

Union Calendar No. 323

111TH CONGRESS
2D SESSION

H. R. 3101

[Report No. 111-563]

To ensure that individuals with disabilities have access to emerging Internet Protocol-based communication and video programming technologies in the 21st century.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2009

Mr. MARKEY of Massachusetts introduced the following bill; which was referred to the Committee on Energy and Commerce

JULY 26, 2010

Additional sponsors: Ms. LINDA T. SÁNCHEZ of California, Ms. LEE of California, Mr. STARK, Mr. ISRAEL, Mr. RYAN of Ohio, Mr. VAN HOLLEN, Mr. LEWIS of Georgia, Mr. TOWNS, Mr. KANJORSKI, Mr. HINCHEY, Mr. GRIJALVA, Mr. HONDA, Mr. MORAN of Virginia, Mr. CARSON of Indiana, Ms. NORTON, Mrs. NAPOLITANO, Mr. BLUMENAUER, Ms. PINGREE of Maine, Ms. BORDALLO, Mr. ROTHMAN of New Jersey, Mr. PETERSON, Ms. MCCOLLUM, Mr. CLEAVER, Mr. CAPUANO, Mr. MCGOVERN, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. DOGGETT, Mrs. MALONEY, Mr. PAYNE, Ms. SLAUGHTER, Mr. BERMAN, Mr. CHANDLER, Mr. DAVIS of Tennessee, Mr. MOORE of Kansas, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. TIERNEY, Ms. KILROY, Ms. SCHAKOWSKY, Mr. HASTINGS of Florida, Mr. ENGEL, Mr. SCHIFF, Mr. MAFFEI, Ms. ROS-LEHTINEN, Mr. GRIFFITH, Mr. PALLONE, Mr. CONNOLLY of Virginia, Mrs. LOWEY, Ms. ESHOO, Ms. MATSUI, Ms. CLARKE, and Mr. CLAY

JULY 26, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 26, 2009]

A BILL

To ensure that individuals with disabilities have access to emerging Internet Protocol-based communication and video programming technologies in the 21st century.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Twenty-First Century Communications and Video Acces-*
 6 *sibility Act of 2010”.*

7 (b) *TABLE OF CONTENTS.*—

Sec. 1. Short title; table of contents.

Sec. 2. Limitation on liability.

Sec. 3. Proprietary technology.

TITLE I—COMMUNICATIONS ACCESS

Sec. 101. Definitions.

Sec. 102. Hearing aid compatibility.

Sec. 103. Relay services.

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

Sec. 105. Emergency Access Advisory Committee.

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

TITLE II—VIDEO PROGRAMMING

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

Sec. 202. Video description and closed captioning.

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

Sec. 204. User interfaces on digital apparatus.

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

Sec. 206. Definitions.

8 **SEC. 2. LIMITATION ON LIABILITY.**

9 (a) *IN GENERAL.*—*Except as provided in subsection*
 10 *(b), no person shall be liable for a violation of the require-*
 11 *ments of this Act (or of the provisions of the Communica-*
 12 *tions Act of 1934 that are amended or added by this Act)*
 13 *with respect to video programming, online content, applica-*
 14 *tions, services, advanced communications services, or equip-*

1 *ment used to provide or access advanced communications*
2 *services to the extent such person—*

3 *(1) transmits, routes, or stores in intermediate or*
4 *transient storage the communications made available*
5 *through the provision of advanced communications*
6 *services by a third party; or*

7 *(2) provides an information location tool, such*
8 *as a directory, index, reference, pointer, menu, guide,*
9 *user interface, or hypertext link, through which an*
10 *end user obtains access to such video programming,*
11 *online content, applications, services, advanced com-*
12 *munications services, or equipment used to provide or*
13 *access advanced communications services.*

14 *(b) EXCEPTION.—The limitation on liability under*
15 *subsection (a) shall not apply to any person to the extent*
16 *such person relies on third party applications, services, soft-*
17 *ware, hardware, or equipment to comply with the require-*
18 *ments of this Act (or of the provisions of the Communica-*
19 *tions Act of 1934 that are amended or added by this Act).*

20 **SEC. 3. PROPRIETARY TECHNOLOGY.**

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

1 **TITLE I—COMMUNICATIONS**
2 **ACCESS**

3 **SEC. 101. DEFINITIONS.**

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

6 *(1) by adding at the end the following new para-*
7 *graphs:*

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

11 “(A) *interconnected VoIP service;*

12 “(B) *non-interconnected VoIP service;*

13 “(C) *electronic messaging service; and*

14 “(D) *video conferencing service.*

15 “(54) *CONSUMER GENERATED MEDIA.—The term*
16 *‘consumer generated media’ means content created*
17 *and made available by consumers to web sites, includ-*
18 *ing video, audio, and multimedia content.*

19 “(55) *DISABILITY.—The term ‘disability’ has the*
20 *meaning given such term under section 3 of the Amer-*
21 *icans with Disabilities Act of 1990 (42 U.S.C.*
22 *12102).*

23 “(56) *ELECTRONIC MESSAGING SERVICE.—The*
24 *term ‘electronic messaging service’ means a service*

1 *that provides non-voice messages in text form between*
 2 *individuals over communications networks.*

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

8 “(58) *NON-INTERCONNECTED VOIP SERVICE.*—
 9 *The term ‘non-interconnected VoIP service’—*

10 “(A) *means a service that—*

11 “(i) *enables real-time voice commu-*
 12 *nications that originate from or terminate*
 13 *to the user’s location using Internet protocol*
 14 *or any successor protocol; and*

15 “(ii) *requires Internet protocol compat-*
 16 *ible customer premises equipment; and*

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

19 “(59) *VIDEO CONFERENCING SERVICE.*—*The*
 20 *term ‘video conferencing service’ means a service that*
 21 *provides real-time video communications, including*
 22 *audio, to enable users to share information of the*
 23 *user’s choosing.”; and*

24 (2) *by reordering paragraphs (1) through (52)*
 25 *and the paragraphs added by paragraph (1) of this*

1 *section in alphabetical order based on the headings of*
 2 *such paragraphs and renumbering such paragraphs*
 3 *as so reordered.*

4 **SEC. 102. HEARING AID COMPATIBILITY.**

5 *(a) COMPATIBILITY REQUIREMENTS.—*

6 *(1) TELEPHONE SERVICE FOR THE DISABLED.—*

7 *Section 710(b)(1) of the Communications Act of 1934*
 8 *(47 U.S.C. 610(b)(1)) is amended to read as follows:*

9 *“(b)(1) Except as provided in paragraphs (2) and (3)*
 10 *and subsection (c), the Commission shall require that cus-*
 11 *tomers premises equipment described in this paragraph pro-*
 12 *vide internal means for effective use with hearing aids that*
 13 *are designed to be compatible with telephones which meet*
 14 *established technical standards for hearing aid compat-*
 15 *ibility. Customer premises equipment described in this*
 16 *paragraph are the following:*

17 *“(A) All essential telephones.*

18 *“(B) All telephones manufactured in the United*
 19 *States (other than for export) more than one year*
 20 *after the date of enactment of the Hearing Aid Com-*
 21 *patibility Act of 1988 or imported for use in the*
 22 *United States more than one year after such date.*

23 *“(C) All customer premises equipment used with*
 24 *advanced communications services that is designed to*
 25 *provide 2-way voice communications via a built-in*

1 *speaker intended to be held to the ear in a manner*
 2 *functionally equivalent to a telephone, subject to the*
 3 *regulations prescribed by the Commission under sub-*
 4 *section (e).”.*

5 (2) *ADDITIONAL AMENDMENTS.—Section 710(b)*
 6 *of the Communications Act of 1934 (47 U.S.C.*
 7 *610(b)) is further amended—*

8 *(A) in paragraph (2)—*

9 *(i) in subparagraph (A)—*

10 *(I) in the matter preceding clause*

11 *(i)—*

12 *(aa) by striking “initial”;*

13 *(bb) by striking “of this sub-*
 14 *section after the date of enactment*
 15 *of the Hearing Aid Compatibility*
 16 *Act of 1988”; and*

17 *(cc) by striking “paragraph*
 18 *(1)(B) of this subsection” and in-*
 19 *serting “subparagraphs (B) and*
 20 *(C) of paragraph (1)”;*

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

23 *(III) by striking clause (iii); and*

24 *(IV) by redesignating clause (iv)*
 25 *as clause (iii);*

1 (ii) by striking subparagraph (B) and
2 redesignating subparagraph (C) as subpara-
3 graph (B); and

4 (iii) in subparagraph (B) (as so redes-
5 ignated)—

6 (I) by striking the first sentence
7 and inserting “The Commission shall
8 periodically assess the appropriateness
9 of continuing in effect the exemptions
10 for telephones and other customer
11 premises equipment described in sub-
12 paragraph (A) of this paragraph.”;
13 and

