

(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.

(d) *MVPD notices.* Covered MVPDs must notify consumers that navigation devices with the required accessibility features are available to consumers who are blind or visually impaired upon request as follows:

(1) When providing information about equipment options in response to a consumer inquiry about service, accessibility, or other issues, MVPDs must clearly and conspicuously inform consumers about the availability of accessible navigation devices.

(2) MVPDs must provide notice on their official Web sites about the availability of accessible navigation devices. MVPDs must prominently display information about accessible navigation devices and separate solutions on their Web sites in a way that makes such information available to all current and potential subscribers. The notice must publicize the availability of accessible devices and separate solutions and explain the means for making requests for accessible equipment and the specific person, office or entity to whom such requests are to be made. All information required by this section must be provided in a Web site format that is accessible to people with disabilities.

(e) *Verification of eligibility.* Entities covered by this section may only require consumer verification of eligibility as an individual who is blind or visually impaired to the extent the entity chooses to rely on an accessibility solution that involves providing the consumer with sophisticated equip-

ment and/or services at a price that is lower than that offered to the general public. In this situation, entities covered by this section must allow a consumer to provide a wide array of documentation to verify eligibility for the accessibility solution provided. Entities covered by this section that choose to require verification of eligibility must comply with the requirements of 47 U.S.C. 338(i)(4)(A) and 47 U.S.C. 631(c)(1) to protect personal information gathered from consumers through their verification procedures.

#### § 79.109 Activating accessibility features.

(a) *Requirements applicable to digital apparatus.* (1) Manufacturers of digital apparatus 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, 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. Digital apparatus do not include navigation devices as defined in § 76.1200 of this chapter.

(2) Manufacturers of digital apparatus 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, with built-in video description capability must ensure that video description can be activated through a mechanism that is reasonably comparable to a button, key, or icon. Digital apparatus do not include navigation devices as defined in § 76.1200 of this chapter.

NOTE 1 TO PARAGRAPH (a): The term digital apparatus 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

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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 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