

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3101
OFFERED BY MR. BOUCHER OF VIRGINIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Twenty-First Century Communications and Video Acces-
4 sibility Act of 2010”.

5 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Limitation on liability.

TITLE I—COMMUNICATIONS ACCESS

Sec. 101. Definitions.
Sec. 102. Hearing aid compatibility.
Sec. 103. Relay services.
Sec. 104. Access to internet-based services and equipment.
Sec. 105. Emergency Access and Real-Time Text Advisory Committee.

TITLE II—VIDEO PROGRAMMING

Sec. 201. Video Programming and Emergency Access Advisory Committee.
Sec. 202. Video description and closed captioning.
Sec. 203. Closed captioning decoder and video description capability.
Sec. 204. User interfaces on digital apparatus.
Sec. 205. Access to video programming guides and menus provided on naviga-
tion devices.
Sec. 206. Definitions.

6 SEC. 2. LIMITATION ON LIABILITY.

7 (a) IN GENERAL.—Except as provided in subsection
8 (b), no person shall be liable for a violation of the require-
9 ments of this Act (or of the provisions of the Communica-

1 tions Act of 1934 that are amended or added by this Act)
2 with respect to video programming, online content, appli-
3 cations, services, advanced communications services, or
4 equipment used to provide or access advanced communica-
5 tions services to the extent such person—

6 (1) transmits, routes, or stores in intermediate
7 or transient storage the communications made avail-
8 able through the provision of advanced communica-
9 tions services by a third party; or

10 (2) provides an information location tool, such
11 as a directory, index, reference, pointer, menu,
12 guide, user interface, or hypertext link, through
13 which an end user obtains access to such video pro-
14 gramming, online content, applications, services, ad-
15 vanced communications services, or equipment used
16 to provide or access advanced communications serv-
17 ices.

18 (b) EXCEPTION.—The limitation on liability under
19 subsection (a) shall not apply to any person who relies
20 on third party applications, services, software, hardware,
21 or equipment to comply with the requirements of this Act
22 (or of the provisions of the Communications Act of 1934
23 that are amended or added by this Act) with respect to
24 video programming, online content, applications, services,

1 advanced communications services, or equipment used to
2 provide or access advanced communications services.

3 **TITLE I—COMMUNICATIONS**
4 **ACCESS**

5 **SEC. 101. DEFINITIONS.**

6 Section 3 of the Communications Act of 1934 (47
7 U.S.C. 153) is amended—

8 (1) by adding at the end the following new
9 paragraphs:

10 “(53) **ADVANCED COMMUNICATIONS SERV-**
11 **ICES.**—The term ‘advanced communications services’
12 means—

13 “(A) interconnected VoIP service;

14 “(B) non-interconnected VoIP service;

15 “(C) electronic messaging service; and

16 “(D) video conferencing service.

17 “(54) **CONSUMER GENERATED MEDIA.**—The
18 term ‘consumer generated media’ means content cre-
19 ated and made available by consumers to online sites
20 and venues on the Internet, including video, audio,
21 and multimedia content.

22 “(55) **DISABILITY.**—The term ‘disability’ has
23 the meaning given such term under section 3 of the
24 Americans with Disabilities Act of 1990 (42 U.S.C.
25 12102).

1 “(56) ELECTRONIC MESSAGING SERVICE.—The
2 term ‘electronic messaging service’ means a service
3 that provides non-voice messages in text form be-
4 tween persons over communications networks.

5 “(57) INTERCONNECTED VOIP SERVICE.—The
6 term ‘interconnected VoIP service’ has the meaning
7 given such term under section 9.3 of title 47, Code
8 of Federal Regulations, as such section may be
9 amended from time to time.

10 “(58) NON-INTERCONNECTED VOIP SERVICE.—
11 The term ‘non-interconnected VoIP service’—

12 “(A) means a service that—

13 “(i) enables real-time voice commu-
14 nications that originate from or terminate
15 to the user’s location using Internet pro-
16 tocol or any successor protocol; and

17 “(ii) requires Internet protocol com-
18 patible customer premises equipment; and

19 “(B) does not include any service that is
20 an interconnected VoIP service.

21 “(59) VIDEO CONFERENCING SERVICE.—The
22 term ‘video conferencing service’ means a service
23 that provides real-time video communications, in-
24 cluding audio, to enable users to share information
25 of the user’s choosing.”; and

1 (2) by reordering paragraphs (1) through (52)
2 and the paragraphs added by paragraph (1) of this
3 section in alphabetical order based on the headings
4 of such paragraphs and renumbering such para-
5 graphs as so reordered.

6 **SEC. 102. HEARING AID COMPATIBILITY.**

7 (a) COMPATIBILITY REQUIREMENTS.—

8 (1) TELEPHONE SERVICE FOR THE DIS-
9 ABLED.—Section 710(b)(1) of the Communications
10 Act of 1934 (47 U.S.C. 610(b)(1)) is amended to
11 read as follows:

12 “(b)(1) Except as provided in paragraphs (2) and (3)
13 and subsection (c), the Commission shall require that cus-
14 tomer premises equipment described in this paragraph
15 provide internal means for effective use with hearing aids
16 that are designed to be compatible with telephones which
17 meet established technical standards for hearing aid com-
18 patibility. Customer premises equipment described in this
19 paragraph are the following:

20 “(A) All essential telephones.

21 “(B) All telephones manufactured in the United
22 States (other than for export) more than one year
23 after the date of enactment of the Hearing Aid
24 Compatibility Act of 1988 or imported for use in the
25 United States more than one year after such date.

1 “(C) All customer premises equipment used
2 with advanced communications services that is de-
3 signed to provide 2-way voice communication via a
4 built-in speaker intended to be held to the ear in a
5 manner functionally equivalent to a telephone, sub-
6 ject to the regulations prescribed by the Commission
7 under subsection (e).”.

8 (2) ADDITIONAL AMENDMENTS.—Section
9 710(b) of the Communications Act of 1934 (47
10 U.S.C. 610(b)) is further amended—

11 (A) in paragraph (2)—

12 (i) in subparagraph (A)—

13 (I) in the matter preceding clause

14 (i)—

15 (aa) by striking “initial”;

16 (bb) by striking “of this
17 subsection after the date of en-
18 actment of the Hearing Aid Com-
19 patibility Act of 1988”; and

20 (cc) by striking “paragraph
21 (1)(B) of this subsection” and in-
22 serting “subparagraphs (B) and
23 (C) of paragraph (1)”;

24 (II) by inserting “and” at the
25 end of clause (ii);

1 (III) by striking clause (iii); and

2 (IV) by redesignating clause (iv)

3 as clause (iii);

4 (ii) by striking subparagraph (B) and

5 redesignating subparagraph (C) as sub-

6 paragraph (B); and

7 (iii) in subparagraph (B) (as so redес-

8 igned)—

9 (I) by striking the first sentence

10 and inserting “The Commission shall

11 periodically assess the appropriateness

12 of continuing in effect the exemptions

13 for telephones and other customer

14 premises equipment described in sub-

15 paragraph (A) of this paragraph.”;

16 and

17 (II) in each of clauses (iii) and

18 (iv), by striking “paragraph (1)(B)”

19 and inserting “subparagraph (B) or

20 (C) of paragraph (1)”;

21 (B) in paragraph (4)(B)—

22 (i) by striking “public mobile” and in-

23 serting “telephones used with public mo-

24 bile”;

1 (ii) by inserting “telephones and other
2 customer premises equipment used in
3 whole or in part with” after “means”;

4 (iii) by striking “and” after “public
5 land mobile telephone service,” and insert-
6 ing “or”;

7 (iv) by striking “part 22 of”; and

8 (v) by inserting after “Regulations”
9 the following: “, or any functionally equiva-
10 lent unlicensed wireless services”; and

11 (C) in paragraph (4)(C)—

12 (i) by striking “term ‘private radio
13 services’” and inserting “term ‘telephones
14 used with private radio services’”; and

15 (ii) by inserting “telephones and other
16 customer premises equipment used in
17 whole or in part with” after “means”.

