

Calendar No. 509

111TH CONGRESS
2^D SESSION

S. 3304

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

IN THE SENATE OF THE UNITED STATES

MAY 4, 2010

Mr. PRYOR (for himself, Mr. KERRY, Mr. CONRAD, and Mr. DORGAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

AUGUST 3, 2010

Reported by Mr. ROCKEFELLER, with an amendment

[Strike all after the enacting clause and insert the part printed in italic]

A BILL

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

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

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

4 (a) ~~SHORT TITLE.~~—This Act may be cited as the

5 “~~Equal Access to 21st Century Communications Act~~”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

See: 1. Short title; table of contents.

TITLE I—INCREASING ACCESS

See: 101. Definitions.
 See: 102. Hearing aid compatibility.
 See: 103. Relay services.
 See: 104. Access to Internet-based services and equipment.
 See: 105. Universal service.
 See: 106. Emergency access and real-time text support.
 See: 107. Internet access service interface.

TITLE II—VIDEO DESCRIPTIONS AND CLOSED CAPTIONING

See: 201. Commission inquiry on closed captioning decoder and video description capability; user interfaces; and video programming guides and menus.
 See: 202. Commission inquiry on the definition of consumer generated media.
 See: 203. Closed captioning decoder and video description capability.
 See: 204. Video description and closed captioning.
 See: 205. User interface regulations.
 See: 206. Access to video programming guides and menus.

3 **TITLE I—INCREASING ACCESS**

4 **SEC. 101. DEFINITIONS.**

5 Section 3 of the Communications Act of 1934 (47
 6 U.S.C. 153) is amended by adding at the end the fol-
 7 lowing:

8 “(54) **ADVANCED COMMUNICATIONS.**—The term
 9 ‘advanced communications’ means Internet-based
 10 protocol, or any successor protocol, based devices
 11 and services that transmit voice, video conferencing,
 12 and text communications; and any application or
 13 service accessed over the Internet that provides for
 14 voice, video conferencing, or text communications; as

1 determined necessary by the Federal Communica-
2 tions Commission.

3 “(55) **DISABILITY**.—The term ‘disability’ has
4 the meaning given such term under section 3(2)(A)
5 of the Americans with Disabilities Act of 1990 (42
6 U.S.C. 12102(2)(A)).

7 “(56) **INTERCONNECTED VOIP SERVICE**.—The
8 term ‘interconnected VoIP service’ has the meaning
9 given such term under section 9.3 of the Commis-
10 sion’s regulations (47 C.F.R. 9.3).

11 “(57) **INTERNET ACCESS EQUIPMENT**.—The
12 term ‘internet access equipment’ means equipment
13 that is used to combine computer processing, infor-
14 mation provision, and computer interactivity with
15 data transport, enabling users to run a variety of
16 applications, including email.

17 “(58) **INTERNET ACCESS SERVICE**.—The term
18 ‘internet access service’ means a service that com-
19 bines computer processing, information provision,
20 and computer interactivity with data transport, ena-
21 bling end users to access the Internet and use a va-
22 riety of applications, including email.”

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

2 (a) COMPATIBILITY REQUIREMENTS.—Section
3 710(b) of the Communications Act of 1934 (47 U.S.C.
4 610(b)) is amended—

5 (1) in paragraph (1)—

6 (A) by striking “Except as” and all that
7 follows through “require that” and inserting
8 “Except as provided in paragraphs (2) and (3)
9 of subsection (b) and subsection (c); the Com-
10 mission shall require that the following cus-
11 tomer premises equipment provide internal
12 means for effective use with hearing aids that
13 are designed to be compatible with telephones
14 which meet established technical standards for
15 hearing aid compatibility”;

16 (B) by striking “and” at the end of sub-
17 paragraph (A);

18 (C) by inserting “and” after the comma at
19 the end of subparagraph (B); and

20 (D) by inserting the following new sub-
21 paragraph:

22 “(C) all customer premises equipment used
23 with advanced communications services that is
24 designed to provide 2-way voice communication
25 via a built-in speaker intended to be held to the
26 ear in a manner functionally equivalent to a

1 telephone, subject to the regulations prescribed
 2 by the Commission under subsection (e)”;

3 ~~(2)~~ in paragraph ~~(2)~~—

4 ~~(A)~~ in subparagraph ~~(A)~~—

5 (i) in the matter preceding clause

6 ~~(i)~~—

7 ~~(I)~~ by striking “initial”;

8 ~~(II)~~ by striking “after the date of
 9 enactment of the Hearing Aid Com-
 10 patibility Act of 1988,”; and

11 ~~(III)~~ by inserting “and ~~(1)(C)~~”
 12 after “paragraph ~~(1)(B)~~”;

13 (ii) by inserting “and” after the end
 14 of clause ~~(ii)~~;

15 ~~(iii)~~ by striking clause ~~(iii)~~; and

16 ~~(iv)~~ by redesignating clause ~~(iv)~~ as
 17 clause ~~(iii)~~;

18 ~~(B)~~ by striking subparagraph ~~(B)~~ and re-
 19 designating subparagraph ~~(C)~~ as subparagraph
 20 ~~(B)~~; and

21 ~~(C)~~ in subparagraph ~~(B)~~ (as so redesi-
 22 gnated)—

23 (i) by striking the first sentence and
 24 inserting “The Commission shall periodi-
 25 cally assess the appropriateness of con-

1 continuing in effect the exemptions for tele-
 2 phones and other customer premises equip-
 3 ment described in subparagraph (A) of this
 4 paragraph.”; and

5 (ii) in each of clauses (iii) and (iv), by
 6 inserting “or (1)(C)” after “(1)(B)”;

7 (3) in paragraph (4)(B)—

8 (A) by inserting “telephones used with”
 9 before “public mobile services”;

10 (B) by inserting “telephones and other
 11 customer premises equipment used in whole or
 12 in part with” after “means”;

13 (C) by striking “and” after “public land
 14 mobile telephone service,” and inserting “or”;

15 (D) by striking “part 22 of”; and

16 (E) by inserting after “Regulations” the
 17 following: “, or any functionally equivalent unli-
 18 censed wireless services”; and

19 (4) in paragraph (4)(C)—

20 (A) by inserting “telephones used with”
 21 before “private radio services”; and

22 (B) by inserting “telephones and other
 23 customer premises equipment used in whole or
 24 in part with” after “means”.

1 (b) TECHNICAL STANDARDS.—Section 710(e) of the
2 Communications Act of 1934 (47 U.S.C. 610(e)) is
3 amended by adding at the end the following: “A telephone
4 or other customer premises equipment that is compliant
5 with a relevant technical standard developed through a
6 public participation process and in consultation with inter-
7 ested consumer stakeholders will be deemed hearing aid
8 compatible for purposes of this section, until such time
9 as the Commission may deem otherwise. The Commission
10 shall consult with the public, including people with hearing
11 loss, in establishing or approving such technical standards.
12 The Commission may delegate this authority to an em-
13 ployee pursuant to section 5(e). The Commission shall des-
14 ignate the national consumer organizations for purposes
15 of this section and shall remain the final arbiter as to
16 whether the standard meets the requirements of this sec-
17 tion.”.

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

20 (1) by striking “impairments” and inserting
21 “loss”; and

22 (2) by adding at the end the following sentence:
23 “*In implementing the provisions of subsection*
24 *(b)(1)(C), the Commission shall use appropriate*
25 *timetables or benchmarks to the extent necessary*

1 due to technical feasibility or to ensure the market-
 2 ability or availability of new technologies to users.”.

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

6 “(h) **RULE OF CONSTRUCTION.**—Nothing in the
 7 Equal Access to 21st Century Communications Act shall
 8 be construed to modify the Commission’s regulations set
 9 forth in section 20.19 of title 47, Code of Federal Regula-
 10 tions, in effect as of the date of enactment of such Act.”.

11 **SEC. 103. RELAY SERVICES.**

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

15 “(3) **TELECOMMUNICATIONS RELAY SERV-**
 16 **ICES.**—The term ‘telecommunications relay services’
 17 means telephone transmission that provides the abil-
 18 ity for an individual who is deaf, hard of hearing,
 19 deaf-blind, or who has a speech disability to engage
 20 in communication by wire or radio with 1 or more
 21 individuals, in a manner that is functionally equiva-
 22 lent to the ability of a hearing individual who does
 23 not have a speech disability to communicate using
 24 voice communication services by wire or radio.”.

1 (b) ~~INTERNET PROTOCOL-BASED RELAY SERV-~~
 2 ~~ICES.~~—Title VII of the Communications Act of 1934 is
 3 amended by adding at the end the following:

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

5 “Within 1 year after the date of enactment of the
 6 Equal Access to 21st Century Communications Act, each
 7 interconnected VoIP service provider shall participate in
 8 and contribute to the Telecommunications Relay Services
 9 Fund established in section 64.404(c)(5)(iii) of the Com-
 10 mission’s regulations (47 C.F.R. 64.404(c)(5)(iii)) as in
 11 effect on the date of enactment of such Act, in a manner
 12 prescribed by the Commission by regulation to provide for
 13 obligations of such providers that are consistent with and
 14 comparable to the obligations of other contributors to the
 15 Fund.”.

16 **SEC. 104. ACCESS TO INTERNET-BASED SERVICES AND**
 17 **EQUIPMENT.**

18 (a) ~~TITLE VII AMENDMENT.~~—Title VII of the Com-
 19 munications Act of 1934 (47 U.S.C. 601 et seq.) is
 20 amended by inserting after section 715 (as added by sec-
 21 tion 103) the following:

22 **“SEC. 716. ACCESS TO INTERNET-BASED SERVICES AND**
 23 **EQUIPMENT.**

24 “(a) ~~MANUFACTURING.~~—With respect to equipment
 25 manufactured after the effective date of the regulations

1 established pursuant to subsection (c), and subject to such
2 regulations, a manufacturer of equipment used for ad-
3 vanced communications, including end user equipment,
4 network equipment, and software, shall ensure that equip-
5 ment and software that such manufacturer designs, devel-
6 ops, and fabricates shall be accessible to, and usable by
7 individuals with disabilities, where the requirement of this
8 subsection is achievable.

9 “(b) SERVICE PROVIDERS.—With respect to services
10 provided after the effective date of the regulations estab-
11 lished pursuant to subsection (c), and subject to such reg-
12 ulations, a provider of advanced communications shall en-
13 sure that services offered by such provider are accessible
14 to, and usable, by individuals with disabilities, where the
15 requirement of this subsection is achievable.

16 “(c) COMPATIBILITY.—If the requirements of sub-
17 sections (a) and (b) are not achievable, a manufacturer
18 or provider shall ensure that its equipment or service is
19 compatible with existing peripheral devices or specialized
20 customer premises equipment commonly used by individ-
21 uals with disabilities to achieve access, where the require-
22 ment of this subsection is achievable.

23 “(d) NETWORK FEATURES, FUNCTIONS, AND CAPA-
24 BILITIES.—Each provider of advanced communications
25 shall not install network features, functions, or capabilities

1 that do not comply with the regulations established pursu-
2 ant to this section.

3 “(e) REGULATIONS.—

4 “(1) IN GENERAL.—Within 18 months after the
5 date of enactment of the Equal Access to 21st Cen-
6 tury Communications Act, the Commission shall pre-
7 scribe such regulations as are necessary to imple-
8 ment this section.

9 “(2) CONTENT OF REGULATIONS.—In pre-
10 scribing the regulations required under paragraph
11 (1), the Commission shall—

12 “(A) include standards to ensure the acces-
13 sibility, usability, and compatibility of advanced
14 communications and the equipment used for ad-
15 vanced communications by individuals with dis-
16 abilities; and

17 “(B) provide that the advanced commu-
18 nications, equipment used for advanced commu-
19 nications, and advanced communications service
20 networks used to provide such advanced com-
21 munications may not impair or impede the ac-
22 cessibility of information content when accessi-
23 bility has been incorporated into the content for
24 transmission through advanced communica-
25 tions, equipment used for advanced communica-

1 tions, or advanced communications service net-
2 works.

3 “(f) SERVICES AND EQUIPMENT SUBJECT TO SEC-
4 TION 255.—The requirements of this section shall not
5 apply to any equipment or services, including inter-
6 connected VoIP service, that are subject to the require-
7 ments of section 255 on the date of enactment of the
8 Equal Access to 21st Century Communications Act. Any
9 such exempted services and equipment shall remain sub-
10 ject to the requirements of section 255.

11 “(g) DEFINITION.—For the purposes of this section,
12 sections 717, 718, and 719, the term ‘achievable’ means
13 with reasonable effort or expense.

14 **“SEC. 717. ENFORCEMENT AND REPORTING OBLIGATIONS.**

15 “(a) COMPLAINT AND ENFORCEMENT PROCE-
16 DURES.—

17 “(1) IN GENERAL.—Within 18 months after the
18 date of enactment of the Equal Access to 21st Cen-
19 tury Communications Act, the Commission shall—

20 “(A) establish regulations that facilitate
21 the filing of complaints that allege a violation of
22 section 255, 716, 718, or 719;

23 “(B) establish formal and informal proce-
24 dures for enforcement actions by the Commis-
25 sion with respect to such violations; and

1 “(C) implement the reporting obligations
2 of paragraph (6) for manufacturers and pro-
3 viders subject to such sections.

