

Stat. 3958; amended Pub. L. 103-414, title III, §304(a)(17), Oct. 25, 1994, 108 Stat. 4297.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-414 struck out “, within 120 days after January 1, 1989,” after “The Federal Communications Commission shall”.

EFFECTIVE DATE

Section effective Jan. 1, 1989, see section 206 of Pub. L. 100-667, set out as a note under section 119 of Title 17, Copyrights.

§ 613. Video programming accessibility

(a) Commission inquiry

Within 180 days after February 8, 1996, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

(b) Accountability criteria

Within 18 months after February 8, 1996, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d) of this section; and

(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d) of this section.

(c) Deadlines for captioning

(1) In general

The regulations prescribed pursuant to subsection (b) shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming once published or exhibited on television.

(2) Deadlines for programming delivered using Internet protocol

(A) Regulations on closed captioning on video programming delivered using Internet protocol

Not later than 6 months after the submission of the report to the Commission required by subsection (e)(1)¹ of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall revise its regulations to require the provision of closed captioning on video programming delivered using Internet protocol that was published or exhibited on television

with captions after the effective date of such regulations.

(B) Schedule

The regulations prescribed under this paragraph shall include an appropriate schedule of deadlines for the provision of closed captioning, taking into account whether such programming is prerecorded and edited for Internet distribution, or whether such programming is live or near-live and not edited for Internet distribution.

(C) Cost

The Commission may delay or waive the regulation promulgated under subparagraph (A) to the extent the Commission finds that the application of the regulation to live video programming delivered using Internet protocol with captions after the effective date of such regulations would be economically burdensome to providers of video programming or program owners.

(D) Requirements for regulations

The regulations prescribed under this paragraph—

(i) shall contain a definition of “near-live programming” and “edited for Internet distribution”;

(ii) may exempt any service, class of service, program, class of program, equipment, or class of equipment for which the Commission has determined that the application of such regulations would be economically burdensome for the provider of such service, program, or equipment;

(iii) shall clarify that, for the purposes of implementation, of this subsection, the terms “video programming distributors” and “video programming providers” include an entity that makes available directly to the end user video programming through a distribution method that uses Internet protocol;

(iv) and describe the responsibilities of video programming providers or distributors and video programming owners;

(v) shall establish a mechanism to make available to video programming providers and distributors information on video programming subject to the Act on an ongoing basis;

(vi) shall consider that the video programming provider or distributor shall be deemed in compliance if such entity enables the rendering or pass through of closed captions and makes a good faith effort to identify video programming subject to the Act using the mechanism created in (v); and

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

(3) Alternate means of compliance

An entity may meet the requirements of this section through alternate means than those prescribed by regulations pursuant to subsection (b), as revised pursuant to paragraph

¹ See References in Text note below.

(2)(A) of this subsection, if the requirements of this section are met, as determined by the Commission.

(d) Exemptions

Notwithstanding subsection (b) of this section—

(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming;

(2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on February 8, 1996, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

(3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would be economically burdensome. During the pendency of such a petition, such provider or owner shall be exempt from the requirements of this section. The Commission shall act to grant or deny any such petition, in whole or in part, within 6 months after the Commission receives such petition, unless the Commission finds that an extension of the 6-month period is necessary to determine whether such requirements are economically burdensome.

(e) Undue burden

The term “undue burden” means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

(1) the nature and cost of the closed captions for the programming;

(2) the impact on the operation of the provider or program owner;

(3) the financial resources of the provider or program owner; and

(4) the type of operations of the provider or program owner.

(f) Video description

(1) Reinstatement of regulations

On the day that is 1 year after October 8, 2010, the Commission shall, after a rule-making, reinstate its video description regulations contained in the Implementation of Video Description of Video Programming Report and Order (15 F.C.C.R. 15,230 (2000)), recon. granted in part and denied in part, (16 F.C.C.R. 1251 (2001)), modified as provided in paragraph (2).

(2) Modifications to reinstated regulations

Such regulations shall be modified only as follows:

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

insofar as such programming is transmitted for display on television in digital format.

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

(C) The regulations may permit a provider of video programming or a program owner to petition the Commission for an exemption from the requirements of this section upon a showing that the requirements contained in this section be economically burdensome.

(D) The Commission may exempt from the regulations established pursuant to paragraph (1) a service, class of services, program, class of programs, equipment, or class of equipment for which the Commission has determined that the application of such regulations would be economically burdensome for the provider of such service, program, or equipment.

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

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

(G) The Commission shall consider extending the exemptions and limitations in the reinstated regulations for technical capability reasons to all providers and owners of video programming.

(3) Inquiries on further video description requirements

The Commission shall commence the following inquiries not later than 1 year after the completion of the phase-in of the reinstated regulations and shall report to Congress 1 year thereafter on the findings for each of the following:

(A) Video description in television programming

The availability, use, and benefits of video description on video programming distributed on television, the technical and creative issues associated with providing such video description, and the financial costs of providing such video description for providers of video programming and program owners.

(B) Video description in video programming distributed on the Internet

The technical and operational issues, costs, and benefits of providing video descriptions for video programming that is delivered using Internet protocol.

(4) Continuing Commission authority

(A) In general

The Commission may not issue additional regulations unless the Commission determines, at least 2 years after completing the reports required in paragraph (3), that the need for and benefits of providing video description for video programming, insofar as such programming is transmitted for display

on television, are greater than the technical and economic costs of providing such additional programming.

(B) Limitation

If the Commission makes the determination under subparagraph (A) and issues additional regulations, the Commission may not increase, in total, the hour requirement for additional described programming by more than 75 percent of the requirement in the regulations reinstated under paragraph (1).

(C) Application to designated market areas

(i) In general

After the Commission completes the reports on video description required in paragraph (3), the Commission shall phase in the video description regulations for the top 60 designated market areas, except that the Commission may grant waivers to entities in specific designated market areas where it deems appropriate.

(ii) Phase-in deadline

The phase-in described in clause (i) shall be completed not later than 6 years after October 8, 2010.

(iii) Report

Nine years after October 8, 2010, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report assessing—

(I) the types of described video programming that is available to consumers;

(II) consumer use of such programming;

(III) the costs to program owners, providers, and distributors of creating such programming;

(IV) the potential costs to program owners, providers, and distributors in designated market areas outside of the top 60 of creating such programming;

(V) the benefits to consumers of such programming;

(VI) the amount of such programming currently available; and

(VII) the need for additional described programming in designated market areas outside the top 60.

(iv) Additional market areas

Ten years after October 8, 2010, the Commission shall have the authority, based upon the findings, conclusions, and recommendations contained in the report under clause (iii), to phase in the video description regulations for up to an additional 10 designated market areas each year—

(I) if the costs of implementing the video description regulations to program owners, providers, and distributors in those additional markets are reasonable, as determined by the Commission; and

(II) except that the Commission may grant waivers to entities in specific designated market areas where it deems appropriate.

(g) Emergency information

Not later than 1 year after the Advisory Committee report under subsection (e)(2)¹ is submitted to the Commission, the Commission shall complete a proceeding to—

(1) identify methods to convey emergency information (as that term is defined in section 79.2 of title 47, Code of Federal Regulations) in a manner accessible to individuals who are blind or visually impaired; and

(2) promulgate regulations that require video programming providers and video programming distributors (as those terms are defined in section 79.1 of title 47, Code of Federal Regulations) and program owners to convey such emergency information in a manner accessible to individuals who are blind or visually impaired.

(h) Definitions

For purposes of this section, section 303 of this title, and section 330 of this title:

(1) Video description

The term “video description” means the insertion of audio narrated descriptions of a television program’s key visual elements into natural pauses between the program’s dialogue.

(2) Video programming

The term “video programming” means programming by, or generally considered comparable to programming provided by a television broadcast station, but not including consumer-generated media (as defined in section 153 of this title).

(j)² Private rights of actions prohibited

Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

(June 19, 1934, ch. 652, title VII, §713, as added Pub. L. 104-104, title III, §305, Feb. 8, 1996, 110 Stat. 126; amended Pub. L. 111-260, title II, §202, Oct. 8, 2010, 124 Stat. 2767; Pub. L. 111-265, §2(6)-(11), Oct. 8, 2010, 124 Stat. 2795, 2796.)

REFERENCES IN TEXT

Subsection (e)(1) of the Twenty-First Century Communications and Video Accessibility Act of 2010 and subsection (e)(2), referred to in subsecs. (c)(2)(A) and (g), respectively, probably mean subsections (e)(1) and (e)(2) of section 201 of Pub. L. 111-260, which are set out as a note under this section.

The Act, referred to in subsec. (c)(2)(D)(v), (vi), probably means act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

PRIOR PROVISIONS

A prior section 613, act June 19, 1934, ch. 652, title VII, §713, as added Nov. 16, 1988, Pub. L. 100-667, title II, §203, 102 Stat. 3958, related to report to Congress on discrimination, prior to repeal by Pub. L. 103-414, title III, §304(a)(18), Oct. 25, 1994, 108 Stat. 4297.

² So in original. No subsec. (i) has been enacted.

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-260, §202(b), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: “Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming.”

Subsec. (c)(2)(D)(iii). Pub. L. 111-265, §2(9), substituted “programming distributors” for “programming distribution”.

Subsec. (c)(2)(D)(v). Pub. L. 111-265, §2(10), substituted “programming providers” for “programming providers”.

Subsec. (c)(2)(D)(vi). Pub. L. 111-265, §2(11), substituted “and makes” for “and video description signals and make”.

Subsec. (d)(3). Pub. L. 111-260, §202(c), added par. (3) and struck out former par. (3) which read as follows: “a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden.”

Subsec. (f). Pub. L. 111-260, §202(a)(1), (3), added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: “Within 6 months after February 8, 1996, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings. The Commission’s report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate.”

Subsec. (f)(2)(A). Pub. L. 111-265, §2(6), substituted “such” for “and”.

Subsec. (f)(2)(B). Pub. L. 111-265, §2(7), inserted “have” after “nonbroadcast networks that”.

Subsec. (f)(4)(C)(iii). Pub. L. 111-265, §2(8), inserted “and Commerce” after “Energy”.

Subsec. (g). Pub. L. 111-260, §202(a)(1), (3), added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows: “For purposes of this section, ‘video description’ means the insertion of audio narrated descriptions of a television program’s key visual elements into natural pauses between the program’s dialogue.”

Subsecs. (h), (j). Pub. L. 111-260, §202(a)(2), (3), added subsec. (h) and redesignated former subsec. (h) as (j).

VIDEO PROGRAMMING AND EMERGENCY ACCESS
ADVISORY COMMITTEE

Pub. L. 111-260, §201, Oct. 8, 2010, 124 Stat. 2764, as amended by Pub. L. 111-265, §1(2)–(5), Oct. 8, 2010, 124 Stat. 2795, provided that:

“(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act [Oct. 8, 2010], the Chairman shall establish an advisory committee to be known as the Video Programming and Emergency Access Advisory Committee.

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

“(1) Representatives of distributors and providers of video programming or a national organization representing such distributors.

“(2) Representatives of vendors, developers, and manufacturers of systems, facilities, equipment, and capabilities for the provision of video programming delivered using Internet protocol or a national organization representing such vendors, developers, or manufacturers.

“(3) Representatives of manufacturers of consumer electronics or information technology equipment or a

national organization representing such manufacturers.

“(4) Representatives of video programming producers or a national organization representing such producers.

“(5) Representatives of national organizations representing accessibility advocates, including individuals with disabilities and the elderly.

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

“(7) Other individuals with technical and engineering expertise, as the Chairman determines appropriate.

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

“(d) TECHNICAL STAFF.—The Commission shall appoint a member of the Commission’s technical staff to provide technical assistance to the Advisory Committee.

“(e) DEVELOPMENT OF RECOMMENDATIONS.—

“(1) CLOSED CAPTIONING REPORT.—Within 6 months after the date of the first meeting of the Advisory Committee, the Advisory Committee shall develop and submit to the Commission a report that includes the following:

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

“(B) An identification of the performance objectives for protocols, technical capabilities, and technical procedures needed to permit content providers, content distributors, Internet service providers, software developers, and device manufacturers to reliably encode, transport, receive, and render closed captions of video programming, except for consumer generated media, delivered using Internet protocol.

“(C) An identification of additional protocols, technical capabilities, and technical procedures beyond those available as of the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010 [Oct. 8, 2010] for the delivery of closed captions of video programming, except for consumer generated media, delivered using Internet protocol that are necessary to meet the performance objectives identified under subparagraph (B).

“(D) A recommendation for technical standards to address the performance objectives identified in subparagraph (B).

“(E) A recommendation for any regulations that may be necessary to ensure compatibility between video programming, except for consumer generated media, delivered using Internet protocol and devices capable of receiving and displaying such programming in order to facilitate access to closed captions.

“(2) VIDEO DESCRIPTION, EMERGENCY INFORMATION, USER INTERFACES, AND VIDEO PROGRAMMING GUIDES AND MENUS.—Within 18 months after the date of enactment of this Act, the Advisory Committee shall develop and submit to the Commission a report that includes the following:

“(A) A recommended schedule of deadlines for the provision of video description and emergency information.

“(B) An identification of the performance objectives for protocols, technical capabilities, and technical procedures needed to permit content providers, content distributors, Internet service providers, software developers, and device manufacturers to reliably encode, transport, receive, and render video descriptions of video programming, except for consumer generated media, and emergency information delivered using Internet protocol or digital broadcast television.

“(C) An identification of additional protocols, technical capabilities, and technical procedures beyond those available as of the date of enactment of

the Twenty-First Century Communications and Video Accessibility Act of 2010 for the delivery of video descriptions of video programming, except for consumer generated media, and emergency information delivered using Internet protocol or digital broadcast television that are necessary to meet the performance objectives identified under subparagraph (B).

“(D) A recommendation for technical standards to address the performance objectives identified in subparagraph (B).

“(E) A recommendation for any regulations that may be necessary to ensure compatibility between video programming, except for consumer generated media, delivered using Internet protocol or digital broadcast television and devices capable of receiving and displaying such programming, except for consumer generated media, in order to facilitate access to video descriptions and emergency information.

“(F) With respect to user interfaces, a recommendation for the standards, protocols, and procedures used to enable the functions of apparatus designed to receive or display video programming transmitted simultaneously with sound (including apparatus designed to receive or display video programming transmitted by means of services using Internet protocol) to be accessible to and usable by individuals with disabilities.

“(G) With respect to user interfaces, a recommendation for the standards, protocols, and procedures used to enable on-screen text menus and other visual indicators used to access the functions on an apparatus described in subparagraph (F) to be accompanied by audio output so that such menus or indicators are accessible to and usable by individuals with disabilities.

“(H) With respect to video programming guides and menus, a recommendation for the standards, protocols, and procedures used to enable video programming information and selection provided by means of a navigation device, guide, or menu to be accessible in real-time by individuals who are blind or visually impaired.

“(3) CONSIDERATION OF WORK BY STANDARD-SETTING ORGANIZATIONS.—The recommendations of the advisory committee shall, insofar as possible, incorporate the standards, protocols, and procedures that have been adopted by recognized industry standard-setting organizations for each of the purposes described in paragraphs (1) and (2).

“(f) MEETINGS.—

“(1) INITIAL MEETING.—The initial meeting of the Advisory Committee shall take place not later than 180 days after the date of the enactment of this Act [Oct. 8, 2010].

“(2) OTHER MEETINGS.—After the initial meeting, the Advisory Committee shall meet at the call of the Chairman.

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

“(g) PROCEDURAL RULES.—

“(1) QUORUM.—The presence of one-third of the members of the Advisory Committee shall constitute a quorum for conducting the business of the Advisory Committee.

“(2) SUBCOMMITTEES.—To assist the Advisory Committee in carrying out its functions, the Chairman may establish appropriate subcommittees composed of members of the Advisory Committee and other subject matter experts.

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

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

[For definitions of terms used in section 201 of Pub. L. 111-260, set out above, see section 206 of Pub. L. 111-260, set out as a note under section 153 of this title.]

§ 614. Telecommunications Development Fund

(a) Purpose of section

It is the purpose of this section—

(1) to promote access to capital for small businesses in order to enhance competition in the telecommunications industry;

(2) to stimulate new technology development, and promote employment and training; and

(3) to support universal service and promote delivery of telecommunications services to underserved rural and urban areas.

(b) Establishment of Fund

There is hereby established a body corporate to be known as the Telecommunications Development Fund, which shall have succession until dissolved. The Fund shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof.

(c) Independent Board of Directors

The Fund shall have a Board of Directors consisting of 5 people with experience in areas including finance, investment banking, government banking, communications law and administrative practice, and public policy. The Board of Directors shall select annually a Chair from among the directors. A nominating committee, comprised of the Chair and 2 other directors selected by the Chair, shall appoint additional directors. The Fund’s bylaws shall regulate the other aspects of the Board of Directors, including provisions relating to meetings, quorums, committees, and other matters, all as typically contained in the bylaws of a similar private investment fund.

(d) Accounts of Fund

The Fund shall maintain its accounts at a financial institution designated for purposes of this section by the Chairman of the Board. The accounts of the Fund shall consist of—

(1) such sums as may be appropriated to the Commission for advances to the Fund;

(2) any contributions or donations to the Fund that are accepted by the Fund; and

(3) any repayment of, or other payment made with respect to, loans, equity, or other extensions of credit made from the Fund.

(e) Use of Fund

All moneys deposited into the accounts of the Fund shall be used solely for—

(1) the making of loans, investments, or other extensions of credits to eligible small businesses in accordance with subsection (f) of this section;

(2) the provision of financial advice to eligible small businesses;

(3) expenses for the administration and management of the Fund (including salaries, expenses, and the rental or purchase of office space for the fund);¹

(4) preparation of research, studies, or financial analyses; and

(5) other services consistent with the purposes of this section.

¹ So in original. Probably should be “Fund);”.