

110TH CONGRESS
2D SESSION

H. R. 6320

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2008

Mr. MARKEY (for himself, Mrs. WILSON of New Mexico, Mrs. CAPPS, Ms. SOLIS, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Twenty-first Century Communications and Video Acces-
6 sibility Act of 2008”.

7 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; Table of contents.

- Sec. 101. Definitions.
 Sec. 102. Hearing aid compatibility.
 Sec. 103. Relay services.
 Sec. 104. Access to Internet-based services and equipment.
 “Sec. 255A. Access to Internet-based services and equipment.
 “Sec. 255B. Enforcement and reporting obligations.
 Sec. 105. Universal service.
 Sec. 106. Emergency access and real-time text support.
 “Sec. 255C. Emergency access and real-time text support.

TITLE II—VIDEO PROGRAMMING

- Sec. 201. Commission inquiry on closed captioning decoder and video description capability, user interfaces, and video programming guides and menus.
 Sec. 202. Closed captioning decoder and video description capability.
 Sec. 203. Video description and closed captioning.
 Sec. 204. User interfaces regulations.
 Sec. 205. Access to video programming guides and menus.

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

3 **SEC. 101. DEFINITIONS.**

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

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

8 “(53) **DISABILITY.**—The term ‘disability’ has
 9 the meaning given such term under section 3(2)(A)
 10 of the Americans with Disabilities Act of 1990 (42
 11 U.S.C. 12102(2)(A)), as such section may be
 12 amended from time to time.

13 “(54) **INTERCONNECTED VOIP SERVICE.**—The
 14 term ‘interconnected VoIP service’ has the meaning
 15 given such term by section 9.3 of the Commission’s
 16 rules (47 CFR 9.3).

1 “(55) IP-ENABLED COMMUNICATION SERV-
2 ICE.—

3 “(A) The term ‘IP-enabled communication
4 service’ means a transmission service between
5 or among points specified by the user, of infor-
6 mation of the user’s choosing, using the Inter-
7 net protocol (or a successor protocol) if such
8 transmission is for the purpose of enabling bi-
9 lateral or multilateral voice, text, or video com-
10 munication, utilization of interactive voice re-
11 sponse or voice mail systems, or other similar
12 communications-based applications, and uses—

13 “(i) an Internet connection from the
14 user’s location; and

15 “(ii) customer premises equipment
16 that is compatible with the Internet pro-
17 tocol (or a successor protocol).

18 “(B) Such term includes any service that
19 is an interconnected VoIP service.”; and

20 (2) by reordering paragraphs (1) through (52)
21 and the paragraphs added by paragraph (1) of this
22 section in alphabetical order based on the headings
23 of such paragraphs, and renumbering such para-
24 graphs as so reordered.

1 **SEC. 102. HEARING AID COMPATIBILITY.**

2 (a) AMENDMENT.—Section 710(b)(1) of the Commu-
3 nications Act of 1934 (47 U.S.C. 610(b)(1)) is amended—

4 (1) by striking “and” at the end of subpara-
5 graph (A);

6 (2) by inserting “and” after the comma at the
7 end of subparagraph (B); and

8 (3) by inserting after subparagraph (B) the fol-
9 lowing new subparagraph:

10 “(C) all customer premises equipment used to
11 provide an IP-enabled communication service that
12 provides voice communication via a built-in speaker
13 (typically held to the ear) and that are manufac-
14 tured in the United States (other than for export)
15 more than one year after the date of enactment of
16 the Twenty-first Century Communications and Video
17 Accessibility Act of 2008, or are shipped in inter-
18 state commerce in the United States more than one
19 year after such date,”.

20 **SEC. 103. RELAY SERVICES.**

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

24 “(3) TELECOMMUNICATIONS RELAY SERV-
25 ICES.—The term ‘telecommunications relay services’
26 means telephone transmission that provides the abil-

1 ity for an individual who is deaf or hard of hearing
2 or who has a speech disability to engage in commu-
3 nication by wire or radio with one or more individ-
4 uals, in a manner that is functionally equivalent to
5 the ability of a hearing individual who does not have
6 a speech disability to communicate using voice com-
7 munication services by wire or radio.”.