4 “(2) REQUIRED PROVISIONS.—The regulations
5 required under paragraph (1) shall include the fol-
6 lowing provisions:

7 “(A) NO FEE.—The Commission shall not
8 charge a fee to an individual who files a com-
9 plaint alleging a violation of section 255, 716,
10 718, or 719.

11 “(B) RECEIPT OF COMPLAINTS.—The
12 Commission shall establish separate and identi-
13 fiable electronic, telephonic, and physical recep-
14 tacles for the receipt of complaints filed under
15 section 255, 716, 718, or 719.

16 “(C) COMPLAINTS TO THE COMMISSION.—
17 Any person alleging a violation of section 255,
18 716, 718, or 719 by a manufacturer of equip-
19 ment or provider of service subject to such sec-
20 tions may file a complaint with the Commission.
21 The Commission shall investigate the allega-
22 tions in such complaint and issue a final order
23 concluding the investigation within 180 days of
24 the date on which such complaint is filed with
25 the Commission, unless such complaint is re-

1 solved before such time. The Commission may
2 consolidate for investigation and resolution such
3 complaints alleging substantially the same viola-
4 tion by the same manufacturer or provider.
5 Such final order shall include a determination
6 as to whether any violation has occurred and, if
7 the Commission determines that a violation has
8 occurred, address the manner in which the
9 manufacturer or service provider will achieve
10 accessibility, compatibility, or usability required
11 by section 255, 716, 718, or 719. If a deter-
12 mination is made that a violation has not oc-
13 curred, the Commission shall provide the basis
14 for such determination, including the basis for
15 determining that an accessibility feature re-
16 quested is not readily achievable under section
17 255 or is achievable under section 716, 718, or
18 719.

19 “(D) OPPORTUNITY TO RESPOND.—Before
20 the Commission makes a determination pursu-
21 ant to subparagraph (C), the party that is the
22 subject of the complaint shall have the oppor-
23 tunity to respond to such complaint, and may
24 include in such response any factors that it
25 deems relevant to such determination and any

1 available alternatives that might constitute an
2 effective substitute for the equipment or service
3 that is the subject of such complaint.

4 “(E) CEASE AND DESIST ORDERS.—If the
5 Commission’s investigation pursuant to sub-
6 paragraph (C) determines that a manufacturer
7 of equipment or provider of service is engaged
8 in an act prohibited by section 255, 716, 718,
9 or 719, or is failing to perform any act required
10 by section 255, 716, 718, or 719, the Commis-
11 sion shall have the authority to order such man-
12 ufacturer or provider to cease from violating
13 such section.

14 “(F) REPORTING.—Each manufacturer of
15 equipment used for advanced communications
16 and each provider of advanced communications
17 shall—

18 “(i) file a report with the Commission,
19 on an annual basis, that describes the
20 steps that have been taken by such manu-
21 facturer or provider during the preceding
22 year to implement sections 255 and 716,
23 including—

1 “(I) information about the manu-
2 facturer’s or provider’s efforts to con-
3 sult with people with disabilities;

4 “(II) descriptions of the accessi-
5 bility features of its products and
6 services; and

7 “(III) information about the
8 compatibility of their products and
9 services with peripheral devices or
10 specialized customer premise equip-
11 ment commonly used by people with
12 disabilities to achieve access; and

13 “(ii) maintain, in the ordinary course
14 of business, records of the efforts taken by
15 such manufacturer or provider to imple-
16 ment sections 255 and 716.

17 “(G) FAILURE TO ACT.—If the Commis-
18 sion fails to carry out any of its responsibilities
19 to act upon a complaint in the manner pre-
20 scribed in subparagraph (C), the person that
21 filed such complaint may bring an action in the
22 nature of mandamus in an appropriate Federal
23 district court to compel the Commission to
24 carry out any such responsibility.

1 “(H) COMMISSION JURISDICTION.—The
2 limitations of section 255(f) shall apply to any
3 claim that alleges a violation of section 255,
4 716, 718, or 719. Nothing in this paragraph af-
5 fects or limits any action for mandamus under
6 subparagraph (G) or any appeal pursuant to
7 section 402(b)(10).

8 “(I) PRIVATE RESOLUTIONS OF COM-
9 PLAINTS.—Nothing in the Commission’s rules
10 or this Act shall be construed to preclude a per-
11 son who files a complaint and a manufacturer
12 or provider from resolving a formal or informal
13 complaint prior to the Commission’s final deter-
14 mination in a complaint proceeding. In the
15 event of such a resolution, the parties shall
16 jointly request dismissal of the complaint and
17 the Commission shall grant such request.

18 “(b) REPORTS TO CONGRESS.—

19 “(1) IN GENERAL.—Not later than 2 years
20 after the date of enactment of the Equal Access to
21 21st Century Communications Act, and every 2
22 years thereafter, the Commission shall submit a re-
23 port to the Committee on Commerce, Science, and
24 Transportation of the Senate and the Committee on
25 Energy and Commerce of the House of Representa-

1 tives that assesses the level of compliance with sec-
2 tion 255 or 716 and evaluates the extent to which
3 any accessibility barriers still exist with respect to
4 new technologies.

5 “(2) PUBLIC COMMENT.—The Commission shall
6 seek public comment on the tentative findings of the
7 report required under paragraph (1) prior to the
8 submission of such report to the Committees de-
9 scribed in paragraph (1).

10 “(3) REQUIRED CONTENT.—The report re-
11 quired under paragraph (1) shall include the fol-
12 lowing:

13 “(A) The number and nature of complaints
14 received pursuant to subsection (a) during the
15 2 years that are the subject of the report.

16 “(B) Actions taken to resolve such com-
17 plaints under this section, including cease and
18 desist orders issued and forfeiture penalties as-
19 sessed.

20 “(C) The length of time that was taken by
21 the Commission to resolve each such complaint.

22 “(D) The number, status, nature, and out-
23 come of any actions of mandamus filed pursu-
24 ant to subsection (a)(2)(G) and the number,

1 status, and outcome of any appeals filed pursu-
2 ant to section 402(b)(10).

3 “(e) COMPTROLLER GENERAL ENFORCEMENT
4 STUDY.—

5 “(1) IN GENERAL.—The Comptroller General
6 shall conduct a study to consider and evaluate—

7 “(A) the Commission’s compliance with the
8 requirements of the Equal Access to 21st Cen-
9 tury Communications Act, including the Com-
10 mission’s level of compliance with deadlines (in-
11 cluding deadlines for acting on complaints) es-
12 tablished in such Act;

13 “(B) whether the enforcement actions
14 taken by the Commission pursuant to such Act
15 have been appropriate and effective in ensuring
16 compliance with such requirements; and

17 “(C) whether the enforcement provisions
18 established in such Act are adequate to ensure
19 compliance with such requirements.

20 “(2) REPORT.—Not later than 5 years after the
21 date of enactment of the Equal Access to 21st Cen-
22 tury Communications Act, the Comptroller General
23 shall submit a report to the Committee on Com-
24 merce, Science, and Transportation of the Senate
25 and the Committee on Energy and Commerce of the

1 House of Representatives on the results of the study
2 required by paragraph (1), with the recommenda-
3 tions for how the enforcement process and measures
4 with respect to such Act may be modified or im-
5 proved.

6 “(d) CLEARINGHOUSE.—Within 18 months after the
7 date of enactment of the Equal Access to 21st Century
8 Communications Act, the Commission shall, in consulta-
9 tion with the Architectural and Transportation Barriers
10 Compliance Board, the National Telecommunications and
11 Information Administration, trade associations, and orga-
12 nizations representing people with disabilities, establish a
13 clearinghouse of information on the availability of acces-
14 sible products and services and accessibility solutions re-
15 quired under sections 255 and 716. Such information shall
16 be made publicly available on the Commission’s website
17 and by other means, and shall include an annually updated
18 list of products and services with access features or solu-
19 tions.

20 “(e) OUTREACH AND EDUCATION.—Upon establish-
21 ment of the clearinghouse of the information required
22 under section 717(d), the Commission, in coordination
23 with the National Telecommunications and Information
24 Administration, shall conduct an informational and edu-
25 cational program designed to inform the public about the

1 availability of the clearinghouse, and the protections and
2 remedies available under sections 255 and 716.”.

3 (b) TITLE V AMENDMENTS.—Section 503(b)(2) of
4 the Communications Act of 1934 (47 U.S.C. 503(b)(2))
5 (47 U.S.C. 503(b)(2)) is amended—

6 (1) by redesignating subparagraphs (C), (D),
7 and (E) as subparagraphs (D), (E), and (F), respec-
8 tively;

9 (2) by inserting after subparagraph (B) the fol-
10 lowing:

11 “(C) If the violator is a manufacturer of
12 telecommunications equipment, a manufacturer
13 of equipment used for advanced communica-
14 tions, or a provider of advanced communica-
15 tions, who is subject to the requirements of sec-
16 tion 255, 716, 718, or 719, and who is deter-
17 mined by the Commission to have violated any
18 such requirement, the manufacturer of tele-
19 communications equipment, the manufacturer
20 of equipment used for advanced communica-
21 tions, or the provider of advanced communica-
22 tions shall be liable to the United States for a
23 forfeiture penalty. The amount of any penalty
24 determined under this subparagraph shall not
25 exceed \$100,000 for each violation of each day

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

5 (3) in subparagraph (D) (as so redesignated)
 6 by striking subparagraph “(A) or (B)” and inserting
 7 “subparagraph (A), (B), or (C).”

8 (e) REVIEW OF COMMISSION DETERMINATIONS.—

9 Section 402(b) of the Communications Act of 1934 (47
 10 U.S.C. 402(b)) is amended by adding at the end the fol-
 11 lowing:

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

15 **SEC. 105. UNIVERSAL SERVICE.**

16 (a) CONSUMERS WITH DISABILITIES.—Section
 17 254(e) of the Communications Act of 1934 (47 U.S.C.
 18 254(e)) is amended by adding at the end the following:

19 “(4) INDIVIDUALS WITH DISABILITIES.—Not-
 20 withstanding subsection (j), the Commission shall
 21 authorize Lifeline and Link-Up assistance programs
 22 and other Federal universal service support mecha-
 23 nisms to be used for those telecommunications serv-
 24 ices, Internet access services, and advanced commu-
 25 nications that are needed by individuals with disabil-

1 ities, who are otherwise qualified for such programs
 2 or mechanisms, to engage in communication with 1
 3 or more other individuals in a manner that is func-
 4 tionally equivalent to the ability of individuals with-
 5 out disabilities to engage in such communication.”.

6 (b) ~~ALLOCATION OF USE FOR SERVICES FOR INDI-~~
 7 ~~VIDUALS WITH DISABILITIES.~~—Section 254 of the Com-
 8 munications Act of 1934 (47 U.S.C. 254) is further
 9 amended—

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

12 (2) by inserting after subsection (h) the fol-
 13 lowing:

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

15 “(1) ~~IN GENERAL.~~—Within 6 months after the
 16 date of enactment of the Equal Access to 21st Cen-
 17 tury Communications Act, the Commission shall es-
 18 tablish rules that define as eligible for universal
 19 service support those programs that are certified by
 20 a State commission or approved by the Commission
 21 for the distribution of specialized customer premises
 22 equipment designed to make telecommunications
 23 service, Internet access service, and advanced com-
 24 munications, including interexchange services and

1 advanced telecommunications and information serv-
 2 ices, accessible by individuals who are deaf-blind.

3 “(2) DEFINITION.—For purposes of this sub-
 4 section, the term ‘individuals who are deaf-blind’ has
 5 the same meaning given such term in the Helen Kel-
 6 ler National Center Act, as amended by the Reha-
 7 bilitation Act Amendments of 1992 (29 U.S.C.
 8 1905(2)).

9 “(3) ANNUAL AMOUNT.—The total amount of
 10 universal service support that may be obligated or
 11 expanded under this subsection for any fiscal year
 12 may not exceed \$10,000,000.”.

13 **SEC. 106. EMERGENCY ACCESS AND REAL-TIME TEXT SUP-**
 14 **PORT.**

15 Title VII of the Communications Act of 1934 (47
 16 U.S.C. 601 et seq.) is further amended by adding after
 17 section 717 (as added by section 104) the following:

18 **“SEC. 718. EMERGENCY ACCESS AND REAL-TIME TEXT AD-**
 19 **VISORY COMMITTEE.**

20 “(a) ESTABLISHMENT.—For the purpose of achieving
 21 equal access to emergency services by individuals with dis-
 22 abilities, as part of the migration to a national Internet
 23 protocol-enabled emergency network, not later than 120
 24 days after the date of enactment of the Equal Access to
 25 21st Century Communications Act, the Chairman shall es-

1 tablish an advisory committee, to be known as the Emer-
2 gency Access and Real-Time Text Advisory Committee
3 (referred to in this section as the ‘Advisory Committee’).

