obligations under Section 718 that will become effective on October 8, 2013.<sup>123</sup>

43. Contrary to the assertions of some commenters, we believe that our assessment of accessibility barriers with respect to “new communications technologies” should not be limited to those technologies covered under Sections 255, 716, and 718.<sup>124</sup> We also disagree with TIA that any assessment of accessibility barriers that still exist “must be evaluated by what is

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<sup>118</sup> ACB Comments at 1.

<sup>119</sup> For example, under the Section 255 complaint process, the Commission has resolved complaints addressing accessible directory assistance, accessible customer service, modified service plans and the provision of information in alternative formats. However, few complaints have successfully achieved the incorporation of accessible design in services and products. See Section II.D.1 of this *Report, infra*.

<sup>120</sup> *Accord* TIA Comments at 2 and 8.

<sup>121</sup> 47 U.S.C. § 618(b)(1)(B).

<sup>122</sup> *CVAA Assessment PN*, 27 FCC Rcd 7698-99, ¶ 12. The CVAA legislative history is also silent on the definition or scope of “new communications technologies.”

<sup>123</sup> *Id.*

<sup>124</sup> *Contra*, CEA Comments at 8.

achievable with current technology.”<sup>125</sup> These limitations do not appear in the CVAA or its legislative history with respect to this *Report* to Congress. Given that Congress has acted in the past, in 1996 and more recently with the CVAA, to ensure access to communications equipment and services by people with disabilities, and may do so again to the extent “the extraordinary benefits of [ ] technological advances are [ ] not accessible to individuals with disabilities,”<sup>126</sup> we believe that adopting a narrow interpretation of the phrase “new communications technologies” in Section 717(b)(1)(B) would defeat congressional intent to ensure such access to emerging communications technologies.

44. Regarding accessibility barriers in new communications technologies, CTIA reports that its member companies offer more than 600 unique wireless devices, while consumer advocates identify only a few devices as being accessible “out-of-the-box” to individuals who are blind or visually impaired.<sup>127</sup> Consumer Groups acknowledge that new communications technologies can result in *eliminating* accessibility barriers.<sup>128</sup> For example, for individuals who are deaf or hard of hearing, the development of e-mail, text messaging, video conferencing, captioned telephones, and the mobile technologies to support these services has helped to level the communications playing field.<sup>129</sup> Nonetheless, Consumer Groups also point out that new communications technologies can *create* accessibility barriers.<sup>130</sup> For example, Consumer Groups state that such new technologies as video conferencing services and advanced communications service components of video gaming are not accessible.<sup>131</sup> Consumer Groups also note the lack of vibrating alert systems across all applications that provide audible notifications of incoming messages or other communication, the inability to adjust vibration settings similar to the ability to select ringtones, and the need to make equipment used for advanced communications services compatible with residential signaling systems.<sup>132</sup>

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<sup>125</sup> TIA Comments at 9.

<sup>126</sup> Senate Report at 1; House Report at 19.

<sup>127</sup> See CTIA Comments at 3; ¶ 19 of this *Report*, *supra* (identifying Apple and Panasonic as manufacturers of accessible mobile phones).

<sup>128</sup> Consumer Groups Comments at 2.

<sup>129</sup> *Id.*

<sup>130</sup> *Id.* at 9-11.

<sup>131</sup> *Id.* at 9-11 (most mainstream video conferencing services are not interoperable with each other or with videophones provided by video relay service providers, and none are able to include telecommunications relay services as part of these services); *id.* at 12-13 (advocating for inclusion of relay services to make online gaming voice communication accessible to deaf and hard of hearing gamers). Each of these accessibility issues is the subject of pending Commission proceedings. *ACS FNPRM*, 26 FCC Rcd at 14684-87, ¶¶ 301-305; *Request for Comment: Petition for Class Waiver of Commission’s Rules for Access to Advanced Communications Services and Equipment by People with Disabilities*; CG Docket No. 10-213, Public Notice, DA 12-760, 27 FCC Rcd 5204, released May 15, 2012 (Entertainment Services Association petition for waiver of gaming equipment and services from the advanced communications services accessibility requirements), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-760A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-760A1.pdf).

<sup>132</sup> Consumer Groups Comments at 13.

45. **Findings on accessibility barriers in new communications technologies.**<sup>133</sup> The Commission believes that Congress will be better informed about the state of communications that are or are not accessible to individuals with disabilities, the impact of the CVAA, and the need for additional legislative action, if any, if the Commission's *Report* includes an account of accessibility barriers with respect to "new communications technologies" that fall within and outside the scope of the Communications Act and that can and cannot be eliminated with reasonable effort or expense.

46. Based on comments filed in response to the *CVAA Assessment PN*, we find that accessibility barriers still exist with respect to both existing and new communications technologies.<sup>134</sup> In particular, we find that presently, new video conferencing technologies that are available for peer-to-peer and video relay services are not meeting the full communication access needs of people who communicate via American Sign Language.<sup>135</sup> Further, the Commission agrees with Consumer Groups that deployment of new communications technologies can either eliminate existing accessibility barriers or create new ones. The Commission finds that many accessibility barriers in new communications technologies will likely be addressed by industry compliance with the new accessibility requirements under Section 716 and Section 718 when those requirements are fully effective, and by the enforcement procedures mandated by Section 717 and the Commission's rules. There may, however, still be many accessibility barriers to new communications technologies that fall outside the scope of the CVAA, including, for example, video conferencing services that are not interoperable.

#### **D. Complaints Received Pursuant to Section 717**

47. Sections 717(b)(1)(C)-(F) of the Communications Act require the Commission to report on the following issues with respect to complaints received pursuant to Section 717(a) of the Communications Act that allege violations of Sections 255, 716, or 718 of the Communications Act:

- the number and nature of complaints received during the two years that are the subject of the Commission's *Report*;
- the actions taken to resolve such complaints, including forfeiture penalties assessed;
- the length of time that was taken by the Commission to resolve each such complaint; and
- the number, status, nature, and outcome of any actions for mandamus and any appeals filed.<sup>136</sup>

Before addressing each of these matters, this section of the *Report* provides a brief explanation of the existing procedures for the handling of accessibility complaints and how those procedures will be changed to implement the CVAA.

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<sup>133</sup> As noted above, see ¶ 5, *supra*, in the *CVAA Tentative Findings PN*, the Commission sought comment on these findings pursuant to Section 717(b)(2) of the Communications Act. 47 U.S.C. § 618(b)(2); *CVAA Tentative Findings PN*, 27 FCC Rcd \_\_\_\_\_. See also Section II.F of this *Report, infra* (summarizing the comments received and affirming these findings).

<sup>134</sup> See, e.g., ¶¶ 18, 20, and 29, *supra* (providing examples of accessibility barriers).

<sup>135</sup> See Consumer Groups Comments at 9-11.

<sup>136</sup> 47 U.S.C. §§ 618(b)(1)(C)-(F).

48. **Existing accessibility complaint procedures.** During the period covered by this *Report*,<sup>137</sup> consumers filing accessibility complaints utilized the Commission's existing informal complaint procedures, which were adopted under Section 255 of the Communications Act.<sup>138</sup> Currently, an informal accessibility complaint may be communicated to the Consumer and Governmental Affairs Bureau's (CGB) Disability Rights Office (DRO) by letter, phone call, fax, online form, or other reasonable means.<sup>139</sup> The complaint is entered into the Consumer Complaint Management System (CCMS) and is then assigned to a DRO telecommunications specialist, who forwards the complaint to and serves a Notice of Informal Complaint (NOIC) on the service provider and/or equipment manufacturer.<sup>140</sup> The provider or manufacturer has 30 days in which to respond to the NOIC.<sup>141</sup> DRO then analyzes the response. If all issues are satisfied and the consumer's satisfaction with the resolution is verified, or if DRO determines that no further action is required or that DRO can take no further action, DRO considers the matter closed and sends the consumer a close-out letter.<sup>142</sup> Under the existing complaint procedure, DRO is not authorized to impose forfeitures or take other enforcement action in response to an informal complaint alone; however, if the consumer is not satisfied with the provider's or manufacturer's response to the complaint and the DRO decision to terminate action, the consumer may file a formal complaint.<sup>143</sup> In some cases, DRO may forward the complaint to the Enforcement Bureau to determine whether a material and substantial question remains with respect to compliance.<sup>144</sup> If so, the Enforcement Bureau may investigate further to determine compliance and what, if any, remedial actions and/or sanctions are warranted.<sup>145</sup>

49. **Future accessibility complaint procedures.** On October 8, 2013, the complaint process will change upon full implementation of the enforcement provisions of Section 717(a).<sup>146</sup> Before filing a complaint, a consumer must make a request to DRO for dispute resolution assistance with the applicable service provider or equipment manufacturer.<sup>147</sup> If the two parties do not reach a settlement within 30 days after the filing of a request for dispute resolution assistance, the parties may agree to extend the time for dispute resolution in 30-day increments,

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<sup>137</sup> With respect to the Commission's assessment of complaints received, required by Sections 717(b)(1)(C)-(F) of the Communications Act, this first *Report* covers the time period between October 8, 2010, and December 31, 2011. Subsequent biennial reports will cover complaints for periods beginning January 1 and ending two years later on December 31.

<sup>138</sup> See 47 C.F.R. §§ 6.16-6.20, 7.16-7.20. No formal complaints regarding accessibility were filed during the period covered by this *Report*. See 47 C.F.R. §§ 6.21-6.22, 7.21-7.22 (formal complaint procedures).

<sup>139</sup> 47 C.F.R. §§ 6.17(a), 7.17(a).

<sup>140</sup> See 47 C.F.R. §§ 6.18(a), 7.18(a).

<sup>141</sup> 47 C.F.R. §§ 6.19, 7.19.

<sup>142</sup> See 47 C.F.R. §§ 6.18(a)-(b), 7.18(a)-(b).

<sup>143</sup> See 47 C.F.R. §§ 6.20(b), 7.20(b).

<sup>144</sup> See 47 C.F.R. §§ 6.20(c), 7.20(c).

<sup>145</sup> See 47 C.F.R. §§ 6.20(c)-(d), 7.20(c)-(d).

<sup>146</sup> See 47 C.F.R. §§ 14.32 (consumer dispute assistance), 14.34-14.37 (informal complaints), 14.38-14.52 (formal complaints).

<sup>147</sup> Prior to October 8, 2013, consumers may file informal complaints with DRO alleging violation of Section 255 of the Communications Act without the prerequisite filing of a request for dispute resolution assistance.



or the requester may file an informal complaint with the Enforcement Bureau.<sup>148</sup> Informal complaints alleging a violation of Section 255, 716, or 718 of the Communications Act must be filed with the Commission's Enforcement Bureau, instead of with DRO.<sup>149</sup>

50. The Commission has established minimum requirements for information that must be contained in an informal complaint, effective October 8, 2013.<sup>150</sup> The Commission will investigate the complaint and, within 180 days after the complaint was filed, will issue an order determining whether a violation has occurred.<sup>151</sup> The Commission may, in such order, or in a subsequent order, direct the service provider or equipment manufacturer to bring the service or, in the case of a manufacturer, the next generation of the equipment, into compliance with the requirements of Section 255, 716, or 718 within a reasonable period of time and take other authorized and appropriate enforcement action.<sup>152</sup> Any manufacturer or service provider that is the subject of such an order shall have a reasonable opportunity to comment on the Commission's proposed remedial action before the Commission issues a final order with respect to that action.<sup>153</sup>

### 1. Number and Nature of Complaints Received

51. From October 8, 2010, to December 31, 2011, the time period covered by this *Report*, 73 informal complaints were filed with the Commission alleging violations of Section 255 of the Communications Act or its implementing rules.<sup>154</sup> Of those complaints, approximately 33% alleged violations by equipment manufacturers and 53% alleged violations by service providers, with the remaining 14% alleging both service and equipment violations.

52. Equipment-related complaints raised a wide range of issues, illustrating difficulties encountered by consumers with various types of disabilities in obtaining accessible equipment. For example, in one informal complaint filed with the Commission, a consumer who is deaf needed a hearing aid compatible cell phone with a full keyboard, but the cell phone he had previously used was discontinued by his service provider. Another individual complained that she could not find a cell phone with the type of Bluetooth signal needed to communicate with

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<sup>148</sup> 47 C.F.R. § 14.32(e). *See also ACS Report and Order*, 26 FCC Rcd at 14658, ¶ 237. We expect that the new dispute resolution process will resolve consumer concerns before complaints are filed and will encourage service providers and equipment manufacturers to comply with the accessibility rules.

<sup>149</sup> 47 C.F.R. § 14.34(a). On or after October 8, 2013, consumers may still file formal complaints with the Enforcement Bureau without first making requests for dispute resolution assistance. 47 C.F.R. §§ 14.38-14.52.

<sup>150</sup> 47 C.F.R. § 14.34(b).

<sup>151</sup> 47 U.S.C. § 618(a)(3)(B). The Commission shall forward the informal complaint to the service provider or equipment manufacturer. 47 C.F.R. § 14.35(a). The service provider or manufacturer must file and serve an answer to the complaint and a non-confidential summary of that answer within 20 days of service of the complaint. 47 C.F.R. §§ 14.36(b)(i), 14.36(c). The complainant may file a reply. 47 C.F.R. § 14.36(d).

<sup>152</sup> 47 U.S.C. § 618(a)(3)(B)(i).

<sup>153</sup> 47 U.S.C. § 618(a)(4). *See also* 47 C.F.R. § 14.37(c).

<sup>154</sup> Information in this first *Report* is limited to complaints filed under existing procedures for alleged violations of Section 255 because the complaint procedures established pursuant to Section 717(a) of the Communications Act will not be available to consumers until October 8, 2013. *See* ¶¶ 14-16 of this *Report*, *supra*.

specialized CPE. Consumers who are blind or visually impaired filed several complaints about the difficulty of locating cell phones with fully accessible features, such as an accessible contact list. Complaints related to obtaining equipment that meets the needs of consumers with multiple disabilities were also filed. Several complainants sought hearing aid compatible phones with buttons that were easy to control for individuals with dexterity disabilities due to carpal tunnel syndrome or multiple sclerosis.

53. In complaints against service providers, the predominant issues were as follows:

- need for instructions or billing in an accessible format;
- need for accessible customer service;
- need for alternatives to an inaccessible telephone directory (*e.g.*, free directory assistance);
- requests for waiver of early termination fees when a phone that did not meet accessibility requirements was exchanged for another phone that was accessible; and
- requests to modify a bundled service plan to eliminate charges for service(s) not used due to disability (*e.g.*, phone plans with text only).

## 2. Actions Taken to Resolve Such Complaints

54. For each complaint filed with the Commission during the period covered by this *Report*, DRO forwarded the complaint to and served an NOIC on the service provider and/or equipment manufacturer alleged to have violated Commission rules. In most cases, equipment manufacturers and service providers attempted to work with consumers to resolve their particular needs. Equipment manufacturers often addressed complaints by providing the requested equipment, identifying equipment that was available as an upgrade, or informing consumers of new models that would be issued in the future. Service providers also accommodated consumers who needed accessible formats for billing, equipment instructions, and directory assistance. As a result, for a majority of complaints DRO was able to confirm that the consumer was satisfied with the resolution.

55. For all but eight of the complaints filed, DRO verified the consumer's satisfaction with the resolution or determined that no further action was required or that DRO could take no further action, and sent the consumer a close-out letter. For two of the remaining eight complaints, DRO determined that the complaints involved issues outside the Commission's jurisdiction, referred the complainants to the U.S. Department of Justice, advising consumers of their right to file a complaint alleging violation of the Americans with Disabilities Act or other disability-related law. DRO is making best efforts to facilitate resolution of the remaining six complaints that are still pending, which involve general dissatisfaction with services or equipment or complex issues of accessibility that include determining the extent to which the accessibility requested is readily achievable.

56. The Commission did not assess any forfeiture penalties for accessibility-related violations during the period covered by this *Report*.

## 3. Time to Resolve Each Complaint

57. Under existing procedures, there is no prescribed time frame for resolving informal complaints alleging violations of Section 255. Of the 67 informal complaints that have been closed by DRO, two complaints, or about 3%, were resolved within the first 30 days after

receipt. Another 41 complaints, or about 61%, were closed within 90 days. Another 22 complaints, or approximately 33%, were closed within 180 days. Two complaints, or about 3%, were closed within a year.

#### 4. Actions for Mandamus and Appeals Filed

58. There were no actions for mandamus or appeals filed with respect to Section 255 complaints during the period covered by this *Report*.

##### E. Effect of Section 717's Recordkeeping and Enforcement Requirements on the Development and Deployment of New Communications Technologies

59. Section 717(b)(1)(G) of the Communications Act requires the Commission to provide an assessment of the effect of the requirements of Section 717 of the Communications Act on the development and deployment of new communications technologies.<sup>155</sup> Section 717(a) requires the Commission to establish new recordkeeping and enforcement procedures for service providers and equipment manufacturers that are subject to Sections 255, 716, and 718.<sup>156</sup> In October 2011, the Commission adopted these procedures,<sup>157</sup> which require service providers and equipment manufacturers to maintain records to demonstrate compliance with Sections 255, 716, and 718 when a complaint is filed.<sup>158</sup> In the *CVAA Assessment PN*, the Commission sought comment on whether service providers and equipment manufacturers have taken measures in anticipation of the new recordkeeping and enforcement requirements that will result in increased accessibility for people with disabilities.<sup>159</sup>

60. Comments in response to this inquiry in the *CVAA Assessment PN* were sparse. CTIA states that it appreciates and agrees with the Commission's establishment of its consumer dispute assistance process as a prerequisite to the filing of an informal complaint.<sup>160</sup> CTIA reports that the wireless industry is "actively preparing and initiating measures to meet the enforcement and recordkeeping requirements of the CVAA."<sup>161</sup> In addition, TIA states that its members "have been complying with the recordkeeping requirements."<sup>162</sup> CEA reports that

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<sup>155</sup> 47 U.S.C. § 618(b)(1)(G).