18 (b) TECHNICAL STANDARDS.—Section 710(c) of the
19 Communications Act of 1934 (47 U.S.C. 610(c)) is
20 amended by adding at the end the following: “A telephone
21 or other customer premises equipment that is compliant
22 with relevant technical standards developed by the Com-
23 mission through a public participation process and in con-
24 sultation with interested consumer stakeholders (des-
25 ignated by the Commission for the purposes of this sec-

1 tion) will be considered hearing aid compatible for pur-
2 poses of this section, until such time as the Commission
3 may determine otherwise. The Commission shall consult
4 with the public, including people with hearing loss, in es-
5 tablishing or approving such technical standards. The
6 Commission may delegate this authority to an employee
7 pursuant to section 5(c). The Commission shall remain the
8 final arbiter as to whether the standards meet the require-
9 ments of this section.”.

10 (c) RULEMAKING.—Section 710(e) of the Commu-
11 nications Act of 1934 (47 U.S.C. 610(e)) is amended—

12 (1) by striking “impairments” and inserting
13 “loss”; and

14 (2) by adding at the end the following sentence:
15 “In implementing the provisions of subsection
16 (b)(1)(C), the Commission shall use appropriate
17 timetables or benchmarks to the extent necessary (1)
18 due to technical feasibility, or (2) to ensure the mar-
19 ketability or availability of new technologies to
20 users.”.

21 (d) RULE OF CONSTRUCTION.—Section 710(h) of the
22 Communications Act of 1934 (47 U.S.C. 610(h)) is
23 amended to read as follows:

24 “(h) RULE OF CONSTRUCTION.—Nothing in the
25 Twenty-First Century Communications and Video Accessi-

1 bility Act of 2010 shall be construed to modify the Com-
2 mission’s regulations set forth in section 20.19 of title 47
3 of the Code of Federal Regulations, as in effect on the
4 date of enactment of such Act.”.

5 **SEC. 103. RELAY SERVICES.**

6 (a) DEFINITION.—Paragraph (3) of section 225(a) of
7 the Communications Act of 1934 (47 U.S.C. 225(a)(3))
8 is amended to read as follows:

9 “(3) TELECOMMUNICATIONS RELAY SERV-
10 ICES.—The term ‘telecommunications relay services’
11 means telephone transmission services that provide
12 the ability for an individual who is deaf, hard of
13 hearing, deaf-blind, or who has a speech disability to
14 engage in communication by wire or radio with one
15 or more individuals, in a manner that is functionally
16 equivalent to the ability of a hearing individual who
17 does not have a speech disability to communicate
18 using voice communication services by wire or
19 radio.”.

20 (b) INTERNET PROTOCOL-BASED RELAY SERV-
21 ICES.—Title VII of such Act (47 U.S.C. 601 et seq.) is
22 amended by adding at the end the following new section:

23 **“SEC. 715. INTERNET PROTOCOL-BASED RELAY SERVICES.**

24 “Within one year after the date of enactment of the
25 Twenty-First Century Communications and Video Accessi-

1 bility Act of 2010, each interconnected VoIP service pro-
2 vider and each provider of non-interconnected VoIP serv-
3 ice shall participate in and contribute to the Telecommuni-
4 cations Relay Services Fund established in section
5 64.604(e)(5)(iii) of title 47, Code of Federal Regulations,
6 as in effect on the date of enactment of such Act, in a
7 manner prescribed by the Commission by regulation to
8 provide for obligations of such providers that are con-
9 sistent with and comparable to the obligations of other
10 contributors to such Fund.”.

11 **SEC. 104. ACCESS TO INTERNET-BASED SERVICES AND**
12 **EQUIPMENT.**

13 (a) TITLE VII AMENDMENT.—Title VII of the Com-
14 munications Act of 1934 (47 U.S.C. 601 et seq.), as
15 amended by section 103, is further amended by adding
16 at the end the following new sections:

17 **“SEC. 716. ACCESS TO INTERNET-BASED SERVICES AND**
18 **EQUIPMENT.**

19 “(a) MANUFACTURING.—With respect to equipment
20 manufactured after the effective date of the regulations
21 established pursuant to subsection (e), and subject to
22 those regulations, a manufacturer of equipment used for
23 advanced communications services, including end user
24 equipment, network equipment, and software, shall ensure
25 that the equipment and software that such manufacturer

1 designs, develops, and fabricates shall be accessible to and
2 usable by individuals with disabilities, unless the require-
3 ment of this subsection is not achievable.

4 “(b) SERVICE PROVIDERS.—With respect to services
5 provided after the effective date of the regulations estab-
6 lished pursuant to subsection (e), and subject to those reg-
7 ulations, a provider of advanced communications services
8 shall ensure that such services offered by such provider
9 are accessible to and usable by individuals with disabil-
10 ities, unless the requirement of this subsection is not
11 achievable.

12 “(c) COMPATIBILITY.—Whenever the requirements of
13 subsections (a) or (b) are not achievable, a manufacturer
14 or provider shall ensure that its equipment or service is
15 compatible with existing peripheral devices or specialized
16 customer premises equipment commonly used by individ-
17 uals with disabilities to achieve access, unless the require-
18 ment of this subsection is not achievable.

19 “(d) NETWORK FEATURES, FUNCTIONS, AND CAPA-
20 BILITIES.—Each provider of advanced communications
21 services has the duty not to install network features, func-
22 tions, or capabilities that do not comply with the regula-
23 tions established pursuant to this section.

24 “(e) REGULATIONS.—Within one year after the date
25 of enactment of the Twenty-First Century Communica-

1 tions and Video Accessibility Act of 2010, the Commission
2 shall promulgate such regulations as are necessary to im-
3 plement this section. In prescribing the regulations, the
4 Commission shall—

5 “(1) include performance requirements to en-
6 sure the accessibility, usability, and compatibility of
7 advanced communications services and the equip-
8 ment used for advanced communications services by
9 individuals with disabilities;

10 “(2) provide that advanced communications
11 services, the equipment used for advanced commu-
12 nications services, and networks used to provide ad-
13 vanced communications services may not impair or
14 impede the accessibility of information content when
15 accessibility has been incorporated into that content
16 for transmission through advanced communications
17 services, equipment used for advanced communica-
18 tions services, or networks used to provide advanced
19 communications services; and

20 “(3) determine the obligations under this sec-
21 tion of manufacturers, service providers, and pro-
22 viders of applications or services accessed over serv-
23 ice provider networks.

24 “(f) SERVICES AND EQUIPMENT SUBJECT TO SEC-
25 TION 255.—The requirements of this section shall not

1 apply to any equipment or services, including inter-
2 connected VoIP service, that are subject to the require-
3 ments of section 255 on the day before the date of enact-
4 ment of the Twenty-First Century Communications and
5 Video Accessibility Act of 2010. Such services and equip-
6 ment shall remain subject to the requirements of section
7 255.

8 “(g) ACHIEVABLE DEFINED.—For purposes of this
9 section and section 717, the term ‘achievable’ means with
10 reasonable effort or expense, as determined by the Com-
11 mission. In determining whether the requirements of a
12 provision are achievable, the Commission shall consider
13 the following factors:

14 “(1) The nature and cost of the steps needed
15 to meet the requirements of this section with respect
16 to the specific equipment or service in question.