4 “(b) MEMBERSHIP.—As soon as practicable after the
5 date of enactment of the Equal Access to 21st Century
6 Communications Act, the Chairman of the Commission
7 shall appoint the members of the Advisory Committee, en-
8 suring an equal balance between potential real-time text
9 consumers and other stakeholders, and designate 2 such
10 members as the co-chairs of the Committee. Members of
11 the Advisory Committee shall be selected from the fol-
12 lowing groups:

13 “(1) STATE AND LOCAL GOVERNMENT AND
14 EMERGENCY RESPONDER REPRESENTATIVES.—Rep-
15 resentatives of State and local governments and rep-
16 resentatives of emergency response providers, se-
17 lected from among individuals nominated by national
18 organizations representing such governments and
19 personnel.

20 “(2) SUBJECT MATTER EXPERTS.—Individuals
21 who have the requisite technical knowledge and ex-
22 pertise to serve on the Advisory Committee in the
23 fulfillment of its duties, including representatives
24 of—

1 “(A) providers of interconnected VoIP
2 services;

3 “(B) vendors, developers, and manufactur-
4 ers of systems, facilities, equipment, and capa-
5 bilities for the provision of interconnected VoIP
6 services;

7 “(C) national organizations representing
8 people with disabilities and senior citizens;

9 “(D) Federal agencies or departments re-
10 sponsible for the implementation of the Next
11 Generation E 9-1-1 system;

12 “(E) the National Institute of Standards
13 and Technology; and

14 “(F) other individuals with relevant tech-
15 nical expertise.

16 “(3) QUALIFIED REPRESENTATIVES OF OTHER
17 STAKEHOLDERS AND INTERESTED PARTIES.—Quali-
18 fied representatives of such other stakeholders and
19 interested and affected parties as the Chairman of
20 the Commission determines appropriate.

21 “(e) DEVELOPMENT OF RECOMMENDATIONS.—With-
22 in 12 months after the completion of the member appoint-
23 ment process by the Chairman of the Commission pursu-
24 ant to subsection (b), the Advisory Committee shall de-
25 velop and submit to the Commission recommendations—

1 “(1) with respect to the definition of real-time
2 text;

3 “(2) with respect to what actions are necessary
4 as a part of the migration to a national Internet
5 protocol-enabled network to achieve reliable, inter-
6 operable real-time text communication transmitted
7 over such network that will ensure access to emer-
8 gency services by people with disabilities;

9 “(3) for protocols, technical capabilities, and
10 technical requirements to ensure reliable, interoper-
11 able real-time text communications necessary to en-
12 sure access to emergency services by people with dis-
13 abilities;

14 “(4) for the establishment of technical stand-
15 ards for use by public safety answering points, des-
16 ignated default answering points and local emer-
17 gency authorities;

18 “(5) for relevant technical standards and re-
19 quirements for communication devices and equip-
20 ment and technologies to enable to the use of reli-
21 able, interoperable real-time text communications;

22 “(6) for procedures to be followed by IP-en-
23 abled network providers to ensure that such pro-
24 viders do not install features, functions, or capabili-
25 ties that would conflict with technical standards; and

1 “(7) for deadlines by which providers of inter-
2 connected VoIP services and manufacturers of
3 equipment used for such services shall achieve the
4 actions required in paragraphs (1) through (6), and
5 for the possible phase out of the use of current-gen-
6 eration TTY technology to the extent that this tech-
7 nology is replaced with real-time text.

8 “(d) MEETINGS.—

9 “(1) INITIAL MEETING.—The initial meeting of
10 the Advisory Committee shall take place not later
11 than 90 days after the completion of the member ap-
12 pointment process by the Chairman of the Commis-
13 sion pursuant to subsection (b).

14 “(2) OTHER MEETINGS.—After the initial meet-
15 ing, the Advisory Committee shall meet at the call
16 of the chairs, but no less than monthly until the rec-
17 ommendations required pursuant to subsection (e)
18 are completed and submitted.

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

23 “(e) RULES.—

1 “(1) QUORUM.—One-third of the members of
2 the Advisory Committee shall constitute a quorum
3 for conducting business of the Advisory Committee.

4 “(2) SUBCOMMITTEES.—To assist the Advisory
5 Committee in carrying out its functions, the Chair
6 may establish appropriate subcommittees composed
7 of members of the Advisory Committee and other
8 subject matter experts as deemed necessary.

9 “(3) ADDITIONAL RULES.—The advisory com-
10 mittee may adopt other rules as needed.

11 “(f) FEDERAL ADVISORY COMMITTEE ACT.—Neither
12 the Federal Advisory Committee Act (5 U.S.C. App.) nor
13 any rule, order, or regulation promulgated under that Act
14 shall apply to the Advisory Committee.

15 “(g) IMPLEMENTING RECOMMENDATIONS.—The
16 Commission shall have the authority to promulgate regula-
17 tions to implement the recommendations proposed by the
18 Advisory Committee, as well as any other regulations,
19 technical standards, protocols, and procedures as are nec-
20 essary to achieve reliable, interoperable real-time text com-
21 munication that ensures access by people with disabilities
22 to an Internet protocol-enabled emergency network.”.

1 **SEC. 107. INTERNET ACCESS SERVICE INTERFACE.**

2 Title VII of the Communications Act of 1934 (47
3 U.S.C. 601 et seq.) is further amended by adding after
4 section 718 (as added by section 106) the following:

5 **“SEC. 719. INTERNET ACCESS SERVICE USER INTERFACE.**

6 “Every provider of Internet access service and every
7 manufacturer of Internet access equipment shall, where
8 achievable, make user interfaces for such service and
9 equipment accessible to individuals with disabilities, in-
10 cluding those interfaces used to initiate, monitor, and con-
11 trol such service.”.

12 **TITLE II—VIDEO DESCRIPTIONS**
13 **AND CLOSED CAPTIONING**

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

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

18 (a) INQUIRY REQUIRED.—The Federal Communica-
19 tions Commission shall conduct 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 Federal Communications Commission shall—

25 (A) describe—

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 using the
5 Internet protocol (or successor protocol)
6 and digital 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 new technologies;

11 (B) describe the technical standards, pro-
12 tocols, and procedures needed for the trans-
13 mission of closed captioning and video descrip-
14 tion by means of services using the Internet
15 protocol (or a successor protocol) and digital
16 wireless services and equipment; and

17 (C) describe—

18 (i) technical standards, protocols, and
19 procedures needed to enable video pro-
20 gramming providers and owners to trans-
21 mit emergency information in a manner
22 that is accessible to individuals who are
23 blind or visually 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 Federal Communications Commission
5 shall—

6 (A) describe the technical standards, proto-
7 cols, and procedures needed to enable apparatus
8 designed to receive or display video program-
9 ming transmitted simultaneously with sound
10 (including apparatus designed to receive or dis-
11 play video programming transmitted by means
12 of services using the Internet protocol (or a suc-
13 cessor protocol) to be capable of making the ap-
14 paratus functions, necessary for the receipt, dis-
15 play, navigation, or selection of video program-
16 ming (and any other functions shared by, re-
17 lated to, or necessary to access such apparatus
18 functions), accessible to and useable by individ-
19 uals with disabilities; and

20 (B) describe the technical standards, proto-
21 ocols, and procedures needed to enable
22 onscreen text menus and other visual indicators
23 used to access the functions described in sub-
24 paragraph (A) to be accompanied by audio out-
25 put so that such menus or indicators are acces-

1 **SEC. 203. CLOSED CAPTIONING DECODER AND VIDEO DE-**
 2 **SCRIPTION CAPABILITY.**

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

6 “(u) Require that apparatus designed to receive or
 7 play back video programming (as such term is defined in
 8 section 713(g)) transmitted simultaneously with sound,
 9 when such apparatus is manufactured in the United
 10 States or imported for use in the United States and uses
 11 a picture screen that is 13 inches or greater in size—

12 “(1) be equipped with built-in closed-caption de-
 13 coder circuitry or capability designed to display
 14 closed-captioned video programming;

15 “(2) have the capability to make available the
 16 transmission and delivery of video description serv-
 17 ices as required by section 713(f); and

18 “(3) have the capability to convey emergency
 19 information (as that term is defined in section 79.2
 20 of the Commission’s regulations (47 C.F.R. 73.2)) in
 21 a manner that is accessible to individuals who are
 22 blind or visually impaired.”.

23 (b) **OTHER DEVICES.**—Section 303 of the Commu-
 24 nications Act of 1934 (47 U.S.C. 303) is further amend-
 25 ed—

1 (1) by redesignating subsections (v) through (y)
2 as subsections (y) through (bb), respectively; and

3 (2) by inserting after subsection (u) the fol-
4 lowing:

5 “(v) Require, after inquiry, that apparatus designed
6 to receive or play back video programming (as such term
7 is defined in section 713(g)) transmitted simultaneously
8 with sound, when such apparatus is manufactured in the
9 United States or imported for use in the United States
10 and uses a picture screen that is less than 13 inches in
11 size—

12 “(1) be equipped with built-in closed-caption de-
13 coder circuitry or capability designed to display
14 closed-captioned video programming;

15 “(2) have the capability to make available the
16 transmission and delivery of video description serv-
17 ices as required by section 713(f); and

18 “(3) have the capability to convey emergency
19 information (as that term is defined in section 79.2
20 of the Commission’s regulations (47 C.F.R. 79.2)),
21 in a manner that is accessible to individuals who are
22 blind or visually impaired.

23 “(w) Require, after inquiry, that apparatus manufac-
24 tured in the United States or imported for use in the
25 United States that is designed to record video program-

1 ming (as such term is defined in section 713(g)) trans-
 2 mitted simultaneously with sound, retain and permit the
 3 pass through of closed captions and video description sig-
 4 nals such that viewers will be able to activate and deacti-
 5 vate the closed captions and video description when the
 6 video programming is played back on a picture screen of
 7 any size. Interconnection mechanisms and standards for
 8 digital video source devices must be able to carry program
 9 related accessibility data for people with disabilities from
 10 the source device to the consumer equipment so that the
 11 consumer is able to display closed captions and make en-
 12 coded video description audible.

13 “(x) Exempt from requirements of subsections (u)
 14 and (v) any apparatus or class of apparatus that are dis-
 15 play-only video monitors, with no playback capability and
 16 shall have the authority to waive the requirements of such
 17 subsections for any apparatus or class of apparatus.”.

18 (c) SHIPMENT IN COMMERCE.—Section 330(b) of the
 19 Communications Act of 1934 (47 U.S.C. 330(b)) is
 20 amended—

- 21 (1) by striking “section 303(u)” and inserting
 22 “subsections (u), (v), and (w) of section 303”;
- 23 (2) 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 or capability designed to display closed-cap-
 2 tioned video programming; the transmission and de-
 3 livery of video description services and the convey-
 4 ance of emergency information as required by sec-
 5 tion 303 of this Act.”; and

6 (3) in the fourth sentence, by inserting “and
 7 video description service” after “closed-captioning
 8 service.”

9 (d) IMPLEMENTING REGULATIONS.—The Federal
 10 Communications Commission shall prescribe such regula-
 11 tions as are necessary to implement the requirements of
 12 this section, including any technical standards, protocols,
 13 and procedures needed for the transmission of closed cap-
 14 tioning, video description, and emergency information,
 15 within 18 months after the submission of the report to
 16 Congress required by section 201(b) of this Act.

17 **SEC. 204. VIDEO DESCRIPTION AND CLOSED CAPTIONING.**

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

22 “(f) VIDEO DESCRIPTION.—

23 “(1) REINSTATEMENT OF THE RULES.—The
 24 video description regulations of the Commission con-
 25 tained in the report and order identified as Imple-

1 mentation of Video Description of Video Program-
2 ming; Report and Order (15 F.C.C.R. 15230) (July
3 21, 2000), when such rules are republished and re-
4 freshed pursuant to paragraph (2), shall—

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

7 “(B) apply to video programming that is
8 first published or exhibited after the date of en-
9 actment of the Equal Access to 21st Century
10 Communications Act.

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

13 “(A) within 90 days after the date of en-
14 actment of the Equal Access to 21st Century
15 Communications Act—

16 “(i) publish and refresh its video de-
17 scription regulations contained in the re-
18 port and order identified as Implementa-
19 tion of Video Description of Video Pro-
20 gramming; Report and Order (15 F.C.C.R.
21 15230) (July 21, 2000) in a manner that
22 provides the same or an improved level of
23 video description service; and

1 “(ii) apply the requirements of such
2 report and order to owners of and pro-
3 viders of video programming;

4 “(B) initiate a proceeding, to be completed
5 within 18 months after the submission of the
6 report to Congress required by section 201(b)
7 of the Equal Access to 21st Century Commu-
8 nications Act—

9 “(i) identify methods to convey emer-
10 gency information (as that term is defined
11 in section 79.2 of the Commission’s regula-
12 tions (47 C.F.R. 79.2)) in a manner acces-
13 sible to individuals who are blind or vis-
14 ually impaired; and

15 “(ii) promulgate regulations that re-
16 quire video programming providers and
17 video programming distributors (as those
18 terms are defined in section 79.1 of the
19 Commission’s regulations (47 C.F.R.
20 79.1)) and owners of video programming
21 to convey such emergency information in a
22 manner accessible to individuals who are
23 blind or visually impaired, consistent with
24 the requirements of such section of such
25 regulations; and

1 “(C) promulgate any other regulation that
2 the Commission may find necessary to imple-
3 ment, enforce, or otherwise carry out the provi-
4 sions of this section, including regulations to in-
5 crease the amount of video description required
6 to achieve full access to video programming for
7 individuals who are blind or visually impaired.