<sup>156</sup> 47 U.S.C. § 618(a).

<sup>157</sup> See ¶¶ 49 and 50 of this *Report, supra*, for a description of the new enforcement procedures. Entities must certify annually to the Commission that they have kept records pertaining to the accessibility of their products beginning January 30, 2013. See 47 U.S.C. § 618(a)(5)(B); 47 C.F.R. § 14.31. In response to an informal complaint, the manufacturer or service provider "must produce documents demonstrating its due diligence in exploring accessibility and achievability . . . throughout the design, development, testing, and deployment stages of a product or service." 47 C.F.R. § 14.36(a).

<sup>158</sup> 47 C.F.R. § 14.36(a).

<sup>159</sup> *CVAA Assessment PN*, 27 FCC Rcd at 7698, ¶ 11. Among other things, the Commission also asked to what extent the recordkeeping requirements and enforcement procedures established have increased collaboration among industry, consumers with disabilities, and other stakeholders. *Id.*

<sup>160</sup> CTIA Comments at 18.

<sup>161</sup> *Id.*

<sup>162</sup> TIA Comments at 8.

manufacturers and service providers are modifying internal recordkeeping systems to accommodate the records that the new rules require to be kept.<sup>163</sup>

61. At the same time, CTIA suggests that developing an effective recordkeeping process may require some experience with the rules and their enforcement: “CTIA appreciates the FCC’s decision to adopt a flexible approach to recordkeeping . . . [but] the lack of any guidance against which regulated entities can judge their individual recordkeeping systems places those entities at risk of being found in violation of the requirements, despite their best efforts to comply.”<sup>164</sup> As a result, CTIA urges the Commission not to penalize entities that are attempting in good faith to comply with the rules if their records are ultimately found to be insufficient or non-compliant.<sup>165</sup> In other words, CTIA urges the Commission to maintain “a flexible approach to recordkeeping requirements.”<sup>166</sup> TIA also urges the Commission to take a flexible approach in its first enforcement action to ensure that “anticipatory documentation requirements do not burden or derail the product design process.”<sup>167</sup>

62. Consumer Groups perceive “ongoing resistance by some members of the industry to incorporate and implement accessibility features” as an underlying cause of many communications accessibility barriers.<sup>168</sup> They claim that industry appears to collaborate in good faith with consumers as members of organized accessibility committees, but express frustration that this spirit of collaboration dissolves outside of those settings.<sup>169</sup> They suggest that industry requests for waiver of the accessibility rules “can lead consumer groups to question the sincerity of industry stakeholders.”<sup>170</sup> In contrast, CEA asserts that the granting of waiver requests would avoid the anticipated negative effect of the accessibility rules, including the recordkeeping and enforcement requirements of Section 717.<sup>171</sup>

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<sup>163</sup> CEA Comments at 5.

<sup>164</sup> CTIA Comments at 19. *See also* TIA Comments at 9 (“an established level of recordkeeping cannot easily be determined” until the Commission undertakes enforcement actions). TIA also cites this “regulatory uncertainty” as a “major barrier to accessibility” while, at the same time, it urges the Commission to afford manufacturers “maximum flexibility” in meeting the CVAA requirements. *Id.*

<sup>165</sup> CTIA Comments at 19-20.

<sup>166</sup> *Id.*

<sup>167</sup> TIA Comments at 8-9.

<sup>168</sup> Consumer Groups Comments at 2.

<sup>169</sup> *Id.* at 3.

<sup>170</sup> *Id.* Industry requests for waiver of the accessibility rules are the subject of pending Commission proceedings. *See, e.g., Request for Comment: Petition for Class Waiver of Commission’s Rules for Access to Advanced Communications Services and Equipment by People with Disabilities*; CG Docket No. 10-213, Public Notice, DA 12-759, 27 FCC Rcd 5202, released May 15, 2012 (Consumer Electronics Association petition for waiver of Internet protocol televisions and digital video players from the advanced communications services accessibility requirements), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-759A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-759A1.pdf). Further, the Consumer Groups “urge the Commission to send the message to Congress that some in the industry are refusing to embrace accessibility as a priority and to adopt universal design principles, despite the clear mandates from Congress in the CVAA.” Consumer Groups Comments at 5.

<sup>171</sup> CEA Comments at 7-8. *See also* Letter from Julie M. Kearny, Vice President, Regulatory Affairs, Consumer Electronics Association to Marlene H. Dortch, Secretary, FCC, CG Docket No. 10-213, at 2 (filed Aug. 2, 2012), refuting Consumer Groups’ assertion that waiver petitions illustrate industry reluctance to adopt universal design principles.

63. ***Findings on the effect of Section 717's recordkeeping and enforcement requirements on the development and deployment of new communications technologies.***<sup>172</sup> Industry commenters express concerns about the anticipated burden of maintaining the records required by Section 717 to demonstrate compliance with Sections 255, 716, and 718. Yet, industry commenters also report that they are already complying or preparing to comply with the new recordkeeping requirements. We find that nothing in the record indicates that Section 717's recordkeeping and enforcement requirements will hinder the development and deployment of new communications technologies. We also find, however, that there is insufficient information to assess whether initial steps taken in anticipation of the new recordkeeping and enforcement requirements will result in the development and deployment of new communications technologies that are accessible to and usable by individuals with disabilities.

## F. Conclusion

64. On August 23, 2012, the Commission released a public notice seeking comment on its tentative findings pursuant to Section 717(b)(2) of the Communications Act (the *CVAA Tentative Findings PN*).<sup>173</sup> Specifically, we sought comment on whether our findings accurately represent the current state of communications technologies accessibility and, if not, how they should be revised to do so.<sup>174</sup> We also asked whether and the extent to which the industry actions described above have resulted in increased accessibility of telecommunications and advanced communications services and equipment.<sup>175</sup> Further, we sought comment on whether such accessible services and equipment are offered with the diverse range of low-end and high-end features, functions, and prices as is offered to the general public.<sup>176</sup> Finally, we asked about other kinds of information that would help the Commission to conduct these assessments for the next biennial report to Congress, to be submitted by October 8, 2014.<sup>177</sup>

65. In response to the *CVAA Tentative Findings PN*, the Commission received few comments, which are summarized below. Although relatively few, we believe that the comments received in response to the *CVAA Assessment PN* and the *CVAA Tentative Findings PN* support our tentative findings and, therefore, we affirm these tentative findings which are presented as findings in this *Report*.<sup>178</sup>

66. ***Compliance with Sections 255, 716, and 718.*** In response to the *CVAA Tentative Findings PN*, Consumer Groups representing individuals who are deaf or hard of hearing state

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<sup>172</sup> As noted above, see ¶ 5, *supra*, in the *CVAA Tentative Findings PN*, the Commission sought comment on these findings pursuant to Section 717(b)(2) of the Communications Act. 47 U.S.C. § 618(b)(2); *CVAA Tentative Findings PN*, 27 FCC Rcd \_\_\_\_\_. See also Section II.F of this *Report*, *infra* (summarizing the comments received and affirming these findings).

<sup>173</sup> 47 U.S.C. § 618(b)(2). *CVAA Tentative Findings PN*, 27 FCC Rcd \_\_\_\_\_.

<sup>174</sup> *CVAA Tentative Findings PN*, 27 FCC Rcd at \_\_\_\_, ¶ 14.

<sup>175</sup> *Id.*

<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

<sup>178</sup> See ¶¶ 39-41 (findings on compliance with Sections 255, 716, and 718), ¶¶ 45-46 (findings on accessibility barriers in new communications technologies), and ¶ 63 (findings on the effect of Section 717's recordkeeping and enforcement requirements on the development and deployment of new communications technologies).

that they appreciate that many of their accessibility concerns are noted in this *Report*, but “urge the Commission to incorporate their concerns into specific findings of fact.”<sup>179</sup> The Consumer Groups’ accessibility concerns are noted in this section and generally throughout this *Report*.<sup>180</sup>

67. The National Federation of the Blind (NFB) concurs with the Commission that consumers who are blind or visually impaired have consistently and persistently expressed frustration with the overall inaccessibility of telecommunications equipment that has grown increasingly complex over time,<sup>181</sup> and concurs with ACB that the “accessibility of devices covered under Section 255 is abysmal.”<sup>182</sup> NFB questions the progress that industry has made to achieve accessibility in the marketplace, observing that such progress is so minimal that industry has not fundamentally changed the way it views accessibility.<sup>183</sup> Specifically, NFB notes that some accessibility solutions have been around for awhile (*e.g.*, vibrating alerts and speakerphones) and other solutions do not achieve full accessibility (*e.g.*, the Samsung Galaxy Nexus and BlackBerry® Screen Reader).<sup>184</sup> At the same time, NFB notes that several generations of the Apple iPhone have been accessible “out of the box” to people who are blind and deaf-blind, and that “Google is working on incorporating accessibility features into Jelly Bean, the newest Android operating system.”<sup>185</sup> NFB urges manufacturers to view accessibility as “a competitive advantage rather than a mandated burden,”<sup>186</sup> and requests service providers, such as AT&T and Verizon Wireless, to “be more aggressive” and refuse to accept handsets that are inaccessible.<sup>187</sup> Finally, NFB urges industry to collaborate with consumer groups to develop and

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<sup>179</sup> Consumer Groups Comments on Tentative Findings at 1. For example, Consumer Groups desire that the Commission include findings about the lack of video conferencing service interoperability, including with video relay services (*id.* at 6); about the lack of accessible voice communication in online multiplayer games (*id.* at 5-6); that greater involvement by the deaf and hard of hearing community would benefit industry accessibility compliance efforts (*id.* at 7); that data caps and metered data plans should not result in higher costs to consumers who are deaf or hard of hearing and rely on such services (*id.* at 8); and that new forms of relay services are needed to meet the needs of people who are deaf and have other disabilities (*id.* at 9). Consumer Groups also generally note their desire for hearing aid compatibility for 100% of wireless handsets (*id.* at 3); improved labeling for hearing aids (*id.* at 3-4); the availability of video mail services, similar to voice mail services (*id.* at 4-5); and a Commission investigation to determine what steps industry has taken to ensure compliance with Sections 716 and 718 (*id.* at 6). See Appendix A for a list of entities responding as “Consumer Groups” to the *CVAA Tentative Findings PN*. The need for new forms of relay services to meet the needs of people who are deaf-blind is echoed by the DeafBlind Think Tank (DBTT), who also express the need for updated and new specialized customer premises equipment. DBTT Comments on Tentative Findings at 1-2. NFB also shares Consumer Groups’ concerns about the effect that the trend towards metering and capping data plans will have on consumers who are deaf-blind who rely on text-based services. NFB Comments on Tentative Findings at 4.

<sup>180</sup> See note 179, *supra*. See also, *e.g.*, ¶¶ 29, 38, 44, 62, *supra*.

<sup>181</sup> NFB Comments on Tentative Findings at 4. See also ¶ 39, *supra*. With regard to the provision of accessible information and documentation, NFB characterizes the provision of free 411 assistance, customer service centers for people with disabilities, and the AccessWireless.org website as “perpetuat[ing] a separate but equal” system. NFB Comments on Tentative Findings at 4.

<sup>182</sup> NFB Comments on Tentative Findings at 1. See also ¶ 18, *supra*.

<sup>183</sup> NFB Comments on Tentative Findings at 3.

<sup>184</sup> NFB Comments on Tentative Findings at 2. See also ¶¶ 24 and 25, *supra*.

<sup>185</sup> NFB Comments on Tentative Findings at 1-2.

<sup>186</sup> *Id.* at 2.

<sup>187</sup> *Id.* at 2-3.



implement functional performance and usability standards to ensure actual and not simply technical accessibility.<sup>188</sup>

68. In response to the Commission's tentative conclusion that equipment subject to Section 255 is generally meeting the hearing aid compatibility needs of people with hearing loss, but that feature phones continue to offer only limited accessibility for consumers who are blind or visually impaired,<sup>189</sup> TIA states that it believes the "industry has taken great strides in increasing the accessibility of 'feature phones' generally,"<sup>190</sup> but provides no further information about how feature phones are meeting the accessibility needs of consumers who are blind or visually impaired. TIA further disagrees with ACB's position that the current Section 255 complaint process is inadequate and discourages consumers from filing complaints, as well as the Commission's tentative conclusion that the resolution of Section 255 complaints during the reporting period does not necessarily provide the entire picture with respect to compliance.<sup>191</sup> Instead, TIA believes that the number of complaints is "evidence that industry has listened to and addressed many of the complaints and concerns of consumers under Section 255."<sup>192</sup>

69. We believe that the comments of the Consumer Groups and NFB support our tentative findings with respect to compliance with Sections 255, 716, and 718, and we are not persuaded by the comments of TIA to amend those findings. We, therefore, affirm our findings on compliance with Sections 255, 716, and 718.<sup>193</sup>

70. *Accessibility barriers in new communications technologies.* Comments in response to the Commission's tentative conclusions on accessibility barriers in new communications technologies are limited to those submitted by the Consumer Groups and TIA. Consumer Groups concur with the Commission's broad interpretation of "new communications technologies."<sup>194</sup> In response to the Commission's tentative finding that new video conferencing technologies available for peer-to-peer and video relay services are not meeting the full communication access needs of people who communicate via American Sign Language,<sup>195</sup> TIA asserts that the CVAA accessibility requirements cover only "interoperable" video conferencing service. TIA goes on to note its belief that "substantial progress has been made toward achieving

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<sup>188</sup> *Id.* at 3. NFB reports that they have only begun communicating with some service providers this year, but only on a limited basis. *Id.* at 3-4.

<sup>189</sup> See ¶ 39, *supra*.

<sup>190</sup> TIA Comments on Tentative Findings at 2. At the same time, TIA "requests that the Commission 'more clearly differentiate between wireline feature phones and wireless feature phones,'" but offers no reason for such a request and no additional information to make such an assessment. *Id.*

<sup>191</sup> *Id.* at 3-4. See also ¶ 18 (ACB's position) and ¶ 39 (the Commission's finding), *supra*.

<sup>192</sup> TIA Comments on Tentative Findings at 4. TIA also recommends that the *Report* include additional information about its involvement in the development of hearing aid-related standards. *Id.* at 2-3. The *Report* now does so at ¶ 21, *supra*. With respect to the Commission's assessment of industry compliance with Sections 716, 717, and 718, in response to TIA's request, we note that TIA held a public webinar on November 29, 2011 "that offered training on compliance with the CVAA." *Id.* at 4.

<sup>193</sup> See ¶¶ 39-41, *supra*.

<sup>194</sup> Consumer Groups Comments on Tentative Findings at 10.

<sup>195</sup> See ¶ 46, *supra*, citing Consumer Groups Comments at 9-11 (most mainstream video conferencing services are not interoperable with each other or with videophones provided by video relay service providers, and none are able to include telecommunications relay services as part of these services).

the sort of operating environment that would achieve interoperability,” but that additional industry work, including standards development, is necessary. TIA concludes that the Commission’s *CVAA Tentative Findings PN* reflects an understanding of this limitation.<sup>196</sup> Accordingly, we affirm our findings on accessibility barriers in new communications technologies.<sup>197</sup>

71. *Effect of Section 717’s recordkeeping and enforcement requirements on the development and deployment of new communications technologies.* Only Consumer Groups commented on our tentative findings, concurring with the Commission that the recordkeeping and enforcement requirements under Section 717 of the Communications Act will not hinder the development and deployment of new communications technologies.<sup>198</sup> As a result, we affirm our findings on the effect of Section 717’s recordkeeping and enforcement requirements.<sup>199</sup>

72. *Future biennial reports.* With respect to future biennial reports to Congress, Consumer Groups recommend requiring industry to provide periodic reports to the Commission about research and development activities that directly involve members of the deaf and hard of hearing community.<sup>200</sup> Consumer Groups also believe that the Commission would benefit from a review of corporate status reports.<sup>201</sup>

73. We will continue to work with consumer, industry, and other stakeholders to identify and obtain the data necessary to effectively inform Congress about accessible telecommunications and advanced communications services and equipment, accessibility barriers in new communications technologies, and the effect of the accessibility recordkeeping and enforcement requirements on the development and deployment of new communications technologies. However, at this time, we do not propose to adopt more specific reporting requirements.

### III. COMMISSION ACTIONS TO IMPLEMENT THE CVAA

74. Upon the enactment of the CVAA on October 8, 2010, the Commission immediately began working with consumer, industry, and government stakeholders to ensure effective and timely implementation of the CVAA’s provisions.<sup>202</sup> Specifically, as described below, since passage of the legislation, the Commission has taken the following actions:<sup>203</sup>

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<sup>196</sup> TIA Comments on Tentative Findings at 5. Specifically, TIA refers to the Commission’s statement in *CVAA Tentative Findings PN* that “[t]here may...still be many accessibility barriers to new communications technologies that fall outside the scope of the CVAA, including, for example, video conferencing services that are not interoperable.” *Id.*, citing *CVAA Tentative Findings PN*, ¶ 30.

