

the fee under this subparagraph as a separate item on the bill.

(3) Regulatory streamlining

With respect to the establishment and operation of an open video system, the requirements of this section shall apply in lieu of, and not in addition to, the requirements of subchapter II of this chapter.

(4) Treatment as cable operator

Nothing in this chapter precludes a video programming provider making use of an open video system from being treated as an operator of a cable system for purposes of section 111 of title 17.

(d) "Telephone service area" defined

For purposes of this section, the term "telephone service area" when used in connection with a common carrier subject in whole or in part to subchapter II of this chapter means the area within which such carrier is offering telephone exchange service.

(June 19, 1934, ch. 652, title VI, §653, as added Pub. L. 104-104, title III, §302(a), Feb. 8, 1996, 110 Stat. 121.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (c)(4), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 601. Interstate Commerce Commission and Postmaster General; duties, powers, and functions transferred to Commission

(a) All duties, powers, and functions of the Interstate Commerce Commission under sections 9 to 15 of this title, relating to operation of telegraph lines by railroad and telegraph companies granted Government aid in the construction of their lines, are imposed upon and vested in the Commission: *Provided*, That such transfer of duties, powers, and functions shall not be construed to affect the duties, powers, functions, or jurisdiction of the Interstate Commerce Commission under, or to interfere with or prevent the enforcement of, subtitle IV of title 49.

(b) All duties, powers, and functions of the Postmaster General with respect to telegraph companies and telegraph lines under any existing provision of law are imposed upon and vested in the Commission.

(June 19, 1934, ch. 652, title VII, §701, formerly title VI, §601, 48 Stat. 1101; renumbered title VII, §701, Pub. L. 98-549, §6(a), Oct. 30, 1984, 98 Stat. 2804.)

CODIFICATION

In subsec. (a), "subtitle IV of title 49" substituted for "the Interstate Commerce Act and all Acts amendatory thereof or supplemental thereto [49 U.S.C. 1 et seq.]" on authority of Pub. L. 95-473, §3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§10101 et seq.) of Title 49, Transportation.

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91-375, §4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

§§ 602, 603. Repealed. Pub. L. 103-414, title III, § 304(a)(13), Oct. 25, 1994, 108 Stat. 4297

Section 602, acts June 19, 1934, ch. 652, title VII, §702(a), (b), formerly title VI, §602(a), (b), 48 Stat. 1102; May 20, 1937, ch. 229, §15, 50 Stat. 197; Mar. 18, 1940, ch. 66, §4 Stat. 54; renumbered title VII, §702(a), (b), Oct. 30, 1984, Pub. L. 98-549, §6(a), 98 Stat. 2804, repealed certain prior provisions relating to communications and directed Commission to study and report, not later than Jan. 1, 1941, on radio requirements necessary for ships navigating Great Lakes and inland waters of the United States.

Section 603, act June 19, 1934, ch. 652, title VII, §703, formerly title VI, §603, 48 Stat. 1102; renumbered title VII, §703, Oct. 30, 1984, Pub. L. 98-549, §6(a), 98 Stat. 2804, related to transfers from Federal Radio Commission, Interstate Commerce Commission, and Postmaster General.

§ 604. Effect of transfer

(a) Orders, determinations, rules, regulations, permits, contracts, licenses, and privileges

All orders, determinations, rules, regulations, permits, contracts, licenses, and privileges which have been issued, made, or granted by the Interstate Commerce Commission, the Federal Radio Commission, or the Postmaster General, under any provision of law repealed or amended by this chapter or in the exercise of duties, powers, or functions transferred to the Commission by this chapter, and which are in effect at the time this section takes effect, shall continue in effect until modified, terminated, superseded, or repealed by the Commission or by operation of law.

(b) Availability of records

All records transferred to the Commission under this chapter shall be available for use by the Commission to the same extent as if such records were originally records of the Commission. All final valuations and determinations of depreciation charges by the Interstate Commerce Commission with respect to common carriers engaged in radio or wire communication, and all orders of the Interstate Commerce Commission with respect to such valuations and determinations, shall have the same force and effect as though made by the Commission under this chapter.

(June 19, 1934, ch. 652, title VII, §704, formerly title VI, §604, 48 Stat. 1103; renumbered title VII,

§ 704, Pub. L. 98-549, §6(a), Oct. 30, 1984, 98 Stat. 2804; amended Pub. L. 103-414, title III, §304(a)(14), Oct. 25, 1994, 108 Stat. 4297.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

1994—Subsecs. (b), (c). Pub. L. 103-414 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "Any proceeding, hearing, or investigation commenced or pending before the Federal Radio Commission, the Interstate Commerce Commission, or the Postmaster General, at the time of the organization of the Commission, shall be continued by the Commission in the same manner as though originally commenced before the Commission, if such proceeding, hearing, or investigation (1) involves the administration of duties, powers, and functions transferred to the Commission by this chapter, or (2) involves the exercise of jurisdiction similar to that granted to the Commission under the provisions of this chapter."

Subsec. (d). Pub. L. 103-414, §303(a)(14)(A), struck out subsec. (d) which read as follows: "The provisions of this chapter shall not affect suits commenced prior to the date of the organization of the Commission; and all such suits shall be continued, proceedings therein had, appeals therein taken and judgments therein rendered, in the same manner and with the same effect as if this chapter had not been passed. No suit, action, or other proceeding lawfully commenced by or against any agency or officer of the United States, in relation to the discharge of official duties, shall abate by reason of any transfer of authority, power, and duties from such agency or officer to the Commission under the provisions of this chapter, but the court, upon motion or supplemental petition filed at any time within twelve months after such transfer, showing the necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the Commission."

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91-375, §4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

§ 605. Unauthorized publication or use of communications

(a) Practices prohibited

Except as authorized by chapter 119, title 18, no person receiving, assisting in receiving, transmitting, or assisting in transmitting, any

interstate or foreign communication by wire or radio shall divulge or publish the existence, contents, substance, purport, effect, or meaning thereof, except through authorized channels of transmission or reception, (1) to any person other than the addressee, his agent, or attorney, (2) to a person employed or authorized to forward such communication to its destination, (3) to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, (4) to the master of a ship under whom he is serving, (5) in response to a subpoena issued by a court of competent jurisdiction, or (6) on demand of other lawful authority. No person not being authorized by the sender shall intercept any radio communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person. No person not being entitled thereto shall receive or assist in receiving any interstate or foreign communication by radio and use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. No person having received any intercepted radio communication or having become acquainted with the contents, substance, purport, effect, or meaning of such communication (or any part thereof) knowing that such communication was intercepted, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of such communication (or any part thereof) or use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication which is transmitted by any station for the use of the general public, which relates to ships, aircraft, vehicles, or persons in distress, or which is transmitted by an amateur radio station operator or by a citizens band radio operator.

(b) Exceptions

The provisions of subsection (a) of this section shall not apply to the interception or receipt by any individual, or the assisting (including the manufacture or sale) of such interception or receipt, of any satellite cable programming for private viewing if—

(1) the programming involved is not encrypted; and

(2)(A) a marketing system is not established under which—

(i) an agent or agents have been lawfully designated for the purpose of authorizing private viewing by individuals, and

(ii) such authorization is available to the individual involved from the appropriate agent or agents; or

(B) a marketing system described in subparagraph (A) is established and the individuals receiving such programming has obtained authorization for private viewing under that system.

(c) Scrambling of Public Broadcasting Service programming

No person shall encrypt or continue to encrypt satellite delivered programs included in the Na-

tional Program Service of the Public Broadcasting Service and intended for public viewing by retransmission by television broadcast stations; except that as long as at least one unencrypted satellite transmission of any program subject to this subsection is provided, this subsection shall not prohibit additional encrypted satellite transmissions of the same program.