8 “(3) REQUIREMENTS FOR RULES.—

9 “(A) The regulations described in para-
10 graph (1) and republished and refreshed, or
11 otherwise increased or enhanced, pursuant to
12 subparagraph (A) or (C) of paragraph (2) shall
13 include an appropriate schedule of deadlines for
14 the provision of video description of video pro-
15 gramming.

16 “(B) Such regulations may permit a pro-
17 vider of video programming or program owner
18 to petition the Commission for an exemption
19 from the requirements of this section upon a
20 showing that the requirements contained in this
21 section are not achievable. A provider shall be
22 exempt from such requirements only after the
23 Commission decides to grant any such petition.

24 “(C) The Commission may exempt from
25 the regulations established pursuant to para-

1 graph (2)(C) services, classes of services, pro-
2 grams, classes of programs, equipment, or
3 classes of equipment for which the Commission
4 has determined that the application of such reg-
5 ulations would be economically burdensome to
6 the providers of such services.

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

8 “(1) VIDEO DESCRIPTION.—The term ‘video de-
9 scription’ means the insertion of audio narrated de-
10 scriptions of the video programming’s key visual ele-
11 ments in natural pauses between the program’s dia-
12 logue.

13 “(2) VIDEO PROGRAMMING.—The term ‘video
14 programming’ means programming provided by, or
15 generally considered comparable to programming
16 provided by, a television broadcast station, even if
17 such programming is distributed over the Internet or
18 by some other means.”

19 (b) CLOSED CAPTIONING ON VIDEO PROGRAMMING
20 DISTRIBUTED OVER THE INTERNET.—Section 713 of the
21 Communication Act of 1934 (47 U.S.C. 613) is further
22 amended by striking subsection (c) and inserting the fol-
23 lowing:

24 “(c) DEADLINES FOR CAPTIONING.—

1 “(1) IN GENERAL.—The regulations prescribed
2 pursuant to subsection (b) shall include an appro-
3 priate schedule of deadlines for the provision of
4 closed captioning of video programming.

5 “(2) DEADLINES FOR INTERNET-DISTRIBUTED
6 PROGRAMMING.—

7 “(A) Within 18 months after the submis-
8 sion of the report to Congress required by sec-
9 tion 201(b) of the Equal Access to 21st Cen-
10 tury Communications Act, the Commission shall
11 prescribe regulations that include an appro-
12 priate schedule of deadlines for the provision of
13 closed captioning of video programming distrib-
14 uted to the public over the Internet.

15 “(B) Consistent with the regulations pro-
16 mulgated under subsection (b), the regulations
17 prescribed under this paragraph shall ensure
18 the accessibility of video programming, except
19 for consumer generated media (as such term is
20 to be defined by the Commission), through the
21 provision of captions on—

22 “(i) preproduced video programming
23 that was previously captioned for television
24 viewing;

25 “(ii) live video programming; and

1 “~~(iii)~~ video programming first pub-
 2 lished or exhibited after the effective date
 3 of such regulations provided by or gen-
 4 erally considered to be comparable to pro-
 5 gramming provided by multichannel pro-
 6 gramming distributors.”.

7 (e) **CONFORMING AMENDMENT.**—Section 713(d) of
 8 the Communications Act of 1934 (47 U.S.C. 613(d)) is
 9 amended by striking paragraph ~~(3)~~ and inserting the fol-
 10 lowing:

11 “~~(3)~~ a provider of video programming or pro-
 12 gram owner may petition the Commission for an ex-
 13 emption from the requirements of this section and—

14 “~~(A)~~ the Commission may grant such peti-
 15 tion upon showing that the requirements con-
 16 tained in this section would result in an undue
 17 burden; and

18 “~~(B)~~ such exemptions shall be effective
 19 only after the Commission grants such peti-
 20 tion.”.

21 **SEC. 205. USER INTERFACE REGULATIONS.**

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

25 “~~(c)~~(1) Require, after inquiry—

1 “(A) that apparatus designed to receive or play
2 back video programming transmitted simultaneously
3 with sound, including apparatus designed to receive
4 or display video programming transmitted by means
5 of services using the Internet protocol (or a suc-
6 cessor protocol), be designed, developed, or fab-
7 ricated so that control of all apparatus functions en-
8 abling the receipt, display, navigation, or selection of
9 video programming (and any other functions shared
10 by, related to, or necessary to access such apparatus
11 functions), are accessible to and usable by individ-
12 uals with disabilities;

13 “(B) that where on-screen text menus or other
14 visual indicators are used to access the functions de-
15 scribed in subparagraph (A), such functions be ac-
16 companied by audio output that is either integrated
17 or peripheral to the apparatus, so that such menus
18 or indicators are accessible to and usable by individ-
19 uals who are blind or visually impaired in real-time;
20 and

21 “(C) that user controls needed to access closed
22 captioning and video description, including—

23 “(i) a button, key, or icon on the remote
24 control of such apparatus (where a remote con-
25 trol is provided with the apparatus) designated

1 for activating the closed captioning function;
2 and

3 “(ii) the inclusion of ‘closed-captions’ and
4 ‘video description’ on the first menu that ap-
5 pears when on-screen menus are displayed on
6 such apparatus.

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

10 (b) IMPLEMENTING REGULATIONS.—Within 18
11 months after the submission of the report to Congress re-
12 quired by section 201(b) of this Act, the Federal Commu-
13 nications Commission shall prescribe such regulations as
14 are necessary to implement the amendments made by sub-
15 section (a).

16 **SEC. 206. ACCESS TO VIDEO PROGRAMMING GUIDES AND**
17 **MENUS.**

18 (a) AMENDMENT.—Section 303 of the Communica-
19 tions Act of 1934 (47 U.S.C. 303) is further amended by
20 adding after subsection (ee), as added by section 205, the
21 following:

22 “(dd) Require each provider or owner of video pro-
23 gramming (as such term is defined in section 713(g)),
24 with the exception of consumer generated media (as such
25 term is to be defined by the Commission) and each multi-

1 channel programming distributor to ensure that video pro-
 2 gramming information and selection provided by means of
 3 a navigational device, guide, or menu is accessible in real-
 4 time by individuals with disabilities who are unable to read
 5 the visual display.”.

6 (b) IMPLEMENTING REGULATIONS.—Within 18
 7 months after the submission of the report to Congress re-
 8 quired by section 201(b), the Federal Communications
 9 Commission shall prescribe such regulations as are nec-
 10 essary to implement the amendments made by subsection
 11 (a).

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

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

16 (b) *TABLE OF CONTENTS.*—

Sec. 1. Short title; table of contents.

Sec. 2. Limitation on liability.

TITLE I—COMMUNICATIONS ACCESS

Sec. 101. Definitions.

Sec. 102. Hearing aid compatibility.

Sec. 103. Relay services.

Sec. 104. Access to advanced communications services and equipment.

Sec. 105. Universal service.

Sec. 106. Emergency Access Advisory Committee.

TITLE II—VIDEO PROGRAMMING

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

Sec. 202. Video description and closed captioning.

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

Sec. 204. User interfaces on digital apparatus.

Sec. 205. Access to video programming guides and menus provided on navigation devices.

Sec. 206. Definitions.

1 **SEC. 2. LIMITATION ON LIABILITY.**

2 (a) *IN GENERAL.*—*Except as provided in subsection*
3 *(b), no person shall be liable for a violation of the require-*
4 *ments of this Act (or of the provisions of the Communica-*
5 *tions Act of 1934 that are amended or added by this Act)*
6 *with respect to video programming, online content, applica-*
7 *tions, services, advanced communications services, or equip-*
8 *ment used to provide or access advanced communications*
9 *services to the extent such person—*

10 (1) *transmits, routes, or stores in intermediate or*
11 *transient storage the communications made available*
12 *through the provision of advanced communications*
13 *services by a third party; or*

14 (2) *provides an information location tool, such*
15 *as a directory, index, reference, pointer, menu, guide,*
16 *user interface, or hypertext link, through which an*
17 *end user obtains access to such video programming,*
18 *online content, applications, services, advanced com-*
19 *munications services, or equipment used to provide or*
20 *access advanced communications services.*

21 (b) *EXCEPTION.*—*The limitation on liability under*
22 *subsection (a) shall not apply to any person who relies on*
23 *third party applications, services, software, hardware, or*
24 *equipment to comply with the requirements of this Act (or*
25 *of the provisions of the Communications Act of 1934 that*
26 *are amended or added by this Act) with respect to video*

1 *programming, online content, applications, services, ad-*
 2 *vanced communications services, or equipment used to pro-*
 3 *vide or access advanced communications services.*

4 **TITLE I—COMMUNICATIONS**
 5 **ACCESS**

6 **SEC. 101. DEFINITIONS.**

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

9 (1) *by adding at the end the following new para-*
 10 *graphs:*

11 “(53) *ADVANCED COMMUNICATIONS SERVICES.—*

12 *The term ‘advanced communications services’*
 13 *means—*

14 “(A) *interconnected VoIP service;*

15 “(B) *non-interconnected VoIP service;*

16 “(C) *electronic messaging service; and*

17 “(D) *interoperable video conferencing serv-*
 18 *ice.*

19 “(54) *CONSUMER GENERATED MEDIA.—The term*
 20 *‘consumer generated media’ means content created*
 21 *and made available by consumers to online sites and*
 22 *venues on the Internet, including video, audio, and*
 23 *multimedia content.*

24 “(55) *DISABILITY.—The term ‘disability’ has the*
 25 *meaning given such term under section 3 of the Amer-*

1 *icans with Disabilities Act of 1990 (42 U.S.C.*
2 *12102).*

3 “(56) *ELECTRONIC MESSAGING SERVICE.—The*
4 *term ‘electronic messaging service’ means a service*
5 *that provides real-time or near real-time non-voice*
6 *messages in text form between persons over commu-*
7 *nications networks.*

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

13 “(58) *NON-INTERCONNECTED VOIP SERVICE.—*
14 *The term ‘non-interconnected VoIP service’—*

15 “(A) *means a service that—*

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

20 “(ii) *requires Internet protocol compat-*
21 *ible customer premises equipment; and*

22 “(B) *does not include any service that is an*
23 *interconnected VoIP service.*

24 “(59) *INTEROPERABLE VIDEO CONFERENCING*
25 *SERVICE.—The term ‘interoperable video conferencing*

1 *service’ means a service that provides real-time video*
 2 *communications, including audio, to enable users to*
 3 *share information of the user’s choosing.”; and*

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

9 **SEC. 102. HEARING AID COMPATIBILITY.**

10 *(a) COMPATIBILITY REQUIREMENTS.—*

11 *(1) TELEPHONE SERVICE FOR THE DISABLED.—*

12 *Section 710(b)(1) of the Communications Act of 1934*
 13 *(47 U.S.C. 610(b)(1)) is amended to read as follows:*

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

22 *“(A) All essential telephones.*

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

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

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

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

13 (A) *in paragraph (2)—*

14 (i) *in subparagraph (A)—*

15 (I) *in the matter preceding clause*

16 (i)—

17 (aa) *by striking “initial”;*

18 (bb) *by striking “of this sub-*
19 *section after the date of enactment*
20 *of the Hearing Aid Compatibility*
21 *Act of 1988”; and*

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

1 (II) by inserting “and” at the end
2 of clause (ii);

3 (III) by striking clause (iii); and

4 (IV) by redesignating clause (iv)
5 as clause (iii);

6 (ii) by striking subparagraph (B) and
7 redesignating subparagraph (C) as subpara-
8 graph (B); and

9 (iii) in subparagraph (B) (as so redес-
10 igned)—

11 (I) by striking the first sentence
12 and inserting “The Commission shall
13 periodically assess the appropriateness
14 of continuing in effect the exemptions
15 for telephones and other customer
16 premises equipment described in sub-
17 paragraph (A) of this paragraph.”;
18 and

19 (II) in each of clauses (iii) and
20 (iv), by striking “paragraph (1)(B)”
21 and inserting “subparagraph (B) or
22 (C) of paragraph (1)”;

23 (B) in paragraph (4)(B)—

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

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

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

10 (iv) by striking “part 22 of”; and

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

14 (C) in paragraph (4)(C)—

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

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

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

1 *ticipation process and in consultation with interested con-*
2 *sumer stakeholders (designated by the Commission for the*
3 *purposes of this section) will be considered hearing aid com-*
4 *patible for purposes of this section, until such time as the*
5 *Commission may determine otherwise. The Commission*
6 *shall consult with the public, including people with hearing*
7 *loss, in establishing or approving such technical standards.*
8 *The Commission may delegate this authority to an em-*
9 *ployee pursuant to section 5(c). The Commission shall re-*
10 *main the final arbiter as to whether the standards meet the*
11 *requirements of this section.”.*