8 (b) INTERNET-BASED TELECOMMUNICATIONS
9 RELAY SERVICES.—Section 225 of such Act is further
10 amended—

11 (1) by inserting “BY COMMON CARRIERS” after
12 “PROVISION OF SERVICES” in the heading of sub-
13 section (c);

14 (2) by redesignating subsections (e), (f), and
15 (g) as subsections (f), (g), and (h), respectively;

16 (3) by inserting after subsection (d) the fol-
17 lowing new subsection:

18 “(e) INTERNET-BASED TELECOMMUNICATIONS
19 RELAY SERVICES.—Within one year after the date of en-
20 actment of the Twenty-first Century Communications and
21 Video Accessibility Act of 2008, each interconnected VoIP
22 service provider and each provider of voice communica-
23 tions using an IP-enabled communication service shall
24 participate in and contribute to the Telecommunications
25 Relay Services Fund established in section

1 64.404(c)(5)(iii) of the Commission’s regulations (47 CFR
2 64.404(c)(5)(iii)), as in effect on the date of enactment
3 of such Act, in a manner prescribed by the Commission
4 by regulation to provide for obligations of such providers
5 that are consistent with and comparable to the obligations
6 of other contributors to such Fund.”;

7 (4) in subsection (f)(1) (as redesignated by
8 paragraph (2) of this subsection), by striking “sub-
9 sections (f) and (g)” and inserting “subsections (g)
10 and (h)”;

11 (5) in subsections (h)(1) and (h)(2)(B) (as so
12 redesignated), by striking “subsection (f)” each
13 place it appears and inserting “subsection (g)”.

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

16 (a) AMENDMENT.—Title II of the Communications
17 Act of 1934 (47 U.S.C. 201 et seq.) is amended by insert-
18 ing after section 255 the following new sections:

19 **“SEC. 255A. ACCESS TO INTERNET-BASED SERVICES AND**
20 **EQUIPMENT.**

21 “(a) MANUFACTURING.—A manufacturer of equip-
22 ment used for IP-enabled communication services, includ-
23 ing end user equipment, network equipment, and software,
24 shall ensure that the equipment is designed, developed,
25 and fabricated to be accessible to and usable by individuals

1 with disabilities, unless the requirement of this subsection
2 would result in an undue burden.

3 “(b) SERVICE PROVIDERS.—A provider of IP-enabled
4 communication service shall ensure that its service is ac-
5 cessible to and usable by individuals with disabilities, un-
6 less the requirement of this subsection would result in an
7 undue burden.

8 “(c) COMPATIBILITY.—Whenever the requirements of
9 subsections (a) and (b) constitute an undue burden, such
10 manufacturer or provider shall ensure that the equipment
11 or service is compatible with existing peripheral devices
12 or specialized customer premises equipment commonly
13 used by individuals with disabilities to achieve access, un-
14 less the requirement of this subsection would result in an
15 undue burden.

16 “(d) NETWORK FEATURES, FUNCTIONS, AND CAPA-
17 BILITIES.—Each provider of IP-enabled communication
18 service has the duty not to install network features, func-
19 tions, or capabilities that do not comply with the regula-
20 tions established pursuant to this section.

21 “(e) REGULATIONS.—Within one year after the date
22 of enactment of the Twenty-first Century Communications
23 and Video Accessibility Act of 2008, the Commission shall
24 prescribe such regulations as are necessary to implement

1 this section. In prescribing the regulations, the Commis-
2 sion shall—

3 “(1) include standards to ensure the accessi-
4 bility, usability, and compatibility of IP-enabled
5 communication services and the equipment used for
6 such services by individuals with disabilities; and

7 “(2) provide that IP-enabled communication
8 services, the equipment used for such services, and
9 IP-enabled communication service networks may not
10 impair or impede the accessibility of information
11 content when accessibility has been incorporated into
12 that content for transmission through IP-enabled
13 communication services, equipment, or networks.