(d) Definitions

For purposes of this section—

(1) the term “satellite cable programming” means video programming which is transmitted via satellite and which is primarily intended for the direct receipt by cable operators for their retransmission to cable subscribers;

(2) the term “agent”, with respect to any person, includes an employee of such person;

(3) the term “encrypt”, when used with respect to satellite cable programming, means to transmit such programming in a form whereby the aural and visual characteristics (or both) are modified or altered for the purpose of preventing the unauthorized receipt of such programming by persons without authorized equipment which is designed to eliminate the effects of such modification or alteration;

(4) the term “private viewing” means the viewing for private use in an individual’s dwelling unit by means of equipment, owned or operated by such individual, capable of receiving satellite cable programming directly from a satellite;

(5) the term “private financial gain” shall not include the gain resulting to any individual for the private use in such individual’s dwelling unit of any programming for which the individual has not obtained authorization for that use; and

(6) the term “any person aggrieved” shall include any person with proprietary rights in the intercepted communication by wire or radio, including wholesale or retail distributors of satellite cable programming, and, in the case of a violation of paragraph (4) of subsection (e) of this section, shall also include any person engaged in the lawful manufacture, distribution, or sale of equipment necessary to authorize or receive satellite cable programming.

(e) Penalties; civil actions; remedies; attorney’s fees and costs; computation of damages; regulation by State and local authorities

(1) Any person who willfully violates subsection (a) of this section shall be fined not more than \$2,000 or imprisoned for not more than 6 months, or both.

(2) Any person who violates subsection (a) of this section willfully and for purposes of direct or indirect commercial advantage or private financial gain shall be fined not more than \$50,000 or imprisoned for not more than 2 years, or both, for the first such conviction and shall be fined not more than \$100,000 or imprisoned for not more than 5 years, or both, for any subsequent conviction.

(3)(A) Any person aggrieved by any violation of subsection (a) of this section or paragraph (4) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction.

(B) The court—

(i) may grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain violations of subsection (a) of this section;

(ii) may award damages as described in subparagraph (C); and

(iii) shall direct the recovery of full costs, including awarding reasonable attorneys’ fees to an aggrieved party who prevails.

(C)(i) Damages awarded by any court under this section shall be computed, at the election of the aggrieved party, in accordance with either of the following subclauses;

(I) the party aggrieved may recover the actual damages suffered by him as a result of the violation and any profits of the violator that are attributable to the violation which are not taken into account in computing the actual damages; in determining the violator’s profits, the party aggrieved shall be required to prove only the violator’s gross revenue, and the violator shall be required to prove his deductible expenses and the elements of profit attributable to factors other than the violation; or

(II) the party aggrieved may recover an award of statutory damages for each violation of subsection (a) of this section involved in the action in a sum of not less than \$1,000 or more than \$10,000, as the court considers just, and for each violation of paragraph (4) of this subsection involved in the action an aggrieved party may recover statutory damages in a sum not less than \$10,000, or more than \$100,000, as the court considers just.

(ii) In any case in which the court finds that the violation was committed willfully and for purposes of direct or indirect commercial advantage or private financial gain, the court in its discretion may increase the award of damages, whether actual or statutory, by an amount of not more than \$100,000 for each violation of subsection (a) of this section.

(iii) In any case where the court finds that the violator was not aware and had no reason to believe that his acts constituted a violation of this section, the court in its discretion may reduce the award of damages to a sum of not less than \$250.

(4) Any person who manufactures, assembles, modifies, imports, exports, sells, or distributes any electronic, mechanical, or other device or equipment, knowing or having reason to know that the device or equipment is primarily of assistance in the unauthorized decryption of satellite cable programming, or direct-to-home satellite services, or is intended for any other activity prohibited by subsection (a) of this section, shall be fined not more than \$500,000 for each violation, or imprisoned for not more than 5 years for each violation, or both. For purposes of all penalties and remedies established for violations of this paragraph, the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.

(5) The penalties under this subsection shall be in addition to those prescribed under any other provision of this subchapter.

(6) Nothing in this subsection shall prevent any State, or political subdivision thereof, from

enacting or enforcing any laws with respect to the importation, sale, manufacture, or distribution of equipment by any person with the intent of its use to assist in the interception or receipt of radio communications prohibited by subsection (a) of this section.

(f) Rights, obligations, and liabilities under other laws unaffected

Nothing in this section shall affect any right, obligation, or liability under title 17, any rule, regulation, or order thereunder, or any other applicable Federal, State, or local law.

(g) Universal encryption standard

The Commission shall initiate an inquiry concerning the need for a universal encryption standard that permits decryption of satellite cable programming intended for private viewing. In conducting such inquiry, the Commission shall take into account—

- (1) consumer costs and benefits of any such standard, including consumer investment in equipment in operation;
- (2) incorporation of technological enhancements, including advanced television formats;
- (3) whether any such standard would effectively prevent present and future unauthorized decryption of satellite cable programming;
- (4) the costs and benefits of any such standard on other authorized users of encrypted satellite cable programming, including cable systems and satellite master antenna television systems;
- (5) the effect of any such standard on competition in the manufacture of decryption equipment; and
- (6) the impact of the time delay associated with the Commission procedures necessary for establishment of such standards.

(h) Rulemaking for encryption standard

If the Commission finds, based on the information gathered from the inquiry required by subsection (g) of this section, that a universal encryption standard is necessary and in the public interest, the Commission shall initiate a rulemaking to establish such a standard.

(June 19, 1934, ch. 652, title VII, §705, formerly title VI, §605, 48 Stat. 1103; Pub. L. 90-351, title III, §803, June 19, 1968, 82 Stat. 223; Pub. L. 97-259, title I, §126, Sept. 13, 1982, 96 Stat. 1099; renumbered title VII, §705, and amended Pub. L. 98-549, §§5(a), 6(a), Oct. 30, 1984, 98 Stat. 2802, 2804; Pub. L. 100-626, §11, Nov. 7, 1988, 102 Stat. 3211; Pub. L. 100-667, title II, §§204, 205, Nov. 16, 1988, 102 Stat. 3958, 3959; Pub. L. 103-414, title III, §§303(a)(25)-(28), 304(a)(15), Oct. 25, 1994, 108 Stat. 4295-4297; Pub. L. 104-104, title II, §205(a), Feb. 8, 1996, 110 Stat. 114.)

AMENDMENTS

1996—Subsec. (e)(4). Pub. L. 104-104 inserted “or direct-to-home satellite services,” after “programming.”.

1994—Subsec. (d)(6). Pub. L. 103-414, §303(a)(25), substituted “subsection (e)” for “subsection (d)”.

Subsec. (e)(3)(A). Pub. L. 103-414, §303(a)(26), substituted “paragraph (4) of this subsection” for “paragraph (4) of subsection (d) of this section”.

Subsec. (f). Pub. L. 103-414, §303(a)(27), redesignated subsec. (f), relating to universal encryption standard, as (g).

Subsec. (g). Pub. L. 103-414, §304(a)(15), which directed substitution of “The Commission” for “within 6

months after November 16, 1988, the Federal Communications Commission”, was executed by making the substitution in text which read “Within 6 months” rather than “within 6 months” in introductory provisions to reflect the probable intent of Congress.

Pub. L. 103-414, §303(a)(27), redesignated subsec. (f), relating to universal encryption standard, as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 103-414, §303(a)(27), (28), redesignated subsec. (g) as (h) and substituted “subsection (g)” for “subsection (f)”.

1988—Subsecs. (c), (d). Pub. L. 100-626 added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(6). Pub. L. 100-667, §205(1), which directed the addition of par. (6) to subsec. (c), was executed to subsec. (d) to reflect the probable intent of Congress and the intervening redesignation of subsec. (c) as (d) by Pub. L. 100-626.