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

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

16 *(2) by adding at the end the following sentence:*
17 *“In implementing the provisions of subsection*
18 *(b)(1)(C), the Commission shall use appropriate time-*
19 *tables or benchmarks to the extent necessary (1) due*
20 *to technical feasibility, or (2) to ensure the market-*
21 *ability or availability of new technologies to users.”.*

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

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

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

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

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

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

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

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

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

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

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

22 *“(a) MANUFACTURING.—With respect to equipment*
 23 *manufactured after the effective date of the regulations es-*
 24 *tablished pursuant to subsection (e), and subject to those*
 25 *regulations, a manufacturer of equipment used for ad-*
 26 *vanced communications services, including end user equip-*

1 *ment, network equipment, and software, shall ensure that*
2 *the equipment and software that such manufacturer de-*
3 *signs, develops, and fabricates shall be accessible to and usa-*
4 *ble by individuals with disabilities, unless the requirement*
5 *of this subsection is not achievable.*

6 “(b) *SERVICE PROVIDERS.*—*With respect to services*
7 *provided after the effective date of the regulations estab-*
8 *lished pursuant to subsection (e), and subject to those regu-*
9 *lations, a provider of advanced communications services*
10 *shall ensure that such services offered by such provider are*
11 *accessible to and usable by individuals with disabilities, un-*
12 *less the requirement of this subsection is not achievable.*

13 “(c) *COMPATIBILITY.*—*Whenever the requirements of*
14 *subsections (a) or (b) are not achievable, a manufacturer*
15 *or provider shall ensure that its equipment or service is*
16 *compatible with existing peripheral devices or specialized*
17 *customer premises equipment commonly used by individ-*
18 *uals with disabilities to achieve access, unless the require-*
19 *ment of this subsection is not achievable.*

20 “(d) *NETWORK FEATURES, FUNCTIONS, AND CAPA-*
21 *BILITIES.*—*Each provider of advanced communications*
22 *services has the duty not to install network features, func-*
23 *tions, or capabilities that do not impede accessibility or*
24 *usability.*

1 “(e) *REGULATIONS.*—*Within one year after the date*
2 *of enactment of the Twenty-First Century Communications*
3 *and Video Accessibility Act of 2010, the Commission shall*
4 *promulgate such regulations as are necessary to implement*
5 *this section. In prescribing the regulations, the Commission*
6 *shall—*

7 “(1) *include performance requirements to ensure*
8 *the accessibility, usability, and compatibility of ad-*
9 *vanced communications services and the equipment*
10 *used for advanced communications services by indi-*
11 *viduals with disabilities;*

12 “(2) *provide that advanced communications*
13 *services, the equipment used for advanced commu-*
14 *nications services, and networks used to provide ad-*
15 *vanced communications services may not impair or*
16 *impede the accessibility of information content when*
17 *accessibility has been incorporated into that content*
18 *for transmission through advanced communications*
19 *services, equipment used for advanced communica-*
20 *tions services, or networks used to provide advanced*
21 *communications services;*

22 “(3) *determine the obligations under this section*
23 *of manufacturers, service providers, and providers of*
24 *applications or services accessed over service provider*
25 *networks;*

1 “(4) not mandate technical standards, except
2 that the Commission may adopt technical standards
3 as a safe harbor for such compliance if necessary to
4 facilities the manufacturers’ and service providers’
5 compliance with sections (a) through (c); and

6 “(5) not mandate the use or incorporation of
7 specific proprietary technology.

8 “(f) *SERVICES AND EQUIPMENT SUBJECT TO SECTION*
9 *255.—The requirements of this section shall not apply to*
10 *any equipment or services, including interconnected VoIP*
11 *service, that are subject to the requirements of section 255*
12 *on the day before the date of enactment of the Twenty-First*
13 *Century Communications and Video Accessibility Act of*
14 *2010. Such services and equipment shall remain subject to*
15 *the requirements of section 255.*

16 “(g) *ACHIEVABLE DEFINED.—For purposes of this sec-*
17 *tion, the term ‘achievable’ means with reasonable effort or*
18 *expense, as determined by the Commission. In determining*
19 *whether the requirements of a provision are achievable, the*
20 *Commission shall consider the following factors:*

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

24 “(2) *The technical and economic impact on the*
25 *operation of the manufacturer or provider and on the*

1 *operation of the specific equipment or service in ques-*
 2 *tion, including on the development and deployment of*
 3 *new communications technologies.*

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

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

11 *“(h) COMMISSION FLEXIBILITY.—The Commission*
 12 *shall have the authority, on its own motion or in response*
 13 *to a petition by a manufacturer or provider, to waive the*
 14 *requirements of this section for any feature or function of*
 15 *equipment used to provide or access advanced communica-*
 16 *tions services, or for any class of such equipment, that—*

17 *“(1) is capable of accessing an advanced commu-*
 18 *nications service; and*

19 *“(2) is designed for multiple purposes, but is de-*
 20 *signed primarily for purposes other than using ad-*
 21 *vanced communications services.*

22 **“SEC. 717. ENFORCEMENT AND RECORDKEEPING OBLIGA-**
 23 **TIONS.**

24 *“(a) COMPLAINT AND ENFORCEMENT PROCEDURES.—*
 25 *Within one year after the date of enactment of the Twenty-*

1 *First Century Communications and Video Accessibility Act*
2 *of 2010, the Commission shall establish regulations that fa-*
3 *cilitate the filing of formal and informal complaints that*
4 *allege a violation of section 255 or 716, establish procedures*
5 *for enforcement actions by the Commission with respect to*
6 *such violations, and implement the recordkeeping obliga-*
7 *tions of paragraph (5) for manufacturers and providers*
8 *subject to such sections. Such regulations shall include the*
9 *following provisions:*

10 “(1) *NO FEE.*—*The Commission shall not charge*
11 *any fee to an individual who files a complaint alleg-*
12 *ing a violation of section 255 or 716.*

13 “(2) *RECEIPT OF COMPLAINTS.*—*The Commis-*
14 *sion shall establish separate and identifiable elec-*
15 *tronic, telephonic, and physical receptacles for the re-*
16 *ceipt of complaints filed under section 255 or 716.*

17 “(3) *COMPLAINTS TO THE COMMISSION.*—

18 “(A) *IN GENERAL.*—*Any person alleging a*
19 *violation of section 255 or 716 by a manufac-*
20 *turer of equipment or provider of service subject*
21 *to such sections may file a formal or informal*
22 *complaint with the Commission.*

23 “(B) *INVESTIGATION OF INFORMAL COM-*
24 *PLAINT.*—*The Commission shall investigate the*
25 *allegations in an informal complaint and, with-*

1 *in 180 days after the date on which such com-*
2 *plaint was filed with the Commission, issue an*
3 *order concluding the investigation, unless such*
4 *complaint is resolved before such time. The order*
5 *shall include a determination whether any viola-*
6 *tion occurred.*

7 “(i) *VIOLATION.*—*If the Commission*
8 *determines that a violation has occurred,*
9 *the Commission may, in the order issued*
10 *under this subparagraph or in a subsequent*
11 *order, require the manufacturer or service*
12 *provider to take such remedial action as is*
13 *necessary to comply with the requirements*
14 *of this section.*

15 “(ii) *NO VIOLATION.*—*If a determina-*
16 *tion is made that a violation has not oc-*
17 *curred, the Commission shall provide the*
18 *basis for such determination.*

19 “(C) *CONSOLIDATION OF COMPLAINTS.*—*The*
20 *Commission may consolidate for investigation*
21 *and resolution complaints alleging substantially*
22 *the same violation.*

23 “(4) *OPPORTUNITY TO RESPOND.*—*Before the*
24 *Commission makes a determination pursuant to*
25 *paragraph (3), the party that is the subject of the*

1 *complaint shall have a reasonable opportunity to re-*
2 *spond to such complaint, and may include in such re-*
3 *sponse any factors that are relevant to such deter-*
4 *mination.*

5 *“(5) RECORDKEEPING.—(A) Beginning one year*
6 *after the effective date of regulations promulgated*
7 *pursuant to section 716(e), each manufacturer and*
8 *provider subject to sections 255 and 716 shall main-*
9 *tain, in the ordinary course of business and for a rea-*
10 *sonable period, records of the efforts taken by such*
11 *manufacturer or provider to implement sections 255*
12 *and 716, including the following:*

13 *“(i) Information about the manufac-*
14 *turer’s or provider’s efforts to consult with*
15 *individuals with disabilities.*

16 *“(ii) Descriptions of the accessibility*
17 *features of its products and services.*

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

23 *“(B) An officer of a manufacturer or provider*
24 *shall submit to the Commission an annual certifi-*

1 *cation that records are being kept in accordance with*
2 *subparagraph (A).*

3 *“(C) After the filing of a formal or informal*
4 *complaint against a manufacturer or provider in the*
5 *manner prescribed in paragraph (3), the Commission*
6 *may request, and shall keep confidential, a copy of*
7 *the records maintained by such manufacturer or pro-*
8 *vider pursuant to subparagraph (A) of this para-*
9 *graph that are directly relevant to the equipment or*
10 *service that is the subject of such complaint.*

11 *“(6) FAILURE TO ACT.—If the Commission fails*
12 *to carry out any of its responsibilities to act upon a*
13 *complaint in the manner prescribed in paragraph*
14 *(3), the person that filed such complaint may bring*
15 *an action in the nature of mandamus in the United*
16 *States Court of Appeals for the District of Columbia*
17 *to compel the Commission to carry out any such re-*
18 *sponsibility.*

19 *“(7) COMMISSION JURISDICTION.—The limita-*
20 *tions of section 255(f) shall apply to any claim that*
21 *alleges a violation of section 255 or 716. Nothing in*
22 *this paragraph affects or limits any action for man-*
23 *damus under paragraph (6) or any appeal pursuant*
24 *to section 402(b)(10).*

1 “(8) *PRIVATE RESOLUTIONS OF COMPLAINTS.—*
2 *Nothing in the Commission’s rules or this Act shall*
3 *be construed to preclude a person who files a com-*
4 *plaint and a manufacturer or provider from resolving*
5 *a formal or informal complaint prior to the Commis-*
6 *sion’s final determination in a complaint proceeding.*
7 *In the event of such a resolution, the parties shall*
8 *jointly request dismissal of the complaint and the*
9 *Commission shall grant such request.*

10 “(b) *REPORTS TO CONGRESS.—*

11 “(1) *IN GENERAL.—Every two years after the*
12 *date of enactment of the Twenty-First Century Com-*
13 *munications and Video Accessibility Act of 2010, the*
14 *Commission shall submit to the Committee on Com-*
15 *merce, Science, and Transportation of the Senate and*
16 *the Committee on Energy and Commerce of the House*
17 *of Representatives a report that includes the fol-*
18 *lowing:*

19 “(A) *An assessment of the level of compli-*
20 *ance with section 255 and 716.*

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

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

4 “(D) *A description of the actions taken to*
5 *resolve such complaints under this section, in-*
6 *cluding forfeiture penalties assessed.*

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

9 “(F) *The number, status, nature, and out-*
10 *come of any actions for mandamus filed pursu-*
11 *ant to subsection (a)(6) and the number, status,*
12 *nature, and outcome of any appeals filed pursu-*
13 *ant to section 402(b)(10).*

14 “(G) *An assessment of the effect of the re-*
15 *quirements of this section on the development*
16 *and deployment of new communications tech-*
17 *nologies.*

18 “(2) *PUBLIC COMMENT REQUIRED.—The Com-*
19 *mission shall seek public comment on its tentative*
20 *findings prior to submission to the Committees of the*
21 *report under this subsection.*

22 “(c) *COMPTROLLER GENERAL ENFORCEMENT*
23 *STUDY.—*

1 “(1) *IN GENERAL.*—*The Comptroller General*
2 *shall conduct a study to consider and evaluate the fol-*
3 *lowing:*

4 “(A) *The Commission’s compliance with the*
5 *requirements of this section, including the Com-*
6 *mission’s level of compliance with the deadlines*
7 *established under and pursuant to this section*
8 *and deadlines for acting on complaints pursuant*
9 *to subsection (a).*

10 “(B) *Whether the enforcement actions taken*
11 *by the Commission pursuant to this section have*
12 *been appropriate and effective in ensuring com-*
13 *pliance with this section.*

14 “(C) *Whether the enforcement provisions*
15 *under this section are adequate to ensure compli-*
16 *ance with this section.*

17 “(D) *Whether, and to what extent (if any),*
18 *the requirements of this section have an effect on*
19 *the development and deployment of new commu-*
20 *nications technologies.*

21 “(2) *REPORT.*—*Not later than 5 years after the*
22 *date of enactment of the Twenty-First Century Com-*
23 *munications and Video Accessibility Act of 2010, the*
24 *Comptroller General shall submit to the Committee on*
25 *Commerce, Science, and Transportation of the Senate*

1 *and the Committee on Energy and Commerce of the*
2 *House of Representatives a report on the results of the*
3 *study required by paragraph (1), with recommenda-*
4 *tions for how the enforcement process and measures*
5 *under this section may be modified or improved.*

