

Federal Communications Commission

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subpart, for alleged violations of this subpart may be either informal or formal.

§ 14.34 Informal complaints; form, filing, content, and consumer assistance.

(a) An informal complaint alleging a violation of section 255, 716 or 718 of the Act or parts 6, 7, or 14 of this chapter may be transmitted to the Enforcement Bureau by any reasonable means, including the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or email. Any Requests filed using a method other than the Commission's online system should include a cover letter that references section 255, 716, or 718 or the rules of parts 6, 7, or 14 of this chapter and should be addressed to the Enforcement Bureau.

(b) An informal complaint shall include:

(1) The name, address, email address, and telephone number of the complainant;

(2) The name, address, and telephone number of the manufacturer or service provider defendant against whom the complaint is made;

(3) The date or dates on which the complainant or person(s) on whose behalf the complaint is being filed either purchased, acquired, or used or attempted to purchase, acquire, or use the equipment or service about which the complaint is being made;

(4) A complete statement of fact explaining why the complainant contends that the defendant manufacturer or provider is in violation of section 255, 716 or 718 of the Act or the Commission's rules, including details regarding the service or equipment and the relief requested, and all documentation that supports the complainant's contention;

(5) A certification that the complainant submitted to the Commission a Request for Dispute Assistance, pursuant to §14.32, no less than 30 days before the complaint is filed;

(6) The complainant's preferred format or method of response to the complaint by the Commission and defendant (e.g., letter, facsimile transmissions, telephone (voice/TRS/TTY), email, audio-cassette recording, Braille, or some other method that will

best accommodate the complainant's disability, if any); and

(7) Any other information that is required by the Commission's accessibility complaint form.

(c) Any party with a question about information that should be included in an Informal Complaint should email the Commission's Disability Rights Office at dro@fcc.gov or call (202) 418-2517 (voice), (202) 418-2922 (TTY).

§ 14.35 Procedure; designation of agents for service.

(a) The Commission shall forward any informal complaint meeting the requirements of §14.34 of this subpart to each manufacturer and service provider named in or determined by the staff to be implicated by the complaint.

(b) To ensure prompt and effective service of informal and formal complaints filed under this subpart, every manufacturer and service provider subject to the requirements of section 255, 716, or 718 of the Act and parts 6, 7, or 14 of this chapter shall designate an agent, and may designate additional agents if it so chooses, upon whom service may be made of all notices, inquiries, orders, decisions, and other pronouncements of the Commission in any matter before the Commission. The agent shall be designated in the manufacturer or service provider's annual certification pursuant to §14.31.

§ 14.36 Answers and replies to informal complaints.

(a) After a complainant makes a *prima facie* case by asserting that a product or service is not accessible, the manufacturer or service provider to whom the informal complaint is directed bears the burden of proving that the product or service is accessible or, if not accessible, that accessibility is not achievable under this part or readily achievable under parts 6 and 7. To carry its burden of proof, a manufacturer or service provider must produce documents demonstrating its due diligence in exploring accessibility and achievability, as required by parts 6, 7, or 14 of this chapter throughout the design, development, testing, and deployment stages of a product or service. Conclusory and unsupported claims are

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insufficient to carry this burden of proof.

(b) Any manufacturer or service provider to whom an informal complaint is served by the Commission under this subpart shall file and serve an answer responsive to the complaint and any inquires set forth by the Commission.

(1) The answer shall:

(i) Be filed with the Commission within twenty days of service of the complaint, unless the Commission or its staff specifies another time period;

(ii) Respond specifically to each material allegation in the complaint and assert any defenses that the manufacturer or service provider claim;

(iii) Include a declaration by an officer of the manufacturer or service provider attesting to the truth of the facts asserted in the answer;

(iv) Set forth any remedial actions already taken or proposed alternative relief without any prejudice to any denials or defenses raised;

(v) Provide any other information or materials specified by the Commission as relevant to its consideration of the complaint; and

(vi) Be prepared or formatted, including in electronic readable format compatible with the Commission's Summation or other software in the manner requested by the Commission and the complainant, unless otherwise permitted by the Commission for good cause shown.

(2) If the manufacturer's or service provider's answer includes the defense that it was not achievable for the manufacturer or service provider to make its product or service accessible, the manufacturer or service provider shall carry the burden of proof on the defense and the answer shall:

(i) Set forth the steps taken by the manufacturer or service provider to make the product or service accessible and usable;

(ii) Set forth the procedures and processes used by the manufacturer or service provider to evaluate whether it was achievable to make the product or service accessible and usable in cases where the manufacturer or service provider alleges it was not achievable to do so;

(iii) Set forth the manufacturer's basis for determining that it was not

achievable to make the product or service accessible and usable in cases where the manufacturer or service provider so alleges; and

(iv) Provide all documents supporting the manufacturer's or service provider's conclusion that it was not achievable to make the product or service accessible and usable in cases where the manufacturer or service provider so alleges.

(c) Any manufacturer or service provider to whom an informal complaint is served by the Commission under this subpart shall serve the complainant and the Commission with a non-confidential summary of the answer filed with the Commission within twenty days of service of the complaint. The non-confidential summary must contain the essential elements of the answer, including, but not limited to, any asserted defenses to the complaint, must address the material elements of its answer, and include sufficient information to allow the complainant to file a reply, if the complainant chooses to do so.

(d) The complainant may file and serve a reply. The reply shall:

(1) Be served on the Commission and the manufacturer or service provider that is subject of the complaint within ten days after service of answer, unless otherwise directed by the Commission;

(2) Be responsive to matters contained in the answer and shall not contain new matters.

§ 14.37 Review and disposition of informal complaints.

(a) The Commission will investigate the allegations in any informal complaint filed that satisfies the requirements of § 14.34(b) of this subpart, and, within 180 days after the date on which such complaint was filed with the Commission, issue an order finding whether the manufacturer or service provider that is the subject of the complaint violated section 255, 716, or 718 of the Act, or the Commission's implementing rules, and provide a basis therefore, unless such complaint is resolved before that time.

(b) If the Commission determines in an order issued pursuant to paragraph