Subsec. (e). Pub. L. 100-667, §205(2)-(12), which directed the amendment of subsec. (d)(1) to (4) of this section, was executed to subsec. (e)(1) to (4) of this section, see below, to reflect the probable intent of Congress and the intervening redesignation of subsec. (d) as (e) by Pub. L. 100-626.

Pub. L. 100-626 redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 100-667, §205(2), substituted “\$2,000” for “\$1,000”.

Subsec. (e)(2). Pub. L. 100-667, §205(3), substituted “\$50,000 or imprisoned for not more than 2 years, or both, for the first such conviction and shall be fined not more than \$100,000 or imprisoned for not more than 5 years” for “\$25,000 or imprisoned for not more than 1 year, or both, for the first such conviction and shall be fined not more than \$50,000 or imprisoned for not more than 2 years”.

Subsec. (e)(3)(A). Pub. L. 100-667, §205(4), inserted “or paragraph (4) of subsection (d) of this section” before “may bring”.

Subsec. (e)(3)(B). Pub. L. 100-667, §205(5)-(8), struck out “may” after “The court” and substituted “may grant” for “grant” in cl. (i), “may award” for “award” in cl. (ii), and “shall direct” for “direct” in cl. (iii).

Subsec. (e)(3)(C)(i)(II). Pub. L. 100-667, §205(9), inserted “of subsection (a) of this section” after “violation”, substituted “\$1,000” for “\$250”, and inserted before period at end “, and for each violation of paragraph (4) of this subsection involved in the action an aggrieved party may recover statutory damages in a sum not less than \$10,000, or more than \$100,000, as the court considers just”.

Subsec. (e)(3)(C)(ii). Pub. L. 100-667, §205(10), substituted “\$100,000 for each violation of subsection (a) of this section” for “\$50,000”.

Subsec. (e)(3)(C)(iii). Pub. L. 100-667, §205(11), substituted “\$250” for “\$100”.

Subsec. (e)(4). Pub. L. 100-667, §205(12), added par. (4) and struck out former par. (4) which read as follows: “The importation, manufacture, sale, or distribution of equipment by any person with the intent of its use to assist in any activity prohibited by subsection (a) of this section shall be subject to penalties and remedies under this subsection to the same extent and in the same manner as a person who has engaged in such prohibited activity.”

Subsec. (f). Pub. L. 100-667, §204, added subsec. (f) relating to universal encryption standard.

Pub. L. 100-626 redesignated subsec. (e), relating to rights, obligations, and liabilities under other laws, as (f).

Subsec. (g). Pub. L. 100-667, §204, added subsec. (g). 1984—Pub. L. 98-549, §5(a), designated existing provisions as subsec. (a) and added subsecs. (b) to (e).

1982—Pub. L. 97-259 struck out “broadcast or” after “communication which is”, substituted “any station” for “amateurs or others”, struck out “or” after “general public”, and substituted “ships, aircraft, vehicles, or persons in distress, or which is transmitted by an amateur radio station operator or by a citizens band radio operator” for “ships in distress”.

1968—Pub. L. 90-351 inserted “Except as authorized by chapter 119, title 18”, designated existing provisions as cls. (1) to (6), inserted “radio” before “communication” in second and fourth sentences, struck out “wire or” before “radio” in third sentence, and substituted “intercepted” for “obtained” in fourth sentence.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-667 effective Jan. 1, 1989, see section 206 of Pub. L. 100-667, set out as an Effective Date note under section 119 of Title 17, Copyrights.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 5(b) of Pub. L. 98-549 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the effective date of this Act [Dec. 29, 1984].”

Amendment by Pub. L. 98-549 effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98-549, set out as an Effective Date note under section 521 of this title.

§ 606. War powers of President

(a) Priority communications

During the continuance of a war in which the United States is engaged, the President is authorized, if he finds it necessary for the national defense and security, to direct that such communications as in his judgment may be essential to the national defense and security shall have preference or priority with any carrier subject to this chapter. He may give these directions at and for such times as he may determine, and may modify, change, suspend, or annul them and for any such purpose he is authorized to issue orders directly, or through such person or persons as he designates for the purpose, or through the Commission. Any carrier complying with any such order or direction for preference or priority herein authorized shall be exempt from any and all provisions in existing law imposing civil or criminal penalties, obligations, or liabilities upon carriers by reason of giving preference or priority in compliance with such order or direction.

(b) Obstruction of interstate or foreign communications

It shall be unlawful for any person during any war in which the United States is engaged to knowingly or willfully, by physical force or intimidation by threats of physical force, obstruct or retard or aid in obstructing or retarding interstate or foreign communication by radio or wire. The President is authorized, whenever in his judgment the public interest requires, to employ the armed forces of the United States to prevent any such obstruction or retardation of communication: *Provided*, That nothing in this section shall be construed to repeal, modify, or affect either section 17 of title 15 or section 52 of title 29.

(c) Suspension or amendment of rules and regulations applicable to certain emission stations or devices

Upon proclamation by the President that there exists war or a threat of war, or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President, if he deems it necessary in the interest of national security or defense, may suspend or amend, for such time as

he may see fit, the rules and regulations applicable to any or all stations or devices capable of emitting electromagnetic radiations within the jurisdiction of the United States as prescribed by the Commission, and may cause the closing of any station for radio communication, or any device capable of emitting electromagnetic radiations between 10 kilocycles and 100,000 megacycles, which is suitable for use as a navigational aid beyond five miles, and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station or device and/or its apparatus and equipment, by any department of the Government under such regulations as he may prescribe upon just compensation to the owners. The authority granted to the President, under this subsection, to cause the closing of any station or device and the removal therefrom of its apparatus and equipment, or to authorize the use or control of any station or device and/or its apparatus and equipment, may be exercised in the Canal Zone.

(d) Suspension or amendment of rules and regulations applicable to wire communications; closing of facilities; Government use of facilities

Upon proclamation by the President that there exists a state or threat of war involving the United States, the President, if he deems it necessary in the interest of the national security and defense, may, during a period ending not later than six months after the termination of such state or threat of war and not later than such earlier date as the Congress by concurrent resolution may designate, (1) suspend or amend the rules and regulations applicable to any or all facilities or stations for wire communication within the jurisdiction of the United States as prescribed by the Commission, (2) cause the closing of any facility or station for wire communication and the removal therefrom of its apparatus and equipment, or (3) authorize the use or control of any such facility or station and its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners.

(e) Compensation

The President shall ascertain the just compensation for such use or control and certify the amount ascertained to Congress for appropriation and payment to the person entitled thereto. If the amount so certified is unsatisfactory to the person entitled thereto, such person shall be paid only 75 per centum of the amount and shall be entitled to sue the United States to recover such further sum as added to such payment of 75 per centum will make such amount as will be just compensation for the use and control. Such suit shall be brought in the manner provided by section 1346 or section 1491 of title 28.

(f) Affect on State laws and powers

Nothing in subsection (c) or (d) of this section shall be construed to amend, repeal, impair, or affect existing laws or powers of the States in relation to taxation or the lawful police regulations of the several States, except wherein such laws, powers, or regulations may affect the transmission of Government communications,

or the issue of stocks and bonds by any communication system or systems.

(g) Limitations upon Presidential power

Nothing in subsection (c) or (d) of this section shall be construed to authorize the President to make any amendment to the rules and regulations of the Commission which the Commission would not be authorized by law to make; and nothing in subsection (d) of this section shall be construed to authorize the President to take any action the force and effect of which shall continue beyond the date after which taking of such action would not have been authorized.

(h) Penalties

Any person who willfully does or causes or suffers to be done any act prohibited pursuant to the exercise of the President's authority under this section, or who willfully fails to do any act which he is required to do pursuant to the exercise of the President's authority under this section, or who willfully causes or suffers such failure, shall, upon conviction thereof, be punished for such offense by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both, and, if a firm, partnership, association, or corporation, by fine of not more than \$5,000, except that any person who commits such an offense with intent to injure the United States, or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than \$20,000 or by imprisonment for not more than 20 years, or both.