14 “(f) REMEDIES.—The limitations on actions in sec-
15 tion 255(f) shall not apply to this section.

16 “(g) DEFINITION.—For purposes of this section, the
17 term ‘undue burden’ means significant difficulty or ex-
18 pense. In determining whether the requirements of any
19 provision of this section would result in an undue burden,
20 the factors to be considered include—

21 “(1) the nature and cost of the steps required
22 for the manufacturer or provider;

23 “(2) the impact on the operation of the manu-
24 facturer or provider;

1 “(3) the financial resources of the manufacturer
2 or provider; and

3 “(4) the type of operations of the manufacturer
4 or provider.

5 **“SEC. 255B. ENFORCEMENT AND REPORTING OBLIGATIONS.**

6 “(a) COMPLAINT AND ENFORCEMENT PROCE-
7 DURES.—Within one year after the date of enactment of
8 the Twenty-first Century Communications and Video Ac-
9 cessibility Act of 2008, the Commission shall establish reg-
10 ulations that facilitate the filing of complaints that allege
11 a violation of section 255 or 255A, establish procedures
12 for enforcement actions by the Commission with respect
13 to such violations, and create reporting obligations for
14 manufacturers and providers subject to such sections.
15 Such regulations shall include the following provisions:

16 “(1) NO FEE.—The Commission shall not
17 charge any fee to an individual who files a complaint
18 alleging a violation of section 255 or 255A.

19 “(2) RECEIPT OF COMPLAINTS.—The Commis-
20 sion shall establish separate and identifiable elec-
21 tronic, telephonic, and physical receptacles for the
22 receipt of complaints filed under section 255 or
23 255A.

24 “(3) COMPLAINTS TO THE COMMISSION.—Any
25 person alleging a violation of section 255 or 255A by

1 a manufacturer of equipment or provider of service
2 subject to such sections may file a complaint with
3 the Commission. The Commission shall investigate
4 the allegations in such complaint and issue a final
5 order concluding the investigation within 90 days of
6 the date on which such complaint was filed with the
7 Commission, unless such complaint is resolved before
8 such time. The Commission may consolidate for in-
9 vestigation and resolution complaints alleging sub-
10 stantially the same violation by the same manufac-
11 turer or provider. Such final order shall include a
12 determination as to whether any violation has oc-
13 curred and, if the Commission determines that a vio-
14 lation has occurred, address the manner in which
15 the manufacturer or service provider will achieve ac-
16 cessibility, compatibility, or usability required by sec-
17 tion 255 or 255A. If a determination is made that
18 a violation has occurred but the accessibility feature
19 requested is not readily achievable under section 255
20 or will create an undue burden under section 255A,
21 the Commission shall provide the basis for such de-
22 termination.

23 “(4) CEASE AND DESIST ORDERS.—If the Com-
24 mission’s investigation pursuant to paragraph (3)
25 determines that a manufacturer of equipment or

1 provider of service is engaged in an act prohibited by
2 section 255 or 255A, or is failing to perform any act
3 required by section 255 or 255A, the Commission
4 shall order such manufacturer or provider to cease
5 from violating such section.

6 “(5) FORFEITURE PENALTIES.—A manufac-
7 turer of equipment or provider of service subject to
8 the requirements of section 255 or 255A shall be
9 subject under section 503 to a civil penalty for viola-
10 tion of section 255 or 255A in an amount deter-
11 mined under section 503(b)(2)(B).

12 “(6) REPORTING.—Each manufacturer of
13 equipment used for IP-enabled communication serv-
14 ices and each provider of IP-enabled communication
15 service shall—

16 “(A) file a report with the Commission, on
17 an annual basis, that describes the steps that
18 have been taken by such manufacturer or pro-
19 vider during the preceding year to implement
20 sections 255 and 255A, including—

21 “(i) information about the company’s
22 efforts to consult with people with disabil-
23 ities;

24 “(ii) descriptions of the accessibility
25 features of its products and services; and

1 “(iii) information about the compat-
2 ibility of their products and services with
3 peripheral devices or specialized customer
4 premise equipment commonly used by peo-
5 ple with disabilities to achieve access; and

6 “(B) maintain, in the ordinary course of
7 business, records of the efforts taken by such
8 manufacturer or provider to implement sections
9 255 and 255A.

