



Federal Communications Commission  
Washington, D.C. 20554

March 15, 2012

DA 12-418

## **Small Entity Compliance Guide**

**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; In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or have Low Vision**

FCC Number 11-151  
WT Docket No. 96-198  
CG Docket Nos. 10-213, 10-145

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)  
TTY: 1-888-TELL-FCC (1-888-835-5322)  
Fax: 1-866-418-0232  
[fccinfo@fcc.gov](mailto:fccinfo@fcc.gov)

## TABLE OF CONTENTS

I.	OBJECTIVES OF THE PROCEEDING .....	3
II.	REGULATIONS AND POLICIES THAT THE COMMISSION ADOPTED OR MODIFIED, INCLUDING COMPLIANCE REQUIREMENTS .....	4
	A. Obligations of Covered Entities.....	4
	i. Manufacturers and Service Providers .....	5
	ii. Providers of Applications or Services Accessed over Service Provider Networks .....	6
	iii. Network Features and Accessibility of Information Content .....	6
	B. Nature of Statutory Requirements.....	6
	i. Achievability .....	6
	ii. Industry Flexibility.....	7
	iii. Compatibility .....	7
	C. Waivers and Exemptions .....	7
	i. Customized Equipment or Services .....	7
	ii. Waivers for Multipurpose Equipment and Services .....	7
	iii. Exemption for Small Entities.....	8
	D. Implementation Dates .....	8
III.	RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS .....	9
	A. Recordkeeping .....	9
	B. Certification .....	10
	C. Enforcement.....	10
IV.	WEBLINKS .....	11

## I. OBJECTIVES OF THE PROCEEDING

In the *Accessibility Act Report and Order and FNPRM* in CG Docket Nos. 10-213, 10-145 and WT Docket No. 96-198, the Commission implemented provisions of Section 104 of the “Twenty-First Century Communications and Video Accessibility Act of 2010” (CVAA).<sup>1</sup> The CVAA was enacted to ensure that persons with disabilities have access to the innovative communications technologies of the 21st-century, such as email and text messaging.

The rules take significant and necessary steps towards ensuring that the 54 million Americans with disabilities are able to fully utilize and benefit from advanced communications services (ACS). Given the fundamental role ACS plays in Americans’ everyday lives, the Commission believes that the CVAA represents the most significant accessibility legislation since the passage of the Americans with Disabilities Act in 1990. In keeping with Congressional direction as expressed in the CVAA, the *Accessibility Act Report and Order and FNPRM* advances the accessibility of ACS in a way that is consistent with the Commission’s objectives of promoting investment and innovation, while being mindful of the potential compliance burden on industry.

The rules adopted in the *Accessibility Act Report and Order and FNPRM* generally require that providers of ACS and manufacturers of equipment used for ACS make their products and services accessible to and usable by persons with disabilities, unless not achievable as determined by factors established in the CVAA and the *Accessibility Act Report and Order and FNPRM*.<sup>2</sup> Accessibility generally means that the input, control, and mechanical functions of the equipment or service should be operable by persons with disabilities and that the information necessary to operate a service or equipment be available to persons with disabilities.<sup>3</sup>

As required by the CVAA, the *Accessibility Act Report and Order and FNPRM* imposes recordkeeping and annual certification requirements and sets forth enforcement procedures described in greater detail below. The recordkeeping, annual certification, and enforcement procedures also apply to entities covered by Section 255 of the Telecommunications Act of 1934, as amended (Act), and to mobile phone manufacturers that include a browser in a mobile phone or mobile phone service providers that arrange for a browser to be included on a mobile phone. The *Accessibility Act Report and Order and FNPRM* also establish a process for considering waivers of the obligations under the rules, an exemption for customized equipment, and a temporary exemption for qualifying small entities.

Congress granted the Commission the authority to exempt small entities from the obligations of the CVAA, recognizing the “important role that small and entrepreneurial innovators play and the significant value they add to the economy.”<sup>4</sup> The Commission acknowledged the importance of small entities, and exercised its authority by adopting a temporary exemption for qualifying small entities in the *Accessibility Act Report and Order and FNPRM*. The temporary exemption enables the Commission to provide relief to those entities that may possibly lack legal, financial, or technical capability to comply with the Act and the Commission’s rules until the Commission further develops the record to determine whether small entities should be subject to a permanent exemption and the criteria for such an exemption. The

---

<sup>1</sup> Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified in various sections of 47 U.S.C.).