(June 19, 1934, ch. 652, title VII, §706, formerly title VI, §606, 48 Stat. 1104; Jan. 26, 1942, ch. 18, §§1, 2, 56 Stat. 18; Dec. 29, 1942, ch. 836, 56 Stat. 1096; July 25, 1947, ch. 327, §1, 61 Stat. 449; Oct. 24, 1951, ch. 553, §§1, 2, 65 Stat. 611; renumbered title VII, §706, Pub. L. 98-549, §6(a), Oct. 30, 1984, 98 Stat. 2804.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

For definition of Canal Zone, referred to in subsec. (c), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

In subsec. (e), "section 1346 or section 1491 of title 28" substituted for "paragraph 20 of section 24 or by section 145, of the Judicial Code, as amended" (which were classified to sections 41(20) and 250 of former Title 28, Judicial Code and Judiciary) on authority of act June 25, 1948, ch. 646, 62 Stat. 869, the first section of which enacted Title 28, Judiciary and Judicial Procedure. Section 1346 of Title 28 sets forth the basic jurisdiction of the district courts in cases in which the United States is defendant. Section 1491 of Title 28 sets forth the basic jurisdiction of the United States Court of Claims. Sections 24(20) and 145 of the Judicial Code were also classified to sections 1496, 1501, 1503, 2401, 2402, and 2501 of Title 28.

AMENDMENTS

1951—Subsec. (c). Act Oct. 24, 1951, §1, clarified scope of President's powers to use, control, and close radio facilities of all kinds which might be useful to an enemy for navigational purposes.

Subsec. (h). Act Oct. 24, 1951, §2, added subsec. (h).
1947—Subsec. (h). Act July 25, 1947, struck out subsec. (h) which related to modification of certain sections of this title until six months after termination of World War II for the protection of vessels in wartime.

1942—Subsecs. (d), (e). Act Jan. 26, 1942, §1, added subsec. (d) and redesignated former subsec. (d) as (e).

Subsecs. (f), (g). Act Jan. 26, 1942, §2, added subsecs. (f) and (g).

Subsec. (h). Act Dec. 29, 1942, added subsec. (h).

TERMINATION OF WAR AND EMERGENCIES

Act July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

EXECUTIVE ORDER NO. 8964

Ex. Ord. No. 8964, eff. Dec. 10, 1941, 6 F.R. 6367, relating to the use and control of radio stations and preference or priority of communications was revoked by Ex. Ord. No. 9831, eff. Feb. 24, 1947, 12 F.R. 1363.

EX. ORD. NO. 9831. BOARD OF WAR COMMUNICATIONS
ABOLISHED

Ex. Ord. No. 9831, eff. Feb. 24, 1947, 12 F.R. 1363, provided:

By virtue of the authority vested in me by the Constitution and statutes, including the Communications Act of 1934 (48 Stat. 1104, as amended; 47 U.S.C. 606) and as President of the United States, and in the interest of the internal management of the Government, it is hereby ordered as follows:

1. The Board of War Communications, established as the Defense Communications Board by Executive Order No. 8546 of September 24, 1940, is abolished, and all property and records thereof are transferred to the Federal Communications Commission.

2. Executive Orders Nos. 8546 of September 24, 1940, 8960 of December 6, 1941, 8964 of December 10, 1941, 9089 of March 6, 1942, and 9183 of June 15, 1942, are revoked.

HARRY S TRUMAN.

EXECUTIVE ORDER NO. 10312

Ex. Ord. No. 10312, eff. Dec. 10, 1951, 16 F.R. 12452, as amended by Ex. Ord. No. 10438, eff. Mar. 13, 1953, 18 F.R. 1491; Ex. Ord. No. 10773, eff. July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, eff. Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, eff. Sept. 27, 1962, 27 F.R. 9683, relating to delegation of authority to the Federal Communications Commission was revoked by Ex. Ord. No. 11490, eff. Oct. 28, 1969, 34 F.R. 17567.

EXECUTIVE ORDER NO. 10705

Ex. Ord. No. 10705, Apr. 17, 1957, 22 F.R. 2729, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193, which related to the delegation of authority to the Director of the Office of Telecommunications Policy, was revoked by Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 13349, set out as a note under section 305 of this title.

§ 607. Effective date of chapter

This chapter shall take effect upon the organization of the Commission, except that this section and sections 151 and 154 of this title shall take effect July 1, 1934. The Commission shall be deemed to be organized upon such date as four members of the Commission have taken office.

(June 19, 1934, ch. 652, title VII, §707, formerly title VI, §607, 48 Stat. 1105; renumbered title VII, §707, Pub. L. 98-549, §6(a), Oct. 30, 1984, 98 Stat. 2804.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

§ 608. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(June 19, 1934, ch. 652, title VII, § 708, formerly title VI, § 608, 48 Stat. 1105; renumbered title VII, § 708, Pub. L. 98-549, § 6(a), Oct. 30, 1984, 98 Stat. 2804.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

§ 609. Short title

This chapter may be cited as the “Communications Act of 1934.”

(June 19, 1934, ch. 652, title VII, § 709, formerly title VI, § 609, 48 Stat. 1105; renumbered title VII, § 709, Pub. L. 98-549, § 6(a), Oct. 30, 1984, 98 Stat. 2804.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which enacted this chapter, amended section 35 of this title, section 21 of Title 15, Commerce and Trade, section 487 of former Title 46, Shipping, and sections 1, 2, 5, and 15 of former Title 49, Transportation, and repealed sections 484 to 487 of former Title 46. For complete classification of this Act to the Code, see Tables.

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111-331, § 1, Dec. 22, 2010, 124 Stat. 3572, provided that: “This Act [amending section 227 of this title] may be cited as the ‘Truth in Caller ID Act of 2009’.”

Pub. L. 111-311, § 1, Dec. 15, 2010, 124 Stat. 3294, provided that: “This Act [enacting section 621 of this title] may be cited as the ‘Commercial Advertisement Loudness Mitigation Act’ or the ‘CALM Act’.”

Pub. L. 111-260, § 1(a), Oct. 8, 2010, 124 Stat. 2751, provided that: “This Act [enacting sections 615c and 616 to 620 of this title, amending sections 153, 225, 303, 330, 402, 503, 610, and 613 of this title, and enacting provisions set out as notes under sections 153, 303, 613, and 619 of this title] may be cited as the ‘Twenty-First Century Communications and Video Accessibility Act of 2010’.”

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111-4, § 1, Feb. 11, 2009, 123 Stat. 1123, provided that: “This Act [amending sections 309 and 337 of this title and enacting and amending provisions set out as notes under section 309 of this title] may be cited as the ‘DTV Delay Act’.”

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110-295, § 1, July 30, 2008, 122 Stat. 2972, provided that: “This Act [amending provisions set out as

a note under section 309 of this title] may be cited as the ‘DTV Transition Assistance Act’.”

Pub. L. 110-283, § 1, July 23, 2008, 122 Stat. 2620, provided that: “This Act [enacting section 615a-1 of this title and amending sections 222, 615a, 615b, and 942 of this title] may be cited as the ‘New and Emerging Technologies 911 Improvement Act of 2008’ or the ‘NET 911 Improvement Act of 2008’.”

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110-108, § 1, Oct. 31, 2007, 121 Stat. 1024, provided that: “This Act [enacting and amending provisions set out as notes under section 151 of this title] may be cited as the ‘Internet Tax Freedom Act Amendments Act of 2007’.”

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-459, § 1, Dec. 22, 2006, 120 Stat. 3399, provided that: “This Act [enacting and repealing provisions set out as notes under section 201 of this title] may be cited as the ‘Call Home Act of 2006’.”