17 “(2) The impact on the operation of the manu-
18 facturer or provider and on the operation of the spe-
19 cific equipment or service in question, including on
20 the development and deployment of new communica-
21 tions technologies.

22 “(3) The financial resources of the manufac-
23 turer or provider.

24 “(4) The type of operations of the manufac-
25 turer or provider.

1 “(h) COMMISSION FLEXIBILITY.—The Commission
2 shall have the authority, on its own motion or in response
3 to a petition by a manufacturer or provider, to waive the
4 requirements of this section for any feature or function
5 of equipment used to provide or access advanced commu-
6 nications services, or for any class of such equipment,
7 that—

8 “(1) is capable of accessing an advanced com-
9 munications service; and

10 “(2) is designed for multiple purposes, but is
11 designed primarily for purposes other than using ad-
12 vanced communications services.

13 **“SEC. 717. ENFORCEMENT AND RECORDKEEPING OBLIGA-**
14 **TIONS.**

15 “(a) COMPLAINT AND ENFORCEMENT PROCE-
16 DURES.—Within one year after the date of enactment of
17 the Twenty-First Century Communications and Video Ac-
18 cessibility Act of 2010, the Commission shall establish reg-
19 ulations that facilitate the filing of formal and informal
20 complaints that allege a violation of section 255 or 716,
21 establish procedures for enforcement actions by the Com-
22 mission with respect to such violations, and implement the
23 recordkeeping obligations of paragraph (5) for manufac-
24 turers and providers subject to such sections. Such regula-
25 tions shall include the following provisions:

1 “(1) NO FEE.—The Commission shall not
2 charge any fee to an individual who files a complaint
3 alleging a violation of section 255 or 716. The proce-
4 dures governing formal complaints shall otherwise be
5 consistent with the Commission’s formal complaint
6 rules pursuant to section 208 of this Act.

7 “(2) RECEIPT OF COMPLAINTS.—The Commis-
8 sion shall establish separate and identifiable elec-
9 tronic, telephonic, and physical receptacles for the
10 receipt of complaints filed under section 255 or 716.

11 “(3) COMPLAINTS TO THE COMMISSION.—

12 “(A) IN GENERAL.—Any person alleging a
13 violation of section 255 or 716 by a manufac-
14 turer of equipment or provider of service sub-
15 ject to such sections may file a formal or infor-
16 mal complaint with the Commission.

17 “(B) INVESTIGATION OF INFORMAL COM-
18 PLAINT.—The Commission shall investigate the
19 allegations in an informal complaint and, within
20 180 days after the date on which such com-
21 plaint was filed with the Commission, issue an
22 order concluding the investigation, unless such
23 complaint is resolved before such time. The
24 order shall include a determination whether any
25 violation occurred.

1 “(i) VIOLATION.—If the Commission
2 determines that a violation has occurred,
3 the Commission may, in the order issued
4 under this subparagraph or in a subse-
5 quent order, require the manufacturer or
6 service provider to take such remedial ac-
7 tion as is necessary to comply with the re-
8 quirements of this section.

9 “(ii) NO VIOLATION.—If a determina-
10 tion is made that a violation has not oc-
11 curred, the Commission shall provide the
12 basis for such determination.

13 “(C) CONSOLIDATION OF COMPLAINTS.—
14 The Commission may consolidate for investiga-
15 tion and resolution complaints alleging substan-
16 tially the same violation.

17 “(4) OPPORTUNITY TO RESPOND.—Before the
18 Commission makes a determination pursuant to
19 paragraph (3), the party that is the subject of the
20 complaint shall have a reasonable opportunity to re-
21 spond to such complaint, and may include in such
22 response any factors that are relevant to such deter-
23 mination.

24 “(5) RECORDKEEPING.—(A) Beginning one
25 year after the effective date of regulations promul-

1 gated pursuant to section 716(e), each manufacturer
2 and provider subject to sections 255 and 716 shall
3 maintain, in the ordinary course of business and for
4 a reasonable period, records of the efforts taken by
5 such manufacturer or provider to implement sections
6 255 and 716, including the following:

7 “(i) Information about the manufac-
8 turer’s or provider’s efforts to consult with
9 individuals with disabilities.

10 “(ii) Descriptions of the accessibility
11 features of its products and services.

12 “(iii) Information about the compat-
13 ibility of such products and services with
14 peripheral devices or specialized customer
15 premise equipment commonly used by indi-
16 viduals with disabilities to achieve access.

17 “(B) An officer of a manufacturer or provider
18 shall submit to the Commission an annual certifi-
19 cation that records are being kept in accordance
20 with subparagraph (A).

21 “(C) After the filing of a formal or informal
22 complaint against a manufacturer or provider in the
23 manner prescribed in paragraph (3), the Commis-
24 sion may request, and shall keep confidential, a copy
25 of the records maintained by such manufacturer or

1 provider pursuant to subparagraph (A) of this para-
2 graph that are directly relevant to the equipment or
3 service that is the subject of such complaint.

4 “(6) FAILURE TO ACT.—If the Commission
5 fails to carry out any of its responsibilities to act
6 upon a complaint in the manner prescribed in para-
7 graph (3), the person that filed such complaint may
8 bring an action in the nature of mandamus in the
9 United States Court of Appeals for the District of
10 Columbia to compel the Commission to carry out
11 any such responsibility.

12 “(7) COMMISSION JURISDICTION.—The limita-
13 tions of section 255(f) shall apply to any claim that
14 alleges a violation of section 255 or 716. Nothing in
15 this paragraph affects or limits any action for man-
16 damus under paragraph (6) or any appeal pursuant
17 to section 402(b)(10).

18 “(8) PRIVATE RESOLUTIONS OF COMPLAINTS.—
19 Nothing in the Commission’s rules or this Act shall
20 be construed to preclude a person who files a com-
21 plaint and a manufacturer or provider from resolv-
22 ing a formal or informal complaint prior to the Com-
23 mission’s final determination in a complaint pro-
24 ceeding. In the event of such a resolution, the par-

1 ties shall jointly request dismissal of the complaint
2 and the Commission shall grant such request.

3 “(b) REPORTS TO CONGRESS.—

4 “(1) IN GENERAL.—Every two years after the
5 date of enactment of the Twenty-First Century
6 Communications and Video Accessibility Act of
7 2010, the Commission shall submit to the Com-
8 mittee on Commerce, Science, and Transportation of
9 the Senate and the Committee on Energy and Com-
10 merce of the House of Representatives a report that
11 includes the following:

12 “(A) An assessment of the level of compli-
13 ance with section 255 and 716.

14 “(B) An evaluation of the extent to which
15 any accessibility barriers still exist with respect
16 to new communications technologies.

17 “(C) The number and nature of complaints
18 received pursuant to subsection (a) during the
19 two years that are the subject of the report.

20 “(D) A description of the actions taken to
21 resolve such complaints under this section, in-
22 cluding forfeiture penalties assessed.

23 “(E) The length of time that was taken by
24 the Commission to resolve each such complaint.

1 “(F) The number, status, nature, and out-
2 come of any actions for mandamus filed pursu-
3 ant to subsection (a)(6) and the number, sta-
4 tus, nature, and outcome of any appeals filed
5 pursuant to section 402(b)(10).

6 “(G) An assessment of the effect of the re-
7 quirements of this section on the development
8 and deployment of new communications tech-
9 nologies.