6 “(d) *CLEARINGHOUSE.*—*Within one year after the*
7 *date of enactment of the Twenty-First Century Communica-*
8 *tions and Video Accessibility Act of 2010, the Commission*
9 *shall, in consultation with the Architectural and Transpor-*
10 *tation Barriers Compliance Board, the National Tele-*
11 *communications and Information Administration, trade*
12 *associations, and organizations representing individuals*
13 *with disabilities, establish a clearinghouse of information*
14 *on the availability of accessible products and services and*
15 *accessibility solutions required under sections 255 and 716.*
16 *Such information shall be made publicly available on the*
17 *Commission’s website and by other means, and shall in-*
18 *clude an annually updated list of products and services*
19 *with access features.*

20 “(e) *OUTREACH AND EDUCATION.*—*Upon establish-*
21 *ment of the clearinghouse of information required under*
22 *subsection (d), the Commission, in coordination with the*
23 *National Telecommunications and Information Adminis-*
24 *tration, shall conduct an informational and educational*
25 *program designed to inform the public about the avail-*

1 *ability of the clearinghouse and the protections and rem-*
2 *edies available under sections 255 and 716.”.*

3 *(b) TITLE V AMENDMENTS.—Section 503(b)(2) of such*
4 *Act (47 U.S.C. 503(b)(2)) is amended by adding after sub-*
5 *paragraph (E) the following:*

6 *“(F) Subject to paragraph (5) of this section, if*
7 *the violator is a manufacturer or service provider*
8 *subject to the requirements of section 255 or 716, and*
9 *is determined by the Commission to have violated any*
10 *such requirement, the manufacturer or provider shall*
11 *be liable to the United States for a forfeiture penalty*
12 *of not more than \$100,000 for each violation or each*
13 *day of a continuing violation, except that the amount*
14 *assessed for any continuing violation shall not exceed*
15 *a total of \$1,000,000 for any single act or failure to*
16 *act.”.*

17 *(c) REVIEW OF COMMISSION DETERMINATIONS.—Sec-*
18 *tion 402(b) of such Act (47 U.S.C. 402(b)) is amended by*
19 *adding the following new paragraph:*

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

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

2 *Title VII of the Communications Act of 1934, as*
3 *amended by section 104, is further amended by adding at*
4 *the end the following:*

5 **“SEC. 718. RELAY SERVICES FOR DEAF-BLIND INDIVIDUALS.**

6 *“(a) IN GENERAL.—Within 6 months after the date of*
7 *enactment of the Equal Access to 21st Century Communica-*
8 *tions Act, the Commission shall establish rules that define*
9 *as eligible for relay service support those programs that are*
10 *approved by the Commission for the distribution of special-*
11 *ized customer premises equipment designed to make tele-*
12 *communications service, Internet access service, and ad-*
13 *vanced communications, including interexchange services*
14 *and advanced telecommunications and information serv-*
15 *ices, accessible by individuals who are deaf-blind.*

16 *“(b) INDIVIDUALS WHO ARE DEAF-BLIND DEFINED.—*
17 *For purposes of this subsection, the term ‘individuals who*
18 *are deaf-blind’ has the same meaning given such term in*
19 *the Helen Keller National Center Act, as amended by the*
20 *Rehabilitation Act Amendments of 1992 (29 U.S.C.*
21 *1905(2)).*

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

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

2 (a) *ESTABLISHMENT.*—For the purpose of achieving
3 equal access to emergency services by individuals with dis-
4 abilities, as a part of the migration to a national Internet
5 protocol-enabled emergency network, not later than 60 days
6 after the date of enactment of this Act, the Chairman of
7 the Commission shall establish an advisory committee, to
8 be known as the Emergency Access Advisory Committee (re-
9 ferred to in this section as the “Advisory Committee”).

10 (b) *MEMBERSHIP.*—As soon as practicable after the
11 date of enactment of this Act, the Chairman of the Commis-
12 sion shall appoint the members of the Advisory Committee,
13 ensuring a balance between individuals with disabilities
14 and other stakeholders, and shall designate two such mem-
15 bers as the co-chairs of the Committee. Members of the Advi-
16 sory Committee shall be selected from the following groups:

17 (1) *STATE AND LOCAL GOVERNMENT AND EMER-*
18 *GENCY RESPONDER REPRESENTATIVES.*—Representa-
19 tives of State and local governments and representa-
20 tives of emergency response providers, selected from
21 among individuals nominated by national organiza-
22 tions representing such governments and representa-
23 tives.

24 (2) *SUBJECT MATTER EXPERTS.*—Individuals
25 who have the technical knowledge and expertise to

1 *serve on the Advisory Committee in the fulfillment of*
2 *its duties, including representatives of—*

3 *(A) providers of interconnected and non-*
4 *interconnected VoIP services;*

5 *(B) vendors, developers, and manufacturers*
6 *of systems, facilities, equipment, and capabilities*
7 *for the provision of interconnected and non-*
8 *interconnected VoIP services;*

9 *(C) national organizations representing in-*
10 *dividuals with disabilities and senior citizens;*

11 *(D) Federal agencies or departments re-*
12 *sponsible for the implementation of the Next*
13 *Generation E 9-1-1 system;*

14 *(E) the National Institute of Standards and*
15 *Technology; and*

16 *(F) other individuals with such technical*
17 *knowledge and expertise.*

18 *(3) REPRESENTATIVES OF OTHER STAKE-*
19 *HOLDERS AND INTERESTED PARTIES.—Representa-*
20 *tives of such other stakeholders and interested and af-*
21 *ected parties as the Chairman of the Commission de-*
22 *termines appropriate.*

23 *(c) DEVELOPMENT OF RECOMMENDATIONS.—Within 1*
24 *year after the completion of the member appointment proc-*
25 *ess by the Chairman of the Commission pursuant to sub-*

1 *section (b), the Advisory Committee shall conduct a na-*
2 *tional survey of individuals with disabilities, seeking input*
3 *from the groups described in subsection (b)(2), to determine*
4 *the most effective and efficient technologies and methods by*
5 *which to enable access to emergency services by individuals*
6 *with disabilities and shall develop and submit to the Com-*
7 *mission recommendations to implement such technologies*
8 *and methods, including recommendations—*

9 (1) *with respect to what actions are necessary as*
10 *a part of the migration to a national Internet pro-*
11 *tocol-enabled network to achieve reliable, interoperable*
12 *communication transmitted over such network that*
13 *will ensure access to emergency services by individ-*
14 *uals with disabilities;*

15 (2) *for protocols, technical capabilities, and tech-*
16 *nical requirements to ensure the reliability and inter-*
17 *operability necessary to ensure access to emergency*
18 *services by individuals with disabilities;*

19 (3) *for the establishment of technical standards*
20 *for use by public safety answering points, designated*
21 *default answering points, and local emergency au-*
22 *thorities;*

23 (4) *for relevant technical standards and require-*
24 *ments for communication devices and equipment and*

1 *technologies to enable the use of reliable emergency ac-*
2 *cess;*

3 *(5) for procedures to be followed by IP-enabled*
4 *network providers to ensure that such providers do*
5 *not install features, functions, or capabilities that*
6 *would conflict with technical standards;*

7 *(6) for deadlines by which providers of inter-*
8 *connected and non-interconnected VoIP services and*
9 *manufacturers of equipment used for such services*
10 *shall achieve the actions required in paragraphs (1)*
11 *through (5), where achievable, and for the possible*
12 *phase out of the use of current-generation TTY tech-*
13 *nology to the extent that this technology is replaced*
14 *with more effective and efficient technologies and*
15 *methods to enable access to emergency services by in-*
16 *dividuals with disabilities;*

17 *(7) for the establishment of rules to update the*
18 *Commission's rules with respect to 9-1-1 services and*
19 *E-911 services (as defined in section 158(e)(4) of the*
20 *National Telecommunications and Information Ad-*
21 *ministration Organization Act (47 U.S.C.*
22 *942(e)(4))), for users of telecommunications relay*
23 *services as new technologies and methods for pro-*
24 *viding such relay services are adopted by providers of*
25 *such relay services; and*

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

3 (d) *MEETINGS.—*

4 (1) *INITIAL MEETING.—The initial meeting of*
5 *the Advisory Committee shall take place not later*
6 *than 45 days after the completion of the member ap-*
7 *pointment process by the Chairman of the Commis-*
8 *sion pursuant to subsection (b).*

9 (2) *OTHER MEETINGS.—After the initial meet-*
10 *ing, the Advisory Committee shall meet at the call of*
11 *the chairs, but no less than monthly until the rec-*
12 *ommendations required pursuant to subsection (c) are*
13 *completed and submitted.*

14 (3) *NOTICE; OPEN MEETINGS.—Any meetings*
15 *held by the Advisory Committee shall be duly noticed*
16 *at least 14 days in advance and shall be open to the*
17 *public.*

18 (e) *RULES.—*

19 (1) *QUORUM.—One-third of the members of the*
20 *Advisory Committee shall constitute a quorum for*
21 *conducting business of the Advisory Committee.*

22 (2) *SUBCOMMITTEES.—To assist the Advisory*
23 *Committee in carrying out its functions, the chair*
24 *may establish appropriate subcommittees composed of*

1 *members of the Advisory Committee and other subject*
2 *matter experts as determined to be necessary.*

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

5 (f) *FEDERAL ADVISORY COMMITTEE ACT.—The Fed-*
6 *eral Advisory Committee Act (5 U.S.C. App.) shall not*
7 *apply to the Advisory Committee.*

8 (g) *IMPLEMENTING RECOMMENDATIONS.—The Com-*
9 *mission shall have the authority to promulgate regulations*
10 *to implement the recommendations proposed by the Advi-*
11 *sory Committee, as well as any other regulations, technical*
12 *standards, protocols, and procedures as are necessary to*
13 *achieve reliable, interoperable communication that ensures*
14 *access by individuals with disabilities to an Internet pro-*
15 *ocol-enabled emergency network, where achievable and*
16 *technically feasible.*

17 (h) *DEFINITIONS.—In this section—*

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

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

22 (3) *except as otherwise expressly provided, other*
23 *terms have the meanings given such terms in section*
24 *3 of the Communications Act of 1934 (47 U.S.C.*
25 *153).*

1 **TITLE II—VIDEO PROGRAMMING**

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

3 **ADVISORY COMMITTEE.**

4 (a) *ESTABLISHMENT.*—Not later than 60 days after
5 the date of enactment of this Act, the Chairman shall estab-
6 lish an advisory committee to be known as the Video Pro-
7 gramming and Emergency Access Advisory Committee.

8 (b) *MEMBERSHIP.*—As soon as practicable after the
9 date of enactment of this Act, the Chairman shall appoint
10 individuals who have the technical knowledge and engineer-
11 ing expertise to serve on the Advisory Committee in the ful-
12 fillment of its duties, including the following:

13 (1) *Representatives of distributors and providers*
14 *of video programming or a national organization rep-*
15 *resenting such distributors.*

16 (2) *Representatives of vendors, developers, and*
17 *manufacturers of systems, facilities, equipment, and*
18 *capabilities for the provision of video programming*
19 *delivered using Internet protocol or a national orga-*
20 *nization representing such vendors, developers, or*
21 *manufacturers.*

22 (3) *Representatives of manufacturers of con-*
23 *sumer electronics or information technology equip-*
24 *ment or a national organization representing such*
25 *manufacturers.*

1 (4) *Representatives of video programming pro-*
2 *ducers or a national organization representing such*
3 *producers.*

4 (5) *Representatives of national organizations*
5 *representing accessibility advocates, including indi-*
6 *viduals with disabilities and the elderly.*

7 (6) *Representatives of the broadcast television in-*
8 *dustry or a national organization representing such*
9 *industry.*

10 (7) *Other individuals with technical and engi-*
11 *neering expertise, as the Chairman determines appro-*
12 *priate.*

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

16 (d) *TECHNICAL STAFF.—The Commission shall ap-*
17 *point a member of the Commission’s technical staff to pro-*
18 *vide technical assistance to the Advisory Committee.*

19 (e) *DEVELOPMENT OF RECOMMENDATIONS.—*

20 (1) *CLOSED CAPTIONING REPORT.—Within 6*
21 *months after the date of the first meeting of the Advi-*
22 *sory Committee, the Advisory Committee shall develop*
23 *and submit to the Commission a report that includes*
24 *the following:*

1 (A) *A recommended schedule of deadlines*
2 *for the provision of closed captioning service.*

3 (B) *An identification of the performance re-*
4 *quirement for protocols, technical capabilities,*
5 *and technical procedures needed to permit con-*
6 *tent providers, content distributors, Internet*
7 *service providers, software developers, and device*
8 *manufacturers to reliably encode, transport, re-*
9 *ceive, and render closed captions of video pro-*
10 *gramming, except for consumer generated media,*
11 *delivered using Internet protocol.*

12 (C) *An identification of additional proto-*
13 *cols, technical capabilities, and technical proce-*
14 *dures beyond those available as of the date of en-*
15 *actment of the Twenty-First Century Commu-*
16 *nications and Video Accessibility Act of 2010 for*
17 *the delivery of closed captions of video program-*
18 *ming, except for consumer generated media, de-*
19 *livered using Internet protocol that are necessary*
20 *to meet the performance requirements identified*
21 *under subparagraph (B).*

22 (D) *A recommendation for technical stand-*
23 *ards to address the performance requirements*
24 *identified in subparagraph (B).*

1 (E) *A recommendation for any regulations*
2 *that may be necessary to ensure compatibility*
3 *between video programming, except for consumer*
4 *generated media, delivered using Internet pro-*
5 *ocol and devices capable of receiving and dis-*
6 *playing such programming in order to facilitate*
7 *access to closed captions.*

8 (2) *VIDEO DESCRIPTION, EMERGENCY INFORMA-*
9 *TION, USER INTERFACES, AND VIDEO PROGRAMMING*
10 *GUIDES AND MENUS.—Within 18 months after the*
11 *date of enactment of this Act, the Advisory Committee*
12 *shall develop and submit to the Commission a report*
13 *that includes the following:*

14 (A) *A recommended schedule of deadlines*
15 *for the provision of video description and emer-*
16 *gency information.*

17 (B) *An identification of the performance re-*
18 *quirement for protocols, technical capabilities,*
19 *and technical procedures needed to permit con-*
20 *tent providers, content distributors, Internet*
21 *service providers, software developers, and device*
22 *manufacturers to reliably encode, transport, re-*
23 *ceive, and render video descriptions of video pro-*
24 *gramming, except for consumer generated media,*

1 *and emergency information delivered using*
2 *Internet protocol or digital broadcast television.*

3 *(C) An identification of additional proto-*
4 *cols, technical capabilities, and technical proce-*
5 *dures beyond those available as of the date of en-*
6 *actment of the Twenty-First Century Commu-*
7 *nications and Video Accessibility Act of 2010 for*
8 *the delivery of video descriptions of video pro-*
9 *gramming, except for consumer generated media,*
10 *and emergency information delivered using*
11 *Internet protocol that are necessary to meet the*
12 *performance requirements identified under sub-*
13 *paragraph (B).*

14 *(D) A recommendation for technical stand-*
15 *ards to address the performance requirements*
16 *identified in subparagraph (B).*

17 *(E) A recommendation for any regulations*
18 *that may be necessary to ensure compatibility*
19 *between video programming, except for consumer*
20 *generated media, delivered using Internet pro-*
21 *ocol and devices capable of receiving and dis-*
22 *playing such programming, except for consumer*
23 *generated media, in order to facilitate access to*
24 *video descriptions and emergency information.*

1 (F) *With respect to user interfaces, a rec-*
2 *ommendation for the standards, protocols, and*
3 *procedures used to enable the functions of appa-*
4 *ratus designed to receive or display video pro-*
5 *gramming transmitted simultaneously with*
6 *sound (including apparatus designed to receive*
7 *or display video programming transmitted by*
8 *means of services using Internet protocol) to be*
9 *accessible to and usable by individuals with dis-*
10 *abilities.*

11 (G) *With respect to user interfaces, a rec-*
12 *ommendation for the standards, protocols, and*
13 *procedures used to enable on-screen text menus*
14 *and other visual indicators used to access the*
15 *functions on an apparatus described in subpara-*
16 *graph (F) to be accompanied by audio output so*
17 *that such menus or indicators are accessible to*
18 *and usable by individuals with disabilities.*

19 (H) *With respect to video programming*
20 *guides and menus, a recommendation for the*
21 *standards, protocols, and procedures used to en-*
22 *able video programming information and selec-*
23 *tion provided by means of a navigation device,*
24 *guide, or menu to be accessible in real-time by*
25 *individuals who are blind or visually impaired.*

1 (3) *CONSIDERATION OF WORK BY STANDARD-SET-*
2 *TING ORGANIZATIONS.*—*The recommendations of the*
3 *advisory committee shall, insofar as possible, incor-*
4 *porate the standards, protocols, and procedures that*
5 *have been adopted by recognized industry standard-*
6 *setting organizations for each of the purposes de-*
7 *scribed in paragraphs (1) and (2).*

8 (f) *MEETINGS.*—

9 (1) *INITIAL MEETING.*—*The initial meeting of*
10 *the Advisory Committee shall take place not later*
11 *than 180 days after the date of the enactment of this*
12 *Act.*

13 (2) *OTHER MEETINGS.*—*After the initial meet-*
14 *ing, the Advisory Committee shall meet at the call of*
15 *the Chairman.*

16 (3) *NOTICE; OPEN MEETINGS.*—*Any meeting held*
17 *by the Advisory Committee shall be noticed at least*
18 *14 days before such meeting and shall be open to the*
19 *public.*

20 (g) *PROCEDURAL RULES.*—

21 (1) *QUORUM.*—*The presence of one-third of the*
22 *members of the Advisory Committee shall constitute a*
23 *quorum for conducting the business of the Advisory*
24 *Committee.*

1 (2) *SUBCOMMITTEES.*—*To assist the Advisory*
2 *Committee in carrying out its functions, the Chair-*
3 *man may establish appropriate subcommittees com-*
4 *posed of members of the Advisory Committee and*
5 *other subject matter experts.*

6 (3) *ADDITIONAL PROCEDURAL RULES.*—*The Ad-*
7 *visory Committee may adopt other procedural rules*
8 *as needed.*

9 (h) *FEDERAL ADVISORY COMMITTEE ACT.*—*The Fed-*
10 *eral Advisory Committee Act (5 U.S.C. App.) shall not*
11 *apply to the Advisory Committee.*

12 (i) *ADOPTION OF STANDARDS, PROTOCOLS, PROCE-*
13 *DURES, AND OTHER TECHNICAL REQUIREMENTS.*—

14 (1) *CLOSED CAPTIONING.*—*Not later than 6*
15 *months after the date on which the Advisory Com-*
16 *mittee transmits its report under subsection (e)(1) to*
17 *the Commission, the Commission shall take all ac-*
18 *tions necessary to adopt relevant technical standards,*
19 *protocols, procedures, and other technical require-*
20 *ments to ensure compatibility between video program-*
21 *ming delivered using Internet protocol and devices ca-*
22 *pable of receiving and displaying such programming*
23 *in order to facilitate access to closed captions.*

24 (2) *VIDEO DESCRIPTION AND EMERGENCY INFOR-*
25 *MATION.*—*Not later than 18 months after the date on*

1 *which the Advisory Committee transmits its report*
2 *under subsection (e)(2) to the Commission, the Com-*
3 *mission shall take all actions necessary to adopt rel-*
4 *evant technical standards, protocols, procedures, and*
5 *other technical requirements to ensure compatibility*
6 *between video programming, except for consumer gen-*
7 *erated media, delivered using Internet protocol or dig-*
8 *ital broadcast television and devices capable of receiv-*
9 *ing and displaying such programming in order to fa-*
10 *facilitate access to video descriptions and emergency in-*
11 *formation.*

12 (j) *COMMISSION AUTHORITY.—*

13 (1) *IN GENERAL.—The Commission shall adopt*
14 *the recommendations contained in the reports re-*
15 *quired under paragraphs (1) and (2) of subsection (e)*
16 *if the Commission finds that the recommendations*
17 *are sufficient to meet the objectives of this Act.*

18 (2) *ALTERNATIVE ADOPTION OF REQUIRE-*
19 *MENTS.—If the Commission finds that the rec-*
20 *ommendations are, in whole or in part, insufficient*
21 *to meet the objectives of this Act, the Commission*
22 *shall adopt the standards, protocols, procedures, or*
23 *other technical requirements that it determines are*
24 *necessary to meet the objectives of this Act.*

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

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

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

5 (2) *by redesignating subsection (h) as subsection*
6 *(j); and*

7 (3) *by inserting after subsection (e) the following:*

8 “(f) *VIDEO DESCRIPTION.*—

9 “(1) *REINSTATEMENT OF REGULATIONS.*—On the
10 day that is 1 year after the date of enactment of the
11 *Twenty-First Century Communications and Video*
12 *Accessibility Act of 2010, the Commission shall, after*
13 *a rulemaking, reinstate its video description regula-*
14 *tions contained in the Implementation of Video De-*
15 *scription of Video Programming Report and Order*
16 *(15 F.C.C.R. 15,230 (2000)), modified as provided in*
17 *paragraph (2).*

18 “(2) *MODIFICATIONS TO REINSTATED REGULA-*
19 *TIONS.*—Such regulations shall be modified only as
20 *follows:*

21 “(A) *The regulations shall apply to video*
22 *programming, as defined in subsection (h), that*
23 *is transmitted for display on television in digital*
24 *format.*

25 “(B) *The Commission shall update the list*
26 *of the top 25 designated market areas, the list of*

1 *the top 5 national nonbroadcast networks, and*
2 *the beginning calendar quarter for which compli-*
3 *ance shall be calculated.*

4 “(C) *The regulations may permit a pro-*
5 *vider of video programming or a program owner*
6 *to petition the Commission for an exemption*
7 *from the requirements of this section upon a*
8 *showing that the requirements contained in this*
9 *section be economically burdensome.*

10 “(D) *The Commission may exempt from the*
11 *regulations established pursuant to paragraph*
12 *(1) a service, class of services, program, class of*
13 *programs, equipment, or class of equipment for*
14 *which the Commission has determined that the*
15 *application of such regulations would be eco-*
16 *nomically burdensome for the provider of such*
17 *service, program, or equipment.*

18 “(E) *The regulations shall not apply to live*
19 *or near-live programming.*

20 “(F) *The regulations shall provide for an*
21 *appropriate phased schedule of deadlines for*
22 *compliance.*

23 “(G) *The Commission shall consider extend-*
24 *ing the exemptions and limitations in the rein-*
25 *stated regulations for technical capability rea-*

1 *sons to all providers and owners of video pro-*
2 *gramming.*

3 “(3) *INQUIRIES ON FURTHER VIDEO DESCRIP-*
4 *TION REQUIREMENTS.—The Commission shall com-*
5 *mence the following inquiries not later than 1 year*
6 *after the completion of the phase-in of the reinstated*
7 *regulations and shall report to Congress 1 year there-*
8 *after on the findings for each of the following:*

9 “(A) *VIDEO DESCRIPTION IN TELEVISION*
10 *PROGRAMMING.—The availability, use, and bene-*
11 *fits of video description on video programming*
12 *distributed on television, the technical and cre-*
13 *ative issues associated with providing such video*
14 *description, and the financial costs of providing*
15 *such video description for providers of video pro-*
16 *gramming and program owners.*

17 “(B) *VIDEO DESCRIPTION IN VIDEO PRO-*
18 *GRAMMING DISTRIBUTED ON THE INTERNET.—*
19 *The technical and operational issues, costs, and*
20 *benefits of providing video descriptions for video*
21 *programming that is delivered using Internet*
22 *protocol.*

23 “(g) *EMERGENCY INFORMATION.—Not later than 1*
24 *year after the Advisory Committee report under subsection*

1 *(e)(2) is submitted to the Commission, the Commission shall*
2 *complete a proceeding to—*

3 *“(1) identify methods to convey emergency infor-*
4 *mation (as that term is defined in section 79.2 of title*
5 *47, Code of Federal Regulations) in a manner acces-*
6 *sible to individuals who are blind or visually im-*
7 *paired; and*

8 *“(2) promulgate regulations that require video*
9 *programming providers and video programming dis-*
10 *tributors (as those terms are defined in section 79.1*
11 *of title 47, Code of Federal Regulations) and program*
12 *owners to convey such emergency information in a*
13 *manner accessible to individuals who are blind or vis-*
14 *ually impaired.*

15 *“(h) RESPONSIBILITIES.—*

16 *“(1) VIDEO PROGRAMMING OWNER.—A video*
17 *programming owner shall ensure that any closed cap-*
18 *tioning and video description required pursuant to*
19 *this section is provided in accordance with the tech-*
20 *anical standards, protocols and procedures established*
21 *by the Commission.*

22 *“(2) VIDEO PROGRAMMING PROVIDER OR DIS-*
23 *TRIBUTOR.—A video programming provider or video*
24 *programming distributor shall be deemed in compli-*
25 *ance with this section and the rules and regulation*

1 *promulgated thereunder if such entity enables the ren-*
2 *dering or the pass through of closed captions and*
3 *video description signals.*

4 “(i) *DEFINITIONS.—For purposes of this section, sec-*
5 *tion 303, and section 330:*

6 “(1) *VIDEO DESCRIPTION.—The term ‘video de-*
7 *scription’ means the insertion of audio narrated de-*
8 *scriptions of a television program’s key visual ele-*
9 *ments into natural pauses between the program’s dia-*
10 *logue.*

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

16 “(b) *CLOSED CAPTIONING ON VIDEO PROGRAMMING*
17 *DELIVERED USING INTERNET PROTOCOL.—Section 713 of*
18 *such Act is further amended by striking subsection (c) and*
19 *inserting the following:*

20 “(c) *DEADLINES FOR CAPTIONING.—*

21 “(1) *IN GENERAL.—The regulations prescribed*
22 *pursuant to subsection (b) shall include an appro-*
23 *priate schedule of deadlines for the provision of closed*
24 *captioning of video programming once published or*
25 *exhibited on television.*

