

centers and service centers which support their products at no additional charge.

(2) MVPDs and manufacturers of navigation devices shall include in general product information the contact method for obtaining the information required by paragraph (f)(1) of this section.

(3) In developing, or incorporating existing training programs, MVPDs and manufacturers of navigation devices shall consider the following topics:

- (i) Accessibility requirements of individuals with disabilities;
- (ii) Means of communicating with individuals with disabilities;
- (iii) Commonly used adaptive technology used with the manufacturer's products;
- (iv) Designing for accessibility; and
- (v) Solutions for accessibility and compatibility.

(4) If a consumer with a disability requests an accessible navigation device pursuant to Section 205, this also constitutes a request for a description of the accessibility features of the device and end-user product documentation in accessible formats.

[78 FR 77251, Dec. 20, 2013, as amended at 81 FR 5936, Feb. 4, 2016]

§ 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 descrip-

tion 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 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

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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 de-

vice 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 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.