

(c) All apparatus subject to this section must comply with the interconnection mechanism requirements in § 79.105(c).

[78 FR 31798, May 24, 2013]

§ 79.107 User interfaces provided by digital apparatus.

(a)(1) A manufacturer of digital apparatus manufactured in or imported for use in the United States and designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, must ensure that digital apparatus be designed, developed, and fabricated so that control of appropriate built-in functions included in the digital apparatus are accessible to and usable by individuals who are blind or visually impaired. Digital apparatus do not include navigation devices as defined in § 76.1200 of this chapter. Manufacturers must comply with the provisions of this section only if achievable as defined in § 79.107(c)(2).

NOTE 1 TO PARAGRAPH (a)(1): The term digital apparatus as used in this section includes the physical device and the video player(s) capable of displaying video programming transmitted in digital format simultaneously with sound that manufacturers install into the devices they manufacture before sale, whether in the form of hardware, software, or a combination of both, as well as any video players capable of displaying video programming in digital format transmitted simultaneously with sound that manufacturers direct consumers to install after sale. The term software includes third-party applications that are pre-installed on a device by the manufacturer or that the manufacturer directs consumers to install after sale.

NOTE 2 TO PARAGRAPH (a)(1): This paragraph places no restrictions on the importing, shipping, or sale of digital apparatus manufactured before the applicable compliance deadline for this section.

(2) If on-screen text menus or other visual indicators built in to the digital apparatus are used to access the appropriate built-in apparatus functions, manufacturers of the digital apparatus must ensure that those functions are accompanied by audio output that is either integrated or peripheral to the digital apparatus, so that such menus

or indicators are accessible to and usable by individuals who are blind or visually impaired in real time.

(3) For appropriate built-in digital apparatus functions that are not accessed through on screen text menus or other visual indicators, *i.e.*, those that are not required to be accompanied by audio output in accordance with paragraph (a)(2) of this section, manufacturers of digital apparatus must make such functions accessible to individuals who are blind or visually impaired by ensuring that the input, control, and mechanical functions are locatable, identifiable, and operable in accordance with each of the following, assessed independently:

(i) *Operable without vision.* The digital apparatus must provide at least one mode that does not require user vision.

(ii) *Operable with low vision and limited or no hearing.* The digital apparatus must provide at least one mode that permits operation by users with visual acuity between 20/70 and 20/200, without relying on audio output.

(iii) *Operable with little or no color perception.* The digital apparatus must provide at least one mode that does not require user color perception.

(4) Appropriate built-in apparatus functions are those functions that are used for receiving, playing back, or displaying video programming, and include the following functions:

(i) *Power On/Off.* Function that allows the user to turn the device on or off.

(ii) *Volume Adjust and Mute.* Function that allows the user to adjust the volume and to mute or un-mute the volume.

(iii) *Channel/Program Selection.* Function that allows the user to select channels and programs (e.g., via physical numeric or channel up/channel down buttons or via on screen guides and menus).

(iv) *Display Channel/Program Information.* Function that allows the user to display channel or program information.

(v) *Configuration—Setup.* Function that allows the user to access and change configuration or setup options (e.g., configuration of video display and audio settings, selection of preferred

language for onscreen guides or menus, etc.).

(vi) *Configuration—CC Control*. Function that allows the user to enable or disable the display of closed captioning.

(vii) *Configuration—CC Options*. Function that allows the user to modify the display of closed caption data (e.g., configuration of the font size, font color, background color, opacity, etc.).

(viii) *Configuration—Video Description Control*. Function that allows the user to enable or disable the output of video description (i.e., allows the user to change from the main audio to the secondary audio stream that contains video description, and from the secondary audio stream back to the main audio).

(ix) *Display Configuration Info*. Function that allows the user to display how user preferences are currently configured.

(x) *Playback Functions*. Function that allows the user to control playback functions (e.g., pause, play, rewind, fast forward, stop, and record).

(xi) *Input Selection*. Function that allows the user to select their preferred input source.

(b) *Compliance deadline*. Compliance with the requirements of this section is required no later than December 20, 2016; except that compliance with the requirements of this section is required no later than December 20, 2021 for the following digital apparatus:

(1) Display-only monitors and video projectors;

(2) Devices that are primarily designed to capture and display still and/or moving images consisting of consumer generated media, or of other images that are not video programming as defined under § 79.4(a)(1) of this part, and that have limited capability to display video programming transmitted simultaneously with sound; and

(3) Devices that are primarily designed to display still images and that have limited capability to display video programming transmitted simultaneously with sound.

(c)(1) *Achievable*. Manufacturers of digital apparatus:

(i) May file a petition seeking a determination from the Commission, pursuant to § 1.41 of this chapter, that

compliance with the requirements of this section is not achievable, which the Commission may grant upon a finding that such compliance is not achievable, or

(ii) May raise as a defense to a complaint or Commission enforcement action that a particular digital apparatus does not comply with the requirements of this section because compliance was not achievable, and the Commission may dismiss a complaint or Commission enforcement action upon a finding that such compliance is not achievable.

(2) The petitioner or respondent must support a petition filed pursuant to paragraph (c)(1) of this section or a response to a complaint or Commission enforcement action with sufficient evidence to demonstrate that compliance with the requirements of this section is not “achievable.” “Achievable” means with reasonable effort or expense. The Commission will consider the following factors when determining whether compliance with the requirements of this section is not “achievable” under the factors set out in 47 U.S.C. 617(g):

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

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

(iii) The type of operations of the manufacturer or provider; and

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

EFFECTIVE DATE NOTE: At 78 FR 77251, Dec. 20, 2013, § 79.107 was added. Paragraph (c) of this section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 79.108 Video programming guides and menus provided by navigation devices.

(a)(1) Manufacturers that place navigation devices, as defined by § 76.1200 of