10 “(b) REPORTS TO CONGRESS.—Every two years after
11 the date of enactment of the Twenty-first Century Com-
12 munications and Video Accessibility Act of 2008, the Com-
13 mission shall submit a report to the Committee on Com-
14 merce, Science, and Transportation of the Senate and the
15 Committee on Energy and Commerce of the House of
16 Representatives that assesses the level of compliance with
17 section 255 or 255A and evaluates the extent to which
18 any accessibility barriers still exist with respect to new
19 technologies. Such report shall include—

20 “(1) the number and nature of complaints re-
21 ceived pursuant to subsection (a) during the two
22 years that are the subject of the report;

23 “(2) actions taken to resolve such complaints
24 under this section, including cease and desist orders
25 issued and forfeiture penalties assessed; and

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

3 “(c) CLEARINGHOUSE.—The Commission shall, in
4 coordination with the Architectural and Transportation
5 Barriers Compliance Board and the National Tele-
6 communications and Information Administration, estab-
7 lish a clearinghouse of information on the availability of
8 accessible products and services and accessibility solutions
9 required under sections 255 and 255A. Such information
10 shall be made publicly available on the Commission’s
11 website and by other means, and shall include an annually
12 updated list of products and services with access features.

13 “(d) OUTREACH AND EDUCATION.—Within one year
14 after the date of enactment of the Twenty-first Century
15 Communications and Video Accessibility Act of 2008, the
16 Commission, in coordination with the National Tele-
17 communications and Information Administration, shall
18 conduct an informational and educational program de-
19 signed to inform the public about the availability of the
20 clearinghouse, and the protections and remedies available
21 under sections 255 and 255A.”.

22 (b) CONFORMING AMENDMENT.—Section 255(a) of
23 the Communications Act of 1934 (47 U.S.C. 255(a)) is
24 amended by adding at the end the following new para-
25 graph:

1 “(3) TEXT MESSAGES.—The transmission and
2 receipt of text messages sent by radio to and from
3 mobile wireless devices (made available through
4 short message service or similar means) are tele-
5 communications services for purposes of this section
6 and the enforcement of this section under section
7 255B.”.

8 **SEC. 105. UNIVERSAL SERVICE.**

9 (a) CONSUMERS WITH DISABILITIES.—Section 254
10 of the Communications Act of 1934 (47 U.S.C. 254) is
11 amended—

12 (1) in subsection (b)—

13 (A) by redesignating paragraph (7) as
14 paragraph (8); and

15 (B) by inserting after paragraph (6) the
16 following new paragraph:

17 “(7) ACCESS BY CONSUMERS WITH DISABIL-
18 ITIES.—Consumers with disabilities should have ac-
19 cess to telecommunications services and IP-enabled
20 communication services, including interexchange
21 services and advanced telecommunications and infor-
22 mation services.”; and

23 (2) in subsection (c), by adding at the end the
24 following new paragraph:

1 “(4) INDIVIDUALS WITH DISABILITIES.—Not-
2 withstanding subsection (j), the Commission shall, in
3 order to implement the principle established in sub-
4 section (b)(7), designate as services supported by
5 Lifeline and Link Up assistance programs and other
6 Federal universal service support mechanisms those
7 telecommunications services and IP-enabled commu-
8 nication services that are needed by individuals with
9 disabilities to engage in communication with one or
10 more other individuals in a manner that is function-
11 ally equivalent to the ability of individuals without
12 disabilities to engage in such communication.”.