Pub. L. 109-235, § 1, June 15, 2006, 120 Stat. 491, provided that: “This Act [amending section 503 of this title] may be cited as the ‘Broadcast Decency Enforcement Act of 2005’.”

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109-21, § 1, July 9, 2005, 119 Stat. 359, provided that: “This Act [amending section 227 of this title and enacting provisions set out as a note under section 227 of this title] may be cited as the ‘Junk Fax Prevention Act of 2005’.”

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-435, § 1, Dec. 3, 2004, 118 Stat. 2615, provided that: “This Act [enacting and amending provisions set out as notes under section 151 of this title] may be cited as the ‘Internet Tax Nondiscrimination Act’.”

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-195, § 1, June 19, 2002, 116 Stat. 715, provided that: “This Act [amending section 309 of this title, enacting provisions set out as notes under sections 309 and 337 of this title, amending provisions set out as a note under section 337 of this title, and repealing provisions set out as a note under section 309 of this title] may be cited as the ‘Auction Reform Act of 2002’.”

SHORT TITLE OF 2001 AMENDMENT

Pub. L. 107-75, § 1, Nov. 28, 2001, 115 Stat. 703, provided that: “This Act [amending provisions set out as a note under section 151 of this title] may be cited as the ‘Internet Tax Nondiscrimination Act’.”

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-554, § 1(a)(4) [div. B, title XVII, § 1731], Dec. 21, 2000, 114 Stat. 2763, 2763A-350, provided that: “This subtitle [subtitle C (§§ 1731-1733) of title XVII of div. B of H.R. 5666, as enacted by section 1(a)(4) of Pub. L. 106-554, amending section 254 of this title and enacting provisions set out as a note under section 254 of this title] may be cited as the ‘Neighborhood Children’s Internet Protection Act’.”

SHORT TITLE OF 1999 AMENDMENTS

Pub. L. 106-113, div. B, § 1000(a)(9) [title V, § 5008(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-594, provided that: “This section [amending section 336 of this title and enacting provisions set out as a note under section 336 of this title] may be cited as the ‘Community Broadcasters Protection Act of 1999’.”

Pub. L. 106-81, § 1, Oct. 26, 1999, 113 Stat. 1286, provided that: “This Act [enacting sections 615 to 615b of this title, amending sections 222 and 251 of this title, and enacting provisions set out as a note under section 615 of this title] may be cited as the ‘Wireless Communications and Public Safety Act of 1999’.”

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-277, div. C, title XIV, §1401, Oct. 21, 1998, 112 Stat. 2681-736, provided that: "This title [enacting section 231 of this title, amending sections 223 and 230 of this title, and enacting provisions set out as notes under sections 223 and 231 of this title] may be cited as the 'Child Online Protection Act'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-104, §1(a), Feb. 8, 1996, 110 Stat. 56, provided that: "This Act [enacting sections 160, 161, 222, 230, 251 to 261, 271 to 276, 336, 363, 549, 560, 561, 571 to 573, 613, and 614 of this title and section 79z-5c of Title 15, Commerce and Trade, amending sections 151, 153 to 155, 204, 208, 214, 220, 221, 223 to 225, 228, 302a, 303, 305, 307 to 310, 312, 319, 330, 332, 360, 382, 385, 402, 522, 531 to 534, 537, 541 to 544a, 548, 552, 556, 557, 559, and 605 of this title, sections 18, 79, 79z-6, and 5714 of Title 15, and sections 1462, 1465, and 2422 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under this section and sections 151 to 153, 156, 157, 204, 214, 223, 228, 303, 308, 332, 534, 543, and 561 of this title and section 1462 of Title 18] may be cited as the 'Telecommunications Act of 1996'."

Pub. L. 104-104, title V, §501, Feb. 8, 1996, 110 Stat. 133, provided that: "This title [enacting sections 230, 560, and 561 of this title, amending sections 223, 303, 330, 531, 532, and 559 of this title and sections 1462, 1465, and 2422 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under sections 223, 303, and 561 of this title and section 1462 of Title 18] may be cited as the 'Communications Decency Act of 1996'."

SHORT TITLE OF 1992 AMENDMENTS

Pub. L. 102-385, §1, Oct. 5, 1992, 106 Stat. 1460, provided that: "This Act [enacting sections 334, 335, 534 to 537, 544a, 548, and 555a of this title, amending sections 325, 332, 522, 532, 533, 541 to 544, 546, 551 to 555, and 558 of this title, and enacting provisions set out as notes under sections 325, 521, 531, 543, and 554 of this title] may be cited as the 'Cable Television Consumer Protection and Competition Act of 1992'."

Pub. L. 102-356, §1, Aug. 26, 1992, 106 Stat. 949, provided that: "This Act [amending sections 303b, 391, 393, and 396 of this title, enacting provisions set out as notes under sections 303 and 396 of this title, and repealing provisions set out as a note under section 303 of this title] may be cited as the 'Public Telecommunications Act of 1992'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-243, §1, Dec. 20, 1991, 105 Stat. 2394, provided that: "This Act [enacting section 227 of this title, amending sections 152 and 331 of this title, and enacting provisions set out as notes under section 227 of this title] may be cited as the 'Telephone Consumer Protection Act of 1991'."

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101-437, §1, Oct. 17, 1990, 104 Stat. 996, provided that: "This Act [enacting sections 303a, 303b, and 394 of this title, amending section 397 of this title, renumbering former section 394 of this title as section 393a, and enacting provisions set out as notes under this section and sections 303a and 394 of this title] may be cited as the 'Children's Television Act of 1990'."

Pub. L. 101-437, title II, §201, Oct. 17, 1990, 104 Stat. 997, provided that: "This title [enacting section 394 of this title, amending section 397 of this title, renumbering former section 394 of this title as section 393a, and enacting provisions set out as a note under section 394 of this title] may be cited as the 'National Endowment for Children's Educational Television Act of 1990'."

Pub. L. 101-435, §1, Oct. 17, 1990, 104 Stat. 986, provided that: "This Act [enacting section 226 of this title and provisions set out as a note under section 226 of this title] may be cited as the 'Telephone Operator Consumer Services Improvement Act of 1990'."

Pub. L. 101-431, §1, Oct. 15, 1990, 104 Stat. 960, provided that: "This Act [amending sections 303 and 330 of this title and enacting provisions set out as notes under section 303 of this title] may be cited as the 'Television Decoder Circuitry Act of 1990'."

Pub. L. 101-396, §1, Sept. 28, 1990, 104 Stat. 848, provided: "That this Act [enacting section 333 of this title, amending sections 154, 156, 203, 303, 310, and 503 of this title, and amending provisions set out as a note under section 154 of this title] may be cited as the 'Federal Communications Commission Authorization Act of 1990'."

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100-626, §1, Nov. 7, 1988, 102 Stat. 3207, provided that: "This Act [amending sections 391, 396, 398, 399, and 605 of this title and enacting provisions set out as notes under sections 391 and 396 of this title] may be cited as the 'Public Telecommunications Act of 1988'."

Pub. L. 100-594, §1, Nov. 3, 1988, 102 Stat. 3021, provided that: "This Act [amending sections 154 to 156, 158, 204, 208, and 405 of this title and enacting provisions set out as notes under sections 154 and 156 of this title] may be cited as the 'Federal Communications Commission Authorization Act of 1988'."

Pub. L. 100-394, §1, Aug. 16, 1988, 102 Stat. 976, provided: "That this Act [amending section 610 of this title and enacting provisions set out as a note under section 610 of this title] may be cited as the 'Hearing Aid Compatibility Act of 1988'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-549, §1(a), Oct. 30, 1984, 98 Stat. 2779, provided that: "This Act [enacting subchapter V-A of this chapter and section 611 of this title, amending sections 152, 224, 309, and 605 of this title, section 2511 of Title 18, Crimes and Criminal Procedure, and section 1805 of Title 50, War and National Defense, and enacting provisions set out as notes under sections 521, 543, and 605 of this title] may be cited as the 'Cable Communications Policy Act of 1984'."