<sup>197</sup> See ¶¶ 45-46, *supra*.

<sup>198</sup> Consumer Groups Comments on Tentative Findings at 10.

<sup>199</sup> See ¶ 63, *supra*.

<sup>200</sup> Consumer Groups Comments on Tentative Findings at 11.

<sup>201</sup> *Id.*

<sup>202</sup> See FCC Chairman Julius Genachowski Statement on the Signing of the 21<sup>st</sup> Century Communications and Video Accessibility Act, October 8, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-302014A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-302014A1.pdf).

<sup>203</sup> As noted above, this *Report* generally covers the time period between October 8, 2010, and December 31, 2011. See ¶ 16 of this *Report*, *supra*. Subsequent biennial reports are expected to cover periods

- issued multiple public notices and six notices of proposed rulemaking seeking comment on CVAA-related issues;
- released five reports and orders adopting rules to implement various provisions of the CVAA; and
- established, oversaw, and supported the work of two advisory committees, both of which timely completed their CVAA-assigned charges.<sup>204</sup>

Resources from virtually every Bureau and Office within the Commission have contributed to this effort. To date, the Commission has met every one of the CVAA's rigorous rulemaking deadlines.

**A. Section 102. Hearing aid compatibility.**

75. Section 710 of the Communications Act and the Commission's rules require all wireline phones to be hearing aid compatible (HAC) and specify benchmarks by which certain percentages of wireless handsets must be compliant with American National Standards Institute (ANSI) technical standards for compatibility with hearing aids operating in both acoustic coupling and inductive coupling modes.<sup>205</sup> These benchmarks apply separately to each air interface for which the manufacturer or service provider offers handsets.<sup>206</sup> Section 102(a)(1) of the CVAA amends Section 710 to extend these HAC requirements to customer premises equipment (CPE) "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 [Section 710(e)]."<sup>207</sup> Section 102(b) of the CVAA provides that CPE that is compliant with technical standards developed through a public participation process and in consultation with interested consumer stakeholders designated by the Commission will be considered hearing aid compatible for purposes of section 710, until such time as the Commission may designate otherwise.<sup>208</sup> Finally, Section 102(a)(2) creates a requirement for the Commission to periodically assess the exemptions for telephones and CPE that the Commission has applied pursuant to the statute.<sup>209</sup>

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beginning January 1 and ending two years later on December 31. *Id.* For this section of this *Report*, we describe actions taken after October 8, 2010, and before the publication of this *Report*.

<sup>204</sup> See CVAA, §§ 106 (Emergency Access Advisory Committee), 201 (Video Programming Access Advisory Committee). See also Section III.E and Section III.F of this *Report*, respectively.

<sup>205</sup> 47 U.S.C. § 610; 47 C.F.R. § 20.19.

<sup>206</sup> *Id.*

<sup>207</sup> CVAA, § 102(a)(1), amending 47 U.S.C. § 610(b)(1). Pursuant to Section 710(e), in any rulemaking to implement the HAC provisions, "the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing loss," in accordance with technical- and market-related parameters specified in this provision. See 47 U.S.C. § 610(e).

<sup>208</sup> CVAA, § 102(b), amending 47 U.S.C. § 610(c). The Commission is directed to consult with the public in establishing or approving such technical standards. 47 U.S.C. § 610(c).

<sup>209</sup> CVAA § 102(a)(2), amending 47 U.S.C. § 610(b)(2)(B).

76. On August 5, 2010, prior to enactment of the CVAA, the Commission released a policy statement, report and order, and further notice of proposed rulemaking (FNPRM) seeking comment on proposed revisions to the rules governing HAC for mobile handsets.<sup>210</sup> The policy statement affirmed that the Commission's HAC rules must provide access to the most advanced and innovative technologies on the market, while maximizing conditions for innovation and investment.<sup>211</sup> The report and order addressed a variety of HAC-related issues, including procedures for revising the HAC technical standard to make it applicable across frequency bands and interface modes, disclosure requirements for multi-band and multi-mode phones not subject to the HAC technical standard, a narrowing of the *de minimis* exception, and application of the HAC rules to both CPE with built-in speakers and handsets distributed by entities other than service providers.<sup>212</sup> The Commission's accompanying FNPRM proposed to extend the Commission's HAC rules, to include customer equipment used to provide wireless voice communications over any type of network among members of the public or a substantial portion of the public.<sup>213</sup> The FNPRM sought comment on whether to extend the in-store testing requirement for wireless handsets to include retail outlets other than those owned or operated by service providers, and whether to permit a user-controlled reduction of power as a means to meet the HAC standard for operations over the Global System for Mobile Communications (GSM) air interface phones operating in the 1900 megahertz (MHz) band.<sup>214</sup>

77. On October 12, 2010, a few days after the enactment of the CVAA, the Wireless Telecommunications Bureau (WTB) released a public notice seeking comment on the effect that the CVAA would have, if any, on the proposals made in the FNPRM portion of the *HAC Policy Statement, 2d R&O and Further Notice*.<sup>215</sup> Two months later, on December 28, 2010, WTB again invited comment from the public on its HAC rules, this time through a public notice seeking comment on specific issues related to the operation and effectiveness of these rules as part of the comprehensive review initiated by the FNPRM.<sup>216</sup> That public notice asked commenters again to address the effect of the new CVAA legislation, if any, on the rules proposed in the FNPRM.<sup>217</sup> This proceeding is still pending.

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<sup>210</sup> *Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, WT Docket No. 07-250, Policy Statement and Second Report and Order and Further Notice of Proposed Rulemaking, FCC 10-145, 25 FCC Rcd 11167, 11192-11201, ¶¶ 73-101 (2010) (*HAC Policy Statement, 2d R&O and Further Notice*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-10-145A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-145A1.pdf).

<sup>211</sup> *HAC Policy Statement, 2d R&O and Further Notice*, 25 FCC Rcd at 11174, ¶ 18.

<sup>212</sup> *Id.*, 25 FCC Rcd at 11174-11192, ¶¶ 19-72.

<sup>213</sup> This would go beyond the current scope of Section 20.19(a) of the Commission's rules. 47 C.F.R. § 20.19(a).

<sup>214</sup> *HAC Policy Statement, 2d R&O and Further Notice*, 25 FCC Rcd at 11192-11202, ¶¶ 73-101.

<sup>215</sup> *Wireless Telecommunications Bureau Requests that Comments in Hearing Aid Compatibility Proceeding Address Effects of New Legislation*, WT Docket No. 07-250, Public Notice, DA 10-1936, 25 FCC 14280, released October 12, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-1936A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-1936A1.pdf).

<sup>216</sup> *Comment Sought on 2010 Review of Hearing Aid Compatibility Regulations*, WT Docket No. 10-254, Public Notice, DA 10-2388, 25 FCC Rcd 17566, released December 28, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2388A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2388A1.pdf).

<sup>217</sup> *Id.*

78. On April 9, 2012, the Wireless Telecommunications Bureau and Office of Engineering Technology jointly released a report and order adopting an updated 2011 American National Standards Institute (ANSI) technical standard for the deployment of HAC digital wireless handset models.<sup>218</sup> The updated standard was developed through a voluntary, consensus-driven approach, and was broadly supported by both industry and consumer groups.<sup>219</sup> In this proceeding, the Commission also adopted rules to phase in, over a 24-27 month period, the Commission's benchmarks for deploying HAC handsets operating over newly covered frequency bands and air interfaces resulting from the adoption of the 2011 ANSI Standard,<sup>220</sup> and phased-in testing and consumer disclosure rules to address multi-mode and multi-band handsets for which there was some overlap of the 2007 and 2011 ANSI standards.<sup>221</sup>

#### B. Section 103. Relay services.

79. Section 103(a) of the CVAA revises the definition of telecommunications relay services (TRS) and Section 103(b) requires voice over Internet protocol (VoIP) service providers to contribute to the interstate telecommunications relay service fund (TRS Fund).<sup>222</sup>

80. *Definition of TRS.* The amended definition specifically identifies and includes individuals who are deaf-blind within the categories of individuals that are covered by the TRS provisions of the Communications Act.<sup>223</sup> The Commission hosted two "mini-summits" with members and representatives of the deaf-blind community – on June 15, 2010 and June 8, 2011 – to learn more about the unique and varied communications technology challenges faced by, and possible accessibility solutions for, individuals who are deaf-blind. Each of these mini-summits was held at the Commission with members of Deaf-Blind Young Adults in Action, along with representatives of the American Association of the Deaf-Blind and the Helen Keller National Center. In addition, Commission staff attended and gave presentations at the Metro Washington Association of the Deaf-Blind Picnic in Wheaton, Maryland, on May 5, 2012; at the Deaf-Blind Camp of Maryland in West River, Maryland, on June 11-12, 2012; and at the Lighthouse for the Blind in Seattle, Washington, on August 1, 2012, to better acquaint themselves with the communications needs of this population.

81. The CVAA's amended definition of TRS also eliminates the limitation of providing relay services only for calls between a person with a hearing or speech disability and a

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<sup>218</sup> *Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, WT Docket No. 07-250, Third Report and Order, DA 12-550, 27 FCC Rcd 3732 (WTB/OET 2012) (*HAC Third Report and Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-550A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-550A1.pdf).

<sup>219</sup> CVAA, § 102(b), amending 47 U.S.C. § 610(c); *HAC Third Report and Order*, 27 FCC Rcd at 3733, ¶ 2.

<sup>220</sup> *HAC Third Report and Order*, 27 FCC Rcd at 3741-42, ¶¶ 21-23.

<sup>221</sup> *Id.*, 27 FCC Rcd at 3738-41, ¶¶ 14-20.

<sup>222</sup> CVAA, §§ 103(a) and (b).

<sup>223</sup> CVAA, § 103(a), amending Section 225(a)(3) of the Communications Act, 47 U.S.C. § 225(a)(3). The new definition is as follows:

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.

person without a hearing or speech disability.<sup>224</sup> The amended definition enables the use of relay services between and among individuals with disabilities, such as when two or more individuals with different types of disabilities (e.g., hearing loss and speech impairment) need more than one kind of relay service (e.g., video relay service and speech-to-speech TRS) to complete a single relay call.<sup>225</sup> The Commission will undertake proceedings necessary to address these definitional changes.

82. *VoIP Contributions to the TRS Fund.* Section 103(b) of the CVAA adds new Section 715 to the Communications Act requiring interconnected and non-interconnected voice over Internet protocol (VoIP) service providers to participate in and contribute to the TRS Fund by October 8, 2011, in a manner prescribed by regulation that is consistent with and comparable to the obligations of other contributors.<sup>226</sup> Although providers of interconnected VoIP services have been contributing to the TRS Fund since 2007,<sup>227</sup> the CVAA, in effect, codifies this obligation, and extends it to non-interconnected VoIP providers.

83. As required by the CVAA, on October 7, 2011, within one year of the enactment of the CVAA, the Commission adopted rules to implement this provision.<sup>228</sup> The new rules require non-interconnected VoIP service providers to register with the Commission and designate a District of Columbia agent for service of process by December 31, 2011, and to complete and submit FCC Form 499-A to report fourth-quarter 2011 interstate end-user revenues, by April 1, 2012, which will serve as the basis for TRS Fund contributions for the 2012-2013 funding period.<sup>229</sup> Covered entities must report their revenues on this form on an annual basis thereafter.<sup>230</sup> Among other things, the Commission's new rules also ensure that the obligations of non-interconnected VoIP service providers are consistent with and comparable to the obligations of other TRS Fund contributors. For example, all TRS Fund contributions are to be assessed

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<sup>224</sup> See Title IV of the Americans with Disabilities Act of 1990 (ADA), Pub. Law 101-336, 104 Stat. 327, codified at 47 U.S.C. § 225.

<sup>225</sup> S. Rep. No. 111-386 at 7 (2010) (Senate Report); H.R. Rep. No. 111-563 at 23 (2010) (House Report).

<sup>226</sup> CVAA, § 103(b), adding Section 715 to the Communications Act, codified at 47 U.S.C. § 616.

<sup>227</sup> On May 31, 2007, the Commission extended Section 225's TRS requirements to interconnected VoIP service providers, including the requirement that such providers contribute to the TRS Fund. See *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, Report and Order, 22 FCC Rcd 11275, 11291-97, ¶¶ 32-43 (2007).

<sup>228</sup> CVAA, § 103(b); 47 U.S.C. § 616. See also *Contributions to the Telecommunications Relay Services Fund*, CG Docket No. 11-47, Report and Order, FCC 11-150, 26 FCC Rcd 14532 (2011) (*TRS Contribution Report and Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-150A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-150A1.pdf). See also 47 C.F.R. §§ 1.47(h), 64.601, and 64.604(c)(5)(iii), as amended. This followed the Commission's notice of proposed rulemaking on this subject, released March 3, 2011. See *Contributions to the Telecommunications Relay Services Fund*, CG Docket No. 11-47, Notice of Proposed Rulemaking, FCC 11-38, 26 FCC Rcd 3285 (2011) (*TRS Contribution NPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-38A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-38A1.pdf).

<sup>229</sup> *TRS Contributions Report and Order*, 26 FCC Rcd at 14545-6, ¶ 31.

<sup>230</sup> *Id.*, 26 FCC Rcd at 14543, ¶ 23.



against interstate end-user revenues.<sup>231</sup> Since these rules became effective, we believe that non-interconnected VoIP service providers generally have complied with the new requirements.

**C. Section 104. Access to advanced communications services and equipment.**

84. Section 104(a) of the CVAA adds Sections 716, 717, and 718 to the Communications Act as follows:<sup>232</sup>

- Section 716 establishes accessibility requirements for advanced communications services and equipment.<sup>233</sup>
- Section 717
  - (a) establishes new recordkeeping and enforcement requirements for Sections 255, 716, and 718;<sup>234</sup>
  - (b) requires the Commission to submit biennial reports to Congress;
  - (c) requires the Comptroller General to conduct a study and report to Congress by October 8, 2015;
  - (d) requires the Commission to establish an accessibility clearinghouse; and
  - (e) requires the Commission to conduct an information and educational program.<sup>235</sup>
- Section 718 requires Internet browsers built into mobile phones to be accessible to individuals who are blind or have a visual impairment.<sup>236</sup>

85. As required by the CVAA, on October 7, 2011, within one year of enactment of the CVAA, the Commission released a report and order adopting rules to implement Sections 716 and 717(a) of the Communications Act and a further notice of proposed rulemaking addressing related matters and seeking comment on issues concerning the implementation of Section 718.<sup>237</sup>

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<sup>231</sup> *Id.*, 26 FCC Rcd at 14538, ¶ 14.

<sup>232</sup> CVAA, § 104(a), adding Sections 716, 717, and 718 to the Communications Act, codified at 47 U.S.C. §§ 617, 618, and 619. Section 104(b) of the CVAA establishes October 8, 2013 as the effective date for Section 718 of the Communications Act. CVAA, § 104(b). Sections 104(c) and (d) of the CVAA established forfeiture penalties for violations of Section 255, 716, or 718 of the Communications Act, and the right to appeal Commission determinations of such complaints to the United States Court of Appeals for the District of Columbia. CVAA, §§ 104(c) and (d).

<sup>233</sup> 47 U.S.C. § 617.

<sup>234</sup> Section II.A of this *Report* provides brief summaries of Sections 255, 716, and 718.

<sup>235</sup> 47 U.S.C. §§ 618(a)-(e).

<sup>236</sup> 47 U.S.C. § 619.

<sup>237</sup> *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; and In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket Nos. 10-213 and 10-145, WT Docket No. 96-198, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-151, 26 FCC Rcd 14557 (2011) (*ACS Report and Order* and *ACS FNPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-151A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-151A1.pdf). The rules adopted in the *ACS Report and Order* are codified in 47 C.F.R. Part 14. The Commission's *ACS Report and Order* was informed by public comment that came in response to, first, a public notice and, then, a notice of proposed rulemaking on these CVAA provisions. See *Consumer & Governmental Affairs Bureau and Wireless*

The rules adopted by the Commission in the *ACS Report and Order* became effective January 30, 2012.<sup>238</sup> Since that date, advanced communications service providers and equipment manufacturers have been required to take accessibility into account in the design of their products and services.<sup>239</sup> One year later, beginning on January 30, 2013, covered manufacturers and service providers must comply with requirements to keep records pertaining to the accessibility of their products and services.<sup>240</sup> Under the transition period established by the Commission, covered equipment and services must fully comply with the rules implementing Section 716 by October 8, 2013.<sup>241</sup> In accordance with the CVAA, Section 718 of the Communications Act also becomes effective on October 8, 2013.<sup>242</sup> Finally, the associated complaint procedures established pursuant to Section 717(a) of the Communications Act also will become effective on October 8, 2013.<sup>243</sup>

86. The rules do not apply to customized equipment or services that are not offered directly to the public.<sup>244</sup> In addition, the Commission temporarily waived the accessibility rules for advanced communications service providers and equipment manufacturers that qualify as small business concerns (under the Small Business Administration's rules and small business size standards) at the start of the design of a product or service.<sup>245</sup> Further, the Commission adopted procedures for the filing and consideration of petitions for waiver from the advanced communications accessibility rules for multipurpose services and equipment.<sup>246</sup>

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*Telecommunications Bureau Seek Comment on Advanced Communication Provisions of the Twenty-First Century Communications and Video Accessibility Act of 2010*, CG Docket No. 10-213, Public Notice, DA 10-2029, 25 FCC Rcd 14589, released October 21, 2010 (*ACS PN*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2029A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2029A1.pdf); *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; and In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket Nos. 10-213 and 10-145, WT Docket No. 96-198, Notice of Proposed Rulemaking, FCC 11-37, 26 FCC Rcd 3133 (2011) (*ACS NPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-37A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-37A1.pdf).