13 (b) ALLOCATION OF USF FOR SERVICES FOR INDI-
14 VIDUALS WITH DISABILITIES.—Section 254 of the Com-
15 munications Act of 1934 (47 U.S.C. 254) is further
16 amended—

17 (1) by redesignating subsections (i) through (l)
18 as subsections (j) through (m), respectively; and

19 (2) by inserting after subsection (h) the fol-
20 lowing new subsection:

21 “(i) INDIVIDUALS WHO ARE DEAF-BLIND.—

22 “(1) IN GENERAL.—Within 6 months after the
23 date of the enactment of the Twenty-first Century
24 Communications and Video Accessibility Act of
25 2008, the Commission shall establish rules that de-

1 fine as eligible for universal service support those
2 programs that are certified by a State commission or
3 approved by the Commission for the distribution of
4 specialized customer premises equipment designed to
5 make telecommunications service and IP-enabled
6 communication service, including interexchange serv-
7 ices and advanced telecommunications and informa-
8 tion services, accessible by individuals who are deaf-
9 blind.

10 “(2) DEFINITION.—For the purposes of this
11 subsection, the term ‘individuals who are deaf-blind’
12 has the same meaning given such term in the Helen
13 Keller National Center Act, as amended by the Re-
14 habilitation Act Amendments of 1992 (29 U.S.C.
15 1905(2)).

16 “(3) ANNUAL AMOUNT.—The total amount of
17 universal service support that may be obligated or
18 expended under this subsection for any fiscal year
19 may not exceed \$10,000,000.”.

20 **SEC. 106. EMERGENCY ACCESS AND REAL-TIME TEXT SUP-**
21 **PORT.**

22 Title II of the Communications Act of 1934 (47
23 U.S.C. 201 et seq.) is further amended by inserting after
24 section 255B (as added by section 104 of this Act) the
25 following new section:

1 **“SEC. 255C. EMERGENCY ACCESS AND REAL-TIME TEXT**
2 **SUPPORT.**

3 “(a) DUTY OF PROVIDERS OF IP-ENABLED COMMU-
4 NICATION SERVICE.—In order to ensure equal access to
5 emergency services by individuals with disabilities, as part
6 of the migration to a national Internet Protocol-enabled
7 emergency network, it shall be the duty of every IP-en-
8 abled communication service provider to ensure seamless
9 real-time text communication between and among inter-
10 connected VoIP services, IP-enabled communication serv-
11 ices, and telecommunications services.

12 “(b) REGULATIONS.—Within one year after the date
13 of enactment of the Twenty-first Century Communications
14 and Video Accessibility Act of 2008, the Commission shall
15 prescribe such regulations as are necessary to implement
16 this section. In prescribing the regulations, the Commis-
17 sion shall—

18 “(1) require that all IP-enabled communications
19 services support a single real-time text standard, so
20 that real-time text communication formats used on
21 the networks of each provider of interconnected
22 VoIP services, IP-enabled communication services,
23 and telecommunications services will interoperate
24 with every other such network and with gateways to
25 the public switched network;

26 “(2) require that—

1 “(A) all providers of IP-enabled commu-
2 nication service that are required to be in com-
3 pliance with this section shall transmit real-time
4 text communication formats as text data, not
5 audio tones; and

6 “(B) such transmission shall have less
7 than one percent character error in order to en-
8 sure accurate transmission; and

9 “(3) establish deadlines by which providers of
10 IP-enabled communication service shall comply with
11 the requirements under paragraphs (1) and (2)”.

12 **TITLE II—VIDEO PROGRAMMING**

13 **SEC. 201. COMMISSION INQUIRY ON CLOSED CAPTIONING**

14 **DECODER AND VIDEO DESCRIPTION CAPA-** 15 **BILITY, USER INTERFACES, AND VIDEO PRO-** 16 **GRAMMING GUIDES AND MENUS.**

17 (a) INQUIRY REQUIRED.—Within 180 days after the
18 date of enactment of this Act, the Federal Communica-
19 tions Commission shall complete an inquiry on the fol-
20 lowing subjects:

21 (1) CLOSED-CAPTIONING DECODER AND VIDEO
22 DESCRIPTION CAPABILITY.—With respect to closed
23 captioning decoder and video description capability,
24 the Commission shall—

25 (A) identify—

1 (i) the formats and software com-
2 monly used by video programming pro-
3 viders or owners for exhibition on new
4 technologies, including those used by IP-
5 enabled communication services and digital
6 wireless services; and

