

Summary of the “21st Century Communications and Video Accessibility Act”

Telecommunications technologies have a proven ability to empower individuals with the necessary tools of the information age. These technological tools can animate the personal use of communications for work or enjoyment, but also impact health care delivery, educational opportunities, the prospects for employment, and job creation. The goal of the legislation is to establish new safeguards for disability access to ensure that people with disabilities are not left behind as technology changes and the United States migrates to the next generation of Internet-based and digital communication technologies.

Title I – Communications Access

Definitions. Section 101. – Adds definitions to the Act as follows:

- **Disability** – This has the same meaning as in the Americans with Disabilities Act and Section 255 of the Communications Act.
- **Interconnected VoIP Service** – This definition has the same meaning as in the FCC’s regulations.
- **IP-enabled communication service** – This definition encompasses interconnected VoIP service and includes transmission services that have the purpose of conducting voice, text, or video conversations, interactive voice response systems, and other similar communication-based services.

Hearing Aid Compatibility. Sec. 102. – Extends federal law that currently requires hearing aid compatibility on newly manufactured and imported telephones, to comparable customer premises equipment used to provide IP-enabled communication service. The purpose of this section is to make sure that people with hearing loss have access to telephone devices used with advanced technologies, including cell phones or any other handsets used for Internet-based voice communications. (This section is not intended to extend to headsets or headphones used with computers.)

Relay Services. Sec. 103. – This section clarifies that telecommunications relay services (TRS) are intended to ensure that people who have hearing or speech disabilities can use relay services to engage in functionally equivalent telephone communication with all other people, not just people without a hearing or speech disability. It revises Section 225 of the Act, which has been interpreted at times (by the FCC) to authorize only relay services between people with disabilities and people without disabilities. This section also expands the relay service obligation to contribute to the Telecommunications Relay Services Fund to all providers of IP-enabled communication services that provide voice communication.

Access to Internet-Based Services and Equipment. Sec. 104. – This section builds upon authority contained in Section 255 of the Communications Act, which generally requires telecommunications service providers, as well as interconnected VoIP providers and manufacturers, to make their services and equipment accessible to and usable by

people with disabilities. This section creates new safeguards for Internet-based communications technologies (equipment, services and networks) to be accessible by people with disabilities, unless doing so would result in an undue burden. Where an undue burden would result, manufacturers and providers must make their equipment and services compatible with specialized equipment and services typically used by people with disabilities. The term “undue burden” has the same meaning given it in the Americans with Disabilities Act.

This section also contains measures to improve the accountability and enforcement of disability safeguards under Section 255 and the new Section 255A, including directives for new FCC complaint procedures, reporting obligations for industry and the FCC, the creation of a clearinghouse of information on accessible products and services by the U.S. Access Board and National Telecommunications and Information Administration (NTIA), and directives for enhanced outreach and education by the FCC and NTIA.

Sec. 104 also clarifies that the transmission and receipt of text messages sent by radio to and from mobile wireless devices are telecommunications services, and therefore must comply with the accessibility obligations under Section 255 and the new accountability measures under Section 255B.

Universal Service. Sec. 105. – This section makes consumers with disabilities – as a distinct group – eligible to receive universal service support through two specific measures. First, it grants the FCC authority to designate broadband services needed for “phone communication” by people with disabilities as services eligible to receive support under the existing Lifeline and Linkup universal service programs. For example, this would include deaf individuals who are otherwise eligible for Lifeline and Linkup support, but who rely on Internet-based video relay services or point-to-point video for their telephone communications. Second, it grants authority to the FCC to designate programs that distribute specialized equipment used to make telecommunications and Internet-enabled communication services accessible to individuals who are deaf-blind, as eligible for universal service support. Such support, however, is capped at \$10 million per year.

Emergency Access and Real-Time Text Support. Section 106. This section contains a specific requirement for real-time text support, to ensure that people with disabilities, especially individuals who are deaf or hard of hearing or who have a speech disability, are able to communicate with others via text in an IP environment with the same reliability and interoperability as they receive via the public telephone network when using TTYs. A primary goal of this section is to ensure that individuals who rely on text to communicate have equal access to emergency services during and after the migration to a national IP-enabled emergency network.

Title II – Video Programming

Commission Inquiry on Closed-Captioning Decoder and Video Description Capability, User Interfaces, and Video Programming Guides and Menus. Sec. 201.

– This section directs the FCC to conduct three inquiries within 6 months of passage of the Act, and to report to Congress on the results of such inquiries within 1 year: (1) to identify formats and software needed to transmit, receive and display closed captioning and video programming provided via Internet-enabled services and digital wireless services, including ways to transmit televised emergency information that is accessible to people who are blind or visually impaired; and (2) to identify ways to make user interfaces (controls – e.g., turning these devices on and off, controlling volume and select programming) on television and other video programming devices – including the receipt, display, navigation and selection of programming – accessible to people who are blind or visually impaired, and (3) to identify ways to make video programming guides and menus (typically on-screen) accessible in real-time to people who cannot read those guides or menus.

Closed-Captioning Decoder and Video Description Capability. Sec. 202 — This section expands the scope of devices that must display closed captions under the Television Decoder Circuitry Act of 1990 from the present requirement of television sets with screens that are 13 inches or larger, to all video devices that receive or display video programming transmitted simultaneously with sound, including those that can receive or display programming carried over the Internet. The section also requires these devices to be able to transmit and deliver video descriptions. Video description is the provision of verbal descriptions of the on-screen visual elements of a show provided during natural pauses in dialogue.

Video Description and Closed Captioning. Sec. 203. – This section reinstates the FCC’s modest regulations on video description. Those rules, originally promulgated in 2001, were struck down by a U.S. Court of Appeals for lack of FCC authority. This section also authorizes the FCC to promulgate additional rules to (1) ensure that video description services can be transmitted and provided over digital TV technologies, (2) require non-visual access to on-screen emergency warnings and similar televised information and (3) increase the amount of video description required. Finally, this section adds a definition for video programming to include programming distributed over the Internet to make clear that the existing closed captioning obligations (and future video description obligations) contained in Section 713 apply to video programming that is distributed or re-distributed over the Internet.

This section is intended to ensure the continued accessibility of video programming to Americans with disabilities, as this programming migrates to the Internet. It further tasks the FCC to create captioning rules for three types of programming: 1) pre-produced programming that was previously captioned for television viewing, 2) live video programming, and 3) programming (first published or exhibited after the effective date of

the FCC's regulations) provided by or generally considered to be comparable to programming provided by multichannel programming distributors.

User Interfaces. Sec. 203.— This section requires devices used to receive or display video programming, including devices used to receive and display Internet-based video programming, to be accessible by people with disabilities so that such individuals are able to access all functions of such devices (such as turning these devices on and off, controlling volume and select programming). The section contains requirements for (1) audio output where on-screen text menus are used to control video programming functions, and (2) a conspicuous means of accessing closed captioning and video description, including a button on remote controls and first level access to these accessibility features when made available through on-screen menus.

Access Video Programming Guides and Menus. Sec. 204 – This section requires multichannel video programming distributors to make their navigational programming guides accessible to people who cannot read the visual display, so that these individuals can make program selections.