

111TH CONGRESS
2^D SESSION

S. 3304

AN ACT

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

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

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

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

5 (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 advanced communications services and equipment.

Sec. 105. Universal service.

Sec. 106. Emergency Access Advisory Committee.

TITLE II—VIDEO PROGRAMMING

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

Sec. 202. Video description and closed captioning.

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

Sec. 204. User interfaces on digital apparatus.

Sec. 205. Access to video programming guides and menus provided on naviga-
 tion devices.

Sec. 206. Definitions.

6 **SEC. 2. LIMITATION ON LIABILITY.**

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

15 (1) transmits, routes, or stores in intermediate
 16 or transient storage the communications made avail-

1 able through the provision of advanced communica-
2 tions services by a third party; or

3 (2) provides an information location tool, such
4 as a directory, index, reference, pointer, menu,
5 guide, user interface, or hypertext link, through
6 which an end user obtains access to such video pro-
7 gramming, online content, applications, services, ad-
8 vanced communications services, or equipment used
9 to provide or access advanced communications serv-
10 ices.

11 (b) EXCEPTION.—The limitation on liability under
12 subsection (a) shall not apply to any person who relies
13 on third party applications, services, software, hardware,
14 or equipment to comply with the requirements of this Act
15 (or of the provisions of the Communications Act of 1934
16 that are amended or added by this Act) with respect to
17 video programming, online content, applications, services,
18 advanced communications services, or equipment used to
19 provide or access advanced communications services.

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

21 No action taken by the Federal Communications
22 Commission to implement this Act or any amendment
23 made by this Act shall mandate the use or incorporation
24 of proprietary technology.

TITLE I—COMMUNICATIONS ACCESS

SEC. 101. DEFINITIONS.

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

(1) by adding at the end the following new paragraphs:

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

“(A) interconnected VoIP service;

“(B) non-interconnected VoIP service;

“(C) electronic messaging service; and

“(D) interoperable video conferencing service.

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

“(55) DISABILITY.—The term ‘disability’ has the meaning given such term under section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

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

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

11 “(58) NON-INTERCONNECTED VOIP SERVICE.—
12 The term ‘non-interconnected VoIP service’—

13 “(A) means a service that—

14 “(i) enables real-time voice commu-
15 nications that originate from or terminate
16 to the user’s location using Internet pro-
17 tocol or any successor protocol; and

18 “(ii) requires Internet protocol com-
19 patible customer premises equipment; and

20 “(B) does not include any service that is
21 an interconnected VoIP service.

22 “(59) INTEROPERABLE VIDEO CONFERENCING
23 SERVICE.—The term ‘interoperable video confer-
24 encing service’ means a service that provides real-
25 time video communications, including audio, to en-

1 able users to share information of the user’s choos-
2 ing.”; and

3 (2) by reordering paragraphs (1) through (52)
4 and the paragraphs added by paragraph (1) of this
5 section in alphabetical order based on the headings
6 of such paragraphs and renumbering such para-
7 graphs as so reordered.

8 **SEC. 102. HEARING AID COMPATIBILITY.**

9 (a) COMPATIBILITY REQUIREMENTS.—

10 (1) TELEPHONE SERVICE FOR THE DIS-
11 ABLED.—Section 710(b)(1) of the Communications
12 Act of 1934 (47 U.S.C. 610(b)(1)) is amended to
13 read as follows:

14 “(b)(1) Except as provided in paragraphs (2) and (3)
15 and subsection (c), the Commission shall require that cus-
16 tomer premises equipment described in this paragraph
17 provide internal means for effective use with hearing aids
18 that are designed to be compatible with telephones which
19 meet established technical standards for hearing aid com-
20 patibility. Customer premises equipment described in this
21 paragraph are the following:

22 “(A) All essential telephones.

23 “(B) All telephones manufactured in the United
24 States (other than for export) more than one year
25 after the date of enactment of the Hearing Aid

1 Compatibility Act of 1988 or imported for use in the
2 United States more than one year after such date.

3 “(C) All customer premises equipment used
4 with advanced communications services that is de-
5 signed to provide 2-way voice communication via a
6 built-in speaker intended to be held to the ear in a
7 manner functionally equivalent to a telephone, sub-
8 ject to the regulations prescribed by the Commission
9 under subsection (e).”.

10 (2) ADDITIONAL AMENDMENTS.—Section
11 710(b) of the Communications Act of 1934 (47
12 U.S.C. 610(b)) is further amended—

13 (A) in paragraph (2)—

14 (i) in subparagraph (A)—

15 (I) in the matter preceding clause

16 (i)—

17 (aa) by striking “initial”;

18 (bb) by striking “of this
19 subsection after the date of en-
20 actment of the Hearing Aid Com-
21 patibility Act of 1988”; and

22 (cc) by striking “paragraph
23 (1)(B) of this subsection” and in-
24 serting “subparagraphs (B) and
25 (C) of paragraph (1)”;

1 (II) by inserting “and” at the
2 end of clause (ii);
3 (III) by striking clause (iii); and
4 (IV) by redesignating clause (iv)
5 as clause (iii);
6 (ii) by striking subparagraph (B) and
7 redesignating subparagraph (C) as sub-
8 paragraph (B); and
9 (iii) in subparagraph (B) (as so reded-
10 igned)—
11 (I) by striking the first sentence
12 and inserting “The Commission shall
13 periodically assess the appropriateness
14 of continuing in effect the exemptions
15 for telephones and other customer
16 premises equipment described in sub-
17 paragraph (A) of this paragraph.”;
18 and
19 (II) in each of clauses (iii) and
20 (iv), by striking “paragraph (1)(B)”
21 and inserting “subparagraph (B) or
22 (C) of paragraph (1)”;
23 (B) in paragraph (4)(B)—

1 (i) by striking “public mobile” and in-
2 serting “telephones used with public mo-
3 bile”;

4 (ii) by inserting “telephones and other
5 customer premises equipment used in
6 whole or in part with” after “means”;

7 (iii) by striking “and” after “public
8 land mobile telephone service,” and insert-
9 ing “or”;

10 (iv) by striking “part 22 of”; and

11 (v) by inserting after “Regulations”
12 the following: “, or any functionally equiva-
13 lent unlicensed wireless services”; and

14 (C) in paragraph (4)(C)—

15 (i) by striking “term ‘private radio
16 services’” and inserting “term ‘telephones
17 used with private radio services’”; and

18 (ii) by inserting “telephones and other
19 customer premises equipment used in
20 whole or in part with” after “means”.

21 (b) TECHNICAL STANDARDS.—Section 710(c) of the
22 Communications Act of 1934 (47 U.S.C. 610(c)) is
23 amended by adding at the end the following: “A telephone
24 or other customer premises equipment that is compliant
25 with relevant technical standards developed through a

1 public participation process and in consultation with inter-
2 ested consumer stakeholders (designated by the Commis-
3 sion for the purposes of this section) will be considered
4 hearing aid compatible for purposes of this section, until
5 such time as the Commission may determine otherwise.
6 The Commission shall consult with the public, including
7 people with hearing loss, in establishing or approving such
8 technical standards. The Commission may delegate this
9 authority to an employee pursuant to section 5(c). The
10 Commission shall remain the final arbiter as to whether
11 the standards meet the requirements of this section.”.

12 (c) RULEMAKING.—Section 710(e) of the Commu-
13 nications Act of 1934 (47 U.S.C. 610(e)) is amended—

14 (1) by striking “impairments” and inserting
15 “loss”; and

16 (2) by adding at the end the following sentence:

17 “In implementing the provisions of subsection
18 (b)(1)(C), the Commission shall use appropriate
19 timetables or benchmarks to the extent necessary (1)
20 due to technical feasibility, or (2) to ensure the mar-
21 ketability or availability of new technologies to
22 users.”.

23 (d) RULE OF CONSTRUCTION.—Section 710(h) of the
24 Communications Act of 1934 (47 U.S.C. 610(h)) is
25 amended to read as follows:

1 “(h) **RULE OF CONSTRUCTION.**—Nothing in the
2 Twenty-First Century Communications and Video Accessi-
3 bility Act of 2010 shall be construed to modify the Com-
4 mission’s regulations set forth in section 20.19 of title 47
5 of the Code of Federal Regulations, as in effect on the
6 date of enactment of such Act.”.