7 (ii) the related technical issues associ-
8 ated with the implementation of closed
9 captioning and video description by means
10 of such new technologies;

11 (B) identify the technical standards, proto-
12 cols, and procedures needed for the trans-
13 mission of closed captioning and video descrip-
14 tion by means of IP-enabled communication
15 service and digital wireless services and equip-
16 ment; and

17 (C) identify—

18 (i) technical standards, protocols, and
19 procedures to enable video programming
20 providers and owners to transmit emer-
21 gency information in a manner that is ac-
22 cessible to individuals who are blind or vis-
23 ually impaired; and

24 (ii) the persons or parties obligated to
25 create, receive, and transmit such emer-

1 gency information in accordance with such
2 standards, protocols, and procedures.

3 (2) USER INTERFACES.—With respect to user
4 interfaces, the Commission shall—

5 (A) identify the technical standards, proto-
6 cols, and procedures needed to enable apparatus
7 designed to receive or display video program-
8 ming transmitted simultaneously with sound
9 (including apparatus designed to receive or dis-
10 play video programming transmitted by means
11 of IP-enabled communication services) to be ca-
12 pable of making its apparatus functions, includ-
13 ing the receipt, display, navigation, or selection
14 of video programming (and any other functions
15 shared by, related to, or necessary to access
16 such apparatus functions), accessible to and us-
17 able by individuals with disabilities; and

18 (B) identify the technical standards, proto-
19 cols, and procedures needed to enable on-screen
20 text menus and other visual indicators used to
21 access the functions described in subparagraph
22 (A) to be accompanied by audio output so that
23 such menus or indicators are accessible to and
24 usable by individuals who are blind or visually
25 impaired.

1 “(u) Require that every apparatus designed to receive
2 or display video programming (as such term is defined in
3 section 713(g)) transmitted simultaneously with sound, in-
4 cluding apparatus designed to receive or display video pro-
5 gramming transmitted by means of IP-enabled commu-
6 nication services, that are shipped in interstate commerce
7 or manufactured in the United States—

8 “(1) be equipped with built-in closed caption
9 decoding capability designed to display closed-cap-
10 tioned video programming;

11 “(2) have sufficient capacity to make available
12 the transmission and delivery of video description
13 services as required by section 713(f); and

14 “(3) have the capability to convey emergency
15 information (as that term is defined in section 79.2
16 of the Commission’s regulations (47 CFR 79.2)), in-
17 cluding Emergency Alert System messages, in a
18 manner that is accessible to individuals who are
19 blind or visually-impaired.”.

20 (b) SHIPMENT IN COMMERCE.—Section 330(b) of the
21 Communications Act of 1934 (47 U.S.C. 330) is amend-
22 ed—

23 (1) by striking the second sentence and insert-
24 ing the following: “Such rules shall provide perform-
25 ance and display standards for such built-in decoder

1 circuitry, the transmission and delivery of video de-
2 scription (as such term is defined in section 713(g))
3 services over technologies that are based in digital
4 signals, IP-enabled communication services, wireless
5 devices, or other methods, and the transmission of
6 closed captioning over technologies that are based in
7 IP-enabled communication services, wireless devices,
8 or other technologies.”; and

9 (2) in the fourth sentence, by inserting “and
10 video description service” after “closed-captioning
11 service”.

12 (c) IMPLEMENTING REGULATIONS.—Within 18
13 months after the date of enactment of this Act, the Fed-
14 eral Communications Commission shall prescribe such reg-
15 ulations as are necessary to implement, and are technically
16 feasible for implementing, the amendments made by sub-
17 sections (a) and (b).

