

relay services are adopted by providers of such relay services; and

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

(d) Meetings

(1) Initial meeting

The initial meeting of the Advisory Committee shall take place not later than 45 days after the completion of the member appointment process by the Chairman of the Commission pursuant to subsection (b).

(2) Other meetings

After the initial meeting, the Advisory Committee shall meet at the call of the chairs, but no less than monthly until the recommendations required pursuant to subsection (c) are completed and submitted.

(3) Notice; open meetings

Any meetings held by the Advisory Committee shall be duly noticed at least 14 days in advance and shall be open to the public.

(e) Rules

(1) Quorum

One-third of the members of the Advisory Committee shall constitute a quorum for conducting business of the Advisory Committee.

(2) Subcommittees

To assist the Advisory Committee in carrying out its functions, the chair may establish appropriate subcommittees composed of members of the Advisory Committee and other subject matter experts as determined to be necessary.

(3) Additional rules

The Advisory Committee may adopt other rules as needed.

(f) Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.

(g) Implementing recommendations

The Commission shall have the authority to promulgate regulations to implement the recommendations proposed by the Advisory Committee, as well as any other regulations, technical standards, protocols, and procedures as are necessary to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network, where achievable and technically feasible.

(h) Definitions

In this section—

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

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

(3) except as otherwise expressly provided, other terms have the meanings given such terms in section 153 of this title.

(Pub. L. 111-260, title I, §106, Oct. 8, 2010, 124 Stat. 2762.)

REFERENCES IN TEXT

Section 158(e)(4) of the National Telecommunications and Information Administration Organization Act, re-

ferred to in subsec. (c)(7), probably means section 158(f)(4) of title I of Pub. L. 102-538, which was formerly classified to section 942(f)(4) of this title and was omitted from the Code.

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was enacted as part of the Twenty-First Century Communications and Video Accessibility Act of 2010, and not as part of the Communications Act of 1934 which comprises this chapter.

§ 616. Internet protocol-based relay services

Within one year after October 8, 2010, each interconnected VoIP service provider and each provider of non-interconnected VoIP service shall participate in and contribute to the Telecommunications Relay Services Fund established in section 64.604(c)(5)(iii) of title 47, Code of Federal Regulations, as in effect on October 8, 2010, in a manner prescribed by the Commission by regulation to provide for obligations of such providers that are consistent with and comparable to the obligations of other contributors to such Fund.

(June 19, 1934, ch. 652, title VII, §715, as added Pub. L. 111-260, title I, §103(b), Oct. 8, 2010, 124 Stat. 2755.)

§ 617. Access to advanced communications services and equipment

(a) Manufacturing

(1) In general

With respect to equipment manufactured after the effective date of the regulations established pursuant to subsection (e), and subject to those regulations, a manufacturer of equipment used for advanced communications services, including end user equipment, network equipment, and software, shall ensure that the equipment and software that such manufacturer offers for sale or otherwise distributes in interstate commerce shall be accessible to and usable by individuals with disabilities, unless the requirements of this subsection are not achievable.

(2) Industry flexibility

A manufacturer of equipment may satisfy the requirements of paragraph (1) with respect to such equipment by—

(A) ensuring that the equipment that such manufacturer offers is accessible to and usable by individuals with disabilities without the use of third party applications, peripheral devices, software, hardware, or customer premises equipment; or

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

(b) Service providers

(1) In general

With respect to services provided after the effective date of the regulations established

pursuant to subsection (e), and subject to those regulations, a provider of advanced communications services shall ensure that such services offered by such provider in or affecting interstate commerce are accessible to and usable by individuals with disabilities, unless the requirements of this subsection are not achievable.

(2) Industry flexibility

A provider of services may satisfy the requirements of paragraph (1) with respect to such services by—

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

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

(c) Compatibility

Whenever the requirements of subsections¹ (a) or (b) are not achievable, a manufacturer or provider shall ensure that its equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, unless the requirement of this subsection is not achievable.

(d) Network features, functions, and capabilities

Each provider of advanced communications services has the duty not to install network features, functions, or capabilities that impede accessibility or usability.

(e) Regulations

(1) In general

Within one year after October 8, 2010, the Commission shall promulgate such regulations as are necessary to implement this section. In prescribing the regulations, the Commission shall—

(A) include performance objectives to ensure the accessibility, usability, and compatibility of advanced communications services and the equipment used for advanced communications services by individuals with disabilities;

(B) provide that advanced communications services, the equipment used for advanced communications services, and networks used to provide advanced communications services may not impair or impede the accessibility of information content when accessibility has been incorporated into that content for transmission through advanced communications services, equipment used for advanced communications services, or networks used to provide advanced communications services;

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

(D) not mandate technical standards, except that the Commission may adopt technical standards as a safe harbor for such compliance if necessary to facilitate the manufacturers' and service providers' compliance with sections² (a) through (c).

(2) Prospective guidelines

The Commission shall issue prospective guidelines for a manufacturer or provider regarding the requirements of this section.

(f) Services and equipment subject to section 255 of this title

The requirements of this section shall not apply to any equipment or services, including interconnected VoIP service, that are subject to the requirements of section 255 of this title on the day before October 8, 2010. Such services and equipment shall remain subject to the requirements of section 255 of this title.

(g) Achievable defined

For purposes of this section and section 619 of this title, the term "achievable" means with reasonable effort or expense, as determined by the Commission. In determining whether the requirements of a provision are achievable, the Commission shall consider the following factors:

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

(2) The technical and economic impact on the operation of the manufacturer or provider and on the operation of the specific equipment or service in question, including on the development and deployment of new communications technologies.

(3) The type of operations of the manufacturer or provider.

(4) The extent to which the service provider or manufacturer in question offers accessible services or equipment containing varying degrees of functionality and features, and offered at differing price points.

(h) Commission flexibility

(1) Waiver

The Commission shall have the authority, on its own motion or in response to a petition by a manufacturer or provider of advanced communications services or any interested party, to waive the requirements of this section for any feature or function of equipment used to provide or access advanced communications services, or for any class of such equipment, for any provider of advanced communications services, or for any class of such services, that—

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

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

(2) Small entity exemption

The Commission may exempt small entities from the requirements of this section.

¹ So in original. Probably should be "subsection".

² So in original. Probably should be "subsections".

(i) Customized equipment or services

The provisions of this section shall not apply to customized equipment or services that are not offered directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(j) Rule of construction

This section shall not be construed to require a manufacturer of equipment used for advanced communications or a provider of advanced communications services to make every feature and function of every device or service accessible for every disability.

(June 19, 1934, ch. 652, title VII, §716, as added Pub. L. 111-260, title I, §104(a), Oct. 8, 2010, 124 Stat. 2755; amended Pub. L. 111-265, §2(1), (2), Oct. 8, 2010, 124 Stat. 2795.)

AMENDMENTS

2010—Subsec. (d). Pub. L. 111-265, §2(1), struck out “do not” before “impede accessibility”.

Subsec. (e)(1)(D). Pub. L. 111-265, §2(2), substituted “facilitate” for “facilities”.

§ 618. Enforcement and recordkeeping obligations**(a) Complaint and enforcement procedures**

Within one year after October 8, 2010, the Commission shall establish regulations that facilitate the filing of formal and informal complaints that allege a violation of section 255, 617, or 619 of this title, establish procedures for enforcement actions by the Commission with respect to such violations, and implement the recordkeeping obligations of paragraph (5) for manufacturers and providers subject to such sections. Such regulations shall include the following provisions:

(1) No fee

The Commission shall not charge any fee to an individual who files a complaint alleging a violation of section 255, 617, or 619 of this title.

(2) Receipt of complaints

The Commission shall establish separate and identifiable electronic, telephonic, and physical receptacles for the receipt of complaints filed under section 255, 617, or 619 of this title.

(3) Complaints to the Commission**(A) In general**

Any person alleging a violation of section 255, 617, or 619 of this title by a manufacturer of equipment or provider of service subject to such sections may file a formal or informal complaint with the Commission.

(B) Investigation of informal complaint

The Commission shall investigate the allegations in an informal complaint and, within 180 days after the date on which such complaint was filed with the Commission, issue an order concluding the investigation, unless such complaint is resolved before such time. The order shall include a determination whether any violation occurred.

(i) If the Commission determines that a violation has occurred, the Commission

may, in the order issued under this subparagraph or in a subsequent order, direct the manufacturer or service provider to bring the service, or in the case of a manufacturer, the next generation of the equipment or device, into compliance with requirements of those sections within a reasonable time established by the Commission in its order.

(ii) NO VIOLATION.—If a determination is made that a violation has not occurred, the Commission shall provide the basis for such determination.

(C) Consolidation of complaints

The Commission may consolidate for investigation and resolution complaints alleging substantially the same violation.

(4) Opportunity to respond

Before the Commission makes a determination pursuant to paragraph (3), the party that is the subject of the complaint shall have a reasonable opportunity to respond to such complaint, and may include in such response any factors that are relevant to such determination. Before issuing a final order under paragraph (3)(B)(i), the Commission shall provide such party a reasonable opportunity to comment on any proposed remedial action.

(5) Recordkeeping

(A) Beginning one year after the effective date of regulations promulgated pursuant to section 617(e) of this title, each manufacturer and provider subject to sections 255, 617, and 619 of this title shall maintain, in the ordinary course of business and for a reasonable period, records of the efforts taken by such manufacturer or provider to implement sections 255, 617, and 619 of this title, including the following:

(i) Information about the manufacturer's or provider's efforts to consult with individuals with disabilities.

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

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

(B) An officer of a manufacturer or provider shall submit to the Commission an annual certification that records are being kept in accordance with subparagraph (A).

(C) After the filing of a formal or informal complaint against a manufacturer or provider, the Commission may request, and shall keep confidential, a copy of the records maintained by such manufacturer or provider pursuant to subparagraph (A) of this paragraph that are directly relevant to the equipment or service that is the subject of such complaint.

(6) Failure to act

If the Commission fails to carry out any of its responsibilities to act upon a complaint in the manner prescribed in paragraph (3), the person that filed such complaint may bring an action in the nature of mandamus in the United States Court of Appeals for the District