7 **SEC. 103. RELAY SERVICES.**

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

11 “(3) **TELECOMMUNICATIONS RELAY SERV-**
12 **ICES.**—The term ‘telecommunications relay services’
13 means telephone transmission services that provide
14 the ability for an individual who is deaf, hard of
15 hearing, deaf-blind, or who has a speech disability to
16 engage in communication by wire or radio with one
17 or more individuals, in a manner that is functionally
18 equivalent to the ability of a hearing individual who
19 does not have a speech disability to communicate
20 using voice communication services by wire or
21 radio.”.

22 (b) **INTERNET PROTOCOL-BASED RELAY SERV-**
23 **ICES.**—Title VII of such Act (47 U.S.C. 601 et seq.) is
24 amended by adding at the end the following new section:

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

2 “Within one year after the date of enactment of the
3 Twenty-First Century Communications and Video Accessi-
4 bility Act of 2010, each interconnected VoIP service pro-
5 vider and each provider of non-interconnected VoIP serv-
6 ice shall participate in and contribute to the Telecommuni-
7 cations Relay Services Fund established in section
8 64.604(e)(5)(iii) of title 47, Code of Federal Regulations,
9 as in effect on the date of enactment of such Act, in a
10 manner prescribed by the Commission by regulation to
11 provide for obligations of such providers that are con-
12 sistent with and comparable to the obligations of other
13 contributors to such Fund.”.

14 **SEC. 104. ACCESS TO ADVANCED COMMUNICATIONS SERV-**
15 **ICES AND EQUIPMENT.**

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

20 **“SEC. 716. ACCESS TO ADVANCED COMMUNICATIONS SERV-**
21 **ICES AND EQUIPMENT.**

22 “(a) MANUFACTURING.—

23 “(1) IN GENERAL.—With respect to equipment
24 manufactured after the effective date of the regula-
25 tions established pursuant to subsection (e), and
26 subject to those regulations, a manufacturer of

1 equipment used for advanced communications serv-
2 ices, including end user equipment, network equip-
3 ment, and software, shall ensure that the equipment
4 and software that such manufacturer offers for sale
5 or otherwise distributes in interstate commerce shall
6 be accessible to and usable by individuals with dis-
7 abilities, unless the requirements of this subsection
8 are not achievable.

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

12 “(A) ensuring that the equipment that
13 such manufacturer offers is accessible to and
14 usable by individuals with disabilities without
15 the use of third party applications, peripheral
16 devices, software, hardware, or customer prem-
17 ises equipment; or

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

24 “(b) SERVICE PROVIDERS.—

1 “(1) IN GENERAL.—With respect to services
2 provided after the effective date of the regulations
3 established pursuant to subsection (e), and subject
4 to those regulations, a provider of advanced commu-
5 nications services shall ensure that such services of-
6 fered by such provider in or affecting interstate com-
7 merce are accessible to and usable by individuals
8 with disabilities, unless the requirements of this sub-
9 section are not achievable.

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

13 “(A) ensuring that the services that such
14 provider offers are accessible to and usable by
15 individuals with disabilities without the use of
16 third party applications, peripheral devices,
17 software, hardware, or customer premises
18 equipment; or

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

24 “(c) COMPATIBILITY.—Whenever the requirements of
25 subsections (a) or (b) are not achievable, a manufacturer

1 or provider shall ensure that its equipment or service is
2 compatible with existing peripheral devices or specialized
3 customer premises equipment commonly used by individ-
4 uals with disabilities to achieve access, unless the require-
5 ment of this subsection is not achievable.

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

11 “(e) REGULATIONS.—

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

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

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

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

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

13 “(D) not mandate technical standards, ex-
14 cept that the Commission may adopt technical
15 standards as a safe harbor for such compliance
16 if necessary to facilitate the manufacturers’ and
17 service providers’ compliance with sections (a)
18 through (e).

19 “(2) PROSPECTIVE GUIDELINES.—The Commis-
20 sion shall issue prospective guidelines for a manufac-
21 turer or provider regarding the requirements of this
22 section.

23 “(f) SERVICES AND EQUIPMENT SUBJECT TO SEC-
24 TION 255.—The requirements of this section shall not
25 apply to any equipment or services, including inter-

1 connected VoIP service, that are subject to the require-
2 ments of section 255 on the day before the date of enact-
3 ment of the Twenty-First Century Communications and
4 Video Accessibility Act of 2010. Such services and equip-
5 ment shall remain subject to the requirements of section
6 255.

7 “(g) ACHIEVABLE DEFINED.—For purposes of this
8 section and section 718, the term ‘achievable’ means with
9 reasonable effort or expense, as determined by the Com-
10 mission. In determining whether the requirements of a
11 provision are achievable, the Commission shall consider
12 the following factors:

13 “(1) The nature and cost of the steps needed
14 to meet the requirements of this section with respect
15 to the specific equipment or service in question.

16 “(2) The technical and economic impact on the
17 operation of the manufacturer or provider and on
18 the operation of the specific equipment or service in
19 question, including on the development and deploy-
20 ment of new communications technologies.

21 “(3) The type of operations of the manufac-
22 turer or provider.

23 “(4) The extent to which the service provider or
24 manufacturer in question offers accessible services
25 or equipment containing varying degrees of

1 functionality and features, and offered at differing
2 price points.

3 “(h) COMMISSION FLEXIBILITY.—

4 “(1) WAIVER.—The Commission shall have the
5 authority, on its own motion or in response to a pe-
6 tition by a manufacturer or provider of advanced
7 communications services or any interested party, to
8 waive the requirements of this section for any fea-
9 ture or function of equipment used to provide or ac-
10 cess advanced communications services, or for any
11 class of such equipment, for any provider of ad-
12 vanced communications services, or for any class of
13 such services, that—

14 “(A) is capable of accessing an advanced
15 communications service; and

16 “(B) is designed for multiple purposes, but
17 is designed primarily for purposes other than
18 using advanced communications services.

19 “(2) SMALL ENTITY EXEMPTION.—The Com-
20 mission may exempt small entities from the require-
21 ments of this section.

22 “(i) CUSTOMIZED EQUIPMENT OR SERVICES.—The
23 provisions of this section shall not apply to customized
24 equipment or services that are not offered directly to the

1 public, or to such classes of users as to be effectively avail-
2 able directly to the public, regardless of the facilities used.

3 “(j) **RULE OF CONSTRUCTION.**—This section shall
4 not be construed to require a manufacturer of equipment
5 used for advanced communications or a provider of ad-
6 vanced communications services to make every feature and
7 function of every device or service accessible for every dis-
8 ability.

9 **“SEC. 717. ENFORCEMENT AND RECORDKEEPING OBLIGA-**
10 **TIONS.**

11 “(a) **COMPLAINT AND ENFORCEMENT PROCE-**
12 **DURES.**—Within one year after the date of enactment of
13 the Twenty-First Century Communications and Video Ac-
14 cessibility Act of 2010, the Commission shall establish reg-
15 ulations that facilitate the filing of formal and informal
16 complaints that allege a violation of section 255, 716, or
17 718, establish procedures for enforcement actions by the
18 Commission with respect to such violations, and imple-
19 ment the recordkeeping obligations of paragraph (5) for
20 manufacturers and providers subject to such sections.
21 Such regulations shall include the following provisions:

22 “(1) **NO FEE.**—The Commission shall not
23 charge any fee to an individual who files a complaint
24 alleging a violation of section 255, 716, or 718.

1 “(2) RECEIPT OF COMPLAINTS.—The Commis-
2 sion shall establish separate and identifiable elec-
3 tronic, telephonic, and physical receptacles for the
4 receipt of complaints filed under section 255, 716,
5 or 718.

6 “(3) COMPLAINTS TO THE COMMISSION.—

7 “(A) IN GENERAL.—Any person alleging a
8 violation of section 255, 716, or 718 by a man-
9 ufacturer of equipment or provider of service
10 subject to such sections may file a formal or in-
11 formal complaint with the Commission.