<sup>238</sup> The rules became effective 30 days after their publication in the Federal Register on December 30, 2011. See *ACS Report and Order* and *ACS FNPRM*, 26 FCC Rcd at 14696, ¶ 328. See also 76 Fed. Reg. 82240 (Dec. 30, 2011).

<sup>239</sup> See *ACS Report and Order*, 26 FCC Rcd at 14602, ¶ 108.

<sup>240</sup> 47 U.S.C. § 618(a)(5)(A).

<sup>241</sup> *ACS Report and Order*, 26 FCC Rcd at 14602-3, ¶ 110.

<sup>242</sup> CVAA, § 104(b).

<sup>243</sup> 47 C.F.R. § 14.30(c); 47 C.F.R. §§ 14.32-14.37.

<sup>244</sup> 47 U.S.C. § 617(i); 47 C.F.R. § 14.3.

<sup>245</sup> 47 U.S.C. § 617(h)(2); 47 C.F.R. § 14.4. The small entity exemption will expire on the effective date of rules adopted pursuant to the *ACS FNPRM*, or October 8, 2013, whichever is earlier. See 47 C.F.R. § 14.4(c). The Commission sought further comment on whether and to what extent the Commission should adopt a permanent exemption for small entities. See *ACS FNPRM*, 26 FCC Rcd at 14677-681, ¶ 279-291.

<sup>246</sup> 47 U.S.C. § 617(h)(1); 47 C.F.R. § 14.5. The Commission also adopted general outcome-oriented performance objectives that define accessible, usable, and compatible. See 47 C.F.R. § 14.21. Consideration of more specific performance objectives is deferred until the Access Board adopts final guidelines for Sections 255 and 508. See *ACS Report and Order*, 26 FCC Rcd at 14647-48, ¶ 212.

87. Since the rules adopted in the *ACS Report and Order* became effective, the Commission has received one petition for reconsideration and three waiver requests.

- *Petition for Reconsideration.* TDI *et al.* filed a petition for reconsideration on January 30, 2012, contending that the Commission erred by not imposing regulatory obligations on providers of software that the end user acquires separately from equipment used for advanced communications services.<sup>247</sup> This petition is pending.
- *Waiver Requests.* The Commission sought comment on the following petitions for waivers of the rules implementing Sections 716 and 717 for multi-purpose equipment or services that the petitioners claim are designed primarily for purposes other than advanced communications services.
  - Entertainment Software Association (ESA) – ESA seeks a waiver for three classes of products and services for a period of at least eight years: (1) game consoles, both home and handheld, and their peripherals and integrated online networks; (2) game distribution and online game play services; and (3) game software.<sup>248</sup>
  - Consumer Electronics Association (CEA) – CEA seeks a waiver for Internet protocol-enabled television sets (IP-TVs) and Internet protocol-enabled digital video players (IP-DVPs) that allow consumers to access and use advanced communications services and are first manufactured prior to July 1, 2016.<sup>249</sup>

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<sup>247</sup> Petition of Telecommunications for the Deaf and Hard of Hearing, Inc., Trace R&D Center, University of Wisconsin-Madison, and Technology Access Program, Gallaudet University (TDI *et al.*), for Reconsideration, CG Docket No. 10-213 (filed Jan. 30, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021857329>. The rules adopted by the Commission hold entities that make equipment used for advanced communications services (*e.g.*, laptops, tablets, and smartphones) responsible for the accessibility of the hardware and its software components. *ACS Report and Order*, 26 FCC Rcd at 14581, ¶ 60. *See also* 47 C.F.R. § 14.20(a)(1). The rules also hold providers of advanced communications services responsible for the accessibility of the underlying components of their services, including software applications. *ACS Report and Order*, 26 FCC Rcd at 14590, ¶ 85. *See also* 47 C.F.R. § 14.20(a)(2). The rules do not, however, hold manufacturers responsible for the accessibility of software that is independently selected and installed by a user, or that the user chooses to use in the cloud. *ACS Report and Order*, 26 FCC Rcd at 14588, ¶ 78. The Commission also concluded that developers of software applications do not have their own independent accessibility obligations. *Id.*, 26 FCC Rcd at -14592, ¶ 87.

<sup>248</sup> Petition of the Entertainment Software Association at 4, CG Docket No. 10-213 (filed Mar. 21, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021902591>. *See also Request for Comment: Petition for Class Waiver of Commission's Rules for Access to Advanced Communications Services and Equipment by People with Disabilities*, CG Docket No. 10-213, Public Notice, DA 12-760, 27 FCC Rcd 5204, released May 15, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-760A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-760A1.pdf).

<sup>249</sup> Consumer Electronics Association Petition for Waiver at 1-2, CG Docket No. 10-213 (filed Mar. 22, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021902799>. *See also Request for Comment: Petition for Class Waiver of Commission's Rules for Access to Advanced Communications Services and Equipment by People with Disabilities*, CG Docket No. 10-213, Public Notice, DA 12-759, 27 FCC Rcd 5202, released May 15, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-759A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-759A1.pdf).

- National Cable & Telecommunications Association (NCTA) – NCTA seeks a waiver for set-top boxes leased by cable operators to their customers and manufactured before July 1, 2016, that are capable of accessing services or features that may qualify as advanced communications services.<sup>250</sup>

88. *Section 717.* The rules adopted by the Commission to implement Section 717 established new recordkeeping and enforcement procedures for service providers and equipment manufacturers that are subject to Sections 255, 716, and 718.<sup>251</sup> Specifically, covered entities must keep records of their efforts to implement Sections 255, 716, and 718, including information about their efforts to consult with people with disabilities, descriptions of the accessibility features of their products and services, and information about the compatibility of these products and services with peripheral devices or specialized customer premises equipment commonly used by people with disabilities to achieve access.<sup>252</sup> By April 1, 2013, and annually thereafter, covered entities must certify that they are maintaining these records, as required, and provide contact information for both persons within their companies charged with resolving complaints and agents designated for service of complaints.<sup>253</sup> The Commission also adopted rules and procedures for the resolution of consumer disputes, informal complaints, and formal complaints.<sup>254</sup>

89. *ACS Further Notice of Proposed Rulemaking (ACS FNPRM)* The *ACS FNPRM*, which was released with the *ACS Report and Order*, sought comment on several issues:

- how to implement Section 718 of the Communications Act, which becomes effective October 8, 2013, and requires Internet browsers built into mobile phones to be accessible to and usable by people who are blind or have a visual impairment, unless doing so is not achievable;
- whether to retain or alter the recordkeeping requirements adopted by the Commission for entities covered under Section 718;
- whether and to what extent the Commission should adopt a permanent exemption for small entities;
- alternative proposed definitions of “interoperable” video conferencing service and whether to require video mail service to be accessible to individuals with disabilities when provided along with a video conferencing service;

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<sup>250</sup> National Cable & Telecommunications Association Petition for Waiver at 1-2, CG Docket No. 10-213 (filed June 1, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021921284>. See also *Request for Comment: Petition for Class Waiver of Commission’s Rules for Access to Advanced Communications Services and Equipment by People with Disabilities*, CG Docket No. 10-213, Public Notice, DA 12-984, 27 FCC Rcd 7101, released June 21, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-984A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-984A1.pdf).

<sup>251</sup> 47 U.S.C. § 618; 47 C.F.R. §§ 14.30-14.52.

<sup>252</sup> 47 C.F.R. § 14.31(a).

<sup>253</sup> 47 C.F.R. § 14.31(b).

<sup>254</sup> 47 C.F.R. §§ 14.32 (consumer dispute assistance), 14.34-14.37 (informal complaints), 14.38-14.52 (formal complaints). See Section II.D of this *Report, supra*, for a description of the consumer dispute resolution and informal complaint procedures.

- how to interpret the phrase “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, and networks;
- the meaning of “electronically mediated services,” the extent to which such services are covered under Section 716, and how they can be used to transform advanced communication services into an accessible form;
- whether performance objectives should include certain testable criteria; and
- whether certain safe harbor technical standards will allow the components in the advanced communications service architecture to work together more efficiently, thereby facilitating accessibility.<sup>255</sup>

The Commission is reviewing the comments submitted and will proceed with additional rulemaking proceedings or other actions to address these issues, as needed.

90. *Accessibility Clearinghouse.* Section 717(d) of the Communications Act requires the Commission, within one year after the enactment of the CVAA, or by October 8, 2011, to establish a clearinghouse of information on the availability of accessible products and services and accessibility solutions required under Sections 255, 716, and 718 of the Communications Act.<sup>256</sup> The clearinghouse information must be made publicly available on the Commission’s website and by other means, and must include an annually updated list of products and services with access features.<sup>257</sup>

91. The Commission launched its Accessibility Clearinghouse, available at <http://fcc.gov/AccessibilityClearinghouse>, in October 2011. The Accessibility Clearinghouse is a web-based repository of information about accessibility solutions for telecommunications and advanced communications services and equipment. Among other things, it presently contains an online database that consumers can use to search for wireless handsets with accessibility features that meet the needs of various disabilities,<sup>258</sup> as well as information about accessibility applications and assistive technology solutions, and organizations supporting accessible telecommunications. The Commission is in the process of expanding the Clearinghouse to include other data sets, including technical assistance for developers on how to design accessible information and communication technologies. In addition, on September 6-7, 2012, the Commission hosted a developers’ event that focused, in part, on developing application

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<sup>255</sup> *ACS FNPRM*, 26 FCC Rcd at 14677-14692, ¶¶ 279-317. See also *Consumer & Governmental Affairs Bureau and Wireless Telecommunications Bureau Announce Pleading Cycle for Comments and Reply Comments on Advanced Communications Provisions of the Twenty-First Century Communications and Video Accessibility Act of 2010*, CG Docket No. 10-213, Public Notice, DA 12-1, 27 FCC Rcd 1, released January 3, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1A1.pdf).

<sup>256</sup> 47 U.S.C. § 618(d).

<sup>257</sup> *Id.*

<sup>258</sup> In 2010, CTIA revamped its accessibility web site, [AccessWireless.org](http://AccessWireless.org), to better inform consumers with disabilities about the availability of accessible mobile phone options. The new site was officially unveiled at the CTIA conference in March 2011 and was a recipient of an FCC Chairman’s Award for Advancement in Accessibility in October 2011. See *FCC Chairman Julius Genachowski Joins Commissioner Michael Copps to Honor Innovators in Accessibility Communications Technologies*, October 28, 2011, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-310717A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-310717A1.pdf). The Commission ultimately used the information contained on this new site, largely derived from the Global Accessibility Reporting Initiative (GARI) of the Mobile Manufacturers Forum, to help develop its Accessibility Clearinghouse. For more information about GARI and the Mobile Manufacturers Forum, visit <http://MobileAccessibility.info>.

programming interfaces (APIs) for populating and retrieving information to and from the Clearinghouse. The Commission expects that visits to the Accessibility Clearinghouse will continue to increase as a result of ongoing expansion of the data it contains, improvements to its user interface, and a future outreach campaign.<sup>259</sup>

92. *Outreach and Education.* Section 717(e) of the Communications Act requires the Commission to conduct an informational and educational program designed to inform the public about the availability of the Accessibility Clearinghouse and the protections and remedies available under Sections 255, 716, and 718 of the Communications Act.<sup>260</sup>

93. Over the past two years, Commission staff have made presentations and disseminated information about the CVAA, the Accessibility Clearinghouse, and consumer rights and remedies available under Sections 255, 716, and 718 of the Communications Act at numerous conferences and events attended by individuals with disabilities, industry representatives, and members of the public.<sup>261</sup> In addition, the Commission has developed consumer guides, which are available on its website and in hard copy, about the CVAA and the Commission's implementing regulations.<sup>262</sup> The Commission plans to continue these and other outreach and educational activities.

#### **D. Section 105. National Deaf-Blind Equipment Distribution Program.**<sup>263</sup>

94. Section 105 of the CVAA adds Section 719 to the Communications Act, which authorizes support for programs that distribute equipment designed to make telecommunications service, Internet access service, and advanced communications accessible by low-income individuals who are deaf-blind.<sup>264</sup> Section 719(a) directs the Commission to establish, within six months after enactment of the CVAA, rules that define as eligible for support those programs approved by the Commission for the distribution of such equipment.<sup>265</sup> Section 719(c) authorizes the Commission to allocate \$10 million annually from the interstate telecommunications relay service fund (TRS Fund) for this purpose.<sup>266</sup>

95. On April 4, 2011, within the six-month time period mandated by the CVAA, the Commission adopted interim rules to establish a National Deaf-Blind Equipment Distribution Program (NDBEDP) as a two-year pilot program, with the option of extending the pilot program

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<sup>259</sup> Companies wishing to contribute information about accessibility solutions may contact [Clearinghouse@fcc.gov](mailto:Clearinghouse@fcc.gov).

<sup>260</sup> 47 U.S.C. § 618(e).

<sup>261</sup> These events are listed in Appendix C to this *Report*.

<sup>262</sup> A list of these consumer guides is provided in Appendix D to this *Report*.

<sup>263</sup> Although Section 105 of the CVAA is entitled "Relay services for deaf-blind individuals," this section actually authorizes financial support for programs that distribute communications equipment to low-income individuals who are deaf-blind, which the Commission refers to as the "National Deaf-Blind Equipment Distribution Program."

<sup>264</sup> CVAA, § 105, adding Section 719 to the Communications Act, codified at 47 U.S.C. § 620. Section 719(b) defines "individuals who are deaf-blind" as that term is defined in the Helen Keller National Center Act. 47 U.S.C. § 620(b); 29 U.S.C. § 1905(2).

<sup>265</sup> 47 U.S.C. § 620(a).

<sup>266</sup> 47 U.S.C. § 620(c).



for a third year.<sup>267</sup> The purpose of the pilot program is to allow the Commission to assess the most efficient and effective method of administering the NDBEDP on a permanent basis.

96. Under the NDBEDP pilot, the Commission provides funding to one certified entity in each state, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, to distribute equipment to individuals who meet the program's eligibility criteria.<sup>268</sup> In addition to certifying local entities for the distribution of communications equipment, the Commission set aside \$500,000 per year of the \$10 million allocated for this pilot program, to ensure effective national outreach on the NDBEDP.<sup>269</sup>

97. The Commission announced the entities certified to participate in the NDBEDP, their respective funding amounts, and formally launched the NDBEDP, effective July 1, 2012.<sup>270</sup> The Commission also selected the Perkins School for the Blind, in partnership with the Helen Keller National Center and FableVision, to conduct national outreach.<sup>271</sup> For more information about this national outreach campaign, visit [www.iCanConnect.org](http://www.iCanConnect.org).

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<sup>267</sup> *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, CG Docket No. 10-210, Report and Order, FCC 11-56, 26 FCC Rcd 5640 (2011) (*NDBEDP Pilot Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-56A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-56A1.pdf). See also 47 C.F.R. § 64.610. These rules were informed by comments received in response to, first, a public notice and, then, a notice of proposed rulemaking. See *Consumer and Governmental Affairs Bureau Seeks Comment on Implementation of Requirement to Define Programs for Distribution of Specialized Customer Premises Equipment Used by Individuals who are Deaf-Blind*, CG Docket No. 10-210, Public Notice, DA 10-2112, 25 FCC Rcd 15288, released November 3, 2010 (*NDBEDP PN*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2112A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2112A1.pdf); *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, CG Docket No. 10-210, Notice of Proposed Rulemaking, FCC 11-3, 26 FCC Rcd 688 (2011) (*NDBEDP NPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-3A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-3A1.pdf).

<sup>268</sup> *NDBEDP Pilot Order*, 26 FCC Rcd at 5646, ¶ 12. Eligible individuals must be “deaf-blind,” as defined in the Helen Keller National Center Act. See 47 U.S.C. § 620(b), citing 29 U.S.C. § 1905(2). See also *NDBEDP Pilot Order*, 26 FCC Rcd at 5650-2, ¶¶ 23-27. Eligible individuals must also be “low income,” which the Commission defined as having income that does not exceed 400% of the Federal Poverty Guidelines. See 47 U.S.C. § 620(a). See also *NDBEDP Pilot Order*, 26 FCC Rcd at 5654-7, ¶ 33-37.

<sup>269</sup> *NDBEDP Pilot Order*, 26 FCC Rcd at 5676, ¶ 80.

<sup>270</sup> *Commission Announces Entities Certified to Participate in the National Deaf-Blind Equipment Distribution Program*, CG Docket No. 10-210, Public Notice, DA 12-1050, 27 FCC Rcd 7397, released July 2, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1050A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1050A1.pdf). See also *Commission Announces Launch of the National Deaf-Blind Equipment Distribution Program*, CG Docket No. 10-210, Public Notice, DA 12-1051, 27 FCC Rcd 7403, released July 2, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1051A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1051A1.pdf). Interested entities had applied for certification to participate in the NDBEDP during a 60-day period that ended on November 21, 2011. See *FCC Announces 60-Day Period to Apply for Certification to Participate in the National Deaf-Blind Equipment Distribution Program*, CG Docket No. 10-210, Public Notice, DA 11-1591, 26 FCC Rcd 13118, released September 22, 2011, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-11-1591A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-11-1591A1.pdf).