14 (II) in each of clauses (iii) and
15 (iv), by striking “paragraph (1)(B)”
16 and inserting “subparagraph (B) or
17 (C) of paragraph (1)”;
18 (B) in paragraph (4)(B)—

19 (i) by striking “public mobile” and in-
20 serting “telephones used with public mo-
21 bile”;

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

1 (iii) by striking “and” after “public
2 land mobile telephone service,” and insert-
3 ing “or”;

4 (iv) by striking “part 22 of”; and

5 (v) by inserting after “Regulations”
6 the following: “, or any functionally equiva-
7 lent unlicensed wireless services”; and
8 (C) in paragraph (4)(C)—

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

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

15 (b) *TECHNICAL STANDARDS.*—Section 710(c) of the
16 *Communications Act of 1934 (47 U.S.C. 610(c))* is amended
17 by adding at the end the following: “A telephone or other
18 customer premises equipment that is compliant with rel-
19 evant technical standards developed through a public par-
20 ticipation process and in consultation with interested con-
21 sumer stakeholders (designated by the Commission for the
22 purposes of this section) will be considered hearing aid com-
23 patible for purposes of this section, until such time as the
24 Commission may determine otherwise. The Commission
25 shall consult with the public, including people with hearing

1 *loss, in establishing or approving such technical standards.*
 2 *The Commission may delegate this authority to an em-*
 3 *ployee pursuant to section 5(c). The Commission shall re-*
 4 *main the final arbiter as to whether the standards meet the*
 5 *requirements of this section.”.*

6 (c) *RULEMAKING.—Section 710(e) of the Communica-*
 7 *tions Act of 1934 (47 U.S.C. 610(e)) is amended—*

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

10 (2) *by adding at the end the following sentence:*

11 *“In implementing the provisions of subsection*
 12 *(b)(1)(C), the Commission shall use appropriate time-*
 13 *tables or benchmarks to the extent necessary (1) due*
 14 *to technical feasibility, or (2) to ensure the market-*
 15 *ability or availability of new technologies to users.”.*

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

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

1 **SEC. 103. RELAY SERVICES.**

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

5 “(3) *TELECOMMUNICATIONS RELAY SERVICES.*—
6 The term ‘telecommunications relay services’ means
7 telephone transmission services that provide the abil-
8 ity for an individual who is deaf, hard of hearing,
9 deaf-blind, or who has a speech disability to engage
10 in communication by wire or radio with one or more
11 individuals, in a manner that is functionally equiva-
12 lent to the ability of a hearing individual who does
13 not have a speech disability to communicate using
14 voice communication services by wire or radio.”.

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

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

19 “Within one year after the date of enactment of the
20 Twenty-First Century Communications and Video Accessi-
21 bility Act of 2010, each interconnected VoIP service pro-
22 vider and each provider of non-interconnected VoIP service
23 shall participate in and contribute to the Telecommuni-
24 cations Relay Services Fund established in section
25 64.604(c)(5)(iii) of title 47, Code of Federal Regulations,
26 as in effect on the date of enactment of such Act, in a man-

1 *ner prescribed by the Commission by regulation to provide*
 2 *for obligations of such providers that are consistent with*
 3 *and comparable to the obligations of other contributors to*
 4 *such Fund.”.*

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

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

11 *“(1) IN GENERAL.—Not later than 6 months*
 12 *after the date of enactment of the Twenty-First Cen-*
 13 *tury Communications and Video Accessibility Act of*
 14 *2010, the Chairman of the Commission shall establish*
 15 *an advisory committee to be known as the Tele-*
 16 *communications Relay Services Policy Advisory*
 17 *Council (in this section referred to as the ‘Policy Ad-*
 18 *visory Council’) and shall require the Policy Advisory*
 19 *Council—*

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

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

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

4 “(D) to advise the Commission in the devel-
5 opment or proposal of any major changes or new
6 rules relating to telecommunications relay serv-
7 ices;

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

16 “(A) Individuals who are consumers of tele-
17 communications relay services.

18 “(B) Representatives of State commissions
19 with jurisdiction over intrastate telecommuni-
20 cations relay services.

21 “(C) Representatives of providers of tele-
22 communications relay services.

23 “(3) *COLLECTION AND DISSEMINATION OF INFOR-*
24 *MATION AND ADVICE.*—The Commission—

1 “(A) shall seek the advice of the Policy Ad-
 2 visory Council in assisting the Commission in
 3 developing or proposing any major changes or
 4 issuing any new rules relating to telecommuni-
 5 cations relay services; and

6 “(B) shall, with the advice of the Policy Ad-
 7 visory Council, make all regulations, rules, and
 8 orders relating to telecommunications relay serv-
 9 ices fully and easily accessible to consumers of
 10 such services.”.

11 (d) *FOLLOWUP PROCEEDING*.—Section 225 of the
 12 Communications Act of 1934 (47 U.S.C. 225), as amended
 13 by subsection (c), is further amended by adding after sub-
 14 section (h) the following new subsection:

15 “(i) *FOLLOWUP PROCEEDING*.—

16 “(1) *IN GENERAL*.—Not later than 30 months
 17 after the date of enactment of the Twenty-First Cen-
 18 tury Communications and Video Accessibility Act of
 19 2010, the Commission, in consultation with all rel-
 20 evant Federal agencies, shall submit to the Committee
 21 on Commerce, Science, and Transportation of the
 22 Senate and the Committee on Energy and Commerce
 23 of the House of Representatives a report—

24 “(A) concerning how the Commission is en-
 25 suring that telecommunications relay service cus-

tomers have access to improved technologies,
interoperability, and functionalities; and

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

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

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

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

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

“(a) ACCESS TO EQUIPMENT.—

“(1) RIGHT TO ACCESSIBLE EQUIPMENT.—With
respect to equipment manufactured after the effective
date of the regulations established pursuant to this
section, and subject to those regulations, a manufac-

1 *turer of equipment used for advanced communica-*
2 *tions, including end user equipment, network equip-*
3 *ment, and software, shall ensure that such equipment*
4 *that such manufacturer offers for sale or otherwise*
5 *distributes in interstate commerce shall be accessible*
6 *to and usable by individuals with disabilities, unless*
7 *doing so is not achievable.*

8 “(2) *INDUSTRY FLEXIBILITY.*—A manufacturer
9 *of equipment may satisfy the requirements of para-*
10 *graph (1) with respect to such equipment by—*

11 “(A) *ensuring that the equipment that such*
12 *manufacturer offers is accessible to and usable by*
13 *individuals with disabilities without the use of*
14 *third party applications, peripheral devices, soft-*
15 *ware, hardware, or customer premises equip-*
16 *ment; or*

17 “(B) *if such manufacturer chooses, using*
18 *third party applications, peripheral devices, soft-*
19 *ware, hardware, or customer premises equipment*
20 *that is available to the consumer at nominal cost*
21 *and that individuals with disabilities can access.*

22 “(b) *ACCESS TO SERVICES.*—

23 “(1) *RIGHT TO ACCESSIBLE SERVICES.*—With re-
24 *spect to advanced communications services offered*
25 *after the effective date of the regulations established*

1 *pursuant to this section, and subject to those regula-*
2 *tions, a provider of services used for advanced com-*
3 *munications shall ensure that such services that such*
4 *provider offers for sale or otherwise distributes in*
5 *interstate commerce shall be accessible to and usable*
6 *by individuals with disabilities, unless doing so is not*
7 *achievable.*

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

11 “(A) *ensuring that the services that such*
12 *provider offers are accessible to and usable by in-*
13 *dividuals with disabilities without the use of*
14 *third party applications, peripheral devices, soft-*
15 *ware, hardware, or customer premises equip-*
16 *ment; or*

17 “(B) *if such provider chooses, using third*
18 *party applications, peripheral devices, software,*
19 *hardware, or customer premises equipment that*
20 *is available to the consumer at nominal cost and*
21 *that individuals with disabilities can access.*

22 “(c) *COMPATIBILITY.*—Whenever the requirements of
23 *subsection (a) are not achievable for a manufacturer, or the*
24 *requirements of subsection (b) are not achievable for a pro-*
25 *vider, a manufacturer or provider shall ensure that its*

1 *equipment or service is compatible with peripheral devices*
 2 *or specialized customer premises equipment commonly used*
 3 *by individuals with disabilities to achieve access, unless the*
 4 *requirement of this subsection is not achievable.*

5 “(d) *NETWORK FEATURES, FUNCTIONS, AND CAPA-*
 6 *BILITIES.—Each provider of advanced communications*
 7 *services has the duty not to install network features, func-*
 8 *tions, or capabilities that impede accessibility or usability*
 9 *of advanced communications services.*