12 “(B) INVESTIGATION OF INFORMAL COM-
13 PLAINT.—The Commission shall investigate the
14 allegations in an informal complaint and, within
15 180 days after the date on which such com-
16 plaint was filed with the Commission, issue an
17 order concluding the investigation, unless such
18 complaint is resolved before such time. The
19 order shall include a determination whether any
20 violation occurred.

21 “(i) If the Commission determines
22 that a violation has occurred, the Commis-
23 sion may, in the order issued under this
24 subparagraph or in a subsequent order, di-
25 rect the manufacturer or service provider

1 to bring the service, or in the case of a
2 manufacturer, the next generation of the
3 equipment or device, into compliance with
4 requirements of those sections within a
5 reasonable time established by the Com-
6 mission in its order.

7 “(ii) NO VIOLATION.—If a determina-
8 tion is made that a violation has not oc-
9 curred, the Commission shall provide the
10 basis for such determination.

11 “(C) CONSOLIDATION OF COMPLAINTS.—
12 The Commission may consolidate for investiga-
13 tion and resolution complaints alleging substan-
14 tially the same violation.

15 “(4) OPPORTUNITY TO RESPOND.—Before the
16 Commission makes a determination pursuant to
17 paragraph (3), the party that is the subject of the
18 complaint shall have a reasonable opportunity to re-
19 spond to such complaint, and may include in such
20 response any factors that are relevant to such deter-
21 mination. Before issuing a final order under para-
22 graph (3)(B)(i), the Commission shall provide such
23 party a reasonable opportunity to comment on any
24 proposed remedial action.

1 “(5) RECORDKEEPING.—(A) Beginning one
2 year after the effective date of regulations promul-
3 gated pursuant to section 716(e), each manufacturer
4 and provider subject to sections 255, 716, and 718
5 shall maintain, in the ordinary course of business
6 and for a reasonable period, records of the efforts
7 taken by such manufacturer or provider to imple-
8 ment sections 255, 716, and 718, including the fol-
9 lowing:

10 “(i) Information about the manufac-
11 turer’s or provider’s efforts to consult with
12 individuals with disabilities.

13 “(ii) Descriptions of the accessibility
14 features of its products and services.

15 “(iii) Information about the compat-
16 ibility of such products and services with
17 peripheral devices or specialized customer
18 premise equipment commonly used by indi-
19 viduals with disabilities to achieve access.

20 “(B) An officer of a manufacturer or provider
21 shall submit to the Commission an annual certifi-
22 cation that records are being kept in accordance
23 with subparagraph (A).

24 “(C) After the filing of a formal or informal
25 complaint against a manufacturer or provider in the

1 manner prescribed in paragraph (3), the Commis-
2 sion may request, and shall keep confidential, a copy
3 of the records maintained by such manufacturer or
4 provider pursuant to subparagraph (A) of this para-
5 graph that are directly relevant to the equipment or
6 service that is the subject of such complaint.

7 “(6) FAILURE TO ACT.—If the Commission
8 fails to carry out any of its responsibilities to act
9 upon a complaint in the manner prescribed in para-
10 graph (3), the person that filed such complaint may
11 bring an action in the nature of mandamus in the
12 United States Court of Appeals for the District of
13 Columbia to compel the Commission to carry out
14 any such responsibility.

15 “(7) COMMISSION JURISDICTION.—The limita-
16 tions of section 255(f) shall apply to any claim that
17 alleges a violation of section 255, 716, or 718. Noth-
18 ing in this paragraph affects or limits any action for
19 mandamus under paragraph (6) or any appeal pur-
20 suant to section 402(b)(10).

21 “(8) PRIVATE RESOLUTIONS OF COMPLAINTS.—
22 Nothing in the Commission’s rules or this Act shall
23 be construed to preclude a person who files a com-
24 plaint and a manufacturer or provider from resolv-
25 ing a formal or informal complaint prior to the Com-

1 mission’s final determination in a complaint pro-
2 ceeding. In the event of such a resolution, the par-
3 ties shall jointly request dismissal of the complaint
4 and the Commission shall grant such request.

5 “(b) REPORTS TO CONGRESS.—

6 “(1) IN GENERAL.—Every two years after the
7 date of enactment of the Twenty-First Century
8 Communications and Video Accessibility Act of
9 2010, the Commission shall submit to the Com-
10 mittee on Commerce, Science, and Transportation of
11 the Senate and the Committee on Energy and Com-
12 merce of the House of Representatives a report that
13 includes the following:

14 “(A) An assessment of the level of compli-
15 ance with sections 255, 716, and 718.

16 “(B) An evaluation of the extent to which
17 any accessibility barriers still exist with respect
18 to new communications technologies.

19 “(C) The number and nature of complaints
20 received pursuant to subsection (a) during the
21 two years that are the subject of the report.

22 “(D) A description of the actions taken to
23 resolve such complaints under this section, in-
24 cluding forfeiture penalties assessed.

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

3 “(F) The number, status, nature, and out-
4 come of any actions for mandamus filed pursu-
5 ant to subsection (a)(6) and the number, sta-
6 tus, nature, and outcome of any appeals filed
7 pursuant to section 402(b)(10).

8 “(G) An assessment of the effect of the re-
9 quirements of this section on the development
10 and deployment of new communications tech-
11 nologies.

12 “(2) PUBLIC COMMENT REQUIRED.—The Com-
13 mission shall seek public comment on its tentative
14 findings prior to submission to the Committees of
15 the report under this subsection.

16 “(c) COMPTROLLER GENERAL ENFORCEMENT
17 STUDY.—

18 “(1) IN GENERAL.—The Comptroller General
19 shall conduct a study to consider and evaluate the
20 following:

21 “(A) The Commission’s compliance with
22 the requirements of this section, including the
23 Commission’s level of compliance with the dead-
24 lines established under and pursuant to this

1 section and deadlines for acting on complaints
2 pursuant to subsection (a).

3 “(B) Whether the enforcement actions
4 taken by the Commission pursuant to this sec-
5 tion have been appropriate and effective in en-
6 suring compliance with this section.

7 “(C) Whether the enforcement provisions
8 under this section are adequate to ensure com-
9 pliance with this section.

10 “(D) Whether, and to what extent (if any),
11 the requirements of this section have an effect
12 on the development and deployment of new
13 communications technologies.

14 “(2) REPORT.—Not later than 5 years after the
15 date of enactment of the Twenty-First Century
16 Communications and Video Accessibility Act of
17 2010, the Comptroller General shall submit to the
18 Committee on Commerce, Science, and Transpor-
19 tation of the Senate and the Committee on Energy
20 and Commerce of the House of Representatives a re-
21 port on the results of the study required by para-
22 graph (1), with recommendations for how the en-
23 forcement process and measures under this section
24 may be modified or improved.

1 “(d) CLEARINGHOUSE.—Within one year after the
2 date of enactment of the Twenty-First Century Commu-
3 nications and Video Accessibility Act of 2010, the Com-
4 mission shall, in consultation with the Architectural and
5 Transportation Barriers Compliance Board, the National
6 Telecommunications and Information Administration,
7 trade associations, and organizations representing individ-
8 uals with disabilities, establish a clearinghouse of informa-
9 tion on the availability of accessible products and services
10 and accessibility solutions required under sections 255,
11 716, and 718. Such information shall be made publicly
12 available on the Commission’s website and by other
13 means, and shall include an annually updated list of prod-
14 ucts and services with access features.

15 “(e) OUTREACH AND EDUCATION.—Upon establish-
16 ment of the clearinghouse of information required under
17 subsection (d), the Commission, in coordination with the
18 National Telecommunications and Information Adminis-
19 tration, shall conduct an informational and educational
20 program designed to inform the public about the avail-
21 ability of the clearinghouse and the protections and rem-
22 edies available under sections 255, 716, and 718.