<sup>271</sup> *Perkins School for the Blind to Conduct National Outreach for the National Deaf-Blind Equipment Distribution Program*, CG Docket No. 10-210, Public Notice, DA 12-910, 27 FCC Rcd 6143, released June 8, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-910A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-910A1.pdf). The Perkins School was selected after reviewing the three outreach applications that had been received in response to a public notice soliciting such applications. See *FCC Invites Applicants to Conduct National Outreach for the National Deaf-Blind Equipment Distribution Program*, CG Docket No. 10-210, Public Notice, DA 11-

**E. Section 106. Emergency Access Advisory Committee.**

98. The CVAA directs the Commission to establish an Emergency Access Advisory Committee (EAAC) within 60 days after its date of enactment, for the purpose of achieving equal access to emergency services by individuals with disabilities.<sup>272</sup> The CVAA instructs the EAAC, within one year after the completion of the member appointment process, to conduct a national survey to determine the most effective and efficient technologies and methods by which to enable access to emergency services by individuals with disabilities and develop and submit to the Commission recommendations to implement such technologies and methods.<sup>273</sup> Finally, the CVAA authorizes the Commission to promulgate regulations to implement the recommendations proposed by the EAAC, 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.<sup>274</sup>

99. After inviting nominations for membership in the EAAC on October 19, 2010,<sup>275</sup> the Commission announced the appointment of members and co-chairs of the EAAC for a period of two years on December 7, 2010 – completing this task within the 60-day timeframe established by the CVAA.<sup>276</sup> Meetings of the EAAC began January 14, 2011, were held monthly throughout 2011,<sup>277</sup> and were held three times in 2012.<sup>278</sup> Additional meetings are scheduled for October 12 and November 9, 2012.

100. On March 16, 2011, the EAAC released the national survey.<sup>279</sup> Following closure of the survey on April 25, 2011, the EAAC analyzed 3,149 fully completed surveys,<sup>280</sup>

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1767, 26 FCC Rcd 14517, released October 21, 2011, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-11-1767A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-11-1767A1.pdf).

<sup>272</sup> CVAA, § 106(a).

<sup>273</sup> CVAA, § 106(c).

<sup>274</sup> CVAA, § 106(g).

<sup>275</sup> *FCC Requests Nominations for Membership on Emergency Access Advisory Committee in Accordance with the Twenty-First Century Communications and Video Accessibility Act*, Public Notice, DA 10-2001, 25 FCC Rcd 14514, released October 19, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2001A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2001A1.pdf).

<sup>276</sup> *Emergency Access Advisory Committee Announcement of Members*, Public Notice, DA 10-2318, 25 FCC Rcd 17084, released December 7, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2318A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2318A1.pdf).

<sup>277</sup> The Federal Advisory Committee Act, 5 U.S.C. App. 2, does not apply to the EAAC. CVAA, § 106(f). Nevertheless, notice for each of the meetings was provided in the Federal Register. *See, e.g.*, 76 Fed. Reg. 30169 (announcement of meeting to be held on June 10, 2011) (May 24, 2011). More information about the EAAC is available at <http://www.fcc.gov/encyclopedia/emergency-access-advisory-committee-eaac>.

<sup>278</sup> In 2012, the EAAC met in February, March, and September.

<sup>279</sup> *Emergency Access Advisory Committee Releases National Survey to Learn about Emergency Calling by Individuals with Disabilities*, News Release (2011), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-305233A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-305233A1.pdf).

<sup>280</sup> There were also partially complete surveys that, when added to the number of fully completed surveys, showed that the online survey was viewed 12,766 times.

and submitted its survey report to the Commission on July 21, 2011.<sup>281</sup> Following release of the *EAAC Survey Report*, the EAAC formed subcommittees to undertake consideration of the policy and technical issues concerning the accessibility of emergency services by individuals with disabilities. The EAAC submitted its final report and recommendations to the Commission by December 7, 2011, in compliance with the deadline established by the CVAA.<sup>282</sup>

101. In the *EAAC Report and Recommendations*, the EAAC identified, *inter alia*, four specific areas for further research and investigation.<sup>283</sup> On February 10, 2012, the Committee committed to continue its work through 2012 to address these four areas, along with three additional issues identified for further consideration, and formed seven new subcommittees for this purpose.<sup>284</sup> In conjunction with its meeting of March 30, 2012, the EAAC hosted an Exhibition Fair of 10 vendors at the Commission's Technology Experience Center, showcasing several commercial text-to-911 technologies and applications.<sup>285</sup> At this meeting, the EAAC also adopted the following resolution: "EAAC supports as an interim solution for text to 9-1-1, at a minimum, SMS, and other technologies as appropriate, with a three digit short code 9-1-1."<sup>286</sup> Subsequently, Verizon announced that it is working to make SMS-to-911 capabilities available to select public safety answering points (PSAPs) by early 2013,<sup>287</sup> and AT&T announced it will launch a trial for text-to-911 in 2012 with a goal for a nationwide launch in 2013.<sup>288</sup>

102. In concert with the work of the EAAC, the Commission has continued its efforts to address ways that modern communications technologies can enable the public to obtain emergency assistance. On December 21, 2010, the Commission released a notice of inquiry seeking comment on how to bridge the gap between the capabilities of modern networks and devices and today's legacy 911 system and how to further the transition to Internet protocol-based

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<sup>281</sup> EAAC, *Report on Emergency Calling for Persons with Disabilities Survey Review and Analysis 2011 (EAAC Survey Report)*, July 21, 2011, available at <http://transition.fcc.gov/cgb/dro/EAAC/EAAC-REPORT.pdf>.

<sup>282</sup> EAAC, *Emergency Access Advisory Committee Report and Recommendations (EAAC Report and Recommendations)*, December 6, 2011, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-312161A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-312161A1.pdf).

<sup>283</sup> *EAAC Report and Recommendations*: Recommendation P2.10 Sign Language and Other Communications Assistance; Recommendation P3.3 Interoperability Testing; Recommendation P6.3 Timeline Contingency; and Recommendation T1.2 Short Term Mobile Solutions.

<sup>284</sup> The additional areas for consideration were as follows: TTY transition/roadmap; completion of the sections deleted from the *EAAC Report and Recommendations*; and identifying gaps and potential problems in NENA i3 with respect to the EAAC recommendations. See EAAC, Minutes, February 10, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-314281A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-314281A1.doc).

<sup>285</sup> *The Federal Communications Commission's Emergency Access Advisory Committee to Sponsor an Exhibition Fair of "Text-to-911" Technologies and Applications March 28 & 29, 2012*, Public Notice, DA 12-266, 27 FCC Rcd 2027, released February 23, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-266A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-266A1.pdf).

<sup>286</sup> EAAC, Minutes, March 30, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-316390A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-316390A1.doc).

<sup>287</sup> See Verizon Selects TeleCommunication Systems to Provide Text to 911 National Gateway Solution, News Release (May 3, 2012), available at <http://newscenter.verizon.com/press-releases/verizon/2012/verizon-selects.html>.

<sup>288</sup> See 911 in the Smartphone Age, AT&T Public Policy Blog (June 12, 2012), available at <http://attpublicpolicy.com/public-safety/911-in-the-smartphone-age/>.

communications capabilities for emergency communications and next generation 9-1-1 (NG911).<sup>289</sup> The Commission followed this with a notice of proposed rulemaking released on September 22, 2011, seeking comment on accelerating the migration to development and deployment of NG911 technology to enable the public to send emergency communications via text, photos, videos, and data.<sup>290</sup> That proceeding noted that adding text and other media capabilities to our 911 system can bring significant benefits for people with disabilities.<sup>291</sup> The Commission will continue evaluating the best ways to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network, where achievable and technically feasible.

**F. Section 201. Video Programming Accessibility Advisory Committee.**<sup>292</sup>

103. Section 201 of the CVAA directs the Commission to establish the Video Programming Accessibility Advisory Committee (VPAAC) within 60 days after October 8, 2010, the date of CVAA's enactment.<sup>293</sup> The CVAA tasks the VPAAC to submit to the Commission, within six months after the date of the first meeting of the VPAAC, a report that included recommendations regarding the provision and delivery of closed captions of video programming delivered using Internet protocol.<sup>294</sup> Additionally, the new legislation directs the VPAAC to submit to the Commission, within 18 months after October 8, 2010, a report that includes recommendations regarding the provision and delivery of video descriptions of video programming and the provision and delivery of emergency information delivered using Internet protocol or digital broadcast television.<sup>295</sup> That report is also to include recommendations regarding accessible user interfaces for video programming apparatus and accessible video programming guides and menus provided by navigation devices (set-top boxes).<sup>296</sup>

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<sup>289</sup> *Framework for Next Generation 911 Deployment*, PS Docket No. 10-255, Notice of Inquiry, FCC 10-200, 25 FCC Rcd 17869 (2010), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-10-200A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-200A1.pdf).

<sup>290</sup> *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications; Framework for Next Generation 911 Deployment*, PS Docket Nos. 11-153 and 10-255, Notice of Proposed Rulemaking, FCC 11-134, 26 FCC Rcd 13615 (2011) (*Text-to-911 NPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-134A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-134A1.pdf).

<sup>291</sup> *Text-to-911 NPRM*, 26 FCC Rcd at 13619, ¶ 11.

<sup>292</sup> Although the CVAA called this committee the "Video Programming and Emergency Access Advisory Committee," the Commission has used the title "Video Programming Accessibility Advisory Committee" to establish the acronym "VPAAC," rather than "VPEAAC," to distinguish it from the Emergency Access Advisory Committee or "EAAC." See Section III.E of this *Report, supra*, for more information about the EAAC.

<sup>293</sup> CVAA, § 201(a).

<sup>294</sup> CVAA, § 201(e)(1). Closed captioning is the visual display of the audio portion of video programming, which provides access to individuals who are deaf or hard of hearing. See 47 C.F.R. § 79.1(a)(4).

<sup>295</sup> CVAA, §§ 201(e)(2)(A)-(E). Video description is audio narrated descriptions of a television program's key visual elements that are inserted into natural pauses in the program's dialogue, which makes video programming more accessible to individuals who are blind or visually impaired. 47 U.S.C. § 613(h)(1); 47 C.F.R. § 79.3(a)(3).

<sup>296</sup> CVAA, §§ 201(e)(2)(F)-(H).

104. After soliciting nominations for membership in the VPAAC on October 19, 2010,<sup>297</sup> the Commission announced the members and co-chairs of the VPAAC on December 7, 2010, within the 60-day time limit established by the CVAA.<sup>298</sup> VPAAC members were assigned to four working groups designated to cover the following issues: (1) Internet protocol based closed captioning and pass through of closed captioning; (2) video description; (3) emergency information; and (4) accessibility of user interfaces, apparatus functions, on-screen text menus, and video programming guides and menus provided by navigation devices.<sup>299</sup> The first meeting of the full VPAAC was held on January 13, 2011.<sup>300</sup>

105. The VPAAC submitted its first report to the Commission with recommendations on closed captioning on July 13, 2011, within six-months after the first VPAAC meeting, as mandated by the CVAA.<sup>301</sup> Upon submission of the first report, the Commission initiated a rulemaking proceeding to implement the closed captioning provisions of the CVAA, as described in Section III.G and Section III.H of this *Report*.

106. The VPAAC submitted its second report to the Commission with recommendations on video description, emergency information, apparatus user interfaces, and navigation device programming guides and menus on April 9, 2012, within 18-months after October 8, 2010, as mandated by the CVAA.<sup>302</sup> Upon submission of the second report, the Commission released public notices seeking comment on the second VPAAC report, which will inform related rulemakings pursuant to the CVAA, as described in Sections III.G, H, I, and J of this *Report*.<sup>303</sup>

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<sup>297</sup> *FCC Requests Nominations for Membership on Video Programming and Emergency Access Advisory Committee in Accordance with the Twenty-First Century Communications and Video Accessibility Act*, Public Notice, DA 10-2001, 25 FCC Rcd 14518, released October 19, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2002A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2002A1.pdf).

<sup>298</sup> *Video Programming and Emergency Access Advisory Committee Announcement of Members*, Public Notice, DA 10-2320, 25 FCC Rcd 17094, released December 7, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2320A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2320A1.pdf).

<sup>299</sup> The scope of the second working group initially included pass through of closed captioning, but that issue was addressed by the first working group.

<sup>300</sup> Other meetings of the full VPAAC took place in May and November 2011 and in February 2012. The members of each of the VPAAC working groups met more frequently and regularly by teleconference. More information about the VPAAC is available at <http://www.fcc.gov/encyclopedia/video-programming-accessibility-advisory-committee-vpaac>.

<sup>301</sup> VPAAC, *First Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010: Closed Captioning of Video Programming Delivered Using Internet Protocol (VPAAC First Report)*, July 13, 2011, available at [http://transition.fcc.gov/cgb/dro/VPAAC/First\\_VPAAC\\_Report\\_to\\_the\\_FCC\\_7-11-11\\_FINAL.pdf](http://transition.fcc.gov/cgb/dro/VPAAC/First_VPAAC_Report_to_the_FCC_7-11-11_FINAL.pdf).

<sup>302</sup> The *Second Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010 (VPAAC Second Report)* was submitted to the Commission in three parts which are available at <http://vpaac.wikispaces.com/home>: (1) *Video Description (Report on Video Description)*; (2) *Access to Emergency Information (Report on Emergency Information)*; and (3) *User Interfaces, and Video Programming Guides and Menus (Report on User Interfaces)*.

<sup>303</sup> *Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: Video Description and Access to Emergency Information*, MB Docket No. 12-107, Public Notice, DA 12-636, 27 FCC Rcd 4195, released April 24, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-636A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-636A1.pdf); *Media Bureau and Consumer and*



**G. Section 202. Video description and closed captioning.**

107. Section 202 of the CVAA amends the Communications Act with respect to the provision of video description, accessible emergency information, closed captioning on video programming delivered using Internet protocol, and petitions for exemption from the closed captioning requirements.<sup>304</sup>

108. *Video Description.*<sup>305</sup> Section 202(a) of the CVAA amends Section 713 of the Communications Act to require, one year after the enactment of the CVAA, the reinstatement of Commission regulations that mandated the provision of video description on video programming, with certain modifications.<sup>306</sup> In addition, not later than one year after the completion of the phase-in of the reinstated regulations, or by July 1, 2013, the Commission must initiate an inquiry on video description and report to Congress one year after initiating that inquiry, *i.e.*, by July 1, 2014.<sup>307</sup> After filing that report to Congress by July 1, 2014, but no later than October 8, 2016, six years after the enactment date of the CVAA, the Commission must extend the video description requirements to broadcast stations in the top 60 television markets.<sup>308</sup> Not before two years after completing that report, the Commission may increase the requirement by up to 75 percent (from 50 to 87.5 hours per quarter) for televised video programming.<sup>309</sup> Nine years after the date of enactment of the CVAA, or by October 8, 2019, the Commission must submit to Congress another report assessing the provision of video description, particularly with respect to television markets outside the top 60.<sup>310</sup> Ten years after the date of enactment of the CVAA, or on October 8, 2020, the Commission is authorized to phase in the video description regulations for up to 10 additional television market areas each year.<sup>311</sup>

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*Governmental Affairs Bureau Seek Comment on Second VPAAC Report: User Interfaces, and Video Programming Guides and Menus*, MB Docket No. 12-108, Public Notice, DA 12-635, 27 FCC Rcd 4191, released April 24, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-635A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-635A1.pdf). See also Sections III.G, H, I, and J of this *Report, infra*.

<sup>304</sup> CVAA, § 202.

<sup>305</sup> Video description is audio narrated descriptions of a television program's key visual elements that are inserted into natural pauses in the program's dialogue, which makes video programming more accessible to individuals who are blind or visually impaired. See 47 U.S.C. § 613(h)(1); 47 C.F.R. § 79.3(a)(3).

<sup>306</sup> CVAA, § 202(a); 47 U.S.C. §§ 613(f)(1) and (2). The Commission adopted rules requiring video description in 2000, but those rules were vacated by the U.S. Court of Appeals for the District of Columbia Circuit. *Motion Picture Ass'n of America, Inc. v. Federal Communications Comm.*, 309 F.3d 796 (D.C. Cir. 2002).

<sup>307</sup> 47 U.S.C. § 613(f)(3).

<sup>308</sup> 47 U.S.C. §§ 613(f)(4)(C)(i) and (ii). The Commission established July 1, 2015 as the date by which the video description rules will be extended to broadcast station affiliates located in the top 60 television markets (based on Nielsen ratings as of January 1, 2015). See *Video Description Report and Order*, 26 FCC Rcd at 11855-6, ¶ 16.

<sup>309</sup> 47 U.S.C. §§ 613(f)(4)(A) and (B).

<sup>310</sup> 47 U.S.C. § 613(f)(4)(C)(iii).

<sup>311</sup> 47 U.S.C. § 613(f)(4)(C)(iv).