10 “(e) *REGULATIONS.—*

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

17 “(A) *include performance objectives to en-*
 18 *sure the accessibility, usability, and compat-*
 19 *ibility of advanced communications services and*
 20 *the equipment used for advanced communica-*
 21 *tions services by individuals with disabilities;*

22 “(B) *provide that advanced communica-*
 23 *tions services, the equipment used for advanced*
 24 *communications services, and networks used to*
 25 *provide advanced communications services may*

1 *not impair or impede the accessibility of infor-*
2 *mation content when accessibility has been in-*
3 *corporated into that content for transmission*
4 *through advanced communications services,*
5 *equipment used for advanced communications*
6 *services, or networks used to provide advanced*
7 *communications services; and*

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

11 “(2) *PROSPECTIVE GUIDELINES.—The Commis-*
12 *sion shall issue prospective guidelines for a manufac-*
13 *turer or provider regarding the requirements of this*
14 *section.*

15 “(f) *SERVICES AND EQUIPMENT SUBJECT TO SECTION*
16 *255.—The requirements of this section shall not apply to*
17 *any equipment or services, including interconnected VoIP*
18 *service, that are subject to the requirements of section 255*
19 *on the day before the date of enactment of the Twenty-First*
20 *Century Communications and Video Accessibility Act of*
21 *2010. Such services and equipment shall remain subject to*
22 *the requirements of section 255.*

23 “(g) *ACHIEVABLE DEFINED.—For purposes of this sec-*
24 *tion and section 717, the term ‘achievable’ means with rea-*
25 *sonable effort or expense, as determined by the Commission.*

1 *In determining whether the requirements of a provision are*
2 *achievable, the Commission shall consider the following fac-*
3 *tors:*

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

7 “(2) *The impact on the operations of the manu-*
8 *facturer or provider and on the operation of the spe-*
9 *cific equipment or service in question, including on*
10 *the development and deployment of new communica-*
11 *tions technologies.*

12 “(3) *The financial resources of the manufacturer*
13 *or provider.*

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

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

21 “(h) *COMMISSION FLEXIBILITY.—*

22 “(1) *WAIVER.—The Commission shall have the*
23 *authority, on its own motion or in response to a peti-*
24 *tion by a manufacturer or provider, to waive the re-*
25 *quirements of this section for any feature or function*

1 *of equipment used to provide or access advanced com-*
 2 *munications services, or for any class of such equip-*
 3 *ment, that—*

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

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

9 *“(2) SMALL ENTITY EXEMPTION.—The Commis-*
 10 *sion may exempt small entities from the requirements*
 11 *of this section.*

12 *“(i) CUSTOMIZED EQUIPMENT OR SERVICES.—The*
 13 *provisions of this section shall not apply to customized*
 14 *equipment or services that are not offered directly to the*
 15 *public, or to such classes of users as to be effectively avail-*
 16 *able directly to the public, regardless of the facilities used.*

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

22 **“SEC. 717. ENFORCEMENT AND RECORDKEEPING OBLIGA-**
 23 **TIONS.**

24 *“(a) COMPLAINT AND ENFORCEMENT PROCEDURES.—*
 25 *Within one year after the date of enactment of the Twenty-*

1 *First Century Communications and Video Accessibility Act*
 2 *of 2010, the Commission shall establish regulations that fa-*
 3 *cilitate the filing of formal and informal complaints that*
 4 *allege a violation of section 255 or 716, establish procedures*
 5 *for enforcement actions by the Commission with respect to*
 6 *such violations, and implement the recordkeeping obliga-*
 7 *tions of paragraph (5) for manufacturers and providers*
 8 *subject to such sections. Such regulations shall include the*
 9 *following provisions:*

10 “(1) *NO FEE.*—*The Commission shall not charge*
 11 *any fee to an individual who files a complaint alleg-*
 12 *ing a violation of section 255 or 716.*

13 “(2) *RECEIPT OF COMPLAINTS.*—*The Commis-*
 14 *sion shall establish separate and identifiable elec-*
 15 *tronic, telephonic, and physical receptacles for the re-*
 16 *ceipt of complaints filed under section 255 or 716.*

17 “(3) *COMPLAINTS TO THE COMMISSION.*—

18 “(A) *IN GENERAL.*—*Any person alleging a*
 19 *violation of section 255 or 716 by a manufac-*
 20 *turer of equipment or provider of service subject*
 21 *to such sections may file a formal or informal*
 22 *complaint with the Commission.*

23 “(B) *INVESTIGATION OF INFORMAL COM-*
 24 *PLAINT.*—*The Commission shall investigate the*
 25 *allegations in an informal complaint and, with-*

1 *in 180 days after the date on which such com-*
2 *plaint was filed with the Commission, issue an*
3 *order concluding the investigation, unless such*
4 *complaint is resolved before such time. The order*
5 *shall include a determination whether any viola-*
6 *tion occurred.*

7 “(i) *VIOLATION.*—*If the Commission*
8 *determines that a violation has occurred,*
9 *the Commission may, in the order issued*
10 *under this subparagraph or in a subsequent*
11 *order, require the manufacturer or service*
12 *provider to take such action as is necessary*
13 *to comply with the requirements of this sec-*
14 *tion.*

15 “(ii) *NO VIOLATION.*—*If a determina-*
16 *tion is made that a violation has not oc-*
17 *curred, the Commission shall provide the*
18 *basis for such determination.*

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

23 “(4) *OPPORTUNITY TO RESPOND.*—*Before the*
24 *Commission makes a determination pursuant to*
25 *paragraph (3), the party that is the subject of the*

1 *complaint shall have a reasonable opportunity to re-*
2 *spond to such complaint, and may include in such re-*
3 *sponse any factors that are relevant to such deter-*
4 *mination.*

5 “(5) *RECORDKEEPING.*—

6 “(A) *IN GENERAL.*—Beginning one year
7 after the effective date of regulations promulgated
8 pursuant to section 716(e), each manufacturer
9 and provider subject to sections 255 and 716
10 shall maintain, in the ordinary course of busi-
11 ness and for a reasonable period, records of any
12 efforts taken by such manufacturer or provider to
13 implement sections 255 and 716, including the
14 following:

15 “(i) *Information about the manufac-*
16 *turer’s or provider’s efforts to consult with*
17 *individuals with disabilities.*

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

20 “(iii) *Information about the compat-*
21 *ibility of such products and services with*
22 *peripheral devices or specialized customer*
23 *premise equipment commonly used by indi-*
24 *viduals with disabilities to achieve access.*

1 “(B) *SUBMISSION OF ANNUAL CERTIFI-*
2 *CATION.—An officer of a manufacturer or pro-*
3 *vider shall submit to the Commission an annual*
4 *certification that records are being kept in ac-*
5 *cordance with subparagraph (A).*

6 “(C) *COMMISSION REQUEST FOR*
7 *RECORDS.—After the filing of a formal or infor-*
8 *mal complaint against a manufacturer or pro-*
9 *vider in the manner prescribed in paragraph*
10 *(3), the Commission may request, and shall keep*
11 *confidential, a copy of the records maintained by*
12 *such manufacturer or provider pursuant to sub-*
13 *paragraph (A) of this paragraph that are di-*
14 *rectly relevant to the equipment or service that*
15 *is the subject of such complaint.*

16 “(6) *FAILURE TO ACT.—If the Commission fails*
17 *to carry out any of its responsibilities to act upon a*
18 *complaint in the manner prescribed in paragraph*
19 *(3), the person that filed such complaint may bring*
20 *an action in the nature of mandamus in the United*
21 *States Court of Appeals for the District of Columbia*
22 *to compel the Commission to carry out any such re-*
23 *sponsibility.*

24 “(7) *COMMISSION JURISDICTION.—The limita-*
25 *tions of section 255(f) shall apply to any claim that*

1 *alleges a violation of section 255 or 716. Nothing in*
2 *this paragraph affects or limits any action for man-*
3 *damus under paragraph (6) or any appeal pursuant*
4 *to section 402(b)(10).*

5 *“(8) PRIVATE RESOLUTIONS OF COMPLAINTS.—*
6 *Nothing in the Commission’s rules or this Act shall*
7 *be construed to preclude a person who files a com-*
8 *plaint and a manufacturer or provider from resolving*
9 *a formal or informal complaint prior to the Commis-*
10 *sion’s final determination in a complaint proceeding.*
11 *In the event of such a resolution, the parties shall*
12 *jointly request dismissal of the complaint and the*
13 *Commission shall grant such request.*