SHORT TITLE OF 1983 AMENDMENTS

Pub. L. 98-214, §1, Dec. 8, 1983, 97 Stat. 1467, provided that: "This Act [enacting section 157 of this title, amending sections 154, 156, 223, 310, 316, 396, and 503 of this title, and enacting provisions set out as notes under sections 156, 223, and 303 of this title] may be cited as the 'Federal Communications Commission Authorization Act of 1983'."

Pub. L. 97-410, §1, Jan. 3, 1983, 96 Stat. 2043, provided: "That this Act [enacting section 610 of this title, amending section 734 of this title, enacting provisions set out as a note under section 610 of this title, and amending provisions set out as a note under section 396 of this title] may be cited as the 'Telecommunications for the Disabled Act of 1982'."

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-259, title I, §101, Sept. 13, 1982, 96 Stat. 1087, provided that: "This title [enacting sections 332 and 510 of this title, amending sections 153, 154, 155, 224, 301, 302a, 303, 304, 307, 309, 311, 312, 319, 402, 405, 408, 503, and 605 of this title and section 1114 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as a note under section 302a of this title] may be cited as the 'Communications Amendments Act of 1982'."

SHORT TITLE OF 1981 AMENDMENTS

Pub. L. 97-130, §1, Dec. 29, 1981, 95 Stat. 1687, provided that: "This Act [amending section 222 of this title and section 1017 of Title 45, Railroads, and enacting provisions set out as notes under section 222 of this title and section 1017 of Title 45] may be referred to as the 'Record Carrier Competition Act of 1981'."

Pub. L. 97-35, title XII, §1221, Aug. 13, 1981, 95 Stat. 725, provided that: "This chapter [chapter 1 (§§1221-1234) of subtitle B of title XII of Pub. L. 97-35, enacting sections 399a and 399b of this title, amending

sections 391, 392, 396, 397, and 399 of this title, and enacting provisions set out as notes under section 396 of this title] may be cited as the 'Public Broadcasting Amendments Act of 1981'."

SHORT TITLE OF 1978 AMENDMENTS

Pub. L. 95-567, §1, Nov. 2, 1978, 92 Stat. 2405, provided: "That this Act [enacting section 395 of this title, amending sections 390 to 392, 393, 394, and 396 to 398 of this title, repealing sections 392a and 395 of this title, and enacting provisions set out as notes under sections 390, 392, and 396 of this title and section 5316 of Title 5, Government Organization and Employees] may be cited as the 'Public Telecommunications Financing Act of 1978'."

Pub. L. 95-234, §1, Feb. 21, 1978, 92 Stat. 33, provided: "That this Act [enacting section 224 of this title, amending sections 152, 503, and 504 of this title, repealing section 510 of this title, and enacting provisions set out as a note under section 152 of this title] may be cited as the 'Communications Act Amendments of 1978'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-309, §1, June 5, 1976, 90 Stat. 683, provided: "That this Act [enacting section 392a of this title and amending sections 390, 391, 392, 395, 397, and 399 of this title] may be cited as the 'Educational Broadcasting Facilities and Telecommunications Demonstration Act of 1976'."

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94-192, §1, Dec. 31, 1975, 89 Stat. 1099, provided: "That this Act [amending sections 396 and 397 of this title] may be cited as the 'Public Broadcasting Financing Act of 1975'."

SHORT TITLE OF 1971 AMENDMENT

Pub. L. 92-131, §1, Sept. 30, 1971, 85 Stat. 363, provided that: "This Act [amending section 410 of this title] may be cited as the 'Federal-State Communications Joint Board Act'."

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-437, §1, Oct. 7, 1970, 84 Stat. 888, provided: "That this Act [amending section 396 of this title] may be cited as the 'Public Broadcasting Financing Act of 1970'."

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91-97, §1, Oct. 27, 1969, 83 Stat. 146, provided: "That this Act [amending sections 391 and 396 of this title] may be cited as the 'Educational Television and Radio Amendments of 1969'."

SHORT TITLE OF 1967 AMENDMENT

Pub. L. 90-129, §1, Nov. 7, 1967, 81 Stat. 365, provided: "That this Act [enacting sections 396, 398, and 399 of this title, amending sections 390 to 395 and 397 of this title, and enacting provisions set out as notes under sections 390 and 392 of this title] may be cited as the 'Public Broadcasting Act of 1967'."

SHORT TITLE OF 1960 AMENDMENT

Pub. L. 86-752, §1, Sept. 13, 1960, 74 Stat. 889, provided that: "This Act [enacting sections 508 and 509 of this title, amending sections 154, 307, 309, 311, 312, 313, 317, 319, 405, 503, and 504 of this title, and enacting provisions set out as notes under sections 309 and 405 of this title] may be cited as the 'Communications Act Amendments, 1960'."

SHORT TITLE OF 1952 AMENDMENT

Act July 16, 1952, ch. 879, §1, 66 Stat. 711, provided that: "This Act [enacting section 1343 of Title 18, Crimes and Criminal Procedure, amending sections 153 to 155, 307 to 312, 315, 316, 319, 402, 405, 409, and 410 of this title, and enacting provisions set out as notes under

section 153 of this title] may be cited as the 'Communications Act Amendments, 1952'."

§ 610. Telephone service for disabled

(a) Establishment of regulations

The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

(b) Hearing aid compatibility requirements

(1) Except as provided in paragraphs (2) and (3) and subsection (c), the Commission shall require that customer premises equipment described in this paragraph provide internal means for effective use with hearing aids that are designed to be compatible with telephones which meet established technical standards for hearing aid compatibility. Customer premises equipment described in this paragraph are the following:

(A) All essential telephones.

(B) All telephones manufactured in the United States (other than for export) more than one year after August 16, 1988, or imported for use in the United States more than one year after such date.

(C) All customer premises equipment used with advanced communications services that is designed to provide 2-way voice communication via a built-in speaker intended to be held to the ear in a manner functionally equivalent to a telephone, subject to the regulations prescribed by the Commission under subsection (e).

(2)(A) The regulations prescribed by the Commission under paragraph (1) shall exempt from the requirements established pursuant to subparagraphs (B) and (C) of paragraph (1) only—

(i) telephones used with public mobile services;

(ii) telephones used with private radio services; and

(iii) secure telephones.

(B) The Commission shall periodically assess the appropriateness of continuing in effect the exemptions for telephones and other customer premises equipment described in subparagraph (A) of this paragraph. The Commission shall revoke or otherwise limit any such exemption if the Commission determines that—

(i) such revocation or limitation is in the public interest;

(ii) continuation of the exemption without such revocation or limitation would have an adverse effect on hearing-impaired individuals;

(iii) compliance with the requirements of subparagraph (B) or (C) of paragraph (1) is technologically feasible for the telephones to which the exemption applies; and

(iv) compliance with the requirements of subparagraph (B) or (C) of paragraph (1) would not increase costs to such an extent that the telephones to which the exemption applies could not be successfully marketed.

(3) The Commission may, upon the application of any interested person, initiate a proceeding to waive the requirements of paragraph (1)(B) of this subsection with respect to new telephones, or telephones associated with a new technology

or service. The Commission shall not grant such a waiver unless the Commission determines, on the basis of evidence in the record of such proceeding, that such telephones, or such technology or service, are in the public interest, and that (A) compliance with the requirements of paragraph (1)(B) is technologically infeasible, or (B) compliance with such requirements would increase the costs of the telephones, or of the technology or service, to such an extent that such telephones, technology, or service could not be successfully marketed. In any proceeding under this paragraph to grant a waiver from the requirements of paragraph (1)(B), the Commission shall consider the effect on hearing-impaired individuals of granting the waiver. The Commission shall periodically review and determine the continuing need for any waiver granted pursuant to this paragraph.