109. On August 25, 2011, the Commission released a report and order reinstating the video description rules.<sup>312</sup> As required under the CVAA, these rules were reinstated on October 8, 2011.<sup>313</sup> Under the reinstated rules, beginning July 1, 2012, full-power affiliates of the top four commercial television broadcast networks (ABC, CBS, Fox, and NBC) located in the top 25 television markets (based on Nielsen ratings as of January 1, 2011) must provide 50 hours per calendar quarter (about four hours per week) of video-described prime time and/or children's programming.<sup>314</sup> Also beginning July 1, 2012, multichannel video programming distributors (MVPDs) with 50,000 or more subscribers must provide 50 hours per calendar quarter (about four hours per week) of video-described prime time and/or children's programming on each of the top five national non-broadcast networks (as determined by Nielsen at three-year intervals) that they carry.<sup>315</sup> Video described programming counts towards the 50 hours per quarter requirement when it is aired for the first or second time by that distributor.<sup>316</sup> Any broadcast station or MVPD, regardless of affiliation, location, or size, must pass through video description when provided if it has the technical capability to do so (the pass-through requirement), and that technical capability is not being used for another purpose related to the programming, such as providing a Spanish language audio stream (the exception to the pass-through requirement).<sup>317</sup>

110. *Emergency Information.* Section 202(a) of the CVAA amends Section 713 of the Communications Act to require the Commission to complete a proceeding, not later than one year after the second VPAAC report is submitted to the Commission, or by April 9, 2013, to identify methods and promulgate regulations that require video programming owners, providers, and distributors to convey emergency information in a manner that is accessible to individuals who are blind or visually impaired.<sup>318</sup> On April 24, 2012, the Commission released a public notice seeking comment on the second VPAAC report with respect to accessible emergency information, which will inform the Commission's proceeding on this issue.<sup>319</sup>

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<sup>312</sup> *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-43, Report and Order, FCC 11-126, 26 FCC Rcd 11847 (2011) (*Video Description Report and Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-126A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-126A1.pdf); 47 C.F.R. § 79.3. The report and order followed a notice of proposed rulemaking, released on March 3, 2011, seeking comment on the implementation of the video description provision. *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-43, Notice of Proposed Rulemaking, FCC 11-36, 26 FCC Rcd 2975 (2011), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-36A1\\_Rcd.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-36A1_Rcd.pdf).

<sup>313</sup> CVAA, § 202(a); 47 U.S.C. § 713(f)(1); *Video Description Report and Order*, 26 FCC Rcd at 11848, ¶ 2.

<sup>314</sup> *Video Description Report and Order*, 26 FCC Rcd at 11850-1, ¶ 5.

<sup>315</sup> *Id.*, 26 FCC Rcd at 11850-1, ¶ 5. Currently, the top five non-broadcast networks are USA, Disney Channel, TNT, Nickelodeon, and TBS. *Id.*, 26 FCC Rcd at 11854, ¶ 12. ESPN and Fox News are excluded because they do not have at least 50 hours per quarter of prime time pre-recorded programming. *Id.*, 26 FCC Rcd at 11855, ¶ 14.

<sup>316</sup> *Id.*, 26 FCC Rcd at 11850, ¶ 5.

<sup>317</sup> *Id.*, 26 FCC Rcd at 11858 and 11862, ¶¶ 20 and 28.

<sup>318</sup> CVAA, § 202(a); 47 U.S.C. § 613(g). The second VPAAC report was submitted to the Commission on April 9, 2012. See Section III.F of this *Report, supra*; 47 C.F.R. §§ 79.1 (defining video programming providers and distributors) and 79.2 (defining emergency information).

<sup>319</sup> *Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: Video Description and Access to Emergency Information*, MB Docket No. 12-107, Public Notice, DA 12-636, 27 FCC Rcd 4195, released April 24, 2012, available at

111. *Closed Captioning on Video Programming Delivered Using Internet Protocol.* Section 202(b) of the CVAA amends Section 713(c) of the Communications Act to require the Commission to complete a proceeding, not later than six months after the first VPAAC report is submitted to the Commission, or by January 13, 2012, to adopt requirements for the provision of closed captioning on video programming delivered using Internet protocol (IP).<sup>320</sup> The requirements are to apply to video programming that was published or exhibited on television with captions after the effective date of such regulations.<sup>321</sup>

112. On January 13, 2012, within the deadline established by the CVAA, the Commission released a report and order adopting rules governing the closed captioning requirements for the owners, providers, and distributors of video programming delivered using IP.<sup>322</sup> The rules establish an implementation schedule starting September 30, 2012, for video programming that a distributor shows for the first time using IP (*i.e.*, video programming newly added to the distributor's IP inventory).<sup>323</sup> For video programming that is already in a distributor's IP inventory, the distributor must add captions within 45 days after the video programming is shown on TV with captions on or after March 30, 2014.<sup>324</sup> Among other things, the rules adopted by the Commission also establish a mechanism for petitioning the Commission for a full or partial exemption from the IP captioning requirements based on economic burden; and establish procedures for the filing and resolution of written complaints.<sup>325</sup>

113. The Commission has received one petition for reconsideration and two requests for waiver from the IP closed captioning requirements.

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[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-636A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-636A1.pdf). See also Section III.F of this *Report, supra*.

<sup>320</sup> CVAA, § 202(a); 47 U.S.C. § 613(c)(2). The first VPAAC report was submitted to the Commission on July 13, 2011. See Section III.F of this *Report, supra*. Closed captioning is the visual display of the audio portion of video programming, which provides access to individuals who are deaf or hard of hearing. See 47 C.F.R. § 79.1(a)(4).

<sup>321</sup> 47 U.S.C. § 613(c)(2).

<sup>322</sup> *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, Report and Order, FCC 12-9, 27 FCC Rcd 787 (2012) (*IP Closed Captioning Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-12-9A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-9A1.pdf); 47 C.F.R. § 79.4. The Commission also adopted rules to implement the CVAA provision amending the requirements for closed captioning capabilities of certain apparatus on which consumers view video programming. See Section III.H of this *Report, infra*. The Commission's rules on IP-delivered video programming and apparatus captioning capabilities were informed by public comment in response to a notice of proposed rulemaking released on September 19, 2011. See *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, Notice of Proposed Rulemaking, FCC 11-138, 26 FCC Rcd 13734 (2011), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-138A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-138A1.pdf).

<sup>323</sup> 47 U.S.C. § 613(c)(2)(B); 47 C.F.R. §§ 79.4(b)(1)-(3).

<sup>324</sup> 47 U.S.C. § 613(c)(2)(B); 47 C.F.R. § 79.4(b)(4). The time frame for adding captions will be reduced to 30 days on March 30, 2015, and to 15 days on March 30, 2016. 47 C.F.R. § 79.4(b)(4).

<sup>325</sup> 47 C.F.R. §§ 79.4(d) and (e).

- *Petition for Reconsideration.* On April 27, 2012, TDI *et al.* filed a petition for reconsideration, urging the Commission to require IP-delivered “video clips” to be captioned.<sup>326</sup> The Commission has sought comment on this petition, and it is pending.<sup>327</sup>
- *Waiver Requests.* On May 8, 2012, the Digital Media Association (DiMA) requested the following waivers until January 1, 2014: (1) a waiver from the requirement that applications, plug-ins, or devices provided by video programming distributors and providers comply with the user configuration and caption formatting requirements; and (2) for video programming distributors that do not currently provide closed captioning, a waiver from the requirement to “render” captions.<sup>328</sup> On August 17, 2012, the Commission granted DiMA’s first request and denied the second request for waiver.<sup>329</sup>

114. *Exemptions Based on Economic Burden.* Section 202(c) of the CVAA amends Section 713(d) of the Communications Act by replacing the term “undue burden” with the term “economically burdensome” as the standard by which the Commission is to assess requests for exemptions from the closed captioning requirements.<sup>330</sup> On October 20, 2011, the Commission provided provisional guidance on how to interpret this statutory change and sought comment on a proposal to use the “undue burden” factors contained in Section 713(e) of the Communications

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<sup>326</sup> Petition of Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, Association of Late-Deafened Adults, Hearing Loss Association of America, Cerebral Palsy and Deaf Organization, and the Technology Access Program at Gallaudet University (TDI *et al.*) for Reconsideration, MB Docket No. 11-154 (filed Apr. 27, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021914512>.

<sup>327</sup> *Petitions for Reconsideration of Action in Rulemaking Proceeding*, Report No. 2951, Public Notice, released May 17, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-314131A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-314131A1.pdf).

<sup>328</sup> DiMA Petition for Temporary Partial Exemption or Limited Waiver, MB Docket No. 11-154 (filed May 8, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021917009>; DiMA Petition for Temporary Partial Exemption or Limited Waiver from the Provisions of Section 79.4(c)(2)(i) Relating to the Rendering of Captions, Including to the Applications, Plug-ins, or Devices Provided by a VPD, MB Docket No. 11-154 (filed May 8, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021917008>. “Rendering” involves decoding the closed captions for display, and “passing through” captions involves making the closed captions available to someone further down the distribution or processing chain to decode for display. *See IP Closed Captioning Order*, 27 FCC Rcd at 805-6, ¶ 27.

<sup>329</sup> *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Petitions for Temporary Partial Exemption or Limited Waiver*, MB Docket No. 11-154, Memorandum Opinion and Order, DA 12-1354, 27 FCC Rcd 9630 (MB 2012), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1354A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1354A1.pdf).

<sup>330</sup> CVAA, § 202(c), amending 47 U.S.C. § 613(d)(3). The CVAA also codified existing Commission policy that, during the pendency of an exemption petition, a provider or owner shall be exempt from having to provide closed captioning. *Id.* *See also* 47 C.F.R. § 79.1(f)(11). Congress also directed the Commission to act upon such an exemption petition within six months after receipt, unless the Commission finds that an extension of this period is necessary to determine whether the captioning requirements are economically burdensome. *See* CVAA, § 202(c), amending 47 U.S.C. § 613(d)(3).

Act when evaluating individual exemption petitions based on “economic burden.”<sup>331</sup> On July 20, 2012, the Commission adopted its proposal to interpret the term “economically burdensome” in Section 713(d)(3) using the same factors previously used to interpret the term “undue burden” as defined in Section 713(e) of the Communications Act.<sup>332</sup> This interpretation is consistent with the manner in which the Commission defined the term “economically burdensome” in the Commission’s reinstated video description rules<sup>333</sup> and in the Commission’s rules governing closed captioning of IP-delivered video programming,<sup>334</sup> both of which were adopted pursuant to the CVAA. The Commission also amended its existing closed captioning rules to replace all current references to “undue burden” with the term “economically burdensome,” to conform the rules to the new language in the CVAA.<sup>335</sup>

#### H. Section 203. Closed captioning decoder and video description capability.

115. Section 203 of the CVAA amends the Communications Act to update requirements for apparatus that receive, play back, or record video programming to be compatible with closed captioning, video description, and accessible emergency information so that these features and services reach viewers.<sup>336</sup>

116. *Apparatus – Closed Captioning Compatibility.* Section 203(a) of the CVAA amends Section 303(u) of the Communications Act to require, if technically feasible, that apparatus designed to receive or play back video programming that uses a picture screen of any size be equipped with built-in closed caption decoder circuitry or the capability to display closed captioned video programming.<sup>337</sup> Such apparatus that uses a picture screen that is less than 13 inches in size must meet these requirements only if they are achievable.<sup>338</sup> Section 203(b) of the CVAA adds Section 303(z) to the Communications Act to require that, if achievable, apparatus designed to record video programming be able to render or the pass through closed captions, such that viewers are able to activate and de-activate the closed captions as the video programming is

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<sup>331</sup> *Anglers for Christ Ministries, Inc., New Beginning Ministries, Petitioners Identified in Appendix A, Interpretation of Economically Burdensome Standard; Amendment of Section 79.1(f) of the Commission’s Rules; Video Programming Accessibility*, CG Docket Nos. 06-181 and 11-175, Memorandum Opinion and Order, Order, and Notice of Proposed Rulemaking, FCC 11-159, 26 FCC Rcd 14941 (2011) (*Interim Standard Order* when referring to the Order portion, and *NPRM* when referring to the NPRM portion), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-159A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-159A1.pdf).

<sup>332</sup> *Interpretation of Economically Burdensome Standard; Amendment of Section 79.1(f) of the Commission’s Rules; Video Programming Accessibility*, CG Docket No. 11-175, Report and Order, FCC 12-83, 27 FCC 8831 (2012), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-12-83A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-83A1.pdf).

<sup>333</sup> *Video Description Report and Order*, 26 FCC Rcd at 11868, ¶ 44 (“[W]e intend to ‘use the same factors as applied to the undue burden standard’ . . . to determine whether the rules are economically burdensome (i.e., whether they impose significant difficulty or expense).”) (citation omitted).

<sup>334</sup> *IP Closed Captioning Order*, 27 FCC Rcd at 826, ¶ 64 (“[W]e interpret the term ‘economically burdensome’ in Section 713(d)(3) of the Communications Act, as amended by the CVAA, to be synonymous with the term ‘undue burden’ as this section was originally drafted.”) (citation omitted).

<sup>335</sup> 47 C.F.R. §§ 79.1(d)(2) and 79.1(f)(1), (2), (3), (4), (10), and (11).

<sup>336</sup> CVAA, § 203.

<sup>337</sup> CVAA, § 203(a), amending 47 U.S.C. § 303(u)(1)(A).

<sup>338</sup> CVAA, § 203(a), amending 47 U.S.C. § 303(u)(2)(A). “Achievable” means “with reasonable effort or expense.” 47 U.S.C. § 617(g).

played back on a picture screen of any size.<sup>339</sup> This section also addresses requirements for interconnection mechanisms and standards for digital video source devices to permit or render the display of closed captions.<sup>340</sup> Section 203(d)(1) requires the Commission to adopt implementing regulations for these provisions within six months after the first VPAAC report is submitted to the Commission, or by January 13, 2012.<sup>341</sup>

117. On January 13, 2012, within the deadline established by the CVAA, the Commission released a report and order adopting rules implementing these provisions.<sup>342</sup>

- *Petitions for Reconsideration.* The Commission has received three petitions for reconsideration. The Commission has sought comment on these petitions, each of which is pending.<sup>343</sup>
  - TVGuardian, LLC, filed a petition for reconsideration on April 16, 2012, asking the Commission to require video programming providers and distributors and digital video source devices to pass through the closed captions data to the consumer equipment, with the same quality, including timing, as received.<sup>344</sup>
  - TDI *et al.* filed a petition on April 27, 2012, urging the Commission to impose synchronization requirements on device manufacturers.<sup>345</sup>
  - The Consumer Electronics Association filed a petition on April 30, 2012, urging the Commission to apply the closed captioning rules only to apparatus with “video

<sup>339</sup> CVAA, § 203(b), adding 47 U.S.C. § 303(z)(1).

<sup>340</sup> CVAA, § 203(b), adding 47 U.S.C. § 303(z)(2).

<sup>341</sup> CVAA, § 203(d)(1). The first VPAAC report was submitted to the Commission on July 13, 2011. See Section III.F of this *Report, supra*.

<sup>342</sup> *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, Report and Order, FCC 12-9, 27 FCC Rcd 787 (2012) (*IP Closed Captioning Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-12-9A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-9A1.pdf). See also 47 C.F.R. §§ 79.103 and 79.104. The Commission also adopted rules to implement the CVAA provision requiring closed captioning of video programming distributed using Internet protocol. See Section III.G of this *Report, supra*. A notice of proposed rulemaking, released on September 19, 2011, preceded these rules. *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, Notice of Proposed Rulemaking, FCC 11-138, 26 FCC Rcd 13734 (2011), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-138A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-138A1.pdf).

<sup>343</sup> *Petitions for Reconsideration of Action in Rulemaking Proceeding*, Report No. 2951, Public Notice, released May 17, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-314131A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-314131A1.pdf).

<sup>344</sup> Petition of TVGuardian, LLC, for Reconsideration, MB Docket No. 11-154 (filed Apr. 16, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021910648>.

<sup>345</sup> Petition of Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, Association of Late-Deafened Adults, Hearing Loss Association of America, Cerebral Palsy and Deaf Organization, and the Technology Access Program at Gallaudet University (TDI *et al.*) for Reconsideration, MB Docket No. 11-154 (filed Apr. 27, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021914512>.



programming” players, not to removable media players, and to clarify that the compliance deadline refers to date of manufacture.<sup>346</sup>

118. *Apparatus – Video Description and Emergency Information Compatibility.* Section 203(a), which amends Section 303(u) of the Communications Act, requires, if technically feasible, apparatus designed to receive or play back video programming that uses a picture screen of any size to have the capability to decode and make available the transmission and delivery of required video description services; and to have the capability to decode and make available emergency information in a manner that is accessible to individuals who are blind or visually impaired.<sup>347</sup> Such apparatus that uses a picture screen that is less than 13 inches in size must meet these requirements only if they are achievable.<sup>348</sup> Section 203(b) of the CVAA, which adds Section 303(z) to the Communications Act, requires that, if achievable, apparatus designed to record video programming must enable the rendering or the pass through of video description signals and emergency information, such that viewers are able to activate and de-activate those functions as the video programming is played back on a picture screen of any size.<sup>349</sup> This section also addresses requirements for interconnection mechanisms and standards for digital video source devices.<sup>350</sup> Section 203(d)(2) requires the Commission to adopt implementing regulations for these provisions within 18 months after the second VPAAC report is submitted to the Commission, or by October 9, 2013.<sup>351</sup>

119. On April 24, 2012, the Commission released a public notice seeking comment on the second VPAAC report with respect to video description and accessible emergency information, which will inform the Commission’s proceedings on these issues.<sup>352</sup>

#### **I. Section 204. User interfaces on digital apparatus.**

120. Section 204 of the CVAA establishes accessibility requirements for user interfaces on digital apparatus designed to receive or play back video programming, including video programming transmitted in digital format using IP.<sup>353</sup> Section 204(a) adds Section 303(aa)

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<sup>346</sup> Petition of Consumer Electronics Association for Reconsideration, MB Docket No. 11-154 (filed Apr. 30, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021914799>. See also 47 C.F.R. §§ 79.103(a) and 79.104(a)(1) (applying the closed captioning requirements to equipment manufactured after January 1, 2014, that receives, plays back, or records video programming).