14 *“(b) REPORTS TO CONGRESS.—*

15 *“(1) IN GENERAL.—Every two years after the*
16 *date of enactment of the Twenty-First Century Com-*
17 *munications and Video Accessibility Act of 2010, the*
18 *Commission shall submit to the Committee on Com-*
19 *merce, Science, and Transportation of the Senate and*
20 *the Committee on Energy and Commerce of the House*
21 *of Representatives a report that includes the fol-*
22 *lowing:*

23 *“(A) An assessment of the level of compli-*
24 *ance with sections 255 and 716.*

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

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

7 “(D) *A description of the actions taken to*
8 *resolve such complaints under this section, in-*
9 *cluding forfeiture penalties assessed.*

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

12 “(F) *The number, status, nature, and out-*
13 *come of any actions for mandamus filed pursu-*
14 *ant to subsection (a)(6) and the number, status,*
15 *nature, and outcome of any appeals filed pursu-*
16 *ant to section 402(b)(10).*

17 “(G) *An assessment of the effect of the re-*
18 *quirements of this section on the development*
19 *and deployment of new communications tech-*
20 *nologies.*

21 “(2) *PUBLIC COMMENT REQUIRED.—The Com-*
22 *mission shall seek public comment on its tentative*
23 *findings prior to submission to the Committees of the*
24 *report under this subsection.*

1 “(c) COMPTROLLER GENERAL ENFORCEMENT
2 STUDY.—

3 “(1) IN GENERAL.—*The Comptroller General*
4 *shall conduct a study to consider and evaluate the fol-*
5 *lowing:*

6 “(A) *The Commission’s compliance with the*
7 *requirements of this section, including the Com-*
8 *mission’s level of compliance with the deadlines*
9 *established under and pursuant to this section*
10 *and deadlines for acting on complaints pursuant*
11 *to subsection (a).*

12 “(B) *Whether the enforcement actions taken*
13 *by the Commission pursuant to this section have*
14 *been appropriate and effective in ensuring com-*
15 *pliance with this section.*

16 “(C) *Whether the enforcement provisions*
17 *under this section are adequate to ensure compli-*
18 *ance with this section.*

19 “(D) *An assessment of the effect of the re-*
20 *quirements of this section on the development*
21 *and deployment of new communications tech-*
22 *nologies.*

23 “(2) REPORT.—*Not later than 5 years after the*
24 *date of enactment of the Twenty-First Century Com-*
25 *munications and Video Accessibility Act of 2010, the*

1 *Comptroller General shall submit to the Committee on*
2 *Commerce, Science, and Transportation of the Senate*
3 *and the Committee on Energy and Commerce of the*
4 *House of Representatives a report on the results of the*
5 *study required by paragraph (1), with recommenda-*
6 *tions for how the enforcement process and measures*
7 *under this section may be modified or improved.*

8 *“(d) CLEARINGHOUSE.—Within one year after the*
9 *date of enactment of the Twenty-First Century Communica-*
10 *tions and Video Accessibility Act of 2010, the Commission*
11 *shall, in consultation with the Architectural and Transpor-*
12 *tation Barriers Compliance Board, the National Tele-*
13 *communications and Information Administration, trade*
14 *associations, and organizations representing individuals*
15 *with disabilities, establish a clearinghouse of information*
16 *on the availability of accessible products and services and*
17 *accessibility solutions required under sections 255 and 716.*
18 *Such information shall be made publicly available on the*
19 *Commission’s website and by other means, and shall in-*
20 *clude an annually updated list of products and services*
21 *with access features.*

22 *“(e) OUTREACH AND EDUCATION.—Upon establish-*
23 *ment of the clearinghouse of information required under*
24 *subsection (d), the Commission, in coordination with the*
25 *National Telecommunications and Information Adminis-*

1 *tration, shall conduct an informational and educational*
 2 *program designed to inform the public about the avail-*
 3 *ability of the clearinghouse and the protections and rem-*
 4 *edies available under sections 255 and 716.*

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

7 *“(a) ACCESSIBILITY.—If a manufacturer of a tele-*
 8 *phone used with public mobile services (as such term is de-*
 9 *fined in section 710(b)(4)(B)) includes an Internet browser*
 10 *in such telephone, or if a provider of mobile service arranges*
 11 *for the inclusion of a browser in telephones to sell to cus-*
 12 *tomers, the manufacturer or provider shall ensure that the*
 13 *functions of the included browser (including the ability to*
 14 *launch the browser) are accessible to and usable by individ-*
 15 *uals who are blind or have a visual impairment, unless*
 16 *doing so is not achievable, except that this subsection shall*
 17 *not impose any requirement on such manufacturer or pro-*
 18 *vider—*

19 *“(1) to make accessible or usable any Internet*
 20 *browser other than a browser that such manufacturer*
 21 *or provider includes or arranges to include in the*
 22 *telephone; or*

23 *“(2) to make Internet content, applications, or*
 24 *services accessible or usable (other than enabling indi-*

1 *viduals with disabilities to use an included browser to*
 2 *access such content, applications or services).*

3 “(b) *INDUSTRY FLEXIBILITY.*—*A manufacturer or pro-*
 4 *vider may satisfy the requirements of subsection (a) with*
 5 *respect to such telephone or services by—*

6 “(1) *ensuring that the telephone or services that*
 7 *such manufacture or provider offers is accessible to*
 8 *and usable by individuals with disabilities without*
 9 *the use of third party applications, peripheral de-*
 10 *vices, software, hardware, or customer premises equip-*
 11 *ment; or*

12 “(2) *using third party applications, peripheral*
 13 *devices, software, hardware, or customer premises*
 14 *equipment that is available to the consumer at nomi-*
 15 *nal cost and that individuals with disabilities can ac-*
 16 *cess.”.*

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

21 (c) *TITLE V AMENDMENTS.*—*Section 503(b)(2) of such*
 22 *Act (47 U.S.C. 503(b)(2)) is amended by adding after sub-*
 23 *paragraph (E) the following:*

24 “(F) *Subject to paragraph (5) of this section, if the*
 25 *violator is a manufacturer or service provider subject to the*

1 requirements of section 255 or 716, and is determined by
 2 the Commission to have violated any such requirement, the
 3 manufacturer or provider shall be liable to the United
 4 States for a forfeiture penalty of not more than \$100,000
 5 for each violation or each day of a continuing violation,
 6 except that the amount assessed for any continuing viola-
 7 tion shall not exceed a total of \$1,000,000 for any single
 8 act or failure to act.”.

9 (d) *REVIEW OF COMMISSION DETERMINATIONS.*—Sec-
 10 tion 402(b) of such Act (47 U.S.C. 402(b)) is amended by
 11 adding the following new paragraph:

12 “(10) By any person who is aggrieved or whose inter-
 13 ests are adversely affected by a determination made by the
 14 Commission under section 717(a)(3).”.

15 **SEC. 105. EMERGENCY ACCESS ADVISORY COMMITTEE.**

16 (a) *ESTABLISHMENT.*—For the purpose of achieving
 17 equal access to emergency services by individuals with dis-
 18 abilities, as a part of the migration to a national Internet
 19 protocol-enabled emergency network, not later than 60 days
 20 after the date of enactment of this Act, the Chairman of
 21 the Commission shall establish an advisory committee, to
 22 be known as the Emergency Access Advisory Committee (re-
 23 ferred to in this section as the “Advisory Committee”).

24 (b) *MEMBERSHIP.*—As soon as practicable after the
 25 date of enactment of this Act, the Chairman of the Commis-

1 sion shall appoint the members of the Advisory Committee,
 2 ensuring a balance between individuals with disabilities
 3 and other stakeholders, and shall designate two such mem-
 4 bers as the co-chairs of the Committee. Members of the Advi-
 5 sory Committee shall be selected from the following groups:

6 (1) *STATE AND LOCAL GOVERNMENT AND EMER-*
 7 *GENCY RESPONDER REPRESENTATIVES.*—Representa-
 8 *tives of State and local governments and representa-*
 9 *tives of emergency response providers, selected from*
 10 *among individuals nominated by national organiza-*
 11 *tions representing such governments and representa-*
 12 *tives.*

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

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

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

23 (C) *national organizations representing in-*
 24 *dividuals with disabilities and senior citizens;*

1 (D) Federal agencies or departments re-
2 sponsible for the implementation of the Next
3 Generation E 9–1–1 system;

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

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

8 (3) REPRESENTATIVES OF OTHER STAKE-
9 HOLDERS AND INTERESTED PARTIES.—Representa-
10 tives of such other stakeholders and interested and af-
11 fected parties as the Chairman of the Commission de-
12 termines appropriate.