10 “(2) PUBLIC COMMENT REQUIRED.—The Com-
11 mission shall seek public comment on its tentative
12 findings prior to submission to the Committees of
13 the report under this subsection.

14 “(c) COMPTROLLER GENERAL ENFORCEMENT
15 STUDY.—

16 “(1) IN GENERAL.—The Comptroller General
17 shall conduct a study to consider and evaluate the
18 following:

19 “(A) The Commission’s compliance with
20 the requirements of this section, including the
21 Commission’s level of compliance with the dead-
22 lines established under and pursuant to this
23 section and deadlines for acting on complaints
24 pursuant to subsection (a).

1 “(B) Whether the enforcement actions
2 taken by the Commission pursuant to this sec-
3 tion have been appropriate and effective in en-
4 suring compliance with this section.

5 “(C) Whether the enforcement provisions
6 under this section are adequate to ensure com-
7 pliance with this section.

8 “(D) Whether, and to what extent (if any),
9 the requirements of this section have an effect
10 on the development and deployment of new
11 communications technologies.

12 “(2) REPORT.—Not later than 5 years after the
13 date of enactment of the Twenty-First Century
14 Communications and Video Accessibility Act of
15 2010, the Comptroller General shall submit to the
16 Committee on Commerce, Science, and Transpor-
17 tation of the Senate and the Committee on Energy
18 and Commerce of the House of Representatives a re-
19 port on the results of the study required by para-
20 graph (1), with recommendations for how the en-
21 forcement process and measures under this section
22 may be modified or improved.

23 “(d) CLEARINGHOUSE.—Within one year after the
24 date of enactment of the Twenty-First Century Commu-
25 nications and Video Accessibility Act of 2010, the Com-

1 mission shall, in consultation with the Architectural and
2 Transportation Barriers Compliance Board, the National
3 Telecommunications and Information Administration,
4 trade associations, and organizations representing individ-
5 uals with disabilities, establish a clearinghouse of informa-
6 tion on the availability of accessible products and services
7 and accessibility solutions required under sections 255 and
8 716. Such information shall be made publicly available on
9 the Commission’s website and by other means, and shall
10 include an annually updated list of products and services
11 with access features.

12 “(e) OUTREACH AND EDUCATION.—Upon establish-
13 ment of the clearinghouse of information required under
14 subsection (d), the Commission, in coordination with the
15 National Telecommunications and Information Adminis-
16 tration, shall conduct an informational and educational
17 program designed to inform the public about the avail-
18 ability of the clearinghouse and the protections and rem-
19 edies available under sections 255 and 716.”.

20 (b) TITLE V AMENDMENTS.—Section 503(b)(2) of
21 such Act (47 U.S.C. 503(b)(2)) is amended by adding
22 after subparagraph (E) the following:

23 “(F) Subject to paragraph (5) of this sec-
24 tion, if the violator is a manufacturer or service
25 provider subject to the requirements of section

1 255 or 716, and is determined by the Commis-
2 sion to have violated any such requirement, the
3 manufacturer or provider shall be liable to the
4 United States for a forfeiture penalty of not
5 more than \$100,000 for each violation or each
6 day of a continuing violation, except that the
7 amount assessed for any continuing violation
8 shall not exceed a total of \$1,000,000 for any
9 single act or failure to act.”.

10 (c) REVIEW OF COMMISSION DETERMINATIONS.—

11 Section 402(b) of such Act (47 U.S.C. 402(b)) is amended
12 by adding the following new paragraph:

13 “(10) By any person who is aggrieved or whose
14 interests are adversely affected by a determination
15 made by the Commission under section 717(a)(3).”.

16 **SEC. 105. EMERGENCY ACCESS AND REAL-TIME TEXT ADVI-**
17 **SORY COMMITTEE.**

18 (a) ESTABLISHMENT.—For the purpose of achieving
19 equal access to emergency services by individuals with dis-
20 abilities, as a part of the migration to a national Internet
21 protocol-enabled emergency network, not later than 60
22 days after the date of enactment of this Act, the Chairman
23 of the Commission shall establish an advisory committee,
24 to be known as the Emergency Access and Real-Time Text

1 Advisory Committee (referred to in this section as the
2 “Advisory Committee”).

3 (b) MEMBERSHIP.—As soon as practicable after the
4 date of enactment of this Act, the Chairman of the Com-
5 mission shall appoint the members of the Advisory Com-
6 mittee, ensuring a balance between potential real-time text
7 consumers and other stakeholders, and shall designate two
8 such members as the co-chairs of the Committee. Members
9 of the Advisory Committee shall be selected from the fol-
10 lowing groups:

11 (1) STATE AND LOCAL GOVERNMENT AND
12 EMERGENCY RESPONDER REPRESENTATIVES.—Rep-
13 resentatives of State and local governments and rep-
14 resentatives of emergency response providers, se-
15 lected from among individuals nominated by national
16 organizations representing such governments and
17 representatives.

18 (2) SUBJECT MATTER EXPERTS.—Individuals
19 who have the technical knowledge and expertise to
20 serve on the Advisory Committee in the fulfillment
21 of its duties, including representatives of—

22 (A) providers of interconnected and non-
23 interconnected VoIP services;

24 (B) vendors, developers, and manufactur-
25 ers of systems, facilities, equipment, and capa-

1 bilities for the provision of interconnected and
2 non-interconnected VoIP services;

3 (C) national organizations representing
4 people with disabilities and senior citizens;

5 (D) Federal agencies or departments re-
6 sponsible for the implementation of the Next
7 Generation E 9-1-1 system;

8 (E) the National Institute of Standards
9 and Technology; and

10 (F) other individuals with such technical
11 knowledge and expertise.

12 (3) REPRESENTATIVES OF OTHER STAKE-
13 HOLDERS AND INTERESTED PARTIES.—Representa-
14 tives of such other stakeholders and interested and
15 affected parties as the Chairman of the Commission
16 determines appropriate.

17 (c) DEVELOPMENT OF RECOMMENDATIONS.—Within
18 six months after the completion of the member appoint-
19 ment process by the Chairman of the Commission pursu-
20 ant to subsection (b), the Advisory Committee shall de-
21 velop and submit to the Commission recommendations—

22 (1) with respect to the definition of “real-time
23 text”;

24 (2) with respect to what actions are necessary
25 as a part of the migration to a national Internet

1 protocol-enabled network to achieve reliable, inter-
2 operable real-time text communication transmitted
3 over such network that will ensure access to emer-
4 gency services by people with disabilities;

5 (3) for protocols, technical capabilities, and
6 technical requirements to ensure reliable, interoper-
7 able real-time text communications necessary to en-
8 sure access to emergency services by people with dis-
9 abilities;

10 (4) for the establishment of technical standards
11 for use by public safety answering points, designated
12 default answering points, and local emergency au-
13 thorities;

14 (5) for relevant technical standards and re-
15 quirements for communication devices and equip-
16 ment and technologies to enable the use of reliable,
17 interoperable real-time text communications;

18 (6) for procedures to be followed by IP-enabled
19 network providers to ensure that such providers do
20 not install features, functions, or capabilities that
21 would conflict with technical standards; and

22 (7) for deadlines by which providers of inter-
23 connected and non-interconnected VoIP services and
24 manufacturers of equipment used for such services
25 shall achieve the actions required in paragraphs (1)

1 through (6), and for the possible phase out of the
2 use of current-generation TTY technology to the ex-
3 tent that this technology is replaced with real-time
4 text.

5 (d) MEETINGS.—

6 (1) INITIAL MEETING.—The initial meeting of
7 the Advisory Committee shall take place not later
8 than 45 days after the completion of the member ap-
9 pointment process by the Chairman of the Commis-
10 sion pursuant to subsection (b).