1 “(2) *DEADLINES FOR PROGRAMMING DELIVERED*
2 *USING INTERNET PROTOCOL.—*

3 “(A) *REGULATIONS ON CLOSED CAPTIONING*
4 *ON VIDEO PROGRAMMING DELIVERED USING*
5 *INTERNET PROTOCOL.—Not later than 6 months*
6 *after the submission of the report to the Commis-*
7 *sion required by subsection (e)(1) of the Twenty-*
8 *First Century Communications and Video Acces-*
9 *sibility Act of 2010, the Commission shall revise*
10 *its regulations to require the provision of closed*
11 *captioning on video programming delivered*
12 *using Internet protocol that was published or ex-*
13 *hibited on television with captions after the effec-*
14 *tive date of such regulations.*

15 “(B) *SCHEDULE.—The regulations pre-*
16 *scribed under this paragraph shall include an*
17 *appropriate schedule of deadlines for the provi-*
18 *sion of closed captioning, taking into account*
19 *whether such programming is prerecorded and*
20 *edited for Internet distribution, or whether such*
21 *programming is live or near-live and not edited*
22 *for Internet distribution.*

23 “(C) *COST.—The Commission may delay or*
24 *waive the regulation promulgated under sub-*
25 *paragraph (A) to the extent the Commission*

1 *finds that the application of the regulation to*
2 *live video programming delivered using Internet*
3 *protocol with captions after the effective date of*
4 *such regulations would be economically burden-*
5 *some to providers of video programming or pro-*
6 *gram owners.*

7 “(D) *REQUIREMENTS FOR REGULATIONS.—*

8 *The regulations prescribed under this para-*
9 *graph—*

10 “(i) *shall contain a definition of ‘near-*
11 *live programming’ and ‘edited for Internet*
12 *distribution’;*

13 “(ii) *may exempt any service, class of*
14 *service, program, class of program, equip-*
15 *ment, or class of equipment for which the*
16 *Commission has determined that the appli-*
17 *cation of such regulations would be eco-*
18 *nomically burdensome for the provider of*
19 *such service, program, or equipment; and*

20 “(iii) *shall provide that de minimis*
21 *failure to comply with such regulations by*
22 *a video programming provider or owner*
23 *shall not be treated as a violation of the reg-*
24 *ulations.”.*

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

4 “(3) a provider of video programming or pro-
 5 gram owner may petition the Commission for an ex-
 6 emption from the requirements of this section, and the
 7 Commission may grant such petition upon a showing
 8 that the requirements contained in this section would
 9 be economically burdensome. During the pendency of
 10 such a petition, such provider or owner shall be ex-
 11 empt from the requirements of this section. The Com-
 12 mission shall act to grant or deny any such petition,
 13 in whole or in part, within 6 months after the Com-
 14 mission receives such petition, unless the Commission
 15 finds that an extension of the 6-month period is nec-
 16 essary to determine whether such requirements are
 17 economically burdensome.”.

18 **SEC. 203. CLOSED CAPTIONING DECODER AND VIDEO DE-**
 19 **SCRIPTION CAPABILITY.**

20 (a) *AUTHORITY TO REGULATE.*—Section 303(u) of the
 21 Communications Act of 1934 (47 U.S.C. 303(u)) is amend-
 22 ed to read as follows:

23 “(u) Require that—

24 “(1) apparatus designed to receive or play
 25 back video programming transmitted simulta-

1 *neously with sound, if such apparatus is manu-*
2 *factured in the United States or imported for use*
3 *in the United States and uses a picture screen*
4 *of any size—*

5 *“(A) be equipped with built-in closed*
6 *caption decoder circuitry or capability de-*
7 *signed to display closed-captioned video*
8 *programming;*

9 *“(B) have the capability to decode and*
10 *make available the transmission and deliv-*
11 *ery of video description services as required*
12 *by regulations reinstated and modified pur-*
13 *suant to section 713(f); and*

14 *“(C) have the capability to decode and*
15 *make available emergency information (as*
16 *that term is defined in section 79.2 of the*
17 *Commission’s regulations (47 CFR 79.2))*
18 *in a manner that is accessible to individ-*
19 *uals who are blind or visually impaired;*
20 *and*

21 *“(2) notwithstanding paragraph (1) of this*
22 *subsection—*

23 *“(A) apparatus described in such*
24 *paragraph that use a picture screen that is*
25 *less than 13 inches in size meet the require-*

1 *ments of subparagraph (A), (B), or (C) of*
2 *such paragraph only if the requirements of*
3 *such subparagraphs are achievable (as de-*
4 *finied in section 716);*

5 *“(B) any apparatus or class of appa-*
6 *ratus that are display-only video monitors*
7 *with no playback capability are exempt*
8 *from the requirements of such paragraph;*
9 *and*

10 *“(C) the Commission shall have the au-*
11 *thority, on its own motion or in response to*
12 *a petition by a manufacturer, to waive the*
13 *requirements of this subsection for any ap-*
14 *paratus or class of apparatus—*

15 *“(i) primarily designed for activi-*
16 *ties other than receiving or playing*
17 *back video programming transmitted*
18 *simultaneously with sound; or*

19 *“(ii) for equipment designed for*
20 *multiple purposes, capable of receiving*
21 *or playing video programming trans-*
22 *mitted simultaneously with sound but*
23 *whose essential utility is derived from*
24 *other purposes.”.*

1 **(b) OTHER DEVICES.**—*Section 303 of the Communica-*
2 *tions Act of 1934 (47 U.S.C. 303) is further amended by*
3 *adding at the end the following new subsection:*

4 “(z) *Require that—*

5 “(1) *if achievable (as defined in section*
6 *716), apparatus designed to record video pro-*
7 *gramming transmitted simultaneously with*
8 *sound, if such apparatus is manufactured in the*
9 *United States or imported for use in the United*
10 *States, enable the rendering or the pass through*
11 *of closed captions, video description signals, and*
12 *emergency information (as that term is defined*
13 *in section 79.2 of title 47, Code of Federal Regu-*
14 *lations) such that viewers are able to activate*
15 *and de-activate the closed captions and video de-*
16 *scription as the video programming is played*
17 *back on a picture screen of any size; and*

18 “(2) *interconnection mechanisms and*
19 *standards for digital video source devices are*
20 *available to carry from the source device to the*
21 *consumer equipment the information necessary*
22 *to permit or render the display of closed captions*
23 *and to make encoded video description and emer-*
24 *gency information audible.”.*

1 (c) *SHIPMENT IN COMMERCE.*—Section 330(b) of the
2 *Communications Act of 1934 (47 U.S.C. 330(b))* is amend-
3 *ed—*

4 (1) *by striking “303(u)” in the first sentence and*
5 *inserting “303(u) and (z)”;*

6 (2) *by striking the second sentence and inserting*
7 *the following: “Such rules shall provide performance*
8 *and display standards for such built-in decoder cir-*
9 *cuitry or capability designed to display closed cap-*
10 *tioned video programming, the transmission and de-*
11 *livery of video description services, and the convey-*
12 *ance of emergency information as required by section*
13 *303 of this Act.”; and*

14 (3) *in the fourth sentence, by striking “closed-*
15 *captioning service continues” and inserting “closed-*
16 *captioning service and video description service con-*
17 *tinue”.*

18 (d) *IMPLEMENTING REGULATIONS.*—*The Federal Com-*
19 *munications Commission shall prescribe such regulations as*
20 *are necessary to implement the requirements of sections*
21 *303(u), 303(z), and 330(b) of the Communications Act of*
22 *1934, as amended by this section, including any technical*
23 *standards, protocols, and procedures needed for the trans-*
24 *mission of—*

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

4 (2) video description and emergency information
5 within 18 months after the submission to the Com-
6 mission of the Advisory Committee report required by
7 section 201(e)(2).

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

9 (a) *AMENDMENT.*—Section 303 of the Communications
10 Act of 1934 (47 U.S.C. 303) is further amended by adding
11 after subsection (z), as added by section 203 of this Act,
12 the following new subsection:

13 “(aa) *Require*—

14 “(1) if achievable (as defined in section
15 716) that digital apparatus designed to receive
16 or play back video programming transmitted in
17 digital format simultaneously with sound, in-
18 cluding apparatus designed to receive or display
19 video programming transmitted in digital for-
20 mat using Internet protocol, be designed, devel-
21 oped, and fabricated so that control of appro-
22 priate built-in apparatus functions are accessible
23 to and usable by individuals who are blind or
24 visually impaired, except that the Commission
25 may not specify the technical standards, proto-

1 *cols, procedures, and other technical require-*
2 *ments for meeting this requirement;*

3 “(2) *that if on-screen text menus or other*
4 *visual indicators built in to the digital appa-*
5 *ratus are used to access the functions of the ap-*
6 *paratus described in paragraph (1), such func-*
7 *tions shall be accompanied by audio output that*
8 *is either integrated or peripheral to the appa-*
9 *ratus, so that such menus or indicators are ac-*
10 *cessible to and usable by individuals who are*
11 *blind or visually impaired in real-time;*

12 “(3) *that for such apparatus equipped with*
13 *the functions described in paragraphs (1) and*
14 *(2) built in access to those closed captioning and*
15 *video description features through a mechanism*
16 *that is reasonably comparable to a button, key,*
17 *or icon designated by activating the closed cap-*
18 *tioning or accessibility features; and*

19 “(4) *that in applying this subsection the*
20 *term ‘apparatus’ does not include a navigation*
21 *device, as such term is defined in section 76.1200*
22 *of the Commission’s rules (47 CFR 76.1200).”.*

23 **(b) IMPLEMENTING REGULATIONS.**—*Within 18 months*
24 *after the submission to the Commission of the Advisory*
25 *Committee report required by section 201(e)(2), the Com-*

1 mission shall prescribe such regulations as are necessary to
2 implement the amendments made by subsection (a).

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

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

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

17 “(b) *Require*—

18 “(1) *if achievable (as defined in section 716),*
19 *that the on-screen text menus and guides provided by*
20 *navigation devices (as such term is defined in section*
21 *76.1200 of title 47, Code of Federal Regulations) for*
22 *the display or selection of multichannel video pro-*
23 *gramming are audibly accessible in real-time upon*
24 *request by individuals who are blind or visually im-*
25 *paired, except that the Commission may not specify*

1 *the technical standards, protocols, procedures, and*
2 *other technical requirements for meeting this require-*
3 *ment; and*

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

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

15 *(b) IMPLEMENTING REGULATIONS.—*

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

22 *(2) EXEMPTION.—Such regulations may provide*
23 *an exemption from the regulations for cable systems*
24 *servicing 20,000 or fewer subscribers.*

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

6 (3) *SEPARATE EQUIPMENT OR SOFTWARE.*—

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

17 (B) *REQUIREMENTS.*—*If an entity complies*
18 *with section 303(bb)(1) of the Communications*
19 *Act of 1934 under subparagraph (A), the entity*
20 *providing the navigation device to the requesting*
21 *blind or visually impaired individual shall pro-*
22 *vide any such software, peripheral device, equip-*
23 *ment, service, or solution at no additional charge*
24 *and within a reasonable time to such individual*
25 *and shall ensure that such software, device,*

1 *equipment, service, or solution provides the ac-*
2 *cess required by such regulations.*

3 (4) *USER CONTROLS FOR CLOSED CAPTIONING.—*

4 *Such regulations shall permit the entity providing the*
5 *navigation device maximum flexibility in the selec-*
6 *tion of means for compliance with section 303(bb)(2)*
7 *of the Communications Act of 1934 (as added by sub-*
8 *section (a) of this section).*

9 (5) *PHASE-IN.—*

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

12 (i) *not less than 2 years after the adop-*
13 *tion of such regulations to begin placing in*
14 *service devices that comply with the require-*
15 *ments of section 303(bb)(2) of the Commu-*
16 *nications Act of 1934 (as added by sub-*
17 *section (a) of this section); and*

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

24 (B) *APPLICATION.—Such regulations shall*
25 *apply only to devices manufactured or imported*

1 *on or after the respective effective dates estab-*
2 *lished in subparagraph (A).*

3 **SEC. 206. DEFINITIONS.**

4 *In this title:*

5 (1) *ADVISORY COMMITTEE.*—*The term “Advisory*
6 *Committee” means the advisory committee established*
7 *in section 201.*

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

11 (3) *COMMISSION.*—*The term “Commission”*
12 *means the Federal Communications Commission.*

13 (4) *EMERGENCY INFORMATION.*—*The term*
14 *“emergency information” has the meaning given such*
15 *term in section 79.2 of title 47, Code of Federal Regu-*
16 *lations.*

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

20 (6) *NAVIGATION DEVICE.*—*The term “navigation*
21 *device” has the meaning given such term in section*
22 *76.1200 of title 47, Code of Federal Regulations.*

23 (7) *VIDEO DESCRIPTION.*—*The term “video de-*
24 *scription” has the meaning given such term in section*

1 *713 of the Communications Act of 1934 (47 U.S.C.*
2 *613).*

3 *(8) VIDEO PROGRAMMING.—The term “video pro-*
4 *gramming” has the meaning given such term in sec-*
5 *tion 713 of the Communications Act of 1934 (47*
6 *U.S.C. 613).*

○

Calendar No. 509

11TH CONGRESS
2^D Session

S. 3304

A BILL

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

August 3, 2010

Reported with an amendment