13 (c) DEVELOPMENT OF RECOMMENDATIONS.—Within
14 one year after the completion of the member appointment
15 process by the Chairman of the Commission pursuant to
16 subsection (b), the Advisory Committee shall develop and
17 submit to the Commission recommendations to implement
18 such technologies and methods, including recommenda-
19 tions—

20 (1) with respect to what actions are necessary as
21 a part of the migration to a national Internet pro-
22 tocol-enabled network to achieve reliable, interoperable
23 communication transmitted over such network that
24 will ensure access to emergency services by individ-
25 uals with disabilities;

1 (2) for protocols, technical capabilities, and tech-
2 nical requirements to ensure reliability and interoper-
3 ability necessary to ensure access to emergency serv-
4 ices by individuals with disabilities;

5 (3) for the establishment of technical standards
6 for use by public safety answering points, designated
7 default answering points, and local emergency au-
8 thorities;

9 (4) for relevant technical standards and require-
10 ments for communication devices and equipment and
11 technologies to enable the use of reliable emergency ac-
12 cess;

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

17 (6) for deadlines by which providers of inter-
18 connected and non-interconnected VoIP services and
19 manufacturers of equipment used for such services
20 shall achieve the actions required in paragraphs (1)
21 through (5), and for the possible phase out of the use
22 of current-generation TTY technology to the extent
23 that this technology is replaced with more effective
24 and efficient technologies and methods to enable access

1 to emergency services by individuals with disabilities;
2 and

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

12 (d) *MEETINGS.*—

13 (1) *INITIAL MEETING.*—The initial meeting of
14 the Advisory Committee shall take place not later
15 than 45 days after the completion of the member ap-
16 pointment process by the Chairman of the Commis-
17 sion pursuant to subsection (b).

18 (2) *OTHER MEETINGS.*—After the initial meet-
19 ing, the Advisory Committee shall meet at the call of
20 the chairs, but no less than monthly until the rec-
21 ommendations required pursuant to subsection (c) are
22 completed and submitted.

23 (3) *NOTICE; OPEN MEETINGS.*—Any meetings
24 held by the Advisory Committee shall be duly noticed

1 *at least 14 days in advance and shall be open to the*
2 *public.*

3 *(e) PROCEDURAL RULES.—*

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

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

12 *(3) ADDITIONAL PROCEDURAL RULES.—The Ad-*
13 *visory Committee may adopt other procedural rules*
14 *as needed.*

15 *(f) FEDERAL ADVISORY COMMITTEE ACT.—The Fed-*
16 *eral Advisory Committee Act (5 U.S.C. App.) shall not*
17 *apply to the Advisory Committee.*

18 *(g) IMPLEMENTING RECOMMENDATIONS.—The Com-*
19 *mission shall have the authority to promulgate regulations*
20 *to implement the recommendations proposed by the Advi-*
21 *sory Committee, as well as any other regulations as are nec-*
22 *essary to achieve reliable, interoperable communication that*
23 *ensures access by individuals with disabilities to an Inter-*
24 *net protocol-enabled emergency network.*

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

10 (i) *DEFINITIONS.*—In this section—

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

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

15 (3) except as otherwise expressly provided, other
 16 terms have the meanings given such terms in section
 17 3 of the Communications Act of 1934 (47 U.S.C.
 18 153).

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

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

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

24 “(a) *IN GENERAL.*—Within 6 months after the date
 25 of enactment of the Twenty-First Century Communications

1 *and Video Accessibility Act of 2010, the Commission shall*
 2 *establish rules that define as eligible for relay service sup-*
 3 *port those programs that are approved by the Commission*
 4 *for the distribution of specialized customer premises equip-*
 5 *ment designed to make telecommunications service, Internet*
 6 *access service, and advanced communications, including*
 7 *interexchange services and advanced telecommunications*
 8 *and information services, accessible by low-income individ-*
 9 *uals who are deaf-blind.*

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

14 “(c) *ANNUAL AMOUNT.*—*The total amount of support*
 15 *the Commission may provide from its Telecommunications*
 16 *Relay Services Fund for any fiscal year may not exceed*
 17 *\$10,000,000.”.*

18 ***TITLE II—VIDEO PROGRAMMING***

19 ***SEC. 201. VIDEO PROGRAMMING AND EMERGENCY ACCESS*** 20 ***ADVISORY COMMITTEE.***

21 (a) *ESTABLISHMENT.*—*Not later than 60 days after*
 22 *the date of enactment of this Act, the Chairman shall estab-*
 23 *lish an advisory committee to be known as the Video Pro-*
 24 *gramming and Emergency Access Advisory Committee.*

1 (b) *MEMBERSHIP.*—As soon as practicable after the
2 date of enactment of this Act, the Chairman shall appoint
3 individuals who have the technical knowledge and engineer-
4 ing expertise to serve on the Advisory Committee in the ful-
5 fillment of its duties, including the following:

6 (1) *Representatives of distributors and providers*
7 *of video programming or national organizations rep-*
8 *resenting such distributors and providers.*

9 (2) *Representatives of vendors, developers, and*
10 *manufacturers of systems, facilities, equipment, and*
11 *capabilities for the provision of video programming*
12 *delivered using Internet protocol or a national orga-*
13 *nization representing such vendors, developers, or*
14 *manufacturers.*

15 (3) *Representatives of manufacturers of con-*
16 *sumer electronics or information technology equip-*
17 *ment or a national organization representing such*
18 *manufacturers.*

19 (4) *Representatives of national organizations*
20 *representing accessibility advocates, including indi-*
21 *viduals with disabilities and the elderly.*

22 (5) *Representatives of the broadcast television in-*
23 *dustry or a national organization representing such*
24 *industry.*

1 (6) *Other individuals with technical and engi-*
 2 *neering expertise, as the Chairman determines appro-*
 3 *priate.*

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

7 (d) *TECHNICAL STAFF.*—*The Commission shall ap-*
 8 *point a member of the Commission’s technical staff to pro-*
 9 *vide technical assistance to the Advisory Committee.*

10 (e) *DEVELOPMENT OF RECOMMENDATIONS.*—

11 (1) *CLOSED CAPTIONING REPORT.*—*Within 6*
 12 *months after the date of the first meeting of the Advi-*
 13 *sory Committee, the Advisory Committee shall develop*
 14 *and submit to the Commission a report that includes*
 15 *the following:*

16 (A) *An identification of the performance ob-*
 17 *jectives for protocols, technical capabilities, and*
 18 *technical procedures needed to permit content*
 19 *providers, content distributors, Internet service*
 20 *providers, software developers, and device manu-*
 21 *facturers to reliably encode, transport, receive,*
 22 *and render closed captions of video programming*
 23 *delivered using Internet protocol.*

24 (B) *An identification of additional proto-*
 25 *cols, technical capabilities, and technical proce-*

1 *dures beyond those available as of the date of en-*
2 *actment of this Act for the delivery of closed cap-*
3 *tions of video programming delivered using*
4 *Internet protocol that are necessary to meet the*
5 *performance objectives identified under subpara-*
6 *graph (A).*

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

13 *(2) VIDEO DESCRIPTION, EMERGENCY INFORMA-*
14 *TION, USER INTERFACES, AND VIDEO PROGRAMMING*
15 *GUIDES AND MENUS.—Within 18 months after the*
16 *date of enactment of this Act, the Advisory Committee*
17 *shall develop and submit to the Commission a report*
18 *that includes the following:*

19 *(A) An identification of the performance ob-*
20 *jectives for protocols, technical capabilities, and*
21 *technical procedures needed to permit content*
22 *providers, content distributors, Internet service*
23 *providers, software developers, and device manu-*
24 *facturers to reliably encode, transport, receive,*
25 *and render video descriptions of video program-*

1 *ming and emergency information delivered using*
2 *Internet protocol or digital broadcast television.*

3 *(B) An identification of additional proto-*
4 *cols, technical capabilities, and technical proce-*
5 *dures beyond those available as of the date of en-*
6 *actment of this Act for the delivery of video de-*
7 *scriptions of video programming and emergency*
8 *information delivered using Internet protocol*
9 *that are necessary to meet the performance objec-*
10 *tives identified under subparagraph (A).*

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

17 *(D) With respect to user interfaces, a rec-*
18 *ommendation for the standards, protocols, and*
19 *procedures used to enable the functions of appa-*
20 *ratus designed to receive or display video pro-*
21 *gramming transmitted simultaneously with*
22 *sound (including apparatus designed to receive*
23 *or display video programming transmitted by*
24 *means of services using Internet protocol) to be*

1 *accessible to and usable by individuals with dis-*
2 *abilities.*

3 *(E) With respect to user interfaces, a rec-*
4 *ommendation for the standards, protocols, and*
5 *procedures used to enable on-screen text menus*
6 *and other visual indicators used to access the*
7 *functions on an apparatus described in subpara-*
8 *graph (D) to be accompanied by audio output so*
9 *that such menus or indicators are accessible to*
10 *and usable by individuals with disabilities.*