(4) For purposes of this subsection—

(A) the term “essential telephones” means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids;

(B) the term “telephones used with public mobile services” means telephones and other customer premises equipment used in whole or in part with air-to-ground radiotelephone services, cellular radio telecommunications services, offshore radio, rural radio service, public land mobile telephone service, or other common carrier radio communication services covered by title 47 of the Code of Federal Regulations, or any functionally equivalent unlicensed wireless services;

(C) the term “telephones used with private radio services” means telephones and other customer premises equipment used in whole or in part with private land mobile radio services and other communications services characterized by the Commission in its rules as private radio services; and

(D) the term “secure telephones” means telephones that are approved by the United States Government for the transmission of classified or sensitive voice communications.

(c) Technical standards

The Commission shall establish or approve such technical standards as are required to enforce this section. A telephone or other customer premises equipment that is compliant with relevant technical standards developed through a public participation process and in consultation with interested consumer stakeholders (designated by the Commission for the purposes of this section) will be considered hearing aid compatible for purposes of this section, until such time as the Commission may determine otherwise. The Commission shall consult with the public, including people with hearing loss, in establishing or approving such technical standards. The Commission may delegate this authority to an employee pursuant to section 155(c) of this title. The Commission shall remain the final arbiter as to whether the standards meet the requirements of this section.

(d) Labeling of packaging materials for equipment

The Commission shall establish such requirements for the labeling of packaging materials

for equipment as are needed to provide adequate information to consumers on the compatibility between telephones and hearing aids.

(e) Costs and benefits; encouragement of use of currently available technology

In any rulemaking to implement the provisions of this section, the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing loss. The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of improved technology. In implementing the provisions of subsection (b)(1)(C), the Commission shall use appropriate time-tables or benchmarks to the extent necessary (1) due to technical feasibility, or (2) to ensure the marketability or availability of new technologies to users.

(f) Periodic review of regulations; retrofitting

The Commission shall periodically review the regulations established pursuant to this section. Except for coin-operated telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section.

(g) Recovery of reasonable and prudent costs

Any common carrier or connecting carrier may provide specialized terminal equipment needed by persons whose hearing, speech, vision, or mobility is impaired. The State commission may allow the carrier to recover in its tariffs for regulated service reasonable and prudent costs not charged directly to users of such equipment.

(h) Rule of construction

Nothing in the Twenty-First Century Communications and Video Accessibility Act of 2010 shall be construed to modify the Commission’s regulations set forth in section 20.19 of title 47 of the Code of Federal Regulations, as in effect on October 8, 2010.

(June 19, 1934, ch. 652, title VII, §710, formerly title VI, §610, as added Pub. L. 97-410, §3, Jan. 3, 1983, 96 Stat. 2043; renumbered title VII, §710, Pub. L. 98-549, §6(a), Oct. 30, 1984, 98 Stat. 2804; amended Pub. L. 100-394, §3, Aug. 16, 1988, 102 Stat. 976; Pub. L. 103-414, title III, §304(a)(16), Oct. 25, 1994, 108 Stat. 4297; Pub. L. 111-260, title I, §102, Oct. 8, 2010, 124 Stat. 2753.)

REFERENCES IN TEXT

The Twenty-First Century Communications and Video Accessibility Act of 2010, referred to in subsec. (h), is Pub. L. 111-260, Oct. 8, 2010, 124 Stat. 2751, which enacted sections 615c and 616 to 620 of this title, amended sections 153, 225, 303, 330, 402, 503, 610, and 613 of this title, and enacted provisions set out as notes under sections 153, 303, 609, 613, and 619 of this title. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 609 of this title and Tables.

AMENDMENTS

2010—Subsec. (b)(1). Pub. L. 111-260, §102(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

“(1) Except as provided in paragraphs (2) and (3), the Commission shall require that—

“(A) all essential telephones, and

“(B) all telephones manufactured in the United States (other than for export) more than one year after August 16, 1988, or imported for use in the United States more than one year after August 16, 1988, provide internal means for effective use with hearing aids that are designed to be compatible with telephones which meet established technical standards for hearing aid compatibility.”

Subsec. (b)(2)(A). Pub. L. 111-260, §102(a)(2)(A)(i)(I), in introductory provisions, struck out “initial” before “regulations” and “of this subsection after August 16, 1988,” before “shall exempt” and substituted “subparagraphs (B) and (C) of paragraph (1)” for “paragraph (1)(B) of this subsection”.

Subsec. (b)(2)(A)(ii) to (iv). Pub. L. 111-260, §102(a)(2)(A)(i)(II)–(IV), inserted “and” at the end of clause (ii), redesignated cl. (iv) as (iii), and struck out former cl. (iii) which read as follows: “cordless telephones; and”.

Subsec. (b)(2)(B), (C). Pub. L. 111-260, §102(a)(2)(A)(ii), (iii), redesignated subpar. (C) as (B), substituted “The Commission shall periodically assess the appropriateness of continuing in effect the exemptions for telephones and other customer premises equipment described in subparagraph (A) of this paragraph.” for “The Commission shall periodically assess the appropriateness of continuing in effect the exemptions provided by such regulations for telephones used with public mobile services and telephones used with private radio services.” in introductory provisions, substituted “subparagraph (B) or (C) of paragraph (1)” for “paragraph (1)(B)” in cls. (iii) and (iv), and struck out former subpar. (B) which read as follows: “The exemption provided by such regulations for cordless telephones shall not apply with respect to cordless telephones manufactured or imported more than three years after August 16, 1988.”

Subsec. (b)(4)(B). Pub. L. 111-260, §102(a)(2)(B), substituted “telephones used with public mobile” for “public mobile”, inserted “telephones and other customer premises equipment used in whole or in part with” after “means”, substituted “or other common carrier” for “and other common carrier”, struck out “part 22 of” before “title 47 of the Code of Federal Regulations”, and inserted before semicolon at end “, or any functionally equivalent unlicensed wireless services”.

Subsec. (b)(4)(C). Pub. L. 111-260, §102(a)(2)(C), substituted “term ‘telephones used with private radio services’” for “term ‘private radio services’” and inserted “telephones and other customer premises equipment used in whole or in part with” after “means”.

Subsec. (c). Pub. L. 111-260, §102(b), inserted at end: “A telephone or other customer premises equipment that is compliant with relevant technical standards developed through a public participation process and in consultation with interested consumer stakeholders (designated by the Commission for the purposes of this section) will be considered hearing aid compatible for purposes of this section, until such time as the Commission may determine otherwise. The Commission shall consult with the public, including people with hearing loss, in establishing or approving such technical standards. The Commission may delegate this authority to an employee pursuant to section 155(c) of this title. The Commission shall remain the final arbiter as to whether the standards meet the requirements of this section.”

Subsec. (e). Pub. L. 111-260, §102(c), substituted “loss” for “impairments” and inserted at end “In implementing the provisions of subsection (b)(1)(C), the Commission shall use appropriate timetables or benchmarks to the extent necessary (1) due to technical feasibility, or (2) to ensure the marketability or availability of new technologies to users.”

Subsec. (h). Pub. L. 111-260, §102(d), amended subsec. (h) generally. Prior to amendment, subsec. (h) related to State enforcement.

1994—Subsec. (f). Pub. L. 103-414 substituted “The Commission” for “The Commission shall complete

rulemaking actions required by this section and issue specific and detailed rules and regulations resulting therefrom within one year after January 3, 1983. The Commission shall complete rulemaking actions required to implement the amendments made by the Hearing Aid Compatibility Act of 1988 within nine months after August 16, 1988. Thereafter, the Commission”.