<sup>347</sup> CVAA, § 203(a), amending 47 U.S.C. §§ 303(u)(1)(B) and (C).

<sup>348</sup> CVAA, § 203(a), amending 47 U.S.C. § 303(u)(2)(A).

<sup>349</sup> CVAA, § 203(b), adding 47 U.S.C. § 303(z)(1).

<sup>350</sup> CVAA, § 203(b), adding 47 U.S.C. § 303(z)(2).

<sup>351</sup> CVAA, § 203(d)(2). The second VPAAC report was submitted to the Commission on April 9, 2012. See Section III.F of this *Report, supra*.

<sup>352</sup> *Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: Video Description and Access to Emergency Information*, MB Docket No. 12-107, Public Notice, DA 12-636, 27 FCC Red 4195, released April 24, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-636A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-636A1.pdf). See also Section III.F of this *Report, supra*.

<sup>353</sup> CVAA, § 204. The term “apparatus” does not include a navigation device (set-top box) as defined in 47 C.F.R. § 76.1200. 47 U.S.C. § 303(aa)(4). See Section III.J of this *Report, infra*, describing accessibility requirements for navigation devices.



to the Communications Act to require, if achievable, that such apparatus 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, including real-time audio output for on-screen text menus or other visual indicators used to access those functions.<sup>354</sup> This section also mandates access to closed captioning and video description features through the use of a mechanism that is reasonably comparable to a button, key, or icon designated for activating such features.<sup>355</sup> Section 204(b) requires the Commission to adopt implementing regulations for these provisions within 18 months after the second VPAAC report is submitted to the Commission, or by October 9, 2013.<sup>356</sup>

121. On April 24, 2012, the Commission released a public notice seeking comment on the second VPAAC report with respect to user interfaces, which will inform the Commission's proceeding on this issue.<sup>357</sup>

**J. Section 205. Access to video programming guides and menus provided on navigation devices.**

122. Section 205 of the CVAA establishes accessibility requirements for navigation devices (set-top boxes).<sup>358</sup> Section 205(a) adds Section 303(bb) to the Communications Act to require, if achievable, on-screen text menus and guides provided by navigation devices for the display or selection of multichannel video programming to be audibly accessible in real-time upon request by individuals who are blind or visually impaired.<sup>359</sup> This section also mandates access to any built-in closed captioning capability through the use of a mechanism that is reasonably comparable to a button, key, or icon designated for activating the closed captioning or accessibility features.<sup>360</sup> Section 205(b) requires the Commission to adopt implementing regulations for these provisions within 18 months after the second VPAAC report is submitted to the Commission, or by October 9, 2013.<sup>361</sup>

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<sup>354</sup> CVAA, § 204(a); 47 U.S.C. §§ 303(aa)(1) and (2).

<sup>355</sup> 47 U.S.C. § 303(aa)(3).

<sup>356</sup> CVAA, § 204(b). The second VPAAC report was submitted to the Commission on April 9, 2012. See Section III.F of this *Report, supra*.

<sup>357</sup> *Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: User Interfaces, and Video Programming Guides and Menus*, MB Docket No. 12-108, Public Notice, DA 12-635, 27 FCC Rcd 4191, released April 24, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-635A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-635A1.pdf). See also Section III.F of this *Report, supra*.

<sup>358</sup> CVAA, § 205. The term “navigation device” is as defined in 47 C.F.R. § 76.1200. See 47 U.S.C. § 303(bb)(1).

<sup>359</sup> CVAA, § 205(a); 47 U.S.C. § 303(bb)(1).

<sup>360</sup> 47 U.S.C. § 303(bb)(2).

<sup>361</sup> CVAA, § 204(b). The second VPAAC report was submitted to the Commission on April 9, 2012. See Section III.F of this *Report, supra*.

123. On April 24, 2012, the Commission released a public notice seeking comment on the second VPAAC report with respect to video programming guides and menus provided on navigation devices, which will inform the Commission's proceeding on this issue.<sup>362</sup>

**K. Other Accessibility-Related Commission Activities**

124. In addition to implementation of the CVAA, the Commission has engaged in various activities designed to expand the accessibility of new communications technologies. These are described below.

125. *Accessibility and Innovation Initiative (A&I Initiative)*. The Commission's A&I Initiative promotes collaborative problem solving among industry, consumers, and government stakeholders so that people with disabilities are able to reap the full benefit of broadband communication technologies.<sup>363</sup> FCC Chairman Julius Genachowski launched the A&I Initiative on July 19, 2010, during activities commemorating the 20th anniversary of the Americans with Disabilities Act (ADA). The A&I Initiative seeks greater involvement from the public in identifying and solving accessibility barriers, and uses new media technologies to facilitate transparent ways of sharing information and working together to develop innovative accessibility solutions. Some of the activities in which the A&I Initiative has engaged since the enactment of the CVAA include the following:

- Visionary Challenge on Cloud Computing. In October 2010, the FCC launched a challenge on [challenge.gov](http://challenge.gov) called "Lifted by the Cloud: Visions of Cloud-Enhanced Accessibility." This challenge sought multimedia presentations – typically short videos – to show how accessibility may be increased using advances in the communication and computing power of the Internet. The Coleman Institute for Cognitive Disabilities and an international consortium called "Raising the Floor" cosponsored the challenge. About a dozen submissions, posted at <http://liftedbythecloud.challenge.gov/>, were received by the deadline on May 15, 2011. Winners of this challenge were AT&T Speech Mashups for Accessibility and The Farfalla Project.
- Developer Day. In November 2010, the Commission's A&I Initiative combined forces with the Commission's new media team to host an event called "Open Developer Day." Developers and consumers were invited to collaborate on web-related projects that use data sets made available by the Commission and other agencies. The challenge was to help design and build a clearinghouse of information about accessible technologies.<sup>364</sup>
- 2011 CSUN Conference. In March 2011, staff of the A&I Initiative attended the 26th Annual International Technology and Persons with Disabilities Conference,

<sup>362</sup> *Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: User Interfaces, and Video Programming Guides and Menus*, MB Docket No. 12-108, Public Notice, DA 12-635, 27 FCC Rcd 4191, released April 24, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-635A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-635A1.pdf). See also Section III.F of this *Report, supra*.

<sup>363</sup> For more information about the A&I Initiative, visit <http://www.broadband.gov/accessibilityandinnovation/>.

<sup>364</sup> See Section III.C of this *Report, supra*, for more information about the accessibility clearinghouse.

associated with the California State University in Northridge (CSUN). This is the largest annual conference on technology and disability in the United States, attended by approximately 5,000 people. Commission staff held a town hall meeting and gave various presentations on the CVAA at this event.

- Chairman's Awards for Advancements in Accessibility (AAA)/Technology Expo. On October 28, 2011, the Chairman's AAA recognized 13 outstanding technological efforts in the private and public sector to advance communications accessibility.<sup>365</sup> In conjunction with the Chairman's AAA event, the A&I Initiative also hosted a Technology Expo through November 2011 in the Commission's Technology Experience Center to display the technologies of the Chairman's AAA winners and other cutting edge technologies that provide access to persons with disabilities.
- Developing with Accessibility. On September 6-7, 2012, the A&I Initiative hosted a two-day developer training and collaboration event, called "Developing with Accessibility," designed to spur increased partnership and cooperation on accessibility solutions among developers from industry, consumer, government sectors, and academia. The event encouraged the use of accessibility application programming interfaces (APIs), as well as publicly available data sets, to build accessible apps for mobile phones and websites.

126. *M-Enabling Summit.* In December 2011, the Commission partnered with the Global Initiative for Inclusive Information and Communication Technologies (G3ict) to hold the first international conference on mobile applications for seniors and persons with disabilities. G3ict is a public-private partnership dedicated to facilitating the international implementation of the Digital Accessibility Agenda defined by the Convention on the Rights of Persons with Disabilities. Speakers included a representative from the White House, Dr Hamadou Touré, Secretary-General of the International Telecommunication Union, FCC Chairman Julius Genachowski; and international leaders from the communications industry and the disability community. In attendance were 377 attendees representing 32 countries. On June 7, 2012, the Commission and the G3ict held a high level half-day briefing session to discuss the key findings of the M-Enabling Summit, including industry, market and regulatory trends, and to launch an international M-Enabling conference tour, to take place in 2012-13.

127. *Broadband Adoption and Persons with Disabilities Inquiry Workshop.* Also in December 2011, the Commission and the Wireless Internet Institute (W2i) co-hosted an international inquiry on broadband and people with disabilities. This event gathered the latest available research from the United States and abroad on broadband adoption and persons with disabilities, identified common barriers to broadband adoption by people with disabilities, reviewed the broadband plans of various countries and how they have integrated people with disabilities, and considered innovative approaches to connect people with disabilities and broadband.

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<sup>365</sup> See *FCC Chairman Julius Genachowski Joins Commissioner Michael Copps to Honor Innovators in Accessibility Communications Technologies*, October 28, 2011, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-310717A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-310717A1.pdf).

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Acting Chief, Consumer and Governmental Affairs Bureau

## APPENDIX A

**List of Commenters****(CG Docket No. 10-213)**

This is a list of parties who filed comments in the following proceedings. The complete record in this proceeding is available in the Commission's Electronic Comment Filing System located at <http://www.fcc.gov/cgb/ecfs/>.

**Comments:**

*Consumer and Governmental Affairs Bureau Seeks Comment on the Accessibility of Communications Technologies for the First Biennial Report Under the Twenty-First Century Communications and Video Accessibility Act*, CG Docket No. 10-213, Public Notice, DA 12-1125, 27 FCC Rcd 7693, released July 12, 2012 (*CVAA Assessment PN*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1125A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1125A1.pdf).

**Commenter**

ACB	American Council of the Blind
AFB	American Foundation for the Blind
CEA	Consumer Electronics Association
CTIA	CTIA-The Wireless Association
HLAA	Hearing Loss Association of America
Consumer Groups	Telecommunications for the Deaf and Hard of Hearing, Inc.; National Association of the Deaf; Association of Late-Deafened Adults, Inc.; Deaf and Hard of Hearing Consumer Advocacy Network; Cerebral Palsy and Deaf Organization; and the Technology Access Program at Gallaudet University <sup>366</sup>
TIA	Telecommunications Industry Association

**Comments on Tentative Findings:**

*Consumer and Governmental Affairs Bureau Seeks Comment on its Tentative Findings About the Accessibility of Communications Technologies for the First Biennial Report Under the Twenty-First Century Communications and Video Accessibility Act*, CG Docket No. 10-213, Public Notice, DA 12-1391, 27 FCC Rcd \_\_\_, released August 22, 2012 (*CVAA Tentative Findings PN*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1391A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1391A1.pdf).

**Abbreviation****Commenter**

CEA	Consumer Electronics Association
DBTT	DeafBlind Think Tank <sup>367</sup>

<sup>366</sup> Telecommunications for the Deaf and Hard of Hearing, Inc., is the filer of record; comments filed July 25, 2012; corrected copy filed July 26, 2012.

<sup>367</sup> Randall Pope is the filer of record.

NFB	National Federation of the Blind <sup>368</sup>
Consumer Groups	Telecommunications for the Deaf and Hard of Hearing, Inc.; National Association of the Deaf; Association of Late-Deafened Adults, Inc.; Deaf and Hard of Hearing Consumer Advocacy Network; Cerebral Palsy and Deaf Organization; Technology Access Program at Gallaudet University; and Hearing Loss Association of America <sup>369</sup>
TIA	Telecommunications Industry Association René Pellerin

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<sup>368</sup> NFB comments were filed on September 7, 2012, one day past the comment due date.

<sup>369</sup> Telecommunications for the Deaf and Hard of Hearing, Inc., is the filer of record.



## APPENDIX B

Commission Actions to Implement the CVAA<sup>370</sup>**Section 102. Hearing aid compatibility.**

*Wireless Telecommunications Bureau Requests that Comments in Hearing Aid Compatibility Proceeding Address Effects of New Legislation*, WT Docket No. 07-250, Public Notice, DA 10-1936, 25 FCC 14280, released October 12, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-1936A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-1936A1.pdf).

*Comment Sought on 2010 Review of Hearing Aid Compatibility Regulations*, WT Docket No. 10-254, Public Notice, DA 10-2388, 25 FCC Rcd 17566, released December 28, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2388A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2388A1.pdf).

*Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, WT Docket No. 07-250, Third Report and Order, DA 12-550, 27 FCC Rcd 3732 (WTB/OET 2012) (*HAC Third Report and Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-550A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-550A1.pdf).

**Section 103. Relay services.**

*Contributions to the Telecommunications Relay Services Fund*, CG Docket No. 11-47, Notice of Proposed Rulemaking, FCC 11-38, 26 FCC Rcd 3285 (2011) (*TRS Contribution NPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-38A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-38A1.pdf).

*Contributions to the Telecommunications Relay Services (TRS) Fund*, CG Docket No. 11-47, Report and Order, FCC 11-150, 26 FCC Rcd 14532 (2011) (*TRS Contribution Report and Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-150A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-150A1.pdf).

**Section 104. Access to advanced communications services and equipment.**

*Consumer & Governmental Affairs Bureau and Wireless Telecommunications Bureau Seek Comment on Advanced Communication Provisions of the Twenty-First Century Communications and Video Accessibility Act of 2010*, CG Docket No. 10-213, Public Notice, DA 10-2029, 25 FCC Rcd 14589, released October 21, 2010 (*ACS PN*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2029A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2029A1.pdf).

*Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; and In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket Nos. 10-213 and 10-145, WT Docket No. 96-198, Notice of Proposed Rulemaking, FCC 11-37, 26 FCC

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<sup>370</sup> This list of Commission actions excludes public notices that announce scheduled meetings, upcoming events, or pleading cycles for comments and reply comments. See Appendix C for a list of CVAA-related Commission news releases.

Rcd 3133 (2011) (*ACS NPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-37A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-37A1.pdf).

*Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; and In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket Nos. 10-213 and 10-145, WT Docket No. 96-198, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-151, 26 FCC Rcd 14557 (2011) (*ACS Report and Order* and *ACS FNPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-151A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-151A1.pdf).

*Request for Comment: Petition for Class Waiver of Commission's Rules for Access to Advanced Communications Services and Equipment by People with Disabilities*; CG Docket No. 10-213, Public Notice, DA 12-759, 27 FCC Rcd 5202, released May 15, 2012 (Consumer Electronics Association petition for waiver), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-759A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-759A1.pdf).

*Request for Comment: Petition for Class Waiver of Commission's Rules for Access to Advanced Communications Services and Equipment by People with Disabilities*, CG Docket No. 10-213, Public Notice, DA 12-760, 27 FCC Rcd 5204, released May 15, 2012 (Entertainment Software Association petition for waiver), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-760A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-760A1.pdf).

*Request for Comment: Petition for Class Waiver of Commission's Rules for Access to Advanced Communications Services and Equipment by People with Disabilities*, CG Docket No. 10-213, Public Notice, DA 12-984, 27 FCC Rcd 7101, released June 21, 2012 (National Cable & Telecommunications Association petition for waiver), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-984A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-984A1.pdf).

#### **Section 105. National Deaf-Blind Equipment Distribution Program.**

*Consumer and Governmental Affairs Bureau Seeks Comment on Implementation of Requirement to Define Programs for Distribution of Specialized Customer Premises Equipment Used by Individuals who are Deaf-Blind*, CG Docket No. 10-210, Public Notice, DA 10-2112, 25 FCC Rcd 15288, released November 3, 2010 (*NDBEDP PN*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2112A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2112A1.pdf).

*Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, CG Docket No. 10-210, Notice of Proposed Rulemaking, FCC 11-3, 26 FCC Rcd 688 (2011) (*NDBEDP NPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-3A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-3A1.pdf).

*Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, CG Docket No. 10-210, Report and Order, FCC 11-56, 26 FCC Rcd 5640 (2011) (*NDBEDP Pilot Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-56A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-56A1.pdf).

*FCC Announces 60-Day Period to Apply for Certification to Participate in the National Deaf-Blind Equipment Distribution Program*, CG Docket No. 10-210, Public Notice, DA 11-1591, 26

FCC Rcd 13118, released September 22, 2011, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-11-1591A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-11-1591A1.pdf).

*FCC Invites Applicants to Conduct National Outreach for the National Deaf-Blind Equipment Distribution Program*, CG Docket No. 10-210, Public Notice, DA 11-1767, 26 FCC Rcd 14517, released October 21, 2011, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-11-1767A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-11-1767A1.pdf).

*Perkins School for the Blind to Conduct National Outreach for the National Deaf-Blind Equipment Distribution Program*. CG Docket No. 10-210, Public Notice, DA 12-910, 27 FCC Rcd 6143, released June 8, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-910A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-910A1.pdf).

*Commission Announces Entities Certified to Participate in the National Deaf-Blind Equipment Distribution Program*. CG Docket No. 10-210, Public Notice, DA 12-1050, 27 FCC Rcd 7397, released July 2, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1050A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1050A1.pdf).

*Commission Announces Launch of the National Deaf-Blind Equipment Distribution Program*, CG Docket No. 10-210, Public Notice, DA 12-1051, 27 FCC Rcd 7403, released July 2, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1051A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1051A1.pdf).

#### **Section 106. Emergency Access Advisory Committee.**

*FCC Requests Nominations for Membership on Emergency Access Advisory Committee in Accordance with the Twenty-First Century Communications and Video Accessibility Act*, Public Notice, DA 10-2001, 25 FCC Rcd 14514, released October 19, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2001A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2001A1.pdf).

*Emergency Access Advisory Committee Announcement of Members*, Public Notice, DA 10-2318, 25 FCC Rcd 17084, released December 7, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2318A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2318A1.pdf).

*Framework for Next Generation 911 Deployment*, PS Docket No. 10-255, Notice of Inquiry, FCC 10-200, 25 FCC Rcd 17869 (2010), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-10-200A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-200A1.pdf)

*EAAC, Report on Emergency Calling for Persons with Disabilities Survey Review and Analysis 2011 (EAAC Survey Report)*, July 21, 2011, available at <http://transition.fcc.gov/cgb/dro/EAAC/EAAC-REPORT.pdf>.

*Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications; Framework for Next Generation 911 Deployment*, PS Docket Nos. 11-153 and 10-255, Notice of Proposed Rulemaking, FCC 11-134, 26 FCC Rcd 13615 (2011) (*Text-to-911 NPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-134A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-134A1.pdf).

*EAAC, Emergency Access Advisory Committee Report and Recommendations (EAAC Report and Recommendations)*, December 6, 2011, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-312161A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-312161A1.pdf).

**Section 201. Video Programming Access Advisory Committee.**

*FCC Requests Nominations for Membership on Video Programming and Emergency Access Advisory Committee in Accordance with the Twenty-First Century Communications and Video Accessibility Act*, Public Notice, DA 10-2001, 25 FCC Rcd 14518, released October 19, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2002A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2002A1.pdf).

*Video Programming and Emergency Access Advisory Committee Announcement of Members*, Public Notice, DA 10-2320, 25 FCC Rcd 17094, released December 7, 2010, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-2320A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2320A1.pdf).

*VPAAC, First Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010: Closed Captioning of Video Programming Delivered Using Internet Protocol (VPAAC First Report)*, July 13, 2011, available at [http://transition.fcc.gov/cgb/dro/VPAAC/First\\_VPAAC\\_Report\\_to\\_the\\_FCC\\_7-11-11\\_FINAL.pdf](http://transition.fcc.gov/cgb/dro/VPAAC/First_VPAAC_Report_to_the_FCC_7-11-11_FINAL.pdf).

*VPAAC, Second Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010 (VPAAC Second Report): (1) Video Description (Report on Video Description); (2) Access to Emergency Information (Report on Emergency Information); and (3) User Interfaces, and Video Programming Guides and Menus (Report on User Interfaces)*, April 9, 2012, available at <http://vpaac.wikispaces.com/home>.

*Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: User Interfaces, and Video Programming Guides and Menus*, MB Docket No. 12-108, Public Notice, DA 12-635, 27 FCC Rcd 4191, released April 24, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-635A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-635A1.pdf).

*Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: Video Description and Access to Emergency Information*, MB Docket No. 12-107, Public Notice, DA 12-636, 27 FCC Rcd 4195, released April 24, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-636A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-636A1.pdf).

**Section 202. Video description and closed captioning.*****Video Description***

*Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-43, Notice of Proposed Rulemaking, FCC 11-36, 26 FCC Rcd 2975 (2011), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-36A1\\_Rcd.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-36A1_Rcd.pdf).

*Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-43, Report and Order, FCC 11-126, 26 FCC Rcd 11847 (2011) (*Video Description Report and Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-126A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-126A1.pdf).

***Closed Captioning on Video Programming Delivered Using Internet Protocol***

*Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, Notice of Proposed Rulemaking, FCC 11-138, 26 FCC Rcd 13734 (2011), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-138A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-138A1.pdf).

*Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, Report and Order, FCC 12-9, 27 FCC Rcd 787 (2012) (*IP Closed Captioning Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-12-9A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-9A1.pdf).

*Media Bureau Action, Comment Dates Established for Two Petitions for Temporary Partial Exemption or Limited Waiver of Certain Provisions of 47 C.F.R. § 79.4(c)(2)(i)*, MB Docket No. 11-154, Public Notice, DA 12-775, 27 FCC Rcd 5260, released May 16, 2012 (*DiMA Public Notice*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-775A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-775A1.pdf).

*Petitions for Reconsideration of Action in Rulemaking Proceeding*, Report No. 2951, Public Notice, released May 17, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-314131A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-314131A1.pdf).

*Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Petitions for Temporary Partial Exemption or Limited Waiver*, MB Docket No. 11-154, Memorandum Opinion and Order, DA 12-1354, 27 FCC Rcd 9630 (MB 2012) (*DiMA Waiver Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-1354A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1354A1.pdf).

***Exemptions Based on Economic Burden***

*Anglers for Christ Ministries, Inc., New Beginning Ministries, Petitioners Identified in Appendix A, Interpretation of Economically Burdensome Standard; Amendment of Section 79.1(f) of the Commission's Rules; Video Programming Accessibility*, CG Docket Nos. 06-181 and 11-175, Memorandum Opinion and Order, Order, and Notice of Proposed Rulemaking, FCC 11-159, 26 FCC Rcd 14941 (2011) (*Interim Standard Order and NPRM*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-159A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-159A1.pdf).

*Interpretation of Economically Burdensome Standard; Amendment of Section 79.1(f) of the Commission's Rules; Video Programming Accessibility*, CG Docket No. 11-175, Report and Order, FCC 12-83, 27 FCC 8831 (2012), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-12-83A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-83A1.pdf).

**Section 203. Closed captioning decoder and video description capability.*****Apparatus – Closed Captioning Compatibility.***

*Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, Notice of Proposed Rulemaking, FCC 11-138, 26 FCC Rcd 13734 (2011), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-138A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-138A1.pdf).

*Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, Report and Order, FCC 12-9, 27 FCC Rcd 787 (2012) (*IP Closed Captioning Order*), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-12-9A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-9A1.pdf).

*Petitions for Reconsideration of Action in Rulemaking Proceeding*, Report No. 2951, Public Notice, released May 17, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-314131A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-314131A1.pdf).

***Apparatus – Video Description and Emergency Information Compatibility.***

*Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: Video Description and Access to Emergency Information*, MB Docket No. 12-107, Public Notice, DA 12-636, 27 FCC Rcd 4195, released April 24, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-636A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-636A1.pdf).

**Section 204. User interfaces on digital apparatus.**

*Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: User Interfaces, and Video Programming Guides and Menus*, MB Docket No. 12-108, Public Notice, DA 12-635, 27 FCC Rcd 4191, released April 24, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-635A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-635A1.pdf).

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

*Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: User Interfaces, and Video Programming Guides and Menus*, MB Docket No. 12-108, Public Notice, DA 12-635, 27 FCC Rcd 4191, released April 24, 2012, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-12-635A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-635A1.pdf).



## APPENDIX C

## Commission Outreach and Education

## Events

Conferences and events attended by individuals with disabilities, industry representatives, members of the public, and other stakeholders at which Commission staff made presentations or disseminated information about the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), the Accessibility Clearinghouse, and consumer rights and remedies available under Sections 255, 716, and 718 of the Communications Act.

<b>Date(s)</b>	<b>Group Name (Type of Event)</b>	<b>Location</b>
October 12, 2010	Georgetown University (conference on employment of people with disabilities)	District of Columbia
October 18-20, 2010	National Association of State Relay Administration (conference)	North Carolina
October 21, 2010	Coleman Institute for Cognitive Disabilities, University of Colorado (conference)	Colorado
October 24-25, 2010	Connect Kansas (broadband summit)	Kansas
November 16, 2010	National Center for Technology Innovators (conference)	District of Columbia
January 12, 2011	U.S. Department of Homeland Security Office of Emergency Communications (meeting)	District of Columbia
January 13, 2011	FCC's CVAA Video Programming Accessibility Advisory Committee (inaugural meeting)	District of Columbia
January 25, 2011	Practising Law Institute (Broadband and Cable Industry Law conference)	New York
February 28, 2011	American Council of the Blind (legislative seminar)	District of Columbia
May 4, 2011	National Library Service for the Blind and Physically Handicapped (Northern Conference)	District of Columbia
March 9, 2011	National Association of Regulatory Utility Commissioners (biannual conference)	District of Columbia
March 16-18, 2011	California State University Northridge (CSUN) (international conference on accessible technology)	California
May 11, 2011	U.S. Access Board (meeting)	District of Columbia
May 14, 2011	Northern Virginia Resource Center for Deaf and Hard of Hearing Persons ("Celebrate Communication" community event)	Virginia
May 17, 2011	U.S. Coast Guard (agency instructional outreach session to employees)	District of Columbia
June 2-4, 2011	Telecommunications for the Deaf and Hard of Hearing, Inc. (conference)	Texas
June 8, 2011	Deaf-Blind Young Adults in Action (mini-summit)	District of Columbia

<b>Date(s)</b>	<b>Group Name (Type of Event)</b>	<b>Location</b>
June 10, 2011	Deaf and Hard of Hearing in Government (National Training Conference)	District of Columbia
June 16, 2011	Hearing Loss Association of America (convention)	District of Columbia
June 23, 2011	American Association of the Deaf-Blind (symposium)	Kentucky
July 22, 2011	National Council on Disability (meeting)	District of Columbia
July 27, 2011	Alexander Graham Bell Association for the Deaf and Hard of Hearing (Leadership Opportunities for Teens Program)	District of Columbia
October 11, 2011	Federal Communications Bar Association (brown bag panel)	District of Columbia
October 12-13, 2011	Content and Communications World (conference and expo)	New York
October 19-21, 2011	National Association of State Relay Associations (conference)	Utah (in-person and remote presentations)
October 25, 2011	Telecommunications Equipment Distribution Program Association (conference)	(remote presentation)
November 4, 2011	National Captioning Institute (advisory board meeting)	Virginia
November 8, 2011	U.S. Access Board (international information exchange of officials of the European Commission of the European Union)	District of Columbia
November 18, 2011	Federal Communications Bar Association (continuing legal education seminar)	District of Columbia
December 5-6, 2011	Global Initiative for Inclusive Information and Communication Technologies (G3ict) and FCC (M-Enabling Summit)	District of Columbia and Maryland
December 7, 2011	Wireless Internet Institute (W2i) and FCC (Broadband Adoption and Persons with Disabilities Inquiry Workshop)	District of Columbia
January 10-13, 2012	Consumer Electronics Association (International Consumer Electronics Show)	Nevada
January 31, 2012	Practising Law Institute (Broadband and Cable Industry Law conference)	New York
February 1, 2012	Federal Communications Bar Association (Video Programming and Distribution Committee continuing legal education program)	District of Columbia
February 5, 2012	National Association of Regulatory Utility Commissioners (biennial conference)	District of Columbia
February 15, 2012	U.S. Department of State (meeting)	District of Columbia
February 27, 2012	American Council of the Blind (legislative seminar)	Virginia
March 7, 2012	National Association of Attorneys General (meeting)	District of Columbia
March 21, 2012	Seattle University (meeting)	District of Columbia

<b>Date(s)</b>	<b>Group Name (Type of Event)</b>	<b>Location</b>
March 27, 2012	NENA/The 9-1-1 Association (conference)	District of Columbia
April 16-19, 2012	National Association of Broadcasters (NAB Show)	Nevada
April 24, 2012	International Telecommunications Union Telecommunications Development Sector (conference)	Geneva, Switzerland (remote presentation)
May 4, 2012	Sprint STARS Relay (conference)	South Carolina (remote presentation)
May 5, 2012	Metro Washington Association of the Deaf-Blind (community gathering)	Maryland
May 7, 2012	International Telecommunications Union Telecommunications Development Sector (Study Group 16 meeting)	Geneva, Switzerland (remote presentation)
May 7, 2012	National Association of Telecommunications Offices and Advisors (webinar)	(remote presentation)
May 8, 2012	Advanced Television Systems Committee (conference)	District of Columbia
May 9, 2012	CTIA-The Wireless Association (conference)	Louisiana
May 12, 2012	Northern Virginia Resource Center for Deaf and Hard of Hearing Persons ("Celebrate Communication" community event)	Virginia
May 21, 2012	Center for Advanced Communications Policy and Federal Communications Bar Association (public policy luncheon series)	Georgia
May 21-23, 2012	National Cable & Telecommunications Association (The Cable Show)	Massachusetts
May 31, 2012	Federal Communications Bar Association (Enforcement Committee continuing legal education program)	District of Columbia
June 4, 2012	Global Initiative for Inclusive Information and Communication Technologies (G3ict) and FCC (Inaugural Session of the 2012-13 M-Enabling Global Briefing Tour)	District of Columbia
June 11-12, 2012	Deaf-Blind Camp of Maryland (workshop)	Maryland
June 14-15, 2012	FCC's Intergovernmental Advisory Committee (meeting)	District of Columbia
June 15, 2012	FCC's Consumer Advisory Committee (meeting)	District of Columbia
June 21-23, 2012	Hearing Loss Association of America (convention)	Rhode Island
June 21-26, 2012	American Library Association (conference)	California
June 22, 2012	General Accounting Office (instructional seminar to GAO employees)	District of Columbia
July 3-6, 2012	National Association of the Deaf (conference)	Kentucky
July 7-10, 2012	National Council of La Raza (conference)	Nevada

<b>Date(s)</b>	<b>Group Name (Type of Event)</b>	<b>Location</b>
July 16, 2012	Association of Technical Assistance Programs (conference)	District of Columbia
July 26, 2012	White House (ADA anniversary panel)	District of Columbia
August 1, 2012	Lighthouse for the Blind (meeting)	Washington
August 10, 2012	Danish Ministry of Social Affairs and Integration (instructional seminar)	Copenhagen, Denmark
September 20-22, 2012	AARP (conference)	Louisiana

#### CVAA-related Commission News Releases

- Statements on the Signing of the 21st Century Communications and Video Accessibility Act – October 8, 2010  
 Chairman Julius Genachowski:  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-302014A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-302014A1.pdf)  
 Commissioner Mignon L. Clyburn:  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-302017A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-302017A1.pdf)
- FCC Seeks Nominations for Membership on Two Emergency Access Advisory Committees – October 19, 2010  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-302254A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-302254A1.pdf)
- FCC Partners with the Coleman Institute and Raising the Floor to Launch Cloud Computing Challenge – October 21, 2010  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-302311A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-302311A1.pdf)
- FCC to Hold Open Developer Day on November 8, 2010 – October 29, 2010  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-302510A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-302510A1.pdf)
- FCC Implementation of the 21st Century Communications and Video Accessibility Act – November 30, 2010  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-303071A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-303071A1.pdf)
- Membership in Two Disability-Focused Advisory Committees Announced; Transcript of November 30 Presentation on Implementation of Accessibility Act Available Online – December 7, 2010  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-303416A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-303416A1.pdf)
- FCC Announces Open Internet Apps Challenge – January 5, 2011  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-303942A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-303942A1.pdf)
- FCC Proposes to Update Rules Allowing Accessibility to Advanced Communications to 54 Million Consumers with Disabilities – March 3, 2011  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-304970A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-304970A1.pdf)
- Emergency Access Advisory Committee Releases National Survey to Learn About Emergency Calling by Individuals with Disabilities – March 16, 2011  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-305233A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-305233A1.pdf)

- FCC Acts to Ensure That Deaf-Blind Individuals Have Access to 21st Century Communications Technologies – April 6, 2011  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-305587A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-305587A1.pdf)
- Two Reports of Advisory Committees on Disabilities Issues Released (Closed Captioning of Video Programming Delivered Using Internet Protocol; and Emergency Calling for Persons with Disabilities Survey Review and Analysis) – July 22, 2011  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-308551A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-308551A1.pdf)
- FCC Takes Critical Steps to Bring Advanced Communications Services to Those with Disabilities – October 7, 2011  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-310286A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-310286A1.pdf)
- Technology for All Americans with Disabilities Economic Freedom, Jobs, and Civic Participation Celebration & Awards Ceremony – October 17, 2011  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-310411A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-310411A1.pdf)
- The Federal Communications Commission’s Emergency Access Advisory Committee Announces Exhibitors for “Text-to-911” Exhibition Fair March 28 & 29, 2012 – March 26, 2012  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-313232A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-313232A1.pdf)
- FCC’s Video Description Rules for Certain Broadcast Stations and Multichannel Video Programming Distributors (MVPDs) Are Now in Effect – July 2, 2012  
[http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2012/db0702/DOC-314911A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0702/DOC-314911A1.pdf)

## APPENDIX D

**CVAA Consumer Guides****Twenty-First Century Communications and Video Accessibility Act of 2010**

HTML:

<http://www.fcc.gov/guides/21st-century-communications-and-video-accessibility-act-2010>

PDF:

<http://www.fcc.gov/cgb/consumerfacts/CVAA-access-act.pdf>**National Deaf-Blind Equipment Distribution Program**

HTML:

<http://www.fcc.gov/guides/national-deaf-blind-equipment-distribution-program>

PDF:

<http://transition.fcc.gov/cgb/consumerfacts/NDBEDP.pdf>**Video Description**

HTML:

<http://www.fcc.gov/guides/video-description>

PDF:

[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-314799A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-314799A1.pdf)**Captioning of Internet Video Programming**

HTML:

<http://www.fcc.gov/guides/captioning-internet-video-programming>

PDF:

<http://www.fcc.gov/cgb/consumerfacts/captionsinternet.pdf>**Display of Captioning on Equipment Used to View Video Programming**

HTML:

<http://www.fcc.gov/guides/display-captioning-equipment-used-view-video-programming>

PDF:

<http://www.fcc.gov/cgb/consumerfacts/captionsequipment.pdf>