11 *(F) A recommendation for the standards,*
12 *protocols, and procedures used to enable the selec-*
13 *tion of video programming information on an*
14 *apparatus or navigation device by means of a*
15 *guide or menu to be accessible in real-time by*
16 *individuals who are blind or have a visual im-*
17 *pairment.*

18 *(3) CONSIDERATION OF STANDARDS, PROTOCOLS,*
19 *AND PROCEDURES BY STANDARD-SETTING ORGANIZA-*
20 *TIONS.—The recommendations of the Advisory Com-*
21 *mittee shall, to the extent possible, incorporate the*
22 *standards, protocols, and procedures that have been*
23 *adopted by appropriate industry standard-setting or-*
24 *ganizations for the report requirements described in*
25 *paragraphs (1) and (2).*

1 (f) *MEETINGS.*—

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

6 (2) *OTHER MEETINGS.*—*After the initial meet-*
7 *ing, the Advisory Committee shall meet at the call of*
8 *the Chairman.*

9 (3) *NOTICE; OPEN MEETINGS.*—*Any meeting held*
10 *by the Advisory Committee shall be noticed at least*
11 *14 days before such meeting and shall be open to the*
12 *public.*

13 (g) *PROCEDURAL RULES.*—

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

18 (2) *SUBCOMMITTEES.*—*To assist the Advisory*
19 *Committee in carrying out its functions, the Chair-*
20 *man may establish appropriate subcommittees com-*
21 *posed of members of the Advisory Committee and*
22 *other subject matter experts.*

23 (3) *ADDITIONAL PROCEDURAL RULES.*—*The Ad-*
24 *visory Committee may adopt other procedural rules*
25 *as needed.*

1 (h) *FEDERAL ADVISORY COMMITTEE ACT.*—*The Fed-*
 2 *eral Advisory Committee Act (5 U.S.C. App.) shall not*
 3 *apply to the Advisory Committee.*

4 (i) *ADOPTION OF STANDARDS, PROTOCOLS, PROCE-*
 5 *DURES, AND OTHER TECHNICAL REQUIREMENTS.*—*Not*
 6 *later than 12 months after the date on which the Advisory*
 7 *Committee transmits its report under subsection (e)(2) to*
 8 *the Commission, the Commission shall take all actions nec-*
 9 *essary to adopt relevant technical standards, protocols, pro-*
 10 *cedures, and other technical requirements to ensure compat-*
 11 *ibility between video programming delivered using Internet*
 12 *protocol or digital broadcast television and devices capable*
 13 *of receiving and displaying such programming in order to*
 14 *facilitate access to emergency information.*

15 **SEC. 202. VIDEO DESCRIPTION AND CLOSED CAPTIONING.**

16 (a) *VIDEO DESCRIPTION.*—*Section 713 of the Commu-*
 17 *nications Act of 1934 (47 U.S.C. 613) is amended—*

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

19 (2) *by redesignating subsection (h) as subsection*
 20 *(j); and*

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

22 “(f) *VIDEO DESCRIPTION.*—

23 “(1) *REINSTATEMENT OF REGULATIONS.*—*On the*
 24 *day that is 1 year after the date of enactment of the*
 25 *Twenty-First Century Communications and Video*

1 *Accessibility Act of 2010, the Commission shall, after*
2 *a rulemaking, reinstate its video description regula-*
3 *tions contained in the Implementation of Video De-*
4 *scription of Video Programming Report and Order*
5 *(15 F.C.C.R. 15,230 (2000)), modified as provided in*
6 *paragraph (2).*

7 “(2) *MODIFICATIONS TO REINSTATED REGULA-*
8 *TIONS.—Such regulations shall be modified only as*
9 *follows:*

10 “(A) *The regulations shall apply to video*
11 *programming, as defined in subsection (i), inso-*
12 *far as such programming is transmitted for dis-*
13 *play on television in digital format.*

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

22 “(C) *The regulations may permit a pro-*
23 *vider of video programming or a program owner*
24 *to petition the Commission for an exemption*
25 *from the requirements of this section upon a*

1 *showing that the requirements contained in this*
2 *section would be economically burdensome.*

3 “(D) *The Commission may exempt from the*
4 *regulations established pursuant to paragraph*
5 *(1) a service, class of services, program, class of*
6 *programs, equipment, or class of equipment for*
7 *which the Commission has determined that the*
8 *application of such regulations would be eco-*
9 *nomically burdensome for the provider of such*
10 *service, program, or equipment.*

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

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

16 “(3) *INQUIRIES ON FURTHER VIDEO DESCRIPTION*
17 *REQUIREMENTS.—The Commission shall com-*
18 *mence the following inquiries not later than 1 year*
19 *after the completion of the phase-in of the reinstated*
20 *regulations and shall report to Congress 1 year there-*
21 *after on the findings for each of the following:*

22 “(A) *VIDEO DESCRIPTION IN TELEVISION*
23 *PROGRAMMING.—The availability, use, and bene-*
24 *fits of video description on video programming*
25 *distributed on television, the technical and cre-*

1 *ative issues associated with providing such video*
2 *description, and the financial costs of providing*
3 *such video description for providers of video pro-*
4 *gramming and program owners.*

5 *“(B) VIDEO DESCRIPTION IN VIDEO PRO-*
6 *GRAMMING DISTRIBUTED ON THE INTERNET.—*
7 *The technical and operational issues, costs, and*
8 *benefits of providing video descriptions for video*
9 *programming that is delivered using Internet*
10 *protocol.*

11 *“(4) CONTINUING COMMISSION AUTHORITY.—*

12 *“(A) IN GENERAL.—The Commission may*
13 *issue additional regulations if the Commission*
14 *determines, at least 2 years after completing the*
15 *reports required in paragraph (3), that the need*
16 *for and benefits of providing video descriptions*
17 *for video programming, insofar as such pro-*
18 *gramming is transmitted for display on tele-*
19 *vision, are greater than the technical and eco-*
20 *nomie costs of providing such additional pro-*
21 *gramming. If the Commission makes such a de-*
22 *termination and issues additional regulations,*
23 *the Commission may increase, in total, the hours*
24 *requirement for described video programming,*
25 *insofar as such programming is transmitted for*

1 *display on television, up to 75 percent of the re-*
2 *quirement in the regulations reinstated under*
3 *paragraph (1).*

4 *“(B) FURTHER REQUIREMENTS.—*

5 *“(i) REPORT.—Nine years after the*
6 *date of enactment of the Twenty-First Cen-*
7 *tury Communications and Video Accessi-*
8 *bility Act of 2010, the Commission shall*
9 *submit to the Committee on Energy and*
10 *Commerce of the House of Representatives*
11 *and the Committee on Commerce, Science,*
12 *and Transportation of the Senate a report*
13 *assessing—*

14 *“(I) the types of described video*
15 *programming that is available to con-*
16 *sumers;*

17 *“(II) consumer use of such pro-*
18 *gramming;*

19 *“(III) the costs to program own-*
20 *ers, providers, and distributors of cre-*
21 *ating such programming;*

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

24 *“(V) the amount of such program-*
25 *ming currently available; and*

1 “(VI) *the need for additional de-*
2 *scribed programming.*

3 “(ii) *INCREASED AVAILABILITY.—Ten*
4 *years after the date of enactment of the*
5 *Twenty-First Century Communications and*
6 *Video Accessibility Act of 2010, the Com-*
7 *mission shall have the authority, based*
8 *upon the findings, conclusions, and rec-*
9 *ommendations contained in the report*
10 *under clause (i), to increase the availability*
11 *of such programming.*

12 “(C) *APPLICATION TO DESIGNATED MARKET*
13 *AREAS.—*

14 “(i) *IN GENERAL.—After the Commis-*
15 *sion completes the study on video descrip-*
16 *tion, the Commission shall phase in the*
17 *video description regulations for all des-*
18 *ignated market areas, except that the Com-*
19 *mission may grant waivers to entities in*
20 *specific designated market areas where it*
21 *deems appropriate.*

22 “(ii) *PHASE-IN DEADLINE.—The*
23 *phase-in described under clause (i) shall be*
24 *completed not later than 6 years after the*
25 *date of enactment of the Twenty-First Cen-*

1 *tury Communications and Video Accessi-*
 2 *bility Act of 2010.*

3 “(g) *EMERGENCY INFORMATION.*—*Not later than 1*
 4 *year after the Video Programming and Emergency Access*
 5 *Advisory Committee report under section 201(e)(2) of the*
 6 *Twenty-First Century Communications and Video Accessi-*
 7 *bility Act of 2010 is submitted to the Commission, the Com-*
 8 *mission shall complete a proceeding to—*

