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Small Entity Compliance Guide

Accessibility of User Interfaces, and Video Programming Guides and Menus

Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010

MB Docket Nos. 12-108, 12-107; FCC 13-138, 15-156

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:

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OBJECTIVES OF THE PROCEEDING

In the *Report and Order and Further Notice of Proposed Rulemaking* in MB Docket Nos. 12-108, 12-107, the Commission sought to fulfill its responsibilities under Sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”) by:

- Adopting rules requiring that digital apparatus subject to Section 204 make appropriate built-in apparatus functions (*i.e.*, the functions used to receive, play back, and display video programming) accessible to individuals who are blind or visually impaired;
- Adopting rules requiring that navigation devices subject to Section 205 make on-screen text menus and guides used for the display or selection of multichannel video programming audibly accessible to individuals who are blind or visually impaired; and
- Adopting rules requiring that covered entities provide a mechanism reasonably comparable to a button, key, or icon for activating certain accessibility features on digital apparatus and navigation devices.

The rules adopted will better enable individuals who are blind or visually impaired to more easily access video programming on a range of video devices and also enable consumers who are deaf or hard of hearing to more easily activate closed captioning on video devices.

In the *Second Report and Order and Second Further Notice of Proposed Rulemaking* in MB Docket No. 12-108, the Commission adopted additional rules to ensure that consumers are able to find out about what accessible devices and features are available from covered manufacturers and MVPDs and how to use such devices and features. The Commission also adopted an *Order on Reconsideration* that reconsiders guidance on whether certain activation mechanisms for closed captioning are reasonably comparable to a button, key, or icon.

COMPLIANCE REQUIREMENTS

1. Background Information: Definitions

- Closed captioning is the visual display of the audio portion of video programming pursuant to the technical specifications set forth in Part 79 of the Commission’s rules. 47 C.F.R. § 79.1(a)(4).
- Digital apparatus refers to devices manufactured in or imported for use in the United States and designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, with the exception of navigation devices. 47 C.F.R. § 79.107(a)(1).
- Navigation device refers to devices such as converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems. 47 C.F.R. § 76.1200(c). The Commission has interpreted this to include only devices that have built-in capability to use a conditional access mechanism in order to access MVPD video programming and other services.

- Video description is the insertion of audio narrated descriptions of a television program’s key visual elements into natural pauses between the program’s dialogue. 47 C.F.R. § 79.3(a)(3).

2. Categories of Devices Covered Under Sections 204 and 205 of the CVAA; Entities Responsible for Compliance

- Section 205 of the CVAA applies to “navigation devices” as defined by Section 76.1200 of the Commission’s rules that are manufactured with a CableCARD slot, CableCARD’s successor technology, or other conditional access capabilities.
 - Examples of navigation devices: digital cable ready televisions (*i.e.*, televisions with CableCARD slots), set-top boxes (including those provided by MVPDs as well as consumer-owned CableCARD-ready devices), computers with CableCARD slots, cable modems, and third-party devices with MVPD applications installed by the device manufacturer.
 - The FCC will look to the device’s built-in functionality at the time of manufacture in determining whether a particular device is considered a “navigation device” subject to the requirements of Section 205. Note 2 to 47 C.F.R. § 79.108(a)(1). Devices that do not contain support for conditional access functionality at the time of manufacture are covered as digital apparatus under Section 204.
- Section 204 of the CVAA applies to all other digital apparatus that are designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol. Digital apparatus do *not* include navigation devices.
 - Examples of digital apparatus: televisions and PCs without CableCARD or other conditional access technology, mobile devices (*i.e.*, tablets and smartphones) without MVPD applications pre-installed by the manufacturer, and removable media players.
 - A digital apparatus includes the physical device and the video players capable of displaying video programming that manufacturers install into the devices they manufacture before sale (whether in the form of hardware, software, or a combination of both), as well as any video players that manufacturers direct consumers to install post-sale. Note 1 to 47 C.F.R. § 79.107(a)(1).
 - This includes third-party applications that provide video programming, such as Netflix, Hulu, and Amazon, if those applications are pre-installed on digital apparatus by the manufacturer or if the manufacturer directs consumers to install such applications. But, this does *not* include third-party applications that consumers install on their own after sale.
- A device can be subject to the requirements of either Section 204 or Section 205 depending on its classification as a digital apparatus or navigation device, respectively, but it cannot be subject to the requirements of both sections.
- The following categories of devices are outside the scope of Sections 204 and 205, and therefore are not subject to the rules applicable to digital apparatus and navigation devices:

- Professional and commercial video equipment (*e.g.*, professional movie theater projectors, studio-grade video monitors and recorders);
- Public safety and enterprise equipment; and
- General purpose broadband equipment (*e.g.*, routers).
- Under Section 204, the entities responsible for compliance are digital apparatus manufacturers.
- Under Section 205, the entities responsible for compliance are:
 - MVPDs that lease or sell navigation devices;
 - Manufacturers of navigation devices that place devices into the chain of commerce for sale to consumers; and
 - Other manufacturers of navigation device hardware and software.

3. Requirements Applicable to Digital Apparatus Under Section 204 of the CVAA

- General requirement: Digital apparatus must be designed, developed, and fabricated so that control of appropriate built-in functions (*i.e.*, those functions used for the reception, play back, or display of video programming) included in the apparatus are accessible to and usable by individuals who are blind or visually impaired. 47 C.F.R. § 79.107(a)(1). In addition, digital apparatus with built-in closed captioning and/or video description capability must include a mechanism that is reasonably comparable to a button, key, or icon for activating the closed captioning and video description. 47 C.F.R. §§ 79.109(a)(1)-(2).
- Requirements for accessibility of digital apparatus functions
 - A digital apparatus manufacturer must make functions that are used for the reception, play back, or display of video programming accessible to individuals who are blind or visually impaired. 47 C.F.R. §§ 79.107(a)(4)(i)-(xi). At this time, these functions include the following:
 - Power On/Off: Function that allows the user to turn the device on or off.
 - Volume Adjust and Mute: Function that allows the user to adjust the volume and to mute or un-mute the volume.
 - Channel / Program Selection: Function that allows the user to select channels and programs (*e.g.*, via physical numeric or channel up/channel down buttons or via on-screen guides and menus).
 - Display Channel / Program Information: Function that allows the user to display channel or program information.
 - Configuration – Setup: Function that allows the user to access and change configuration or setup options (*e.g.*, configuration of video display and audio settings, selection of preferred language for onscreen guides or menus, etc.).
 - Configuration – CC Control: Function that allows the user to enable or disable the display of closed captioning.

- Configuration – CC Options: Function that allows the user to modify the display of closed caption data (*e.g.*, configuration of the font size, font color, background color, opacity, etc.).
 - Configuration – Video Description Control: Function that allows the user to enable or disable the output of video description (*i.e.*, allows the user to change from the main audio to the secondary audio stream that contains video description, and from the secondary audio stream back to the main audio).
 - Display Configuration Info: Function that allows the user to display how user preferences are currently configured.
 - Playback Functions: Function that allows the user to control playback functions (*e.g.*, pause, play, rewind, fast forward, stop, and record).
 - Input Selection: Function that allows the user to select their preferred input source.
- A manufacturer of a digital apparatus is not required to add any of the 11 functions if some or all of those functions are not otherwise included in the apparatus generally. Only those functions that are already included in the apparatus must be made accessible. 47 C.F.R. § 79.107(a)(1).
- If the appropriate built-in apparatus functions are accessed through on-screen text menus or other visual indicators built in to the apparatus, they must be made audibly accessible. 47 C.F.R. § 79.107(a)(2).
- If the appropriate built-in apparatus functions are *not* accessed through on-screen text menus or other visual indicators built in to the apparatus, they must be made accessible generally to individuals who are blind or visually impaired (but not necessarily audibly accessible).
 - Generally accessible means that the input, control, and mechanical functions must be locatable, identifiable, and operable (i) without vision; (ii) with low vision and limited or no hearing; and (iii) with little or no color perception. 47 C.F.R. §§ 79.107(a)(3)(i)-(iii).
- Requirements for usability of digital apparatus functions
 - A digital apparatus manufacturer must make functions that are used for the reception, play back, or display of video programming, as well as on-screen text menus or other visual indicators used to access these functions, usable to individuals who are blind or visually impaired. 47 C.F.R. §§ 79.107(a)(1)-(2).
 - The term “usable” means that individuals with disabilities have access to information and documentation on the full functionalities of digital apparatus, including instructions, product information (including accessible feature information), documentation, bills, and technical support which are provided to individuals without disabilities. 47 C.F.R. § 79.107(a)(5).
- Information, documentation, and training requirements for digital apparatus
 - Manufacturers of digital apparatus must ensure access to information and documentation provided to customers, including user guides, bills, installation guides

for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. Manufacturers of digital apparatus must include the contact method for obtaining this information and documentation in general product information. 47 C.F.R. §§ 79.107(d)(1)-(2).

- Manufacturers should take such other steps as necessary including:
 - Providing a description of the accessibility and compatibility features of the product and end-user product documentation upon request in alternate formats or alternate modes at no additional charge; and
 - Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge. 47 C.F.R. §§ 79.107(d)(1)(i)-(iii).
- In developing training programs, manufacturers of digital apparatus must consider the following topics: (i) accessibility requirements of individuals with disabilities; (ii) means of communicating with individuals with disabilities; (iii) commonly used adaptive technology used with the manufacturer's products; (iv) designing for accessibility; and (v) solutions for accessibility and compatibility. 47 C.F.R. §§ 79.107(d)(3)(i)-(v).
- Requirements for a mechanism that is reasonably comparable to a button, key, or icon to activate accessibility features
 - A digital apparatus with built-in closed captioning and/or video description capability must have a mechanism that is reasonably comparable to a button, key, or icon to activate the closed captioning and video description. 47 C.F.R. § 79.109(a).
 - The FCC will consider the simplicity and ease of use of the mechanism in determining whether an activation mechanism is “reasonably comparable” to a button, key, or icon.
 - Examples of reasonably comparable mechanisms include: a dedicated button, key, or icon; voice commands (for video description, but not closed captioning); simple and easy to use gestures; and a single step activation from the same location as the volume controls.
 - In contrast, having to turn off the device in order to access the closed captioning or video description activation mechanism through another menu would not be a reasonably comparable mechanism.
- Compliance deadline. Entities covered by the rules applicable to digital apparatus must comply no later than December 20, 2016, except as noted below. 47 C.F.R. §§ 79.107(b); 79.109(c).
 - The following categories of digital apparatus are subject to a 5-year deferred compliance deadline (*i.e.*, manufacturers of such apparatus must comply no later than December 20, 2021):
 - display-only monitors and video projectors;

- digital cameras, baby monitors, and similar equipment subject to waiver under the *IP Closed Captioning Reconsideration Order*. 47 C.F.R. §§ 79.107(b)(1)-(3).
- There are no restrictions on the importing, shipping, or sale of digital apparatus manufactured before the applicable compliance deadline. Note 2 to 47 C.F.R. § 79.107(a)(1).

4. Requirements Applicable to Navigation Devices Under Section 205 of the CVAA

- General requirement: The on-screen text menus and guides provided by navigation devices for the display or selection of multichannel video programming must be audibly accessible in real time upon request by individuals who are blind or visually impaired. 47 C.F.R. § 79.108(a)(1). In addition, navigation devices with built-in closed captioning capability must include a mechanism that is reasonably comparable to a button, key, or icon for activating the closed captioning. 47 C.F.R. § 79.109(b).
- Requirements for accessibility of navigation device functions
 - The following nine functions are used for the display or selection of multichannel video programming and, thus, must be made audibly accessible when they are accessed through on-screen text menus or guides (47 C.F.R. §§ 79.108(a)(2)(i)-(ix)):
 - Channel / Program Selection: Function that allows the user to select channels and programs (*e.g.*, via physical numeric or channel up/channel down buttons or via on-screen guides and menus).
 - Display Channel / Program Information: Function that allows the user to display channel or program information.
 - Configuration – Setup: Function that allows the user to access and change configuration or setup options (*e.g.*, configuration of video display and audio settings, selection of preferred language for onscreen guides or menus, etc.).
 - Configuration – CC Control: Function that allows the user to enable or disable the display of closed captioning.
 - Configuration – CC Options: Function that allows the user to modify the display of closed caption data (*e.g.*, configuration of the font size, font color, background color, opacity, etc.).
 - Configuration – Video Description Control: Function that allows the user to enable or disable the output of video description (*i.e.*, allows the user to change from the main audio to the secondary audio stream that contains video description, and from the secondary audio stream back to the main audio).
 - Display Configuration Info: Function that allows the user to display how user preferences are currently configured.
 - Playback Functions: Function that allows the user to control playback functions (*e.g.*, pause, play, rewind, fast forward, stop, and record).

- Input Selection: Function that allows the user to select their preferred input source.
 - Additionally, the following two functions must be made generally accessible to individuals who are blind or visually impaired because they are controls necessary to access covered functions:
 - Power On/Off: Function that allows the user to turn the device on or off; and
 - Volume Adjust and Mute: Function that allows the user to adjust the volume and to mute or un-mute the volume. 47 C.F.R. §§ 79.108(a)(3)(i)-(ii).
 - A manufacturer of a navigation device is not required to add any functions used for the display or selection of multichannel video programming that are not otherwise included in the navigation device generally. Only those functions that are already included in the navigation device must be made accessible. 47 C.F.R. § 79.108(a)(2).
 - The audible version of an on-screen text menu or guide is not required to be an exact replication of the text; however, all of the essential information from the on-screen text menus or guides must be made audibly accessible as requested or selected by the consumer.
- Requirements for providing navigation devices with accessible functions “upon request”
 - An MVPD that leases or sells navigation devices to subscribers must permit blind or visually impaired subscribers to request accessible devices through any means that it generally uses to make navigation devices available to other subscribers. 47 C.F.R. § 79.108(a)(5).
 - For example, if an MVPD generally allows subscribers to order equipment by means of a phone call, email, in-person request, or via its website, it must allow blind or visually impaired subscribers to request an accessible navigation device by all of those means as well.
 - A manufacturer of navigation devices must make accessible devices available to blind or visually impaired individuals through the same means that it generally uses to provide navigation devices to other consumers (*i.e.*, via retailers or by providing such devices directly to requesting consumers). 47 C.F.R. § 79.108(a)(5).
 - If a manufacturer provides navigation devices to requesting blind or visually impaired consumers at retail, it must make a good faith effort to have retailers make accessible navigation devices available to the same extent they make navigation devices available to other consumers generally. 47 C.F.R. § 79.108(a)(5).
 - Any means for accepting requests for accessible navigation devices must not be more burdensome to a requesting blind or visually impaired individual than the means required for other consumers to obtain navigation devices. 47 C.F.R. § 79.108(a)(5).
 - A covered entity must provide an accessible navigation device to a requesting blind or visually impaired individual within a reasonable time (*i.e.*, a time period comparable to the time that it takes such entity to provide navigation devices generally to other consumers). 47 C.F.R. § 79.108(a)(6).

- Making navigation device functions accessible through use of separate equipment or software
 - A covered entity may choose to comply with the requirements for accessible navigation devices through the use of a separate solution (such as software, a peripheral device, specialized consumer premises equipment, network-based service, or other solution). 47 C.F.R. § 79.108(a)(7). If a covered entity chooses to comply through the use of separate equipment or software, it must:
 - Ensure that any separate solution achieves the accessibility required by the rules. If a navigation device has any functions that are required to be made accessible, any separate solution must make all of those functions accessible or enable the accessibility of those functions. 47 C.F.R. § 79.108(a)(7)(i).
 - Provide any separate solution in a manner that is not more burdensome to a requesting blind or visually impaired individual than the manner in which it generally provides navigation devices to other consumers. 47 C.F.R. § 79.108(a)(7)(ii).
 - In other words, a covered entity may not impose on a requesting blind or visually impaired individual any charges beyond those it imposes for a non-compliant navigation device.
 - If the only accessible devices a covered entity makes available are among the more expensive devices with sophisticated features, and a blind or visually impaired consumer requests an accessible lower-end device, the entity must provide the accessible device at the lower price.
 - If a covered entity chooses to comply by providing a software solution that must be operated on a third-party device (e.g., laptop, tablet, smartphone), it must provide the software, the third-party device, and any service needed to use the accessibility features to the requesting blind or visually impaired consumer at no additional charge.
 - Provide any separate solution within a reasonable time (i.e., a time period comparable to the time it generally provides navigation devices to other consumers). 47 C.F.R. § 79.108(a)(7)(iv).
 - The MVPD or manufacturer that provides the navigation device to a requesting blind or visually impaired consumer is responsible for providing a separate equipment or software solution, even in cases where such entity relies on a retailer to provide accessible devices to requesting consumers.
- Information, documentation, and training requirements for navigation devices
 - MVPDs and manufacturers of navigation devices must ensure access to information and documentation provided to customers, including user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product.

MVPDs and manufacturers of navigation devices must include the contact method for obtaining this information and documentation in general product information. 47 C.F.R. §§ 79.108(f)(1)-(2).

- MVPDs and manufacturers should take such other steps as necessary including:
 - Providing a description of the accessibility and compatibility features of the product and end-user product documentation upon request in alternate formats or alternate modes at no additional charge; and
 - Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge. 47 C.F.R. §§ 79.108(f)(1)(i)-(iii).
- In developing training programs, MVPDs and manufacturers of navigation devices must consider the following topics: (i) accessibility requirements of individuals with disabilities; (ii) means of communicating with individuals with disabilities; (iii) commonly used adaptive technology used with the manufacturer's products; (iv) designing for accessibility; and (v) solutions for accessibility and compatibility. 47 C.F.R. §§ 79.108(f)(3)(i)-(v).
- If a consumer with a disability requests an accessible navigation device, this also constitutes a request for a description of the accessibility features of the device and end-user product documentation in accessible formats. 47 C.F.R. § 79.108(f)(4).
- Requirements for a mechanism that is reasonably comparable to a button, key, or icon to activate accessibility features
 - A navigation device with built-in closed captioning capability must have a mechanism that is reasonably comparable to a button, key, or icon to activate the closed captioning. 47 C.F.R. § 79.109(b).
 - The mechanism must be provided on all navigation devices with built-in closed captioning capability; this requirement is not subject to an "upon request" limitation.
 - The FCC will consider the simplicity and ease of use of the mechanism in determining whether an activation mechanism is "reasonably comparable" to a button, key, or icon.
 - Examples of reasonably comparable mechanisms include: a dedicated button, key, or icon; voice commands (for video description, but not closed captioning); simple and easy to use gestures; and a single step activation from the same location as the volume controls.
 - In contrast, having to turn off the device in order to access the closed captioning activation mechanism through another menu would not be a reasonably comparable mechanism.
- Compliance deadline. Entities covered by the rules applicable to navigation devices must comply no later than December 20, 2016, except as noted below. 47 C.F.R. §§ 79.108(b); 79.109(c).

- The following covered entities are subject to a 2-year deferred compliance deadline (*i.e.*, they must comply no later than December 20, 2018):
 - MVPD operators with 400,000 or fewer subscribers; and
 - MVPD systems with 20,000 or fewer subscribers that are not affiliated with an operator serving more than 10 percent of all MVPD subscribers as of year-end 2012. 47 C.F.R. §§ 79.108(b)(1)-(2); 79.109(c)(1)-(2).
- We will entertain individual requests for a limited extension of time to comply for MVPD operators with more than 400,000 subscribers and less than 2 million subscribers, if a requesting operator can demonstrate that it attempted in good faith to obtain a compliant accessible solution by the deadline, but that it was not feasible to do so.
- There are no restrictions on the importing, shipping, or sale of navigation devices manufactured before the applicable compliance deadline. Note 1 to 47 C.F.R. § 79.108(a)(1).

5. Achievability; Alternate Means of Compliance; Notification; and Verification

- Achievability. If a covered entity believes that it is not achievable for them to comply with the digital apparatus and navigation device accessibility, usability, or information, documentation, and training rules, they may either (i) seek a determination from the Commission that compliance with the rules is not achievable *before* manufacturing or importing the device; or (ii) raise as a defense that a particular device does not comply with the rules because compliance was not achievable when faced with a complaint or enforcement action for a violation of the requirements. 47 C.F.R. §§ 79.107(c)(1), 79.108(c)(1).
 - Achievability is defined as “with reasonable effort or expense,” and consists of a four factor test that equally considers:
 - the nature and cost of the steps needed to meet the requirements with respect to the device in question;
 - the technical and economic impact on the operation of the manufacturer or provider and on the operation of the device in question, including on the development and deployment of new communications technologies;
 - the type of operations of the manufacturer or provider; and
 - the extent to which the provider or manufacturer offers accessible devices with various functionality and features and at different price points. 47 C.F.R. §§ 79.107(c)(2)(i)-(iv); 79.108(c)(2)(i)-(iv).
- Alternate means of compliance. Entities covered by Section 204 of the CVAA may meet the requirements through means other than those prescribed by the digital apparatus rules. A covered entity that seeks to use an alternate means to comply with the requirements may either (i) request a Commission determination that the proposed alternate means of compliance satisfies the statutory requirements pursuant to Section 1.41 of our rules; or (ii)

claim in defense to a complaint or enforcement action that the Commission should determine that the entity's actions were a permissible alternate means of compliance.

- MVPD Notification. Under Section 205, MVPDs must notify consumers that navigation devices with the required accessibility features are available to consumers who are blind or visually impaired upon request. 47 C.F.R. § 79.108(d)(1).
 - When providing information about equipment options in response to a consumer inquiry about service, accessibility, or other issues, MVPDs must clearly and conspicuously inform consumers about the availability of accessible navigation devices. 47 C.F.R. § 79.108(d)(1)(i).
 - MVPDs must also provide notice on their official websites about the availability of accessible navigation devices. 47 C.F.R. § 79.108(d)(1)(ii).
 - MVPDs must prominently display information about accessible navigation devices and separate solutions on their websites in a way that makes such information available to all current and potential subscribers and in a format that is accessible to people with disabilities.
 - The notice must publicize the availability of accessible devices and separate solutions and explain the means for making requests for accessible equipment and the specific person, office, or entity to whom such requests are to be made.
 - The contact office or person listed on the website must be able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features.
- Manufacturer Notification. Manufacturers of digital apparatus and navigation devices must provide notice on their official websites about the availability of accessible devices. 47 C.F.R. §§ 79.107(e); 79.108(d)(2).
 - Manufacturers must prominently display information about accessible devices and solutions on their websites in a way that makes such information available to all consumers and in a format that is accessible to people with disabilities.
 - The notice for digital apparatus must publicize the availability of accessible devices and the specific person, office or entity who can answer consumer questions about which products contain the required accessibility features.
 - The notice for navigation devices must publicize the availability of accessible devices and separate solutions and explain the means for making requests for accessible equipment and the specific person, office, or entity to whom such requests are to be made.
 - The contact office or person listed on the website must be able to answer both general and specific questions about the availability of accessible equipment, including, if necessary, providing information to consumers or directing consumers to a place where they can locate information about how to activate and use accessibility features.

- Verification. Covered entities may only verify that a consumer requesting an accessible navigation device or accessibility solution pursuant to Section 205 is eligible for such equipment when the covered entity chooses to rely on an accessibility solution that involves providing the consumer with sophisticated equipment and/or services at a price that is lower than that offered to the general public. 47 C.F.R. § 79.108(e).
 - Covered entities must allow a consumer to provide a wide array of documentation to verify eligibility for the accessibility solution provided and must protect personal information gathered from consumers through their verification procedures. 47 C.F.R. § 79.108(e).

6. Procedures for Complaints Alleging Violation of the Accessibility Rules

- A complaint alleging a violation of the accessibility rules (47 C.F.R. §§ 79.107, 79.108, 79.109) must be filed with the Commission or with the covered entity within 60 days after the date the complainant experiences a problem relating to compliance with the requirements of these rules. 47 C.F.R. § 79.110(a).
- Complaints alleging a violation should include:
 - The complainant’s name, address, and other contact information, such as telephone number and email address;
 - the name and contact information of the covered entity;
 - information sufficient to identify the software or digital apparatus/navigation device used;
 - the date or dates on which the complainant purchased, acquired, or used, or tried to purchase, acquire, or use the digital apparatus/navigation device;
 - a statement of facts sufficient to show that the covered entity has violated, or is violating, the Commission’s rules;
 - the specific relief or satisfaction sought by the complainant;
 - the complainant’s preferred format or method of response to the complaint; and
 - if the complaint is filed pursuant to § 79.108, the date that the complainant requested an accessible navigation device and the person or entity to whom that request was directed. 47 C.F.R. §§ 79.110(a)(2)(i)-(viii).
- If a complaint is filed first with the Commission, the Commission will forward the complaint to the named covered entity for its response, as well as to any other entity that the Commission staff determines may be involved. The covered entity(ies) must respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission. 47 C.F.R. § 79.110(a)(3).
- If a complaint is filed first with the covered entity, the covered entity must respond in writing to the complainant within 30 days after receipt of a complaint. 47 C.F.R. § 79.110(a)(4).
 - If the covered entity fails to respond to the complainant within 30 days, or the response does not satisfy the consumer, the complainant may file the complaint with

the Commission within 30 days after the time allotted for the covered entity to respond.

- If the consumer subsequently files the complaint with the Commission (after filing with the covered entity), the Commission will forward the complaint to the named covered entity for its response, as well as to any other entity that Commission staff determines may be involved. The covered entity must then respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.
- In response to a complaint, a covered entity must file with the Commission sufficient records and documentation to prove that it was (and remains) in compliance with the Commission's rules. If the covered entity admits that it was not, or is not, in compliance, it must file with the Commission sufficient records and documentation to explain the reasons for its noncompliance, show what remedial steps it has taken or will take, and show why such steps have been or will be sufficient to remediate the problem. 47 C.F.R. § 79.110(a)(5).
- A covered entity must make contact information available for the receipt and handling of complaints, and this information should be kept current and updated within 10 business days of any change. 47 C.F.R. § 79.110(b). The contact information must include:
 - the name of a person with primary responsibility for accessibility compliance issues; and
 - that person's title or office, telephone number, fax number, postal mailing address, and email address.

RECORDKEEPING

- The *Report and Order* adopts certain recordkeeping requirements, which are applicable to entities covered by the digital apparatus and navigation device accessibility rules. Specifically, the rules related to achievability, alternate means of compliance, complaint procedures, notification, and verification may require covered entities to make a filing and, thus, to make and keep records of the filings.

IMPACT ON SMALL BUSINESS

- The rules adopted pursuant to Sections 204 and 205 of the CVAA may disproportionately impact small MVPDs. As a result, the Commission has taken steps to minimize this impact on small entities, consistent with the statutory mandate. Covered entities have flexibility to choose the most cost-effective solution possible, and some solutions may be considerably less costly than others. The *Report and Order* adopts procedures enabling the Commission to grant exemptions to the digital apparatus and navigation device accessibility rules adopted pursuant to Sections 204 and 205 of the CVAA where a petitioner has shown that compliance is not achievable (*i.e.*, cannot be accomplished with reasonable effort or expense). Further, the *Report and Order* provides that entities covered by Section 204 of the CVAA may use

alternate means of compliance with the digital apparatus rules, while entities covered by Section 205 of the CVAA have “maximum flexibility” to select the manner of compliance with the navigation device rules. Finally, the *Report and Order* adopts a two-year delay in compliance for certain small and mid-sized MVPD operators and small MVPD systems. Individual entities, including smaller entities, may benefit from these provisions.

INTERNET LINKS

- Report and Order and Further Notice of Proposed Rulemaking – FCC 13-138

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-13-138A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-13-138A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-13-138A1.txt

- Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking – FCC 15-156

https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-156A1.docx

https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-156A1.pdf

https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-156A1.txt