<sup>2</sup> 47 U.S.C. § 617(g); *Accessibility Act Report and Order and FNPRM*, FCC 11-151, at ¶¶ 127-148. See *infra* Section II.B.i.

<sup>3</sup> For a full definition of accessibility, see 47 C.F.R. § 6.3(a). This definition was incorporated into the rules implementing the CVAA, and can also be found in 47 C.F.R. § 14.21(b) upon publication. For the purpose of this Guide, citations will be to the rule sections where the CVAA rules will be published, specifically Part 14 of the Commission’s rules, 47 C.F.R. § 14. The rules as adopted can also be found in Appendix B of the *Accessibility Act Report and Order and FNPRM*.

<sup>4</sup> H.R. Rep. No. 111-563, at 26 (2010).

*Accessibility Act Report and Order and FNPRM* seeks comment on a permanent small entity exemption based on the temporary exemption or on other criteria that strike a balance between relief for small entities and the need to ensure accessibility.<sup>5</sup>

## **II. REGULATIONS AND POLICIES THAT THE COMMISSION ADOPTED OR MODIFIED, INCLUDING COMPLIANCE REQUIREMENTS**

### **A. Obligations of Covered Entities**

In the *Accessibility Act Report and Order and FNPRM* the Commission adopted rules, consistent with the CVAA, that generally require manufacturers of equipment used for ACS and ACS providers to make their products or services accessible to and usable by persons with disabilities, unless doing so is not achievable. Importantly, as described in greater detail in Section II.C.iii, qualifying small entities are temporarily exempt from the obligations described below.

Accessibility is a multi-faceted concept. In general, the control and mechanical functions of equipment and services must be locatable, identifiable, and operable by people with visual, hearing, physical, and cognitive disabilities. Additionally, the information necessary to operate and use the equipment or service must be available to persons with visual, hearing, physical, and cognitive disabilities. Usable means that “individuals with disabilities have access to the full functionality and documentation for the product.”<sup>6</sup> As described below in Section II.B.iii, if accessibility is not achievable, a manufacturer or service provider must ensure that the equipment or service is compatible with devices or equipment commonly used by individuals with disabilities to achieve access, unless that too is not achievable.

The requirements of this *Report and Order and FNPRM* apply to the following advanced communication services:<sup>7</sup>

- Non-interconnected VoIP Service – a service that (a) enables real-time voice communications that originate from or terminate to the user’s location using Internet protocol or any successor protocol; (b) requires Internet protocol compatible customer premises equipment; and (c) does not include any service that is an interconnected VoIP service.<sup>8</sup>
- Electronic Messaging Service – a service that provides real-time or near real-time non-voice messages in text form between individuals over communications networks.<sup>9</sup>
- Interoperable Video Conferencing Service – a service that provides real-time video communications, including audio, to enable users to share information of the user’s choosing.<sup>10</sup>

---

<sup>5</sup> See *Accessibility Act Report and Order*, FCC 11-151, at ¶¶ 279-91.

<sup>6</sup> 47 C.F.R. § 14.21(c).

<sup>7</sup> Interconnected VoIP is also defined as an ACS under the CVAA and the Commission’s rules. The CVAA and the *Report and Order and FNPRM* establish that interconnected VoIP is generally subject to the accessibility obligations of Section 255 of the Act. See *Accessibility Act Report and Order and FNPRM*, FCC 11-151, at ¶¶ 35-39. Interconnected VoIP is defined in the statute and the Commission’s rules as a service that (a) enables real-time, two-way voice communications; (b) requires a broadband connection from the user’s location; (c) requires Internet protocol-compatible customer premises equipment; and (d) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. 47 C.F.R. § 9.3.

<sup>8</sup> 47 C.F.R. § 14.10(q).

<sup>9</sup> 47 C.F.R. § 14.10(i).

<sup>10</sup> 47 C.F.R. § 14.10(m).

The obligations of ACS providers and ACS equipment manufacturers in the rules adopted in the *Accessibility Act Report and Order and FNPRM*, including the temporary small entity exemption, are described below in greater detail.