18 **SEC. 203. VIDEO DESCRIPTION AND CLOSED CAPTIONING.**

19 (a) VIDEO DESCRIPTION.—Section 713 of the Com-
20 munications Act of 1934 (47 U.S.C. 613) is amended by
21 striking subsections (f) and (g) and inserting the fol-
22 lowing:

23 “(f) VIDEO DESCRIPTION.—

24 “(1) REINSTATEMENT OF RULES.—The video
25 description regulations of the Commission contained

1 in the report and order identified as Implementation
2 of Video Description of Video Programming, Report
3 and Order (15 F.C.C.R. 15.230 (2000)), shall—

4 “(A) be considered to be in full force and
5 effect and ratified by law; and

6 “(B) apply to video programming (as such
7 term is defined in subsection (g)) that is first
8 published or exhibited after the date of enact-
9 ment of the Twenty-first Century Communica-
10 tions and Video Accessibility Act of 2008.

11 “(2) CONTINUING AUTHORITY OF THE COMMIS-
12 SION.—The Commission—

13 “(A) shall, within 45 days after the date of
14 enactment of the Twenty-first Century Commu-
15 nications and Video Accessibility Act of 2008—

16 “(i) publish its video description regu-
17 lations contained in the report and order
18 identified as Implementation of Video De-
19 scription of Video Programming, Report
20 and Order (15 F.C.C.R. 15,230 (2000));
21 and

22 “(ii) apply the requirements of such
23 report and order to video programming (as
24 such term is defined in subsection (g));

1 “(B) shall initiate a proceeding, to be com-
2 pleted within 18 months after such date of en-
3 actment, to—

4 “(i) identify methods to convey emer-
5 gency information (as that term is defined
6 in section 79.2 of the Commission’s regula-
7 tions (47 CFR 79.2)) in a manner acces-
8 sible to individuals who are blind or vis-
9 ually-impaired; and

10 “(ii) promulgate regulations that re-
11 quire video programming distributors (as
12 that term is defined in section 79.1 of the
13 Commission’s regulations (47 CFR 79.1))
14 to convey such emergency information in a
15 manner accessible to individuals who are
16 blind or visually-impaired, consistent with
17 the requirements of such section of such
18 regulations; and

19 “(C) shall promulgate any other regulation
20 that the Commission may find necessary to im-
21 plement, enforce, or otherwise carry out the
22 provisions of this section, including regulations
23 to increase the amount of video description re-
24 quired to achieve full access to video program-

1 ming for individuals who are blind or visually-
2 impaired.

3 “(3) REQUIREMENTS FOR RULES.—

4 “(A) Such regulations shall include an ap-
5 propriate schedule of deadlines for the provision
6 of video description of video programming.

7 “(B) Such regulations may permit a pro-
8 vider of video programming or program owner
9 to petition the Commission for an exemption
10 from the requirements of this section upon a
11 showing that the requirements contained in this
12 section would result in an undue burden (as de-
13 fined in subsection (e)). A provider shall be ex-
14 empt from such requirements only after the
15 Commission decides to grant any such petition.

16 “(C) The Commission may exempt from
17 the regulations established pursuant to para-
18 graph (2)(C) services, classes of services, pro-
19 grams, classes of programs, equipment, or
20 classes of equipment for which the Commission
21 has determined that the application of such reg-
22 ulations would be economically burdensome to
23 the providers of such services.

24 “(g) DEFINITIONS.—For purposes of this section:

1 “(1) VIDEO DESCRIPTION.—The term ‘video de-
2 scription’ means the insertion of audio narrated de-
3 scriptions of the video programming’s key visual ele-
4 ments into natural pauses between the program’s
5 dialogue.

6 “(2) VIDEO PROGRAMMING.—The term ‘video
7 programming’ means programming provided by, or
8 generally considered comparable to programming
9 provided by, a television broadcast station, even if
10 such programming is distributed over the Internet or
11 by some other means.”.

12 (b) CLOSED CAPTIONING ON VIDEO PROGRAMMING
13 DISTRIBUTED OVER THE INTERNET.—Section 713 of
14 such Act is further amended by striking subsection (c) and
15 inserting the following:

16 “(c) DEADLINES FOR CAPTIONING.—

17 “(1) IN GENERAL.—Such regulations shall in-
18 clude an appropriate schedule of deadlines for the
19 provision of closed captioning of video programming.