11 (2) OTHER MEETINGS.—After the initial meet-
12 ing, the Advisory Committee shall meet at the call
13 of the chairs, but no less than monthly until the rec-
14 ommendations required pursuant to subsection (c)
15 are completed and submitted.

16 (3) NOTICE; OPEN MEETINGS.—Any meetings
17 held by the Advisory Committee shall be duly no-
18 ticed at least 14 days in advance and shall be open
19 to the public.

20 (e) RULES.—

21 (1) QUORUM.—One-third of the members of the
22 Advisory Committee shall constitute a quorum for
23 conducting business of the Advisory Committee.

24 (2) SUBCOMMITTEES.—To assist the Advisory
25 Committee in carrying out its functions, the chair

1 may establish appropriate subcommittees composed
2 of members of the Advisory Committee and other
3 subject matter experts as determined to be nec-
4 essary.

5 (3) ADDITIONAL RULES.—The Advisory Com-
6 mittee may adopt other rules as needed.

7 (f) FEDERAL ADVISORY COMMITTEE ACT.—The
8 Federal Advisory Committee Act (5 U.S.C. App.) shall not
9 apply to the Advisory Committee.

10 (g) IMPLEMENTING RECOMMENDATIONS.—The Com-
11 mission shall have the authority to promulgate regulations
12 to implement the recommendations proposed by the Advi-
13 sory Committee, as well as any other regulations, technical
14 standards, protocols, and procedures as are necessary to
15 achieve reliable, interoperable real-time text communica-
16 tion that ensures access by people with disabilities to an
17 Internet protocol-enabled emergency network.

18 (h) DEFINITIONS.—In this section—

19 (1) the term “Commission” means the Federal
20 Communications Commission;

21 (2) the term “Chairman” means the Chairman
22 of the Federal Communications Commission; and

23 (3) except as otherwise expressly provided,
24 other terms have the meanings given such terms in

1 section 3 of the Communications Act of 1934 (47
2 U.S.C. 153).

3 **TITLE II—VIDEO PROGRAMMING**

4 **SEC. 201. VIDEO PROGRAMMING AND EMERGENCY ACCESS**

5 **ADVISORY COMMITTEE.**

6 (a) ESTABLISHMENT.—Not later than 60 days after
7 the date of enactment of this Act, the Chairman shall es-
8 tablish an advisory committee to be known as the Video
9 Programming and Emergency Access Advisory Com-
10 mittee.

11 (b) MEMBERSHIP.—As soon as practicable after the
12 date of enactment of this Act, the Chairman shall appoint
13 individuals who have the technical knowledge and engi-
14 neering expertise to serve on the Advisory Committee in
15 the fulfillment of its duties, including the following:

16 (1) Representatives of distributors of video pro-
17 gramming or a national organization representing
18 such distributors.

19 (2) Representatives of vendors, developers, and
20 manufacturers of systems, facilities, equipment, and
21 capabilities for the provision of video programming
22 delivered using Internet protocol or a national orga-
23 nization representing such vendors, developers, or
24 manufacturers.

1 (3) Representatives of manufacturers of con-
2 sumer electronics or information technology equip-
3 ment or a national organization representing such
4 manufacturers.

5 (4) Representatives of video programming pro-
6 ducers or a national organization representing such
7 producers.

8 (5) Representatives of national organizations
9 representing accessibility advocates, including indi-
10 viduals with disabilities and the elderly.

11 (6) Representatives of the broadcast television
12 industry or a national organization representing
13 such industry.

14 (7) Other individuals with technical and engi-
15 neering expertise, as the Chairman determines ap-
16 propriate.

17 (c) COMMISSION OVERSIGHT.—The Chairman shall
18 appoint a member of the Commission’s staff to moderate
19 and direct the work of the Advisory Committee.

20 (d) TECHNICAL STAFF.—The Commission shall ap-
21 point a member of the Commission’s technical staff to pro-
22 vide technical assistance to the Advisory Committee.

23 (e) DEVELOPMENT OF RECOMMENDATIONS.—

24 (1) CLOSED CAPTIONING REPORT.—Within 6
25 months after the date of the first meeting of the Ad-

1 visory Committee, the Advisory Committee shall de-
2 velop and submit to the Commission a report that
3 includes the following:

4 (A) A recommended schedule of deadlines
5 for the provision of closed captioning service.

6 (B) An identification of the performance
7 requirement for protocols, technical capabilities,
8 and technical procedures needed to permit con-
9 tent providers, content distributors, Internet
10 service providers, software developers, and de-
11 vice manufacturers to reliably encode, trans-
12 port, receive, and render closed captions of
13 video programming delivered using Internet
14 protocol.

15 (C) An identification of additional proto-
16 cols, technical capabilities, and technical proce-
17 dures beyond those available as of the date of
18 enactment of the Twenty-First Century Com-
19 munications and Video Accessibility Act of
20 2010 for the delivery of closed captions of video
21 programming delivered using Internet protocol
22 that are necessary to meet the performance re-
23 quirements identified under subparagraph (B).

1 (D) A recommendation for technical stand-
2 ards to address the performance requirements
3 identified in subparagraph (B).

4 (E) A recommendation for any regulations
5 that may be necessary to ensure compatibility
6 between video programming delivered using
7 Internet protocol and devices capable of receiv-
8 ing and displaying such programming in order
9 to facilitate access to closed captions.

10 (2) VIDEO DESCRIPTION, EMERGENCY INFOR-
11 MATION, USER INTERFACES, AND VIDEO PROGRAM-
12 MING GUIDES AND MENUS.—Within 18 months after
13 the date of enactment of this Act, the Advisory
14 Committee shall develop and submit to the Commis-
15 sion a report that includes the following:

16 (A) A recommended schedule of deadlines
17 for the provision of video description and emer-
18 gency information.

19 (B) An identification of the performance
20 requirement for protocols, technical capabilities,
21 and technical procedures needed to permit con-
22 tent providers, content distributors, Internet
23 service providers, software developers, and de-
24 vice manufacturers to reliably encode, trans-
25 port, receive, and render video descriptions of

1 video programming and emergency information
2 delivered using Internet protocol or digital
3 broadcast television.

4 (C) An identification of additional proto-
5 cols, technical capabilities, and technical proce-
6 dures beyond those available as of the date of
7 enactment of the Twenty-First Century Com-
8 munications and Video Accessibility Act of
9 2010 for the delivery of video descriptions of
10 video programming and emergency information
11 delivered using Internet protocol that are nec-
12 essary to meet the performance requirements
13 identified under subparagraph (B).

14 (D) A recommendation for technical stand-
15 ards to address the performance requirements
16 identified in subparagraph (B).

17 (E) A recommendation for any regulations
18 that may be necessary to ensure compatibility
19 between video programming delivered using
20 Internet protocol and devices capable of receiv-
21 ing and displaying such programming in order
22 to facilitate access to video descriptions and
23 emergency information.

24 (F) With respect to user interfaces, a rec-
25 ommendation for the standards, protocols, and

1 procedures used to enable the functions of ap-
2 paratus designed to receive or display video pro-
3 gramming transmitted simultaneously with
4 sound (including apparatus designed to receive
5 or display video programming transmitted by
6 means of services using Internet protocol) to be
7 accessible to and usable by individuals with dis-
8 abilities.

9 (G) With respect to user interfaces, a rec-
10 ommendation for the standards, protocols, and
11 procedures used to enable on-screen text menus
12 and other visual indicators used to access the
13 functions on an apparatus described in sub-
14 paragraph (F) to be accompanied by audio out-
15 put so that such menus or indicators are acces-
16 sible to and usable by individuals with disabil-
17 ities.

18 (H) With respect to video programming
19 guides and menus, a recommendation for the
20 standards, protocols, and procedures used to
21 enable video programming information and se-
22 lection provided by means of a navigation de-
23 vice, guide, or menu to be accessible in real-
24 time by individuals who are blind or visually im-
25 paired.

1 (f) MEETINGS.—

2 (1) INITIAL MEETING.—The initial meeting of
3 the Advisory Committee shall take place not later
4 than 180 days after the date of the enactment of
5 this Act.

6 (2) OTHER MEETINGS.—After the initial meet-
7 ing, the Advisory Committee shall meet at the call
8 of the Chairman.

9 (3) NOTICE; OPEN MEETINGS.—Any meeting
10 held by the Advisory Committee shall be noticed at
11 least 14 days before such meeting and shall be open
12 to the public.

13 (g) PROCEDURAL RULES.—

14 (1) QUORUM.—The presence of one-third of the
15 members of the Advisory Committee shall constitute
16 a quorum for conducting the business of the Advi-
17 sory Committee.

18 (2) SUBCOMMITTEES.—To assist the Advisory
19 Committee in carrying out its functions, the Chair-
20 man may establish appropriate subcommittees com-
21 posed of members of the Advisory Committee and
22 other subject matter experts.

23 (3) ADDITIONAL PROCEDURAL RULES.—The
24 Advisory Committee may adopt other procedural
25 rules as needed.

1 (h) FEDERAL ADVISORY COMMITTEE ACT.—The
2 Federal Advisory Committee Act (5 U.S.C. App.) shall not
3 apply to the Advisory Committee.

4 (i) ADOPTION OF STANDARDS, PROTOCOLS, PROCE-
5 DURES, AND OTHER TECHNICAL REQUIREMENTS.—

6 (1) CLOSED CAPTIONING.—Not later than 6
7 months after the date on which the Advisory Com-
8 mittee transmits its report under subsection (e)(1)
9 to the Commission, the Commission shall take all ac-
10 tions necessary to adopt relevant technical stand-
11 ards, protocols, procedures, and other technical re-
12 quirements to ensure compatibility between video
13 programming delivered using Internet protocol and
14 devices capable of receiving and displaying such pro-
15 gramming in order to facilitate access to closed cap-
16 tions.

17 (2) VIDEO DESCRIPTION AND EMERGENCY IN-
18 FORMATION.—Not later than 12 months after the
19 date on which the Advisory Committee transmits its
20 report under subsection (e)(2) to the Commission,
21 the Commission shall take all actions necessary to
22 adopt relevant technical standards, protocols, proce-
23 dures, and other technical requirements to ensure
24 compatibility between video programming delivered
25 using Internet protocol or digital broadcast television

1 and devices capable of receiving and displaying such
2 programming in order to facilitate access to video
3 descriptions and emergency information.

4 (j) COMMISSION AUTHORITY.—

5 (1) IN GENERAL.—The Commission shall adopt
6 the recommendations contained in the reports re-
7 quired under paragraphs (1) and (2) of subsection
8 (e) if the Commission finds that the recommenda-
9 tions are sufficient to meet the objectives of this Act.

10 (2) ALTERNATIVE ADOPTION OF REQUIRE-
11 MENTS.—If the Commission finds that the rec-
12 ommendations are, in whole or in part, insufficient
13 to meet the objectives of this Act, the Commission
14 shall adopt the standards, protocols, procedures, or
15 other technical requirements that it determines are
16 necessary to meet the objectives of this Act.

17 **SEC. 202. VIDEO DESCRIPTION AND CLOSED CAPTIONING.**

18 (a) VIDEO DESCRIPTION.—Section 713 of the Com-
19 munications Act of 1934 (47 U.S.C. 613) is amended—

20 (1) by striking subsections (f) and (g);

21 (2) by redesignating subsection (h) as sub-
22 section (i); and

23 (3) by inserting after subsection (e) the fol-
24 lowing:

25 “(f) VIDEO DESCRIPTION.—

1 “(1) REINSTATEMENT OF REGULATIONS.—On
2 the day that is 1 year after the date of enactment
3 of the Twenty-First Century Communications and
4 Video Accessibility Act of 2010, the Commission
5 shall, after a rulemaking, reinstate its video descrip-
6 tion regulations contained in the Implementation of
7 Video Description of Video Programming Report
8 and Order (15 F.C.C.R. 15,230 (2000)), modified as
9 provided in paragraph (2).

10 “(2) MODIFICATIONS TO REINSTATED REGULA-
11 TIONS.—Such regulations shall be modified only as
12 follows:

13 “(A) The regulations shall apply to video
14 programming, as defined in subsection (h), that
15 is transmitted for display on television in digital
16 format.

17 “(B) The Commission shall update the list
18 of the top 25 Designated Market Areas, the list
19 of the top 5 national nonbroadcast networks,
20 and the beginning calendar quarter for which
21 compliance shall be calculated.

22 “(C) The regulations may permit a pro-
23 vider of video programming or a program owner
24 to petition the Commission for an exemption
25 from the requirements of this section upon a

1 showing that the requirements contained in this
2 section would cause financial hardship or are
3 technically infeasible.

4 “(D) The Commission may exempt from
5 the regulations established pursuant to para-
6 graph (1) a service, class of services, program,
7 class of programs, equipment, or class of equip-
8 ment for which the Commission has determined
9 that the application of such regulations would
10 cause financial hardship to or is technically in-
11 feasible for the provider of such service, pro-
12 gram, or equipment.

13 “(E) The regulations shall not apply to live
14 or near-live programming.

15 “(F) The regulations shall provide for an
16 appropriate phased schedule of deadlines for
17 compliance.

18 “(3) INQUIRIES ON FURTHER VIDEO DESCRIP-
19 TION REQUIREMENTS.—The Commission shall com-
20 mence the following inquiries not later than 1 year
21 after the completion of the phase-in of the reinstated
22 regulations and shall report to Congress 1 year
23 thereafter on the findings for each of the following:

24 “(A) VIDEO DESCRIPTION IN TELEVISION
25 PROGRAMMING.—The availability, use, and ben-

1 efits of video description on video programming
2 distributed on television, the technical and cre-
3 ative issues associated with providing such video
4 description, and the financial costs of providing
5 such video description for providers of video
6 programming and program owners.

7 “(B) VIDEO DESCRIPTION IN VIDEO PRO-
8 GRAMMING DISTRIBUTED ON THE INTERNET.—
9 The technical and operational issues, costs, and
10 benefits of providing video descriptions for video
11 programming that is delivered using Internet
12 protocol.

13 “(4) CONTINUING COMMISSION AUTHORITY.—

14 “(A) IN GENERAL.—The Commission may
15 not issue additional regulations unless the Com-
16 mission determines, at least 2 years after com-
17 pleting the reports required in paragraph (3),
18 that the need for and benefits of additional de-
19 scribed programming are greater than the tech-
20 nical and economic costs of providing such addi-
21 tional programming.

22 “(B) LIMITATION.—If the Commission
23 makes the determination under subparagraph
24 (A) and issues additional regulations, the Com-
25 mission may only increase, in total, the hour re-

1 requirement for additional described program-
2 ming by not more than 75 percent of the re-
3 quirement in the regulations reinstated under
4 paragraph (1).

5 “(g) EMERGENCY INFORMATION.—Not later than 1
6 year after the Advisory Committee report under sub-
7 section (e)(2) is submitted to the Commission, the Com-
8 mission shall complete a proceeding to—

9 “(1) identify methods to convey emergency in-
10 formation (as that term is defined in section 79.2 of
11 title 47, Code of Federal Regulations) in a manner
12 accessible to individuals who are blind or visually im-
13 paired; and

14 “(2) promulgate regulations that require video
15 programming providers and video programming dis-
16 tributors (as those terms are defined in section 79.1
17 of title 47, Code of Federal Regulations) and pro-
18 gram owners to convey such emergency information
19 in a manner accessible to individuals who are blind
20 or visually impaired.

21 “(h) DEFINITIONS.—For purposes of this section,
22 section 303, and section 330:

23 “(1) VIDEO DESCRIPTION.—The term ‘video de-
24 scription’ means the insertion of audio narrated de-
25 scriptions of a television program’s key visual ele-

1 ments into natural pauses between the program’s
2 dialogue.

3 “(2) VIDEO PROGRAMMING.—The term ‘video
4 programming’ has the meaning given such term in
5 section 602.”.

6 (b) CLOSED CAPTIONING ON VIDEO PROGRAMMING
7 DELIVERED USING INTERNET PROTOCOL.—Section 713
8 of such Act is further amended by striking subsection (c)
9 and inserting the following:

10 “(c) DEADLINES FOR CAPTIONING.—

11 “(1) IN GENERAL.—The regulations prescribed
12 pursuant to subsection (b) shall include an appro-
13 priate schedule of deadlines for the provision of
14 closed captioning of video programming first pub-
15 lished or exhibited on television.

16 “(2) DEADLINES FOR PROGRAMMING DELIV-
17 ERED USING INTERNET PROTOCOL.—

18 “(A) REGULATIONS ON CLOSED CAP-
19 TIONING ON VIDEO PROGRAMMING DELIVERED
20 USING INTERNET PROTOCOL.—Not later than 6
21 months after the submission of the report to
22 the Commission required by subsection (e)(1) of
23 the Twenty-First Century Communications and
24 Video Accessibility Act of 2010, the Commis-
25 sion shall revise its regulations to require the

1 provision of closed captioning on video program-
2 ming delivered using Internet protocol.

3 “(B) SCHEDULE.—The regulations pre-
4 scribed under this paragraph shall include an
5 appropriate schedule of decoding for the provi-
6 sion of closed captioning, taking into account
7 whether such programming is prerecorded and
8 edited for Internet distribution, or whether such
9 programming is live or near-live and not edited
10 for Internet distribution.

11 “(C) COST.—The Commission may delay
12 or waive the regulation promulgated under sub-
13 paragraph (A) to the extent the Commission
14 finds that the application of the regulation to
15 live video programming delivered using Internet
16 protocol would be economically burdensome to
17 providers of video programming or program
18 owners.

19 “(D) REQUIREMENTS FOR REGULA-
20 TIONS.—The regulations prescribed under this
21 paragraph—

22 “(i) shall contain a definition of ‘near-
23 live programming’ and ‘edited for Internet
24 distribution’; and

1 “(ii) may exempt any service, class of
2 service, program, class of program, equip-
3 ment, or class of equipment for which the
4 Commission has determined that the appli-
5 cation of such regulations would cause fi-
6 nancial hardship to the provider of such
7 service, program, or equipment.”.

8 (c) CONFORMING AMENDMENT.—Section 713(d) of
9 such Act is amended by striking paragraph (3) and insert-
10 ing the following:

11 “(3) a provider of video programming or pro-
12 gram owner may petition the Commission for an ex-
13 emption from the requirements of this section, and
14 the Commission may grant such petition upon a
15 showing that the requirements contained in this sec-
16 tion would cause financial hardship. During the
17 pendency of such a petition, such provider or owner
18 shall be exempt from the requirements of this sec-
19 tion. The Commission shall act to grant or deny any
20 such petition, in whole or in part, within 6 months
21 after the Commission receives such petition, unless
22 the Commission finds that an extension of the 6-
23 month period is necessary to determine whether such
24 requirements are economically burdensome.”.

1 **SEC. 203. CLOSED CAPTIONING DECODER AND VIDEO DE-**
2 **SCRIPTION CAPABILITY.**

3 (a) **AUTHORITY TO REGULATE.**—Section 303(u) of
4 the Communications Act of 1934 (47 U.S.C. 303(u)) is
5 amended to read as follows:

6 “(u) Require that—

7 “(1) apparatus designed to receive or play
8 back video programming transmitted simulta-
9 neously with sound, if such apparatus is manu-
10 factured in the United States or imported for
11 use in the United States and uses a picture
12 screen of any size—

13 “(A) be equipped with built-in closed
14 caption decoder circuitry or capability de-
15 signed to display closed-captioned video
16 programming;

17 “(B) have the capability to decode
18 and make available the transmission and
19 delivery of video description services as re-
20 quired by regulations reinstated and modi-
21 fied pursuant to section 713(f); and

22 “(C) have the capability to decode and
23 make available emergency information (as
24 that term is defined in section 79.2 of the
25 Commission’s regulations (47 CFR 79.2))
26 in a manner that is accessible to individ-

1 uals who are blind or visually impaired;

2 and

3 “(2) notwithstanding paragraph (1) of this

4 subsection—

5 “(A) apparatus described in such

6 paragraph that use a picture screen that is

7 less than 13 inches in size meet the re-

8 quirements of subparagraph (A), (B), or

9 (C) of such paragraph only if the require-

10 ments of such subparagraphs are achiev-

11 able (as defined in section 716);

12 “(B) any apparatus or class of appa-

13 ratus that are display-only video monitors

14 with no playback capability are exempt

15 from the requirements of such paragraph;

16 and

17 “(C) the Commission shall have the

18 authority to waive the requirements of this

19 subsection for any apparatus or class of

20 apparatus.”.

21 (b) OTHER DEVICES.—Section 303 of the Commu-

22 nications Act of 1934 (47 U.S.C. 303) is further amended

23 by adding at the end the following new subsection:

24 “(z) Require that—

1 “(1) apparatus designed to record video
2 programming transmitted simultaneously with
3 sound, if such apparatus is manufactured in the
4 United States or imported for use in the United
5 States, enable the rendering or the pass
6 through of closed captions, video description
7 signals, and emergency information (as that
8 term is defined in section 79.2 of title 47, Code
9 of Federal Regulations) such that viewers are
10 able to activate and de-activate the closed cap-
11 tions and video description as the video pro-
12 gramming is played back on a picture screen of
13 any size; and

14 “(2) interconnection mechanisms and
15 standards for digital video source devices are
16 available to carry from the source device to the
17 consumer equipment the information necessary
18 to permit the display of closed captions and to
19 make encoded video description and emergency
20 information audible.”.

21 (c) SHIPMENT IN COMMERCE.—Section 330(b) of the
22 Communications Act of 1934 (47 U.S.C. 330(b)) is
23 amended—

24 (1) by striking “303(u)” in the first sentence
25 and inserting “303(u) and (z)”;

1 (2) by striking the second sentence and insert-
2 ing the following: “Such rules shall provide perform-
3 ance and display standards for such built-in decoder
4 circuitry or capability designed to display closed cap-
5 tioned video programming, the transmission and de-
6 livery of video description services, and the convey-
7 ance of emergency information as required by sec-
8 tion 303 of this Act.”; and

9 (3) in the fourth sentence, by striking “closed-
10 captioning service continues” and inserting “closed-
11 captioning service and video description service con-
12 tinue”.

13 (d) IMPLEMENTING REGULATIONS.—The Federal
14 Communications Commission shall prescribe such regula-
15 tions as are necessary to implement the requirements of
16 sections 303(u), 303(z), and 330(b) of the Communica-
17 tions Act of 1934, as amended by this section, including
18 any technical standards, protocols, and procedures needed
19 for the transmission of—

20 (1) closed captioning within 6 months after the
21 submission to the Commission of the Advisory Com-
22 mittee report required by section section 201(e)(1);
23 and

24 (2) video description and emergency informa-
25 tion within 12 months after the submission to the

1 Commission of the Advisory Committee report re-
2 quired by section section 201(e)(2).

3 **SEC. 204. USER INTERFACES ON DIGITAL APPARATUS.**

4 (a) AMENDMENT.—Section 303 of the Communica-
5 tions Act of 1934 (47 U.S.C. 303) is further amended by
6 adding after subsection (z), as added by section 203 of
7 this Act, the following new subsection:

8 “(aa) Require—

9 “(1) that digital apparatus designed to re-
10 ceive or play back video programming trans-
11 mitted in digital format simultaneously with
12 sound, including apparatus designed to receive
13 or display video programming transmitted in
14 digital format using Internet protocol, be de-
15 signed, developed, and fabricated so that con-
16 trol of all built-in apparatus functions are ac-
17 cessible to and usable by individuals with dis-
18 abilities;

19 “(2) that if on-screen text menus or other
20 visual indicators built in to the digital appa-
21 ratus are used to access the functions of the ap-
22 paratus described in paragraph (1), such func-
23 tions shall be accompanied by audio output that
24 is either integrated or peripheral to the appa-
25 ratus, so that such menus or indicators are ac-

1 cessible to and usable by individuals who are
2 blind or visually impaired in real-time;

3 “(3) that built-in user controls on such ap-
4 paratus shall be capable of accessing closed cap-
5 tioning and video description, including—

6 “(A) if a remote control is provided
7 with the apparatus—

8 “(i) a button, key, or icon on the
9 remote control of such apparatus des-
10 ignated for activating closed cap-
11 tioning; or

12 “(ii) any other mechanism that
13 provides a substantially equivalent or
14 greater level of accessibility; and

15 “(B) if on-screen menus are displayed
16 on such apparatus—

17 “(i) the inclusion of ‘closed cap-
18 tions’ and ‘video description’ on the
19 first menu that appears; or

20 “(ii) any other mechanism that
21 provides a substantially equivalent or
22 greater level of accessibility; and

23 “(4) that in applying this subsection the
24 term ‘apparatus’ does not include a navigation
25 device, as such term is defined in section

1 76.1200 of the Commission’s rules (47 CFR
2 76.1200).”.

3 (b) IMPLEMENTING REGULATIONS.—Within 12
4 months after the submission to the Commission of the Ad-
5 visory Committee report required by section 201(e)(2), the
6 Commission shall prescribe such regulations as are nec-
7 essary to implement the amendments made by subsection
8 (a).

9 **SEC. 205. ACCESS TO VIDEO PROGRAMMING GUIDES AND**
10 **MENUS PROVIDED ON NAVIGATION DEVICES.**

11 (a) AMENDMENT.—Section 303 of the Communica-
12 tions Act of 1934 (47 U.S.C. 303) is further amended by
13 adding after subsection (aa), as added by section 204 of
14 this Act, the following new subsection:

15 “(bb) Require that the on-screen text menus
16 and guides provided by navigation devices (as such
17 term is defined in section 76.1200 of title 47, Code
18 of Federal Regulations) for the display or selection
19 of multichannel video programming are audibly ac-
20 cessible in real-time upon request by individuals with
21 disabilities, including, if a remote control is provided
22 with the navigational device—

23 “(1) a button, key, or icon on the remote
24 control of such device designated for activating
25 the accessibility features; or

1 “(2) any mechanism that provides a sub-
2 stantially equivalent or greater level of accessi-
3 bility.”

4 (b) IMPLEMENTING REGULATIONS.—

5 (1) IN GENERAL.—Within 12 months after the
6 submission to the Commission of the Advisory Com-
7 mittee report required by section 201(e)(2), the
8 Commission shall prescribe such regulations as are
9 necessary to implement the amendment made by
10 subsection (a).

11 (2) EXEMPTION.—Such regulations may pro-
12 vide an exemption from the regulations for cable sys-
13 tems serving 50,000 or fewer subscribers.

14 (3) SEPARATE EQUIPMENT OR SOFTWARE.—

15 (A) IN GENERAL.—Such regulations shall
16 permit but not require compliance with section
17 303(bb)(1) of the Communications Act of 1934
18 through the use of software, a peripheral device,
19 specialized consumer premises equipment, a
20 network-based service or other solution.

21 (B) REQUIREMENTS.—If an entity com-
22 plies with section 303(bb)(1) of the Commu-
23 nications Act of 1934 under subparagraph (A),
24 the entity providing the navigation device to the
25 requesting blind or visually impaired individual

1 shall provide any such software, peripheral de-
2 vice, equipment, service, or solution at no addi-
3 tional charge and within a reasonable time to
4 such individual and shall ensure that such soft-
5 ware, device, equipment, service, or solution is
6 compatible with interconnection mechanisms as
7 provided for in such regulations.

8 (4) USER CONTROLS FOR CLOSED CAP-
9 TIONING.—Such regulations shall permit maximum
10 flexibility in the selection of means for compliance
11 with section 303(bb)(2) of the Communications Act
12 of 1934 (as added by subsection (a) of this section)
13 as long as such means for compliance are compatible
14 with interconnection mechanisms as provided for in
15 such regulations.

16 (5) PHASE-IN.—

17 (A) IN GENERAL.—The Commission shall
18 provide affected entities with—

19 (i) not less than 2 years after the
20 adoption of such regulations to begin plac-
21 ing in service devices that comply with the
22 requirements of section 303(bb)(2) of the
23 Communications Act of 1934 (as added by
24 subsection (a) of this section); and

1 (ii) not less than 3 years after the
2 adoption of such regulations to begin plac-
3 ing in service devices that comply with the
4 requirements of section 303(bb)(1) of the
5 Communications Act of 1934 (as added by
6 subsection (a) of this section).

7 (B) APPLICATION.—Such regulations shall
8 apply only to devices manufactured or imported
9 on or after the respective effective dates estab-
10 lished in subparagraph (A).

11 **SEC. 206. DEFINITIONS.**

12 In this title:

13 (1) ADVISORY COMMITTEE.—The term “Advi-
14 sory Committee” means the advisory committee es-
15 tablished in section 201.

16 (2) CHAIRMAN.—The term “Chairman” means
17 the Chairman of the Federal Communications Com-
18 mission.

19 (3) COMMISSION.—The term “Commission”
20 means the Federal Communications Commission.

21 (4) EMERGENCY INFORMATION.—The term
22 “emergency information” has the meaning given
23 such term in section 79.2 of title 47, Code of Fed-
24 eral Regulations.

1 (5) INTERNET PROTOCOL.—The term “Internet
2 protocol” includes Transmission Control Protocol
3 and a successor protocol or technology to Internet
4 protocol.

5 (6) NAVIGATION DEVICE.—The term “naviga-
6 tion device” has the meaning given such term in sec-
7 tion 76.1200 of title 47, Code of Federal Regula-
8 tions.

9 (7) VIDEO DESCRIPTION.—The term “video de-
10 scription” has the meaning given such term in sec-
11 tion 713 of the Communications Act of 1934 (47
12 U.S.C. 613).

13 (8) VIDEO PROGRAMMING.—The term “video
14 programming” has the meaning given such term in
15 section 713 of the Communications Act of 1934 (47
16 U.S.C. 613).