**i. Manufacturers and Service Providers**

For the purposes of the rules adopted in the *Accessibility Act Report and Order and FNPRM*, a manufacturer is defined as an entity that makes a product, and includes manufacturers of end user equipment and network equipment. Providers of ACS subject to these rules include all entities that make available ACS in whatever manner. Providers include, for example, makers of web-based e-mail services available to consumers; providers of non-interconnected VoIP services through applications which consumers download to their devices; and providers that offer texting services over a cellular network. Equipment providers do not have regulatory obligations for software bundled with equipment and not used to provide ACS, or ACS software acquired by the end user after purchasing the equipment. The obligations of manufacturers of equipment used for ACS and providers of ACS include:

- With respect to equipment manufactured after the effective date of the regulations (January 30, 2012), a manufacturer of equipment used for ACS must ensure that the equipment and software that such manufacturer offers for sale, or otherwise distributes in interstate commerce, shall be accessible to and usable by individuals with disabilities, unless such requirements are not achievable.
- With respect to services provided after the effective date of the regulations (January 30, 2012), a provider of ACS must ensure that services offered by such provider in or affecting interstate commerce are accessible to and usable by individuals with disabilities, unless such requirements are not achievable.
- If accessibility is not achievable either by building it into a device or service or by using third-party accessibility solutions available to the consumer at nominal cost and that individuals with disabilities can access, then a manufacturer or service provider must ensure that its equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, unless such compatibility is not achievable.
- Providers of ACS shall not install network features, functions, or capabilities that impede accessibility or usability.
- ACS and the equipment and networks used to provide such services may not impair or impede the accessibility of information content when accessibility has been incorporated into that content for transmission through such services, equipment, or networks.

Additionally, manufacturers of equipment used for ACS and providers of ACS must meet several key requirements:

- Manufacturers and service providers must consider performance objectives at the design stage as early and as consistently as possible and must implement such evaluation to the extent that it is achievable.
- Manufacturers and service providers must identify barriers to accessibility and usability as part of such evaluation.
- Equipment used for ACS must pass through cross-manufacturer, nonproprietary, industry-standard codes, translation protocols, formats, or other information necessary to provide ACS in an accessible format, if achievable. Signal compression technologies shall not remove information needed for access or shall restore it upon decompression.

- Manufacturers and service providers must ensure access by individuals with disabilities to information and documentation it provides to its customers, if achievable. Such information and documentation includes user guides, bills, installation guides for end user devices, and product support communications, in alternate formats, as needed. The requirement to provide access to information also includes ensuring that individuals with disabilities can access, at no extra cost, call centers and customer support regarding both the product generally and the accessibility features of the product.

#### **ii. Providers of Applications or Services Accessed over Service Provider Networks**

To the extent they provide ACS, “providers of applications or services accessed over service provider networks” are “providers of advanced communications services” and the *Accessibility Act Report and Order and FNPRM* imposes the same obligations when those services are accessed over the service provider’s own network or over the network of another service provider.

#### **iii. Network Features and Accessibility of Information Content**

Under the CVAA and *Accessibility Act Report and Order and FNPRM*, providers of ACS have the duty not to install network features, functions, or capabilities that impede accessibility or usability.<sup>11</sup> Further, equipment used for ACS, and networks used to provide ACS, must not impair or impede the accessibility of information content when accessibility has been incorporated into that content for transmission through such services, equipment, or networks.<sup>12</sup>

### **B. Nature of Statutory Requirements**

#### **i. Achievability**

The CVAA defines “achievable” to mean “with reasonable effort or expense, as determined by the Commission.” The *Accessibility Act Report and Order and FNPRM* incorporates into the rules the four statutory factors from the CVAA for determining whether accessibility is achievable. The four achievability factors will be weighed equally. The achievability factors are:

- The nature and cost of the steps needed to make ACS or ACS equipment accessible with respect to the specific equipment or service in question.
- The technical and economic impact on the operation of the manufacturer or provider and on the operation of the specific equipment or service in question, including impact on the development and deployment of new communications technologies.
- The type of operations of the manufacturer or provider.
- The extent to which the service provider or manufacturer in question offers accessible services or equipment containing varying degrees of functionality and features, and offered at differing price points.

The four factors will be examined through the enforcement process, which is triggered by a complaint or by the Commission on its own motion that an ACS or equipment used for ACS is not accessible. The Commission will examine the factors using a flexible, case-by-case approach. Because these factors are highly fact-specific in their application, each covered manufacturer or service provider will have to evaluate whether accessibility is achievable based upon the enumerated factors. Note that as explained in the recordkeeping obligations below, the provider of ACS or manufacturer of ACS equipment bears the burden of demonstrating in an enforcement proceeding that accessibility is not achievable. Conclusory and unsupported claims are insufficient and will cause the Commission to rule in favor of complainants

---

<sup>11</sup> 47 C.F.R. § 14.20(a)(4).

<sup>12</sup> 47 C.F.R. § 14.20(a)(5).

who establish a *prima facie* case that a product or service is inaccessible and against manufacturers or service providers that assert, without proper support, that it was not achievable for them to make their product or service accessible.

The *Accessibility Act Report and Order and FNPRM* requires manufacturers of equipment used for ACS and providers of ACS to consider accessibility throughout the design and development process and other natural opportunities for consideration of accessibility. For example, accessibility must be considered for new versions of software used for ACS or incorporated into ACS equipment or new models of equipment used for ACS.

#### **ii. Industry Flexibility**

The *Accessibility Act Report and Order and FNPRM* provides covered entities the flexibility to achieve accessibility through either built-in solutions, or solutions developed or supplied by third parties, so long as the third-party solutions are available at nominal cost to consumers. Manufacturers and service providers that wish to use third-party accessibility solutions are encouraged to consult with persons with disabilities about their accessibility needs because these individuals will be best equipped to provide guidance on which third-party accessibility solutions will be able to meet those needs. Consultation with the disability community will best achieve effective and economical accessibility solutions.

Any fee for third-party software or hardware accessibility solutions must be small enough so as to generally not be a factor in the consumer's decision to acquire a product or service that the consumer otherwise desires. Third-party solutions can be made available after-market, rather than at the point of purchase, provided that such third-party solutions are made available around the same time as when the product or service is purchased.

#### **iii. Compatibility**

The CVAA requires that whenever accessibility is not achievable either by building in accessibility features or using third-party accessibility solutions, a manufacturer or service provider subject to its requirements must "ensure that its equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access," unless that is not achievable.<sup>13</sup> This requirement was incorporated into the rules adopted in the *Accessibility Act Report and Order and FNPRM*. The Commission also will require manufacturers and service providers to exercise due diligence to identify the types of peripheral devices and specialized customer premises equipment which are "commonly used" by persons with disabilities and with which their products and services should be made compatible.

### **C. Waivers and Exemptions**

#### **i. Customized Equipment or Services**

The *Accessibility Act Report and Order and FNPRM* exempts customized equipment and services offered to business and other enterprise customers from the obligations under the *Accessibility Act Report and Order and FNPRM*. Products which are customized by a manufacturer for an enterprise and which are not offered directly to the general public are exempt, even if such products are used by members of the general public. Customizations must be more than merely cosmetic. Public safety communications networks and devices are equipment and services not offered directly to the public and are therefore exempt. If customized equipment is subsequently sold to the general public, it becomes subject to the CVAA. Manufacturers or providers may raise the exemption as a defense in an enforcement proceeding.

#### **ii. Waivers for Multipurpose Equipment and Services**

The *Accessibility Act Report and Order and FNPRM* establishes a process for consideration of waivers of the rules for multipurpose equipment or services with features or functions that are capable of accessing ACS but that are designed primarily for purposes other than using ACS. Waiver requests may be filed by

---

<sup>13</sup> 47 C.F.R. § 14.21(d).



providers of ACS, manufacturers of equipment used for ACS, or any interested party. The Commission may also consider waivers on its own motion.

Waiver requests will be examined through a case-by-case, fact-based analysis. To determine the primary purpose for which equipment or service is designed, the Commission will determine whether the equipment or service was designed to be used for ACS by the general public and whether the equipment or service is marketed for its ACS features or functions. The Commission may also consider other relevant factors.

Waivers may be sought for an individual piece of equipment or an individual service, or for classes of equipment and services. Based upon the facts of a given request, the Commission will determine the life of a waiver. The Consumer and Governmental Affairs Bureau will decide all waiver requests, and will seek public comment on all requests with a minimum 30-day comment period. The Bureau is encouraged to process waiver requests effectively and efficiently, and must strive to meet a 180-day timeline for action on all requests.

### **iii. Exemption for Small Entities**

The Commission adopted a temporary exemption for small entities in the *Accessibility Act Report and Order and FNPRM*. Until the Commission takes subsequent action on the small entity exemption or October 8, 2013, whichever is sooner, entities that qualify as small business concerns for their primary industry under the Small Business Administration's (SBA) rules and size standards are exempt from the obligations of the CVAA and rules adopted in the *Accessibility Act Report and Order and FNPRM*.

Specifically, qualifying small entities are exempt from the obligation to conduct an achievability analysis, to ensure accessibility, to keep records, and to file the required annual certification. The exemption is self-executing, meaning entities do not need to seek affirmation from the Commission that they qualify. Qualifying entities may raise the exemption as a defense in an enforcement proceeding. Small entities qualify by meeting the SBA size standards and rules.

The SBA has established rules and size standards for determining whether an entity is "small." The size standards are based either on the number of employees or annual receipts of the entity, and specific size standards exist for most industries. For example, software publishers are small if they have \$25 million or less in annual receipts.<sup>14</sup> The number of employees or receipts of an entity's affiliates is counted when determining whether an entity qualifies as small under a size standard.

In addition to meeting the relevant size standard for its primary industry, an entity also has to qualify as a "business concern." A business concern is an "entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor."<sup>15</sup> See the weblinks to the SBA's rules for more information on the size standards, the SBA's rules, and the definitions of the various industries with associated size standards.

### **D. Implementation Dates**

The responsibilities of manufacturers and service providers begin on the effective date of the *Accessibility Act Report and Order and FNPRM* and are both prospective and continuing. The effective date of the rules is January 30, 2012, except for those rules related to enforcement, recordkeeping, certification, and consumer requests for dispute assistance.<sup>16</sup>

---

<sup>14</sup> 13 C.F.R. § 121.201.

<sup>15</sup> 13 C.F.R. § 121.105.

<sup>16</sup> As adopted in the *Accessibility Act Report and Order and FNPRM* the effective and implementation dates were tied to the date the item was published in the Federal Register. The item appeared in the Federal Register on December 30, 2011. See Implementing the Provisions of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010, 76 Fed. Reg. 82240 (Dec. 30, 2011).



Covered entities must take accessibility into consideration as early as possible during the design or redesign process for new and existing equipment and services starting on January 30, 2012. By October 8, 2013, products and services covered by the *Accessibility Act Report and Order and FNPRM* must be accessible, unless not achievable.

The recordkeeping, certification, and dispute assistance requirements, described below, go into effect after Office of Management and Budget approval, but no earlier than one year after the effective date of the regulations adopted in the *Accessibility Act Report and Order and FNPRM*. The chart below organizes the relevant implementation dates.

<b><i>Obligation/Requirement/Exemption</i></b>	<b><i>Effective/Compliance/Expiration Date</i></b>
All obligations and requirements, except recordkeeping, certification, and dispute assistance	<ul style="list-style-type: none"> <li>- Effective January 30, 2012.</li> <li>- Covered entities must comply by October 8, 2013.</li> </ul>
Recordkeeping requirements	<ul style="list-style-type: none"> <li>- January 30, 2013, unless rules have not been approved by OMB by that time.</li> </ul>
Certification requirement	<ul style="list-style-type: none"> <li>- April 1, 2013, and annually thereafter, unless rule has not been approved by OMB by that time.</li> </ul>
Dispute assistance and filing informal complaints	<ul style="list-style-type: none"> <li>- Effective October 8, 2013.</li> </ul>
Temporary small entity exemption	<ul style="list-style-type: none"> <li>- Begins on the effective date, January 30, 2012.</li> <li>- Expires the earlier of subsequent Commission action addressing the exemption or October 8, 2013.</li> </ul>

### **III. RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS**

#### **A. Recordkeeping**

Entities covered by the *Accessibility Act Report and Order and FNPRM* must keep records of their efforts to comply with the regulation. The recordkeeping obligations also apply to entities that must comply with Section 255 of the Act, which requires providers of telecommunications services and manufacturers of telecommunications equipment or customer premises equipment to ensure their services or equipment are accessible to persons with disabilities, if readily achievable.<sup>17</sup>

Providers of ACS, manufacturers of equipment used for ACS, entities covered under Section 255, and mobile phone manufacturers that include a browser, or mobile phone service providers that arrange for a browser to be included on a mobile phone, must maintain in the ordinary course of business, the following records:

- Information about the manufacturer's or provider's efforts to consult with individuals with disabilities.
- Descriptions of the accessibility features of its products and services.

