

Federal Communications Commission

§ 79.110

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): This paragraph places no restrictions on the importing, shipping, or sale of digital apparatus manufactured before the applicable compliance deadline for this section.

(b) *Requirements applicable to navigation devices.* Manufacturers that place navigation devices, as defined in § 76.1200 of this chapter, into the chain of commerce for purchase by consumers, and MVPDs that lease or sell such navigation devices with built in closed-captioning capability must ensure that closed captioning can be activated through a mechanism that is reasonably comparable to a button, key, or icon.

NOTE 1 TO PARAGRAPH (b): In determining whether a particular device is considered a "navigation device" subject to the requirements of this section, the Commission will look to the device's built-in functionality at the time of manufacture.

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

(c) *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, 2018 for the following covered entities: (1) MVPD operators with 400,000 or fewer subscribers as of year-end 2012; and (2) MVPD systems with 20,000 or fewer subscribers that are not affiliated with an operator serving more than 10 percent of all MVPD subscribers as of year-end 2012.

§ 79.110 Complaint procedures for user interfaces, menus and guides, and activating accessibility features on digital apparatus and navigation devices.

(a) Complaints concerning an alleged violation of the requirements of

§ 79.107, § 79.108, or § 79.109 must be filed in accordance with this section. For purposes of this section, a covered entity is the entity or entities responsible for compliance with § 79.107, § 79.108, or § 79.109.

(1) Complaints must be filed with the Commission or with the covered entity within 60 days after the date the complainant experiences a problem relating to compliance with the requirements of §§ 79.107, 79.108, or 79.109. A complaint filed with the Commission may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as the Commission's online informal complaint filing system, letter, facsimile, telephone (voice/TRS/TTY), email, or some other method that would best accommodate the complainant's disability.

(2) A complaint should include the following information:

(i) The complainant's name, address, and other contact information, such as telephone number and email address;

(ii) The name and contact information of the covered entity;

(iii) Information sufficient to identify the software or digital apparatus/navigation device used;

(iv) The date or dates on which the complainant purchased, acquired, or used, or tried to purchase, acquire, or use the digital apparatus/navigation device;

(v) A statement of facts sufficient to show that the covered entity has violated, or is violating, the Commission's rules;

(vi) The specific relief or satisfaction sought by the complainant;

(vii) The complainant's preferred format or method of response to the complaint; and

(viii) If a complaint pursuant to § 79.108, the date that the complainant requested an accessible navigation device and the person or entity to whom that request was directed.

(3) If a complaint is filed first with the Commission, the Commission will forward a complaint satisfying the above requirements to the named covered entity for its response, as well as to any other entity that Commission staff determines may be involved. The covered entity or entities must respond

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in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

(4) If a complaint is filed first with the covered entity, the covered entity must respond in writing to the complainant within 30 days after receipt of a complaint. If the covered entity fails to respond to the complainant within 30 days, or the response does not satisfy the consumer, the complainant may file the complaint with the Commission within 30 days after the time allotted for the covered entity to respond. If the consumer subsequently files the complaint with the Commission (after filing with the covered entity) and the complaint satisfies the above requirements in paragraph 2 of this section, the Commission will forward the complaint to the named covered entity for its response, as well as to any other entity that Commission staff determines may be involved. The covered entity must then respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

(5) In response to a complaint, the covered entity must file with the Commission sufficient records and documentation to prove that it was (and remains) in compliance with the Commission's rules. Conclusory or insufficiently supported assertions of compliance will not carry the covered entity's burden of proof. If the covered entity admits that it was not, or is not, in compliance with the Commission's rules, it must file with the Commission sufficient records and documentation to explain the reasons for its non-compliance, show what remedial steps it has taken or will take, and show why

such steps have been or will be sufficient to remediate the problem.

(6) The Commission will review all relevant information provided by the complainant and the covered entity, as well as any additional information the Commission deems relevant from its files or public sources. The Commission may request additional information from any relevant parties when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violations of Commission rules. When the Commission requests additional information, parties to which such requests are addressed must provide the requested information in the manner and within the time period the Commission specifies.

(7) If the Commission finds that a covered entity has violated the requirements of §§79.107, 79.108, or 79.109, it may employ the full range of sanctions and remedies available under the Communications Act of 1934, as amended, against any or all of the violators.

(b) *Contact information.* A covered entity must make contact information available for the receipt and handling of complaints. The contact information required must include the name of a person with primary responsibility for accessibility compliance issues. This contact information must also include that person's title or office, telephone number, fax number, postal mailing address, and email address. A covered entity must keep this information current and update it within 10 business days of any change.

EFFECTIVE DATE NOTE: At 78 FR 77251, Dec. 20, 2013, §79.110 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.