9 “(1) *identify methods to convey emergency infor-*
 10 *mation (as that term is defined in section 79.2 of title*
 11 *47, Code of Federal Regulations) in a manner acces-*
 12 *sible to individuals who are blind or have a visual*
 13 *impairment; and*

14 “(2) *promulgate regulations that require video*
 15 *programming providers and video programming dis-*
 16 *tributors (as those terms are defined in section 79.1*
 17 *of title 47, Code of Federal Regulations) and program*
 18 *owners to convey such emergency information in a*
 19 *manner accessible to individuals who are blind or*
 20 *have a visual impairment.*

21 “(h) *RESPONSIBILITIES.*—

22 “(1) *VIDEO PROGRAMMING OWNER.*—*A video*
 23 *programming owner shall ensure that any closed cap-*
 24 *tioning and video description required pursuant to*
 25 *this section is provided in accordance with the tech-*

1 *nical standards, protocols, and procedures established*
 2 *by the Commission.*

3 “(2) *VIDEO PROGRAMMING PROVIDER OR DIS-*
 4 *TRIBUTOR.*—*A video programming provider or video*
 5 *programming distributor shall be deemed in compli-*
 6 *ance with this section and the rules and regulation*
 7 *promulgated thereunder if such provider or dis-*
 8 *tributor enables the rendering or the pass through of*
 9 *closed captions and video description signals.*

10 “(i) *DEFINITIONS.*—*For purposes of this section, sec-*
 11 *tion 303, and section 330:*

12 “(1) *VIDEO DESCRIPTION.*—*The term ‘video de-*
 13 *scription’ means the insertion of audio narrated de-*
 14 *scriptions of a television program’s key visual ele-*
 15 *ments into natural pauses between the program’s dia-*
 16 *logue.*

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

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

24 “(c) *DEADLINES FOR CAPTIONING.*—

1 “(1) *IN GENERAL.*—*The regulations prescribed*
 2 *pursuant to subsection (b) shall include an appro-*
 3 *priate schedule of deadlines for the provision of closed*
 4 *captioning of video programming published or exhib-*
 5 *ited on television.*

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

8 “(A) *REGULATIONS ON CLOSED CAPTIONING*
 9 *ON VIDEO PROGRAMMING DELIVERED USING*
 10 *INTERNET PROTOCOL.*—*Not later than 6 months*
 11 *after the submission of the report to the Commis-*
 12 *sion required by section 201(e)(1) of the Twenty-*
 13 *First Century Communications and Video Acces-*
 14 *sibility Act of 2010, the Commission shall pro-*
 15 *mulgate regulations to require the provision of*
 16 *closed captioning on video programming deliv-*
 17 *ered using Internet protocol.*

18 “(B) *SCHEDULE.*—*The regulations pre-*
 19 *scribed under this paragraph shall include an*
 20 *appropriate schedule of decoding for the provi-*
 21 *sion of closed captioning, taking into account*
 22 *whether such programming is prerecorded and*
 23 *edited for Internet distribution, or whether such*
 24 *programming is live or near-live and not edited*
 25 *for Internet distribution.*

1 “(C) *COST.*—*The Commission may delay or*
 2 *waive the regulation promulgated under sub-*
 3 *paragraph (A) to the extent the Commission*
 4 *finds that the application of the regulation to*
 5 *live video programming delivered using Internet*
 6 *protocol would be economically burdensome to*
 7 *providers of video programming or program*
 8 *owners.*

9 “(D) *REQUIREMENTS FOR REGULATIONS.*—

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

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

15 “(II) *may exempt any service,*
 16 *class of service, program, class of pro-*
 17 *gram, equipment, or class of equipment*
 18 *for which the Commission has deter-*
 19 *mined that the application of such reg-*
 20 *ulations would be economically burden-*
 21 *some to the provider of such service,*
 22 *program, or equipment;*

23 “(III) *shall provide that de mini-*
 24 *mis failure to comply with such regu-*
 25 *lations by a provider of video pro-*

1 *gramming or program owner shall not*
2 *be treated as a violation of the regula-*
3 *tions; and*

4 “(IV) *shall only apply to video*
5 *programming that is transmitted for*
6 *display on television with closed cap-*
7 *tioning after the effective date of the*
8 *regulations issued pursuant to this sec-*
9 *tion.*

10 “(ii) *ALTERNATE MEANS.—An entity*
11 *may meet the requirements of this section*
12 *through alternate means than those pre-*
13 *scribed by regulations pursuant to para-*
14 *graph (1) if the requirements of this section*
15 *are met, as determined by the Commis-*
16 *sion.”.*

17 “(c) *CONFORMING AMENDMENT.—Section 713(d) of*
18 *such Act is amended by striking paragraph (3) and insert-*
19 *ing the following:*

20 “(3)(A) *a provider of video programming or pro-*
21 *gram owner may petition the Commission for an ex-*
22 *emption from the requirements of this section;*

23 “(B) *the Commission may grant such peti-*
24 *tion upon a showing that the requirements con-*

1 *tained in this section would be economically bur-*
 2 *densome;*

3 “(C) *during the pendency of such a peti-*
 4 *tion, such provider or owner shall be exempt*
 5 *from the requirements of this section; and*

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

13 (d) *REPORTING REQUIREMENT.—Two years after the*
 14 *effective date of the regulations issued pursuant to this sec-*
 15 *tion, and biennially thereafter, each broadcast television*
 16 *network and each cable television network shall submit to*
 17 *the Commission a report containing the number of hours,*
 18 *in the applicable 2-year period, of video programming not*
 19 *published or exhibited on television after the date of enact-*
 20 *ment of this Act that was provided on the Internet with*
 21 *closed captioning.*

22 (e) *REPORT TO CONGRESS.—*

23 (1) *IN GENERAL.—Three years after the date of*
 24 *enactment of this Act, the Commission shall submit a*
 25 *report to the Committee on Energy and Commerce of*

1 *the House of Representatives and the Committee on*
2 *Commerce, Science, and Transportation of the Sen-*
3 *ate—*

4 *(A) assessing the technical, economic, and*
5 *operational issues regarding the captioning of*
6 *video programming that is distributed only over*
7 *the Internet, including the types and amounts of*
8 *such video programming that is or could be cap-*
9 *tioned, the types of entities producing such pro-*
10 *gramming, and the effects a closed captioning re-*
11 *quirement may have on the producers of such*
12 *programming;*

13 *(B) assessing the benefits to and use by con-*
14 *sumers of closed captioning of video program-*
15 *ming that is distributed only over the Internet*
16 *for consumers; and*

17 *(C) making recommendations, if any, of*
18 *whether Congress should adopt or the Commis-*
19 *sion should implement a closed captioning re-*
20 *quirement for such programming.*

21 *(2) UPDATES.—The Commission shall periodi-*
22 *cally update the report to the Committees as it deter-*
23 *mines appropriate.*

1 **SEC. 203. CLOSED CAPTIONING DECODER AND VIDEO DE-**
2 **SCRIPTION CAPABILITY.**

3 (a) *AUTHORITY TO REGULATE.*—Section 303(u) of the
4 *Communications Act of 1934 (47 U.S.C. 303(u))* is amend-
5 *ed to read as follows:*

6 “(u) *Require that—*

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

12 “(A) *be equipped with built-in closed cap-*
13 *tion decoder circuitry or capability designed to*
14 *display closed-captioned video programming;*

15 “(B) *have the capability to decode and*
16 *make available the transmission and delivery of*
17 *video description services as required by regula-*
18 *tions reinstated and modified pursuant to sec-*
19 *tion 713(f); and*

20 “(C) *have the capability to decode and make*
21 *available emergency information (as that term is*
22 *defined in section 79.2 of title 47, Code of Fed-*
23 *eral Regulations) in a manner that is accessible*
24 *to individuals who are blind or have a visual*
25 *impairment; and*

1 “(2) notwithstanding paragraph (1) of this sub-
2 section—

3 “(A) apparatus described in such para-
4 graph that use a picture screen that is less than
5 13 inches in size meet the requirements of sub-
6 paragraphs (A), (B), and (C) of such paragraph
7 only if the requirements of such subparagraphs
8 are achievable (as defined in section 716);

9 “(B) any apparatus or class of apparatus
10 that are display-only video monitors with no
11 playback capability are exempt from the require-
12 ments of such paragraph; and

13 “(C) the Commission shall have the author-
14 ity to waive the requirements of this subsection
15 for any apparatus or class of apparatus.”.