<sup>17</sup> For additional information on the obligations of manufacturers and providers under Section 255, see 47 U.S.C. § 255; 47 C.F.R. §§ 6.1-6.23; *Section 255 Report and Order*, WT Docket No. 96-198, 16 FCC Rcd 6417 (1999).

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

In the *Accessibility Act Report and Order and FNPRM*, the Commission noted that while covered entities do not have to maintain records demonstrating they conducted an achievability analysis (as described above in Section II.B.i), they do bear the burden of demonstrating that accessibility was not achievable in the case of a complaint. In other words, if an entity is required to comply with the obligations and requirements of the *Accessibility Act Report and Order and FNPRM*, but fails to do so and claims that accessibility was not achievable when a complaint is filed, that entity bears the burden of proving that accessibility was in fact not achievable.

The records may be kept in any form. However, the Commission expects that entities will establish and sustain effective internal procedures for creating and maintaining records that demonstrate compliance efforts and allow for prompt response to complaints and inquiries. The records must be kept for two years from the date the covered entity ceases to offer or in any way distribute (through a third party or reseller) the product or service to the public.

### **B. Certification**

The *Accessibility Act Report and Order and FNPRM* requires that manufacturers and service providers covered under the rules have an authorized officer sign and file with the Commission an annual certification that records required to be maintained are being kept in accordance with the recordkeeping requirements described above. The certification must:

- Be supported with an affidavit or declaration under penalty of perjury, signed and dated by the authorized officer of the company with personal knowledge of the representations provided in the company's certification, verifying the truth and accuracy of the information therein;
- Identify the name and contact details of the person or persons within the company that are authorized to resolve complaints alleging violations of the rules adopted in the *Accessibility Act Report and Order and FNPRM*; and
- Be filed with the Commission on or before April 1st each year for records pertaining to the previous calendar year. The first certification must be filed on April 1, 2013.

### **C. Enforcement**

The *Accessibility Act Report and Order and FNPRM* requires consumers to file a "Request for Dispute Assistance" with the Consumer and Governmental Affairs Bureau prior to filing an informal complaint alleging a violation of the CVAA or Section 255. A copy of the complaint will be forwarded to the entity's contact, as identified in the entity's annual certification.

CGB will mediate a negotiation between the complainant and alleged offending entity for 30 days. If after 30 days have passed and a settlement has not been reached, the consumer can file an informal complaint, or the consumer and the covered entity may mutually agree to extend the CGB dispute assistance process for an additional 30 days and in 30-day increments thereafter.

The full enforcement process is laid out in detail in the *Accessibility Act Report and Order and FNPRM* in Section III.E.2, and Part 14, Subpart D of the Commission's rules.<sup>18</sup>

---

<sup>18</sup> 47 C.F.R. § 14.33-14.52.

#### IV. WEBLINKS

*Accessibility Act Report and Order and FNPRM,*

[http://fjallfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-151A1.pdf](http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-11-151A1.pdf)

[http://fjallfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-151A1.doc](http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-11-151A1.doc)

[http://fjallfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-151A1.txt](http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-11-151A1.txt)

*FCC Consumer and Governmental Affairs Accessibility Homepage,*

<http://www.fcc.gov/topic/accessibility>

*Facts about the 21<sup>st</sup> Century Communications and Video Accessibility Act (CVAA),*

<http://transition.fcc.gov/cgb/consumerfacts/CVAA-access-act.pdf>

*SBA's Size Standards and Rules,*

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title13/13cfr121\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title13/13cfr121_main_02.tpl)

*NAICS Industry Definitions,*

<http://www.census.gov/eos/www/naics/> (search by NAICS code on the left side of the site)