20 “(2) DEADLINES FOR INTERNET-DISTRIBUTED
21 PROGRAMMING.—

22 “(A) Within 18 months after the date of
23 date of enactment of the Twenty-first Century
24 Communications and Video Accessibility Act of
25 2008, the Commission shall prescribe regula-

1 tions that include an appropriate schedule of
2 deadlines for the provision of closed captioning
3 of video programming distributed to the public
4 over the Internet.

5 “(B) Consistent with the regulations pro-
6 mulgated under subsection (b), the regulations
7 prescribed under this paragraph shall ensure
8 the accessibility of video programming through
9 the provision of captions on—

10 “(i) pre-produced video programming
11 that was previously captioned for television
12 viewing;

13 “(ii) live video programming; and

14 “(iii) video programming first pub-
15 lished or exhibited after the effective date
16 of such regulations provided by or gen-
17 erally considered to be comparable to pro-
18 gramming provided by multichannel pro-
19 gramming distributors.”.

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

23 “(3) a provider of video programming or pro-
24 gram owner may petition the Commission for an ex-

1 exemption from the requirements of this section,
2 and—

3 “(A) the Commission may grant such peti-
4 tion upon a showing that the requirements con-
5 tained in this section would result in an undue
6 burden; and

7 “(B) such exemption shall be effective only
8 after the Commission grants such petition.”.

9 **SEC. 204. USER INTERFACES REGULATIONS.**

10 (a) AMENDMENT.—Section 303 of the Communica-
11 tions Act of 1934 (47 U.S.C. 303) is further amended by
12 adding at the end the following new subsection:

13 “(z)(1) Require—

14 “(A) that every apparatus designed to receive
15 or display video programming transmitted simulta-
16 neously with sound, including apparatus designed to
17 receive or display video programming transmitted by
18 means of IP-enabled communication services, be de-
19 signed, developed, and fabricated so that control of
20 all apparatus functions enabling the receipt, display,
21 navigation, or selection of video programming (and
22 any other functions shared by, related to, or nec-
23 essary to access such apparatus functions), are ac-
24 cessible to and usable by individuals with disabilities;

1 “(B) that where on-screen text menus or other
2 visual indicators are used to access the functions de-
3 scribed in subparagraph (A), such apparatus be ac-
4 companied by audio output, so that such menus or
5 indicators are accessible to and usable by individuals
6 who are blind or visually impaired; and

7 “(C) a conspicuous means of accessing closed
8 captioning and video description, including—

9 “(i) the inclusion of a button on the re-
10 mote control of such apparatus designated for
11 activating the closed caption function; and

12 “(ii) the inclusion of ‘closed captions’ and
13 ‘video description’ on the top tier of the on-
14 screen menu of such apparatus.

15 “(2) For purposes of this subsection, the terms ‘video
16 description’ and ‘video programming’ have the meanings
17 given such terms in section 713(g).”.

18 (b) IMPLEMENTING REGULATIONS.—Within 18
19 months after the date of enactment of this Act, the Fed-
20 eral Communications Commission shall prescribe such reg-
21 ulations as are necessary to implement, and are technically
22 feasible for implementing, the amendments made by sub-
23 section (a).

1 **SEC. 205. ACCESS TO VIDEO PROGRAMMING GUIDES AND**
2 **MENUS.**

3 (a) AMENDMENT.—Section 303 of the Communica-
4 tions Act of 1934 (47 U.S.C. 303) is further amended by
5 adding at the end the following new subsection:

6 “(aa) Require each provider or owner of video pro-
7 gramming (as such term is defined in section 713(g)) and
8 each multichannel programming distributor to ensure that
9 video programming information and selection provided by
10 means of a navigational device, guide, or menu is acces-
11 sible in real-time by individuals with disabilities who are
12 unable to read the visual display.”

13 (b) IMPLEMENTING REGULATIONS.—Within 18
14 months after the date of enactment of this Act, the Fed-
15 eral Communications Commission shall prescribe such reg-
16 ulations as are necessary to implement, and are technically
17 feasible for implementing, the amendments made by sub-
18 section (a).

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