16 (b) *OTHER DEVICES.*—Section 303 of the Communica-
17 tions Act of 1934 (47 U.S.C. 303) is further amended by
18 adding at the end the following new subsection:

19 “(z) Require that—

20 “(1) if achievable (as defined in section 716), ap-
21 paratus designed to record video programming trans-
22 mitted simultaneously with sound, if such apparatus
23 is manufactured in the United States or imported for
24 use in the United States, enable the rendering or the
25 pass through of closed captions, video description sig-

1 nals, and emergency information (as that term is de-
 2 fined in section 79.2 of title 47, Code of Federal Regu-
 3 lations) so that viewers are able to activate and de-
 4 activate the closed captions and video description as
 5 the video programming is played back on a picture
 6 screen of any size; and

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

13 (c) *SHIPMENT IN COMMERCE*.—Section 330(b) of the
 14 Communications Act of 1934 (47 U.S.C. 330(b)) is amend-
 15 ed—

16 (1) by striking “section 303(u)” in the first sen-
 17 tence and inserting “subsections (u) and (z) of section
 18 303”;

19 (2) by striking the second sentence and inserting
 20 the following: “Such rules shall provide performance
 21 and display standards for such built-in decoder cir-
 22 cuitry or capability designed to display closed cap-
 23 tioned video programming, the transmission and de-
 24 livery of video description services, and the convey-

1 *ance of emergency information as required by section*
 2 *303 of this Act.”; and*

3 *(3) in the fourth sentence, by striking “closed-*
 4 *captioning service continues” and inserting “closed-*
 5 *captioning service and video description service con-*
 6 *tinue”.*

7 *(d) IMPLEMENTING REGULATIONS.—*

8 *(1) IN GENERAL.—The Federal Communications*
 9 *Commission shall prescribe such regulations as are*
 10 *necessary to implement the requirements of sections*
 11 *303(u), 303(z), and 330(b) of the Communications*
 12 *Act of 1934, as amended by this section, including*
 13 *any technical standards, protocols, and procedures*
 14 *needed for the transmission of—*

15 *(A) closed captioning within 6 months after*
 16 *the submission to the Commission of the Advi-*
 17 *sory Committee report required by section sec-*
 18 *tion 201(e)(1); and*

19 *(B) video description and emergency infor-*
 20 *mation within 12 months after the submission to*
 21 *the Commission of the Advisory Committee re-*
 22 *port required by section section 201(e)(2).*

23 *(2) ALTERNATE MEANS.—An entity may meet*
 24 *the requirements of sections 303(u), 303(z), and*
 25 *330(b) of the Communications Act of 1934 through al-*

1 *ternate means than those prescribed by regulations*
 2 *pursuant to paragraph (1) if the requirements of such*
 3 *sections are met, as determined by the Commission.*

4 **SEC. 204. USER INTERFACES ON DIGITAL APPARATUS.**

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

9 *“(aa) Require—*

10 *“(1) if achievable (as defined in section 716),*
 11 *that digital apparatus designed to receive or play*
 12 *back video programming, that are shipped in inter-*
 13 *state commerce or manufactured in the United States,*
 14 *transmitted in digital format simultaneously with*
 15 *sound, including apparatus designed to receive or dis-*
 16 *play video programming transmitted in digital for-*
 17 *mat using Internet protocol, be designed, developed,*
 18 *and fabricated so that control of all built-in appa-*
 19 *ratus functions are accessible to and usable by indi-*
 20 *viduals with disabilities;*

21 *“(2) that if on-screen text menus or other visual*
 22 *indicators built in to the digital apparatus are used*
 23 *to access the functions of the apparatus described in*
 24 *paragraph (1), such functions shall be accompanied*
 25 *by audio output that is either integrated or periph-*

1 *eral to the apparatus, so that such menus or indica-*
2 *tors are accessible to and usable by individuals who*
3 *are blind or have a visual impairment in real-time;*

4 *“(3) that built-in user controls on such appa-*
5 *ratus shall be capable of accessing closed captioning,*
6 *including—*

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

9 *“(i) a button, key, or icon on the re-*
10 *mote control of such apparatus designated*
11 *for activating closed captioning; or*

12 *“(ii) any other mechanism that pro-*
13 *vides a substantially equivalent level of ac-*
14 *cessibility; and*

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

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

20 *“(ii) any other mechanism that pro-*
21 *vides a substantially equivalent level of ac-*
22 *cessibility; and*

23 *“(4) that in applying this subsection the term*
24 *‘apparatus’ does not include a navigation device, as*

1 *such term is defined in section 76.1200 of title 47,*
 2 *Code of Federal Regulations.”.*

3 *(b) IMPLEMENTING REGULATIONS.—*

4 *(1) IN GENERAL.—Within 12 months after the*
 5 *submission to the Commission of the Advisory Com-*
 6 *mittee report required by section 201(e)(2), the Com-*
 7 *mission shall prescribe such regulations as are nec-*
 8 *essary to implement the amendments made by sub-*
 9 *section (a).*

10 *(2) ALTERNATE MEANS.—An entity may meet*
 11 *the requirements of sections 303(aa) of the Commu-*
 12 *nications Act of 1934 through alternate means than*
 13 *those prescribed by regulations pursuant to para-*
 14 *graph (1) if the requirements of such section are met,*
 15 *as determined by the Commission.*

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

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

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

7 “(bb) *Require*—

8 “(1) if achievable (as defined in section 716),
9 that the on-screen text menus and guides provided by
10 navigation devices (as such term is defined in section
11 76.1200 of title 47, Code of Federal Regulations) for
12 the display or selection of multichannel video pro-
13 gramming are audibly accessible in real-time upon
14 request by individuals who are blind or have a visual
15 impairment, except that the Commission may not
16 specify the technical standards, protocols, procedures,
17 and other technical requirements for meeting this re-
18 quirement; and

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

25 (b) *IMPLEMENTING REGULATIONS.*—

1 (1) *IN GENERAL.*—Within 12 months after the
2 submission to the Commission of the Advisory Com-
3 mittee report required by section 201(e)(2), the Com-
4 mission shall prescribe such regulations as are nec-
5 essary to implement the amendment made by sub-
6 section (a).

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

10 (3) *RESPONSIBILITY.*—An entity shall only be
11 responsible for compliance with the requirements
12 added by this section with respect to navigation de-
13 vices that such entity provides to a requesting indi-
14 vidual who is blind or has a visual impairment and
15 shall make reasonable efforts to make such require-
16 ments known to consumers.

17 (4) *SEPARATE EQUIPMENT OR SOFTWARE.*—

18 (A) *IN GENERAL.*—Such regulations shall
19 permit but not require the entity providing the
20 navigation device to the requesting individual
21 who is blind or has a visual impairment to com-
22 ply with section 303(bb)(1) of the Communica-
23 tions Act of 1934 (as added by subsection (a) of
24 this section) through such entity’s use of soft-
25 ware, a peripheral device, specialized consumer

premises equipment, a network-based service, or other solution, and shall provide such entity with the flexibility to select the manner of compliance.

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

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

(6) *PHASE-IN.*—

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

(i) not less than 2 years after the adoption of such regulations to begin placing in service devices that comply with the requirements of section 303(bb)(2) of the Commu-

1 *nications Act of 1934 (as added by sub-*
 2 *section (a) of this section); and*

3 *(ii) not less than 3 years after the*
 4 *adoption of such regulations to begin plac-*
 5 *ing in service devices that comply with the*
 6 *requirements of section 303(bb)(1) of the*
 7 *Communications Act of 1934 (as added by*
 8 *subsection (a) of this section).*

9 *(B) APPLICATION.—Such regulations shall*
 10 *apply only to devices manufactured or imported*
 11 *on or after the respective effective dates estab-*
 12 *lished in subparagraph (A).*

13 **SEC. 206. DEFINITIONS.**

14 *In this title:*

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

18 *(2) CHAIRMAN.—The term “Chairman” means*
 19 *the Chairman of the Federal Communications Com-*
 20 *mission.*

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

23 *(4) EMERGENCY INFORMATION.—The term*
 24 *“emergency information” has the meaning given such*

1 *term in section 79.2 of title 47, Code of Federal Regu-*
2 *lations.*

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

6 (6) *NAVIGATION DEVICE.*—*The term “navigation*
7 *device” has the meaning given such term in section*
8 *76.1200 of title 47, Code of Federal Regulations.*

9 (7) *VIDEO DESCRIPTION.*—*The term “video de-*
10 *scription” has the meaning given such term in section*
11 *713 of the Communications Act of 1934 (47 U.S.C.*
12 *613).*

13 (8) *VIDEO PROGRAMMING.*—*The term “video pro-*
14 *gramming” has the meaning given such term in sec-*
15 *tion 713 of the Communications Act of 1934 (47*
16 *U.S.C. 613).*

Union Calendar No. 323

11TH CONGRESS
2^D Session

H. R. 3101

[Report No. 111-563]

A BILL

To ensure that individuals with disabilities have access to emerging Internet Protocol-based communication and video programming technologies in the 21st century.

JULY 26, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed