

(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.

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

(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.

(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 phys-

ical 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 of Columbia to compel the Commission to carry out any such responsibility.

(7) Commission jurisdiction

The limitations of section 255(f) of this title shall apply to any claim that alleges a violation of section 255, 617, or 619 of this title. Nothing in this paragraph affects or limits any action for mandamus under paragraph (6) or any appeal pursuant to section 402(b)(10) of this title.

(8) Private resolutions of complaints

Nothing in the Commission's rules or this chapter shall be construed to preclude a person who files a complaint and a manufacturer or provider from resolving a formal or informal complaint prior to the Commission's final determination in a complaint proceeding. In the event of such a resolution, the parties shall jointly request dismissal of the complaint and the Commission shall grant such request.

(b) Reports to Congress

(1) In general

Every two years after October 8, 2010, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes the following:

(A) An assessment of the level of compliance with sections 255, 617, and 619 of this title.

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

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

(D) A description of the actions taken to resolve such complaints under this section, including forfeiture penalties assessed.

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

(F) The number, status, nature, and outcome of any actions for mandamus filed pur-

suant to subsection (a)(6) and the number, status, nature, and outcome of any appeals filed pursuant to section 402(b)(10) of this title.

(G) An assessment of the effect of the requirements of this section on the development and deployment of new communications technologies.

(2) Public comment required

The Commission shall seek public comment on its tentative findings prior to submission to the Committees of the report under this subsection.

(c) Comptroller General enforcement study

(1) In general

The Comptroller General shall conduct a study to consider and evaluate the following:

(A) The Commission's compliance with the requirements of this section, including the Commission's level of compliance with the deadlines established under and pursuant to this section and deadlines for acting on complaints pursuant to subsection (a).

(B) Whether the enforcement actions taken by the Commission pursuant to this section have been appropriate and effective in ensuring compliance with this section.

(C) Whether the enforcement provisions under this section are adequate to ensure compliance with this section.

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

(2) Report

Not later than 5 years after October 8, 2010, the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of the study required by paragraph (1), with recommendations for how the enforcement process and measures under this section may be modified or improved.

(d) Clearinghouse

Within one year after October 8, 2010, the Commission shall, in consultation with the Architectural and Transportation Barriers Compliance Board, the National Telecommunications and Information Administration, trade associations, and organizations representing individuals with disabilities, establish a clearinghouse of information on the availability of accessible products and services and accessibility solutions required under sections 255, 617, and 619 of this title. Such information shall be made publicly available on the Commission's website and by other means, and shall include an annually updated list of products and services with access features.

(e) Outreach and education

Upon establishment of the clearinghouse of information required under subsection (d), the Commission, in coordination with the National Telecommunications and Information Administration, shall conduct an informational and educational program designed to inform the public

about the availability of the clearinghouse and the protections and remedies available under sections 255, 617, and 619 of this title.

(June 19, 1934, ch. 652, title VII, §717, as added Pub. L. 111-260, title I, §104(a), Oct. 8, 2010, 124 Stat. 2758; amended Pub. L. 111-265, §2(3), Oct. 8, 2010, 124 Stat. 2795.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(8), was in the original "this Act", meaning 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.

AMENDMENTS

2010—Subsec. (a)(5)(C). Pub. L. 111-265 substituted "provider," for "provider in the manner prescribed in paragraph (3).".

§619. Internet browsers built into telephones used with public mobile services

(a) Accessibility

If a manufacturer of a telephone used with public mobile services (as such term is defined in section 610(b)(4)(B) of this title) includes an Internet browser in such telephone, or if a provider of mobile service arranges for the inclusion of a browser in telephones to sell to customers, the manufacturer or provider shall ensure that the functions of the included browser (including the ability to launch the browser) are accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable, except that this subsection shall not impose any requirement on such manufacturer or provider—

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

(2) to make Internet content, applications, or services accessible or usable (other than enabling individuals with disabilities to use an included browser to access such content, applications, or services).

(b) Industry flexibility

A manufacturer or provider may satisfy the requirements of subsection (a) with respect to such telephone or services by—

(1) ensuring that the telephone or services that such manufacture or provider 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

(2) 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.

(June 19, 1934, ch. 652, title VII, §718, as added Pub. L. 111-260, title I, §104(a), Oct. 8, 2010, 124 Stat. 2761.)

EFFECTIVE DATE

Pub. L. 111-260, title I, §104(b), Oct. 8, 2010, 124 Stat. 2761, provided that: "Section 718 of the Communications Act of 1934 [47 U.S.C. 619], as added by subsection