1 **“SEC. 718. INTERNET BROWSERS BUILT INTO TELEPHONES**
2 **USED WITH PUBLIC MOBILE SERVICES.**

3 “(a) ACCESSIBILITY.—If a manufacturer of a tele-
4 phone used with public mobile services (as such term is
5 defined in section 710(b)(4)(B)) includes an Internet
6 browser in such telephone, or if a provider of mobile serv-
7 ice arranges for the inclusion of a browser in telephones
8 to sell to customers, the manufacturer or provider shall
9 ensure that the functions of the included browser (includ-
10 ing the ability to launch the browser) are accessible to and
11 usable by individuals who are blind or have a visual im-
12 pairment, unless doing so is not achievable, except that
13 this subsection shall not impose any requirement on such
14 manufacturer or provider—

15 “(1) to make accessible or usable any Internet
16 browser other than a browser that such manufac-
17 turer or provider includes or arranges to include in
18 the telephone; or

19 “(2) to make Internet content, applications, or
20 services accessible or usable (other than enabling in-
21 dividuals with disabilities to use an included browser
22 to access such content, applications, or services).

23 “(b) INDUSTRY FLEXIBILITY.—A manufacturer or
24 provider may satisfy the requirements of subsection (a)
25 with respect to such telephone or services by—

1 “(1) ensuring that the telephone or services
2 that such manufacture or provider offers is acces-
3 sible to and usable by individuals with disabilities
4 without the use of third party applications, periph-
5 eral devices, software, hardware, or customer prem-
6 ises equipment; or

7 “(2) using third party applications, peripheral
8 devices, software, hardware, or customer premises
9 equipment that is available to the consumer at nomi-
10 nal cost and that individuals with disabilities can ac-
11 cess.”.

12 (b) EFFECTIVE DATE FOR SECTION 718.—Section
13 718 of the Communications Act of 1934, as added by sub-
14 section (a), shall take effect 3 years after the date of en-
15 actment of this Act.

16 (c) TITLE V AMENDMENTS.—Section 503(b)(2) of
17 such Act (47 U.S.C. 503(b)(2)) is amended by adding
18 after subparagraph (E) the following:

19 “(F) Subject to paragraph (5) of this section,
20 if the violator is a manufacturer or service provider
21 subject to the requirements of section 255, 716, or
22 718, and is determined by the Commission to have
23 violated any such requirement, the manufacturer or
24 provider shall be liable to the United States for a
25 forfeiture penalty of not more than \$100,000 for

1 each violation or each day of a continuing violation,
2 except that the amount assessed for any continuing
3 violation shall not exceed a total of \$1,000,000 for
4 any single act or failure to act.”.

5 (d) REVIEW OF COMMISSION DETERMINATIONS.—
6 Section 402(b) of such Act (47 U.S.C. 402(b)) is amended
7 by adding the following new paragraph:

8 “(10) By any person who is aggrieved or whose
9 interests are adversely affected by a determination
10 made by the Commission under section 717(a)(3).”.

11 **SEC. 105. RELAY SERVICES FOR DEAF-BLIND INDIVIDUALS.**

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

15 **“SEC. 719. RELAY SERVICES FOR DEAF-BLIND INDIVID-**
16 **UALS.**

17 “(a) IN GENERAL.—Within 6 months after the date
18 of enactment of the Equal Access to 21st Century Com-
19 munications Act, the Commission shall establish rules that
20 define as eligible for relay service support those programs
21 that are approved by the Commission for the distribution
22 of specialized customer premises equipment designed to
23 make telecommunications service, Internet access service,
24 and advanced communications, including interexchange

1 services and advanced telecommunications and informa-
2 tion services, accessible by individuals who are deaf-blind.

3 “(b) INDIVIDUALS WHO ARE DEAF-BLIND DE-
4 FINED.—For purposes of this subsection, the term ‘indi-
5 viduals who are deaf-blind’ has the same meaning given
6 such term in the Helen Keller National Center Act, as
7 amended by the Rehabilitation Act Amendments of 1992
8 (29 U.S.C. 1905(2)).

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

12 **SEC. 106. EMERGENCY ACCESS ADVISORY COMMITTEE.**

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

21 (b) MEMBERSHIP.—As soon as practicable after the
22 date of enactment of this Act, the Chairman of the Com-
23 mission shall appoint the members of the Advisory Com-
24 mittee, ensuring a balance between individuals with dis-
25 abilities and other stakeholders, and shall designate two

1 such members as the co-chairs of the Committee. Members
2 of the Advisory Committee shall be selected from the fol-
3 lowing groups:

4 (1) STATE AND LOCAL GOVERNMENT AND
5 EMERGENCY RESPONDER REPRESENTATIVES.—Rep-
6 representatives of State and local governments and rep-
7 representatives of emergency response providers, se-
8 lected from among individuals nominated by national
9 organizations representing such governments and
10 representatives.

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

15 (A) providers of interconnected and non-
16 interconnected VoIP services;

17 (B) vendors, developers, and manufactur-
18 ers of systems, facilities, equipment, and capa-
19 bilities for the provision of interconnected and
20 non-interconnected VoIP services;

21 (C) national organizations representing in-
22 dividuals with disabilities and senior citizens;

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

1 (E) the National Institute of Standards
2 and Technology; and

3 (F) other individuals with such technical
4 knowledge and expertise.

5 (3) REPRESENTATIVES OF OTHER STAKE-
6 HOLDERS AND INTERESTED PARTIES.—Representa-
7 tives of such other stakeholders and interested and
8 affected parties as the Chairman of the Commission
9 determines appropriate.

10 (c) DEVELOPMENT OF RECOMMENDATIONS.—Within
11 1 year after the completion of the member appointment
12 process by the Chairman of the Commission pursuant to
13 subsection (b), the Advisory Committee shall conduct a
14 national survey of individuals with disabilities, seeking
15 input from the groups described in subsection (b)(2), to
16 determine the most effective and efficient technologies and
17 methods by which to enable access to emergency services
18 by individuals with disabilities and shall develop and sub-
19 mit to the Commission recommendations to implement
20 such technologies and methods, including recommenda-
21 tions—

22 (1) with respect to what actions are necessary
23 as a part of the migration to a national Internet
24 protocol-enabled network to achieve reliable, inter-
25 operable communication transmitted over such net-

1 work that will ensure access to emergency services
2 by individuals with disabilities;

3 (2) for protocols, technical capabilities, and
4 technical requirements to ensure the reliability and
5 interoperability necessary to ensure access to emer-
6 gency services by individuals with disabilities;

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

11 (4) for relevant technical standards and re-
12 quirements for communication devices and equip-
13 ment and technologies to enable the use of reliable
14 emergency access;

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

19 (6) for deadlines by which providers of inter-
20 connected and non-interconnected VoIP services and
21 manufacturers of equipment used for such services
22 shall achieve the actions required in paragraphs (1)
23 through (5), where achievable, and for the possible
24 phase out of the use of current-generation TTY
25 technology to the extent that this technology is re-

1 placed with more effective and efficient technologies
2 and methods to enable access to emergency services
3 by individuals with disabilities;

4 (7) for the establishment of rules to update the
5 Commission's rules with respect to 9-1-1 services
6 and E-911 services (as defined in section 158(e)(4)
7 of the National Telecommunications and Informa-
8 tion Administration Organization Act (47 U.S.C.
9 942(e)(4))), for users of telecommunications relay
10 services as new technologies and methods for pro-
11 viding such relay services are adopted by providers
12 of such relay services; and

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

15 (d) MEETINGS.—

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

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

1 (3) NOTICE; OPEN MEETINGS.—Any meetings
2 held by the Advisory Committee shall be duly no-
3 ticed at least 14 days in advance and shall be open
4 to the public.

5 (e) RULES.—

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

9 (2) SUBCOMMITTEES.—To assist the Advisory
10 Committee in carrying out its functions, the chair
11 may establish appropriate subcommittees composed
12 of members of the Advisory Committee and other
13 subject matter experts as determined to be nec-
14 essary.

15 (3) ADDITIONAL RULES.—The Advisory Com-
16 mittee may adopt other rules as needed.

17 (f) FEDERAL ADVISORY COMMITTEE ACT.—The
18 Federal Advisory Committee Act (5 U.S.C. App.) shall not
19 apply to the Advisory Committee.

20 (g) IMPLEMENTING RECOMMENDATIONS.—The Com-
21 mission shall have the authority to promulgate regulations
22 to implement the recommendations proposed by the Advi-
23 sory Committee, as well as any other regulations, technical
24 standards, protocols, and procedures as are necessary to
25 achieve reliable, interoperable communication that ensures

1 access by individuals with disabilities to an Internet pro-
2 tocol-enabled emergency network, where achievable and
3 technically feasible.

4 (h) DEFINITIONS.—In this section—

5 (1) the term “Commission” means the Federal
6 Communications Commission;

7 (2) the term “Chairman” means the Chairman
8 of the Federal Communications Commission; and

9 (3) except as otherwise expressly provided,
10 other terms have the meanings given such terms in
11 section 3 of the Communications Act of 1934 (47
12 U.S.C. 153).

13 **TITLE II—VIDEO PROGRAMMING**

14 **SEC. 201. VIDEO PROGRAMMING AND EMERGENCY ACCESS**

15 **ADVISORY COMMITTEE.**

16 (a) ESTABLISHMENT.—Not later than 60 days after
17 the date of enactment of this Act, the Chairman shall es-
18 tablish an advisory committee to be known as the Video
19 Programming and Emergency Access Advisory Com-
20 mittee.

21 (b) MEMBERSHIP.—As soon as practicable after the
22 date of enactment of this Act, the Chairman shall appoint
23 individuals who have the technical knowledge and engi-
24 neering expertise to serve on the Advisory Committee in
25 the fulfillment of its duties, including the following:

1 (1) Representatives of distributors and pro-
2 viders of video programming or a national organiza-
3 tion representing such distributors.

4 (2) Representatives of vendors, developers, and
5 manufacturers of systems, facilities, equipment, and
6 capabilities for the provision of video programming
7 delivered using Internet protocol or a national orga-
8 nization representing such vendors, developers, or
9 manufacturers.

10 (3) Representatives of manufacturers of con-
11 sumer electronics or information technology equip-
12 ment or a national organization representing such
13 manufacturers.

14 (4) Representatives of video programming pro-
15 ducers or a national organization representing such
16 producers.

17 (5) Representatives of national organizations
18 representing accessibility advocates, including indi-
19 viduals with disabilities and the elderly.

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

23 (7) Other individuals with technical and engi-
24 neering expertise, as the Chairman determines ap-
25 propriate.

1 (c) COMMISSION OVERSIGHT.—The Chairman shall
2 appoint a member of the Commission’s staff to moderate
3 and direct the work of the Advisory Committee.

4 (d) TECHNICAL STAFF.—The Commission shall ap-
5 point a member of the Commission’s technical staff to pro-
6 vide technical assistance to the Advisory Committee.

7 (e) DEVELOPMENT OF RECOMMENDATIONS.—

8 (1) CLOSED CAPTIONING REPORT.—Within 6
9 months after the date of the first meeting of the Ad-
10 visory Committee, the Advisory Committee shall de-
11 velop and submit to the Commission a report that
12 includes the following:

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

15 (B) An identification of the performance
16 requirement for protocols, technical capabilities,
17 and technical procedures needed to permit con-
18 tent providers, content distributors, Internet
19 service providers, software developers, and de-
20 vice manufacturers to reliably encode, trans-
21 port, receive, and render closed captions of
22 video programming, except for consumer gen-
23 erated media, delivered using Internet protocol.

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

1 dures beyond those available as of the date of
2 enactment of the Twenty-First Century Com-
3 munications and Video Accessibility Act of
4 2010 for the delivery of closed captions of video
5 programming, except for consumer generated
6 media, delivered using Internet protocol that
7 are necessary to meet the performance objec-
8 tives identified under subparagraph (B).

9 (D) A recommendation for technical stand-
10 ards to address the performance objectives iden-
11 tified in subparagraph (B).

12 (E) A recommendation for any regulations
13 that may be necessary to ensure compatibility
14 between video programming, except for con-
15 sumer generated media, delivered using Inter-
16 net protocol and devices capable of receiving
17 and displaying such programming in order to
18 facilitate access to closed captions.

19 (2) VIDEO DESCRIPTION, EMERGENCY INFOR-
20 MATION, USER INTERFACES, AND VIDEO PROGRAM-
21 MING GUIDES AND MENUS.—Within 18 months after
22 the date of enactment of this Act, the Advisory
23 Committee shall develop and submit to the Commis-
24 sion a report that includes the following:

1 (A) A recommended schedule of deadlines
2 for the provision of video description and emer-
3 gency information.

4 (B) An identification of the performance
5 requirement for protocols, technical capabilities,
6 and technical procedures needed to permit con-
7 tent providers, content distributors, Internet
8 service providers, software developers, and de-
9 vice manufacturers to reliably encode, trans-
10 port, receive, and render video descriptions of
11 video programming, except for consumer gen-
12 erated media, and emergency information deliv-
13 ered using Internet protocol or digital broadcast
14 television.

15 (C) An identification of additional proto-
16 cols, technical capabilities, and technical proce-
17 dures beyond those available as of the date of
18 enactment of the Twenty-First Century Com-
19 munications and Video Accessibility Act of
20 2010 for the delivery of video descriptions of
21 video programming, except for consumer gen-
22 erated media, and emergency information deliv-
23 ered using Internet protocol that are necessary
24 to meet the performance objectives identified
25 under subparagraph (B).

1 (D) A recommendation for technical stand-
2 ards to address the performance objectives iden-
3 tified in subparagraph (B).

4 (E) A recommendation for any regulations
5 that may be necessary to ensure compatibility
6 between video programming, except for con-
7 sumer generated media, delivered using Inter-
8 net protocol and devices capable of receiving
9 and displaying such programming, except for
10 consumer generated media, in order to facilitate
11 access to video descriptions and emergency in-
12 formation.

13 (F) With respect to user interfaces, a rec-
14 ommendation for the standards, protocols, and
15 procedures used to enable the functions of ap-
16 paratus designed to receive or display video pro-
17 gramming transmitted simultaneously with
18 sound (including apparatus designed to receive
19 or display video programming transmitted by
20 means of services using Internet protocol) to be
21 accessible to and usable by individuals with dis-
22 abilities.

23 (G) With respect to user interfaces, a rec-
24 ommendation for the standards, protocols, and
25 procedures used to enable on-screen text menus

1 and other visual indicators used to access the
2 functions on an apparatus described in sub-
3 paragraph (F) to be accompanied by audio out-
4 put so that such menus or indicators are acces-
5 sible to and usable by individuals with disabil-
6 ities.

7 (H) With respect to video programming
8 guides and menus, a recommendation for the
9 standards, protocols, and procedures used to
10 enable video programming information and se-
11 lection provided by means of a navigation de-
12 vice, guide, or menu to be accessible in real-
13 time by individuals who are blind or visually im-
14 paired.

15 (3) CONSIDERATION OF WORK BY STANDARD-
16 SETTING ORGANIZATIONS.—The recommendations of
17 the advisory committee shall, insofar as possible, in-
18 corporate the standards, protocols, and procedures
19 that have been adopted by recognized industry
20 standard-setting organizations for each of the pur-
21 poses described in paragraphs (1) and (2).

22 (f) MEETINGS.—

23 (1) INITIAL MEETING.—The initial meeting of
24 the Advisory Committee shall take place not later

1 than 180 days after the date of the enactment of
2 this Act.

3 (2) OTHER MEETINGS.—After the initial meet-
4 ing, the Advisory Committee shall meet at the call
5 of the Chairman.

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

10 (g) PROCEDURAL RULES.—

11 (1) QUORUM.—The presence of one-third of the
12 members of the Advisory Committee shall constitute
13 a quorum for conducting the business of the Advi-
14 sory Committee.

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

20 (3) ADDITIONAL PROCEDURAL RULES.—The
21 Advisory Committee may adopt other procedural
22 rules as needed.

23 (h) FEDERAL ADVISORY COMMITTEE ACT.—The
24 Federal Advisory Committee Act (5 U.S.C. App.) shall not
25 apply to the Advisory Committee.

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

2 (a) VIDEO DESCRIPTION.—Section 713 of the Com-
3 munications Act of 1934 (47 U.S.C. 613) is amended—

4 (1) by striking subsections (f) and (g);

5 (2) by redesignating subsection (h) as sub-
6 section (j); and

7 (3) by inserting after subsection (e) the fol-
8 lowing:

9 “(f) VIDEO DESCRIPTION.—

10 “(1) REINSTATEMENT OF REGULATIONS.—On
11 the day that is 1 year after the date of enactment
12 of the Twenty-First Century Communications and
13 Video Accessibility Act of 2010, the Commission
14 shall, after a rulemaking, reinstate its video descrip-
15 tion regulations contained in the Implementation of
16 Video Description of Video Programming Report
17 and Order (15 F.C.C.R. 15,230 (2000)), recon-
18 granted in part and denied in part, (16 F.C.C.R.
19 1251 (2001)), modified as provided in paragraph
20 (2).

21 “(2) MODIFICATIONS TO REINSTATED REGULA-
22 TIONS.—Such regulations shall be modified only as
23 follows:

24 “(A) The regulations shall apply to video
25 programming, as defined in subsection (h), in-

1 sofar as and programming is transmitted for
2 display on television in digital format.

3 “(B) The Commission shall update the list
4 of the top 25 designated market areas, the list
5 of the top 5 national nonbroadcast networks
6 that at least 50 hours per quarter of prime time
7 programming that is not exempt under this
8 paragraph, and the beginning calendar quarter
9 for which compliance shall be calculated.

10 “(C) The regulations may permit a pro-
11 vider of video programming or a program owner
12 to petition the Commission for an exemption
13 from the requirements of this section upon a
14 showing that the requirements contained in this
15 section be economically burdensome.

16 “(D) The Commission may exempt from
17 the regulations established pursuant to para-
18 graph (1) a service, class of services, program,
19 class of programs, equipment, or class of equip-
20 ment for which the Commission has determined
21 that the application of such regulations would
22 be economically burdensome for the provider of
23 such service, program, or equipment.

24 “(E) The regulations shall not apply to live
25 or near-live programming.

1 “(F) The regulations shall provide for an
2 appropriate phased schedule of deadlines for
3 compliance.

4 “(G) The Commission shall consider ex-
5 tending the exemptions and limitations in the
6 reinstated regulations for technical capability
7 reasons to all providers and owners of video
8 programming.

9 “(3) INQUIRIES ON FURTHER VIDEO DESCRIP-
10 TION REQUIREMENTS.—The Commission shall com-
11 mence the following inquiries not later than 1 year
12 after the completion of the phase-in of the reinstated
13 regulations and shall report to Congress 1 year
14 thereafter on the findings for each of the following:

15 “(A) VIDEO DESCRIPTION IN TELEVISION
16 PROGRAMMING.—The availability, use, and ben-
17 efits of video description on video programming
18 distributed on television, the technical and cre-
19 ative issues associated with providing such video
20 description, and the financial costs of providing
21 such video description for providers of video
22 programming and program owners.

23 “(B) VIDEO DESCRIPTION IN VIDEO PRO-
24 GRAMMING DISTRIBUTED ON THE INTERNET.—
25 The technical and operational issues, costs, and

1 benefits of providing video descriptions for video
2 programming that is delivered using Internet
3 protocol.

4 “(4) CONTINUING COMMISSION AUTHORITY.—

5 “(A) IN GENERAL.—The Commission may
6 not issue additional regulations unless the Com-
7 mission determines, at least 2 years after com-
8 pleting the reports required in paragraph (3),
9 that the need for and benefits of providing
10 video description for video programming, inso-
11 far as such programming is transmitted for dis-
12 play on television, are greater than the tech-
13 nical and economic costs of providing such addi-
14 tional programming.

15 “(B) LIMITATION.—If the Commission
16 makes the determination under subparagraph
17 (A) and issues additional regulations, the Com-
18 mission may not increase, in total, the hour re-
19 quirement for additional described program-
20 ming by more than 75 percent of the require-
21 ment in the regulations reinstated under para-
22 graph (1).

23 “(C) APPLICATION TO DESIGNATED MAR-
24 KET AREAS.—

1 “(i) IN GENERAL.—After the Commis-
2 sion completes the reports on video de-
3 scription required in paragraph (3), the
4 Commission shall phase in the video de-
5 scription regulations for the top 60 des-
6 ignated market areas, except that the
7 Commission may grant waivers to entities
8 in specific designated market areas where
9 it deems appropriate.

10 “(ii) PHASE-IN DEADLINE.—The
11 phase-in described in clause (i) shall be
12 completed not later than 6 years after the
13 date of enactment of the Twenty-First
14 Century Communications and Video Acces-
15 sibility Act of 2010.

16 “(iii) REPORT.—Nine years after the
17 date of enactment of the Twenty-First
18 Century Communications and Video Acces-
19 sibility Act of 2010, the Commission shall
20 submit to the Committee on Energy of the
21 House of Representatives and the Com-
22 mittee on Commerce, Science, and Trans-
23 portation of the Senate a report assess-
24 ing—

1 “(I) the types of described video
2 programming that is available to con-
3 sumers;

4 “(II) consumer use of such pro-
5 gramming;

6 “(III) the costs to program own-
7 ers, providers, and distributors of cre-
8 ating such programming;

9 “(IV) the potential costs to pro-
10 gram owners, providers, and distribu-
11 tors in designated market areas out-
12 side of the top 60 of creating such
13 programming;

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

16 “(VI) the amount of such pro-
17 gramming currently available; and

18 “(VII) the need for additional de-
19 scribed programming in designated
20 market areas outside the top 60.

21 “(iv) ADDITIONAL MARKET AREAS.—
22 Ten years after the date of enactment of
23 the Twenty-First Century Communications
24 and Video Accessibility Act of 2010, the
25 Commission shall have the authority, based

1 upon the findings, conclusions, and rec-
2 ommendations contained in the report
3 under clause (iii), to phase in the video de-
4 scription regulations for up to an addi-
5 tional 10 designated market areas each
6 year—

7 “(I) if the costs of implementing
8 the video description regulations to
9 program owners, providers, and dis-
10 tributors in those additional markets
11 are reasonable, as determined by the
12 Commission; and

13 “(II) except that the Commission
14 may grant waivers to entities in spe-
15 cific designated market areas where it
16 deems appropriate.

17 “(g) EMERGENCY INFORMATION.—Not later than 1
18 year after the Advisory Committee report under sub-
19 section (e)(2) is submitted to the Commission, the Com-
20 mission shall complete a proceeding to—

21 “(1) identify methods to convey emergency in-
22 formation (as that term is defined in section 79.2 of
23 title 47, Code of Federal Regulations) in a manner
24 accessible to individuals who are blind or visually im-
25 paired; and

1 “(2) promulgate regulations that require video
2 programming providers and video programming dis-
3 tributors (as those terms are defined in section 79.1
4 of title 47, Code of Federal Regulations) and pro-
5 gram owners to convey such emergency information
6 in a manner accessible to individuals who are blind
7 or visually impaired.

8 “(h) DEFINITIONS.—For purposes of this section,
9 section 303, and section 330:

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

15 “(2) VIDEO PROGRAMMING.—The term ‘video
16 programming’ means programming by, or generally
17 considered comparable to programming provided by
18 a television broadcast station, but not including con-
19 sumer-generated media (as defined in section 3).

20 (b) CLOSED CAPTIONING ON VIDEO PROGRAMMING
21 DELIVERED USING INTERNET PROTOCOL.—Section 713
22 of such Act is further amended by striking subsection (c)
23 and 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
4 closed captioning of video programming once pub-
5 lished or exhibited on television.

6 “(2) DEADLINES FOR PROGRAMMING DELIV-
7 ERED USING INTERNET PROTOCOL.—

8 “(A) REGULATIONS ON CLOSED CAP-
9 TIONING ON VIDEO PROGRAMMING DELIVERED
10 USING INTERNET PROTOCOL.—Not later than 6
11 months after the submission of the report to
12 the Commission required by subsection (e)(1) of
13 the Twenty-First Century Communications and
14 Video Accessibility Act of 2010, the Commis-
15 sion shall revise its regulations to require the
16 provision of closed captioning on video program-
17 ming delivered using Internet protocol that was
18 published or exhibited on television with cap-
19 tions after the effective date of such regula-
20 tions.

21 “(B) SCHEDULE.—The regulations pre-
22 scribed under this paragraph shall include an
23 appropriate schedule of deadlines for the provi-
24 sion of closed captioning, taking into account
25 whether such programming is prerecorded and

1 edited for Internet distribution, or whether such
2 programming is live or near-live and not edited
3 for Internet distribution.

4 “(C) COST.—The Commission may delay
5 or waive the regulation promulgated under sub-
6 paragraph (A) to the extent the Commission
7 finds that the application of the regulation to
8 live video programming delivered using Internet
9 protocol with captions after the effective date of
10 such regulations would be economically burden-
11 some to providers of video programming or pro-
12 gram owners.

13 “(D) REQUIREMENTS FOR REGULA-
14 TIONS.—The regulations prescribed under this
15 paragraph—

16 “(i) shall contain a definition of ‘near-
17 live programming’ and ‘edited for Internet
18 distribution’;

19 “(ii) may exempt any service, class of
20 service, program, class of program, equip-
21 ment, or class of equipment for which the
22 Commission has determined that the appli-
23 cation of such regulations would be eco-
24 nomically burdensome for the provider of
25 such service, program, or equipment;

1 “(iii) shall clarify that, for the pur-
2 poses of implementation, of this subsection,
3 the terms ‘video programming distribution’
4 and ‘video programming providers’ include
5 an entity that makes available directly to
6 the end user video programming through a
7 distribution method that uses Internet pro-
8 tocol;

9 “(iv) and describe the responsibilities
10 of video programming providers or dis-
11 tributors and video programming owners;

12 “(v) shall establish a mechanism to
13 make available to video programming pro-
14 viders and distributors information on
15 video programming subject to the Act on
16 an ongoing basis;

17 “(vi) shall consider that the video pro-
18 gramming provider or distributor shall be
19 deemed in compliance if such entity en-
20 ables the rendering or pass through of
21 closed captions and video description sig-
22 nals and make a good faith effort to iden-
23 tify video programming subject to the Act
24 using the mechanism created in (v); and

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

6 “(3) ALTERNATE MEANS OF COMPLIANCE.—An
7 entity may meet the requirements of this section
8 through alternate means than those prescribed by
9 regulations pursuant to subsection (b), as revised
10 pursuant to paragraph (2)(A) of this subsection, if
11 the requirements of this section are met, as deter-
12 mined by the Commission.”.

13 (c) CONFORMING AMENDMENT.—Section 713(d) of
14 such Act is amended by striking paragraph (3) and insert-
15 ing the following:

16 “(3) a provider of video programming or pro-
17 gram owner may petition the Commission for an ex-
18 emption from the requirements of this section, and
19 the Commission may grant such petition upon a
20 showing that the requirements contained in this sec-
21 tion would be economically burdensome. During the
22 pendency of such a petition, such provider or owner
23 shall be exempt from the requirements of this sec-
24 tion. The Commission shall act to grant or deny any
25 such petition, in whole or in part, within 6 months

1 after the Commission receives such petition, unless
2 the Commission finds that an extension of the 6-
3 month period is necessary to determine whether such
4 requirements are economically burdensome.”.

5 **SEC. 203. CLOSED CAPTIONING DECODER AND VIDEO DE-**
6 **SCRIPTION CAPABILITY.**

7 (a) **AUTHORITY TO REGULATE.**—Section 303(u) of
8 the Communications Act of 1934 (47 U.S.C. 303(u)) is
9 amended to read as follows:

10 “(u) Require that, if technically feasible—

11 “(1) apparatus designed to receive or play
12 back video programming transmitted simulta-
13 neously with sound, if such apparatus is manu-
14 factured in the United States or imported for
15 use in the United States and uses a picture
16 screen of any size—

17 “(A) be equipped with built-in closed
18 caption decoder circuitry or capability de-
19 signed to display closed-captioned video
20 programming;

21 “(B) have the capability to decode
22 and make available the transmission and
23 delivery of video description services as re-
24 quired by regulations reinstated and modi-
25 fied pursuant to section 713(f); and

1 “(C) have the capability to decode and
2 make available emergency information (as
3 that term is defined in section 79.2 of the
4 Commission’s regulations (47 CFR 79.2))
5 in a manner that is accessible to individ-
6 uals who are blind or visually impaired;
7 and

8 “(2) notwithstanding paragraph (1) of this
9 subsection—

10 “(A) apparatus described in such
11 paragraph that use a picture screen that is
12 less than 13 inches in size meet the re-
13 quirements of subparagraph (A), (B), or
14 (C) of such paragraph only if the require-
15 ments of such subparagraphs are achiev-
16 able (as defined in section 716);

17 “(B) any apparatus or class of appa-
18 ratus that are display-only video monitors
19 with no playback capability are exempt
20 from the requirements of such paragraph;
21 and

22 “(C) the Commission shall have the
23 authority, on its own motion or in response
24 to a petition by a manufacturer, to waive

1 the requirements of this subsection for any
2 apparatus or class of apparatus—

3 “(i) primarily designed for activi-
4 ties other than receiving or playing
5 back video programming transmitted
6 simultaneously with sound; or

7 “(ii) for equipment designed for
8 multiple purposes, capable of receiving
9 or playing video programming trans-
10 mitted simultaneously with sound but
11 whose essential utility is derived from
12 other purposes.”.

13 (b) OTHER DEVICES.—Section 303 of the Commu-
14 nications Act of 1934 (47 U.S.C. 303) is further amended
15 by adding at the end the following new subsection:

16 “(z) Require that—

17 “(1) if achievable (as defined in section
18 716), apparatus designed to record video pro-
19 gramming transmitted simultaneously with
20 sound, if such apparatus is manufactured in the
21 United States or imported for use in the United
22 States, enable the rendering or the pass
23 through of closed captions, video description
24 signals, and emergency information (as that
25 term is defined in section 79.2 of title 47, Code

1 of Federal Regulations) such that viewers are
2 able to activate and de-activate the closed cap-
3 tions and video description as the video pro-
4 gramming is played back on a picture screen of
5 any size; and

6 “(2) interconnection mechanisms and
7 standards for digital video source devices are
8 available to carry from the source device to the
9 consumer equipment the information necessary
10 to permit or render the display of closed cap-
11 tions and to make encoded video description
12 and 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
15 amended—

16 (1) by striking “303(u)” in the first sentence
17 and inserting “303(u) and (z)”;

18 (2) by striking the second sentence and insert-
19 ing the following: “Such rules shall provide perform-
20 ance and display standards for such built-in decoder
21 circuitry or capability designed to display closed cap-
22 tioned video programming, the transmission and de-
23 livery of video description services, and the convey-
24 ance of emergency information as required by sec-
25 tion 303 of this Act.”; and

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

5 (d) IMPLEMENTING REGULATIONS.—The Federal
6 Communications Commission shall prescribe such regula-
7 tions as are necessary to implement the requirements of
8 sections 303(u), 303(z), and 330(b) of the Communica-
9 tions Act of 1934, as amended by this section, including
10 any technical standards, protocols, and procedures needed
11 for the transmission of—

12 (1) closed captioning within 6 months after the
13 submission to the Commission of the Advisory Com-
14 mittee report required by section 201(e)(1); and

15 (2) video description and emergency informa-
16 tion within 18 months after the submission to the
17 Commission of the Advisory Committee report re-
18 quired by section 201(e)(2).

19 (e) ALTERNATE MEANS OF COMPLIANCE.—An entity
20 may meet the requirements of sections 303(u), 303(z),
21 and 330(b) of the Communications Act of 1934 through
22 alternate means than those prescribed by regulations pur-
23 suant to subsection (d) if the requirements of those sec-
24 tions are met, as determined by the Commission.

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

2 (a) AMENDMENT.—Section 303 of the Communica-
3 tions Act of 1934 (47 U.S.C. 303) is further amended by
4 adding after subsection (z), as added by section 203 of
5 this Act, the following new subsection:

6 “(aa) Require—

7 “(1) if achievable (as defined in section
8 716) that digital apparatus designed to receive
9 or play back video programming transmitted in
10 digital format simultaneously with sound, in-
11 cluding apparatus designed to receive or display
12 video programming transmitted in digital for-
13 mat using Internet protocol, be designed, devel-
14 oped, and fabricated so that control of appro-
15 priate built-in apparatus functions are acces-
16 sible to and usable by individuals who are blind
17 or visually impaired, except that the Commis-
18 sion may not specify the technical standards,
19 protocols, procedures, and other technical re-
20 quirements for meeting this requirement;

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

1 ratus, so that such menus or indicators are ac-
2 cessible to and usable by individuals who are
3 blind or visually impaired in real-time;

4 “(3) that for such apparatus equipped with
5 the functions described in paragraphs (1) and
6 (2) built in access to those closed captioning
7 and video description features through a mecha-
8 nism that is reasonably comparable to a button,
9 key, or icon designated by activating the closed
10 captioning or accessibility features; and

11 “(4) that in applying this subsection the
12 term ‘apparatus’ does not include a navigation
13 device, as such term is defined in section
14 76.1200 of the Commission’s rules (47 CFR
15 76.1200).”.

16 (b) IMPLEMENTING REGULATIONS.—Within 18
17 months after the submission to the Commission of the Ad-
18 visory Committee report required by section 201(e)(2), the
19 Commission shall prescribe such regulations as are nec-
20 essary to implement the amendments made by subsection
21 (a).

22 (c) ALTERNATE MEANS OF COMPLIANCE.—An entity
23 may meet the requirements of section 303(aa) of the Com-
24 munications Act of 1934 through alternate means than
25 those prescribed by regulations pursuant to subsection (b)

1 if the requirements of those sections are met, as deter-
2 mined by the Commission.

3 (d) DEFERRAL OF COMPLIANCE WITH ATSC MOBILE
4 DTV STANDARD A/153.—A digital apparatus designed
5 and manufactured to receive or play back the Advanced
6 Television Systems Committee’s Mobile DTV Standards
7 A/153 shall not be required to meet the requirements of
8 the regulations prescribed under subsection (b) for a pe-
9 riod of not less than 24 months after the date on which
10 the final regulations are published in the Federal Register.

11 **SEC. 205. ACCESS TO VIDEO PROGRAMMING GUIDES AND**
12 **MENUS PROVIDED ON NAVIGATION DEVICES.**

13 (a) AMENDMENT.—Section 303 of the Communica-
14 tions Act of 1934 (47 U.S.C. 303) is further amended by
15 adding after subsection (aa), as added by section 204 of
16 this Act, the following new subsection:

17 “(bb) Require—

18 “(1) if achievable (as defined in section 716),
19 that the on-screen text menus and guides provided
20 by navigation devices (as such term is defined in sec-
21 tion 76.1200 of title 47, Code of Federal Regula-
22 tions) for the display or selection of multichannel
23 video programming are audibly accessible in real-
24 time upon request by individuals who are blind or
25 visually impaired, except that the Commission may

1 not specify the technical standards, protocols, proce-
2 dures, and other technical requirements for meeting
3 this requirement; and

4 “(2) for navigation devices with built-in closed
5 captioning capability, that access to that capability
6 through a mechanism is reasonably comparable to a
7 button, key, or icon designated for activating the
8 closed captioning, or accessibility features.

9 With respect to apparatus features and functions delivered
10 in software, the requirements set forth in this subsection
11 shall apply to the manufacturer of such software. With
12 respect to apparatus features and functions delivered in
13 hardware, the requirements set forth in this subsection
14 shall apply to the manufacturer of such hardware.”.

15 (b) IMPLEMENTING REGULATIONS.—

16 (1) IN GENERAL.—Within 18 months after the
17 submission to the Commission of the Advisory Com-
18 mittee report required by section 201(e)(2), the
19 Commission shall prescribe such regulations as are
20 necessary to implement the amendment made by
21 subsection (a).

22 (2) EXEMPTION.—Such regulations may pro-
23 vide an exemption from the regulations for cable sys-
24 tems serving 20,000 or fewer subscribers.

1 (3) RESPONSIBILITY.—An entity shall only be
2 responsible for compliance with the requirements
3 added by this section with respect to navigation de-
4 vices that it provides to a requesting blind or vis-
5 ually impaired individual.

6 (4) SEPARATE EQUIPMENT OR SOFTWARE.—

7 (A) IN GENERAL.—Such regulations shall
8 permit but not require the entity providing the
9 navigation device to the requesting blind or vis-
10 ually impaired individual to comply with section
11 303(bb)(1) of the Communications Act of 1934
12 through that entity’s use of software, a periph-
13 eral device, specialized consumer premises
14 equipment, a network-based service or other so-
15 lution, and shall provide the maximum flexi-
16 bility to select the manner of compliance.

17 (B) REQUIREMENTS.—If an entity com-
18 plies with section 303(bb)(1) of the Commu-
19 nications Act of 1934 under subparagraph (A),
20 the entity providing the navigation device to the
21 requesting blind or visually impaired individual
22 shall provide any such software, peripheral de-
23 vice, equipment, service, or solution at no addi-
24 tional charge and within a reasonable time to
25 such individual and shall ensure that such soft-

1 ware, device, equipment, service, or solution
2 provides the access required by such regula-
3 tions.

4 (5) USER CONTROLS FOR CLOSED CAP-
5 TIONING.—Such regulations shall permit the entity
6 providing the navigation device maximum flexibility
7 in the selection of means for compliance with section
8 303(bb)(2) of the Communications Act of 1934 (as
9 added by subsection (a) of this section).

10 (6) PHASE-IN.—

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

13 (i) not less than 2 years after the
14 adoption of such regulations to begin plac-
15 ing in service devices that comply with the
16 requirements of section 303(bb)(2) of the
17 Communications Act of 1934 (as added by
18 subsection (a) of this section); and

19 (ii) not less than 3 years after the
20 adoption of such regulations to begin plac-
21 ing in service devices that comply with the
22 requirements of section 303(bb)(1) of the
23 Communications Act of 1934 (as added by
24 subsection (a) of this section).

1 (B) APPLICATION.—Such regulations shall
2 apply only to devices manufactured or imported
3 on or after the respective effective dates estab-
4 lished in subparagraph (A).

5 **SEC. 206. DEFINITIONS.**

6 In this title:

7 (1) ADVISORY COMMITTEE.—The term “Advi-
8 sory Committee” means the advisory committee es-
9 tablished in section 201.

10 (2) CHAIRMAN.—The term “Chairman” means
11 the Chairman of the Federal Communications Com-
12 mission.

13 (3) COMMISSION.—The term “Commission”
14 means the Federal Communications Commission.

15 (4) EMERGENCY INFORMATION.—The term
16 “emergency information” has the meaning given
17 such term in section 79.2 of title 47, Code of Fed-
18 eral Regulations.

19 (5) INTERNET PROTOCOL.—The term “Internet
20 protocol” includes Transmission Control Protocol
21 and a successor protocol or technology to Internet
22 protocol.

23 (6) NAVIGATION DEVICE.—The term “naviga-
24 tion device” has the meaning given such term in sec-

1 tion 76.1200 of title 47, Code of Federal Regula-
2 tions.

3 (7) VIDEO DESCRIPTION.—The term “video de-
4 scription” has the meaning given such term in sec-
5 tion 713 of the Communications Act of 1934 (47
6 U.S.C. 613).

7 (8) VIDEO PROGRAMMING.—The term “video
8 programming” has the meaning given such term in
9 section 713 of the Communications Act of 1934 (47
10 U.S.C. 613).

Passed the Senate August 6, 2010.

Attest:

Secretary.

11TH CONGRESS
2^D SESSION

S. 3304

AN ACT

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