1988—Subsec. (b). Pub. L. 100-394, §3(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Commission shall require that essential telephones provide internal means for effective use with hearing aids that are specially designed for telephone use. For purposes of this subsection, the term ‘essential telephones’ means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids.”

Subsec. (f). Pub. L. 100-394, §3(b), substituted “The Commission shall complete rulemaking actions required to implement the amendments made by the Hearing Aid Compatibility Act of 1988 within nine months after August 16, 1988. Thereafter, the Commission shall periodically review the regulations established pursuant to this section.” for “Thereafter the Commission shall periodically review such rules and regulations.”

CONGRESSIONAL FINDINGS FOR 1988 AMENDMENT

Section 2 of Pub. L. 100-394 provided that: “The Congress finds that—

“(1) to the fullest extent made possible by technology and medical science, hearing-impaired persons should have equal access to the national telecommunications network;

“(2) present technology provides effective coupling of telephones to hearing aids used by some severely hearing-impaired persons for communicating by voice telephone;

“(3) anticipated improvements in both telephone and hearing aid technologies promise greater access in the future; and

“(4) universal telephone service for hearing-impaired persons will lead to greater employment opportunities and increased productivity.”

CONGRESSIONAL FINDINGS

Section 2 of Pub. L. 97-410 provided that: “The Congress finds that—

“(1) all persons should have available the best telephone service which is technologically and economically feasible;

“(2) currently available technology is capable of providing telephone service to some individuals who, because of hearing impairments, require telephone reception by means of hearing aids with induction coils, or other inductive receptors;

“(3) the lack of technical standards ensuring compatibility between hearing aids and telephones has prevented receipt of the best telephone service which is technologically and economically feasible; and

“(4) adoption of technical standards is required in order to ensure compatibility between telephones and hearing aids, thereby accommodating the needs of individuals with hearing impairments.”

§ 611. Closed-captioning of public service announcements

Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal Government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.

(June 19, 1934, ch. 652, title VII, § 711, as added Pub. L. 98-549, § 8, Oct. 30, 1984, 98 Stat. 2804; amended Pub. L. 101-336, title IV, § 402, July 26, 1990, 104 Stat. 369.)

AMENDMENTS

1990—Pub. L. 101-336 amended section generally, substituting provisions relating to closed-captioning of public service announcements for provisions relating to establishment, functions, composition, etc., of Telecommunications Policy Study Commission.

EFFECTIVE DATE

Section effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98-549, set out as a note under section 521 of this title.

§ 612. Syndicated exclusivity

(a) The Federal Communications Commission shall initiate a combined inquiry and rule-making proceeding for the purpose of—

(1) determining the feasibility of imposing syndicated exclusivity rules with respect to the delivery of syndicated programming (as defined by the Commission) for private home viewing of secondary transmissions by satellite of broadcast station signals similar to the rules issued by the Commission with respect to syndicated exclusivity and cable television; and

(2) adopting such rules if the Commission considers the imposition of such rules to be feasible.

(b) In the event that the Commission adopts such rules, any willful and repeated secondary transmission made by a satellite carrier to the public of a primary transmission embodying the performance or display of a work which violates such Commission rules shall be subject to the remedies, sanctions, and penalties provided by subchapter V of this chapter and section 605 of this title.

(June 19, 1934, ch. 652, title VII, § 712, as added Pub. L. 100-667, title II, § 203, Nov. 16, 1988, 102 Stat. 3958; amended Pub. L. 103-414, title III, § 304(a)(17), Oct. 25, 1994, 108 Stat. 4297.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-414 struck out “, within 120 days after January 1, 1989,” after “The Federal Communications Commission shall”.

EFFECTIVE DATE

Section effective Jan. 1, 1989, see section 206 of Pub. L. 100-667, set out as a note under section 119 of Title 17, Copyrights.

§ 613. Video programming accessibility

(a) Commission inquiry

Within 180 days after February 8, 1996, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which

existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

(b) Accountability criteria

Within 18 months after February 8, 1996, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d) of this section; and

(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d) of this section.

(c) Deadlines for captioning

(1) In general

The regulations prescribed pursuant to subsection (b) shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming once published or exhibited on television.

(2) Deadlines for programming delivered using Internet protocol

(A) Regulations on closed captioning on video programming delivered using Internet protocol

Not later than 6 months after the submission of the report to the Commission required by subsection (e)(1)¹ of the Twenty-First Century Communications and Video Accessibility Act of 2010, the Commission shall revise its regulations to require the provision of closed captioning on video programming delivered using Internet protocol that was published or exhibited on television with captions after the effective date of such regulations.

(B) Schedule

The regulations prescribed under this paragraph shall include an appropriate schedule of deadlines for the provision of closed captioning, taking into account whether such programming is prerecorded and edited for Internet distribution, or whether such programming is live or near-live and not edited for Internet distribution.

(C) Cost

The Commission may delay or waive the regulation promulgated under subparagraph (A) to the extent the Commission finds that the application of the regulation to live video programming delivered using Internet protocol with captions after the effective date of such regulations would be economically burdensome to providers of video programming or program owners.

¹ See References in Text note below.

(D) Requirements for regulations

The regulations prescribed under this paragraph—

(i) shall contain a definition of “near-live programming” and “edited for Internet distribution”;

(ii) may exempt any service, class of service, program, class of program, equipment, or class of equipment for which the Commission has determined that the application of such regulations would be economically burdensome for the provider of such service, program, or equipment;

(iii) shall clarify that, for the purposes of implementation, of this subsection, the terms “video programming distributors” and “video programming providers” include an entity that makes available directly to the end user video programming through a distribution method that uses Internet protocol;

(iv) and describe the responsibilities of video programming providers or distributors and video programming owners;

(v) shall establish a mechanism to make available to video programming providers and distributors information on video programming subject to the Act on an on-going basis;

(vi) shall consider that the video programming provider or distributor shall be deemed in compliance if such entity enables the rendering or pass through of closed captions and makes a good faith effort to identify video programming subject to the Act using the mechanism created in (v); and

(vii) shall provide that de minimis failure to comply with such regulations by a video programming provider or owner shall not be treated as a violation of the regulations.

(3) Alternate means of compliance

An entity may meet the requirements of this section through alternate means than those prescribed by regulations pursuant to subsection (b), as revised pursuant to paragraph (2)(A) of this subsection, if the requirements of this section are met, as determined by the Commission.

(d) Exemptions

Notwithstanding subsection (b) of this section—

(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming;

(2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on February 8, 1996, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

(3) a provider of video programming or program owner may petition the Commission for

an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would be economically burdensome. During the pendency of such a petition, such provider or owner shall be exempt from the requirements of this section. The Commission shall act to grant or deny any such petition, in whole or in part, within 6 months after the Commission receives such petition, unless the Commission finds that an extension of the 6-month period is necessary to determine whether such requirements are economically burdensome.

(e) Undue burden

The term “undue burden” means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

(1) the nature and cost of the closed captions for the programming;

(2) the impact on the operation of the provider or program owner;

(3) the financial resources of the provider or program owner; and

(4) the type of operations of the provider or program owner.

(f) Video description**(1) Reinstatement of regulations**

On the day that is 1 year after October 8, 2010, the Commission shall, after a rule-making, reinstate its video description regulations contained in the Implementation of Video Description of Video Programming Report and Order (15 F.C.C.R. 15,230 (2000)), recon. granted in part and denied in part, (16 F.C.C.R. 1251 (2001)), modified as provided in paragraph (2).

(2) Modifications to reinstated regulations

Such regulations shall be modified only as follows:

(A) The regulations shall apply to video programming, as defined in subsection (h), insofar as such programming is transmitted for display on television in digital format.

(B) The Commission shall update the list of the top 25 designated market areas, the list of the top 5 national nonbroadcast networks that have at least 50 hours per quarter of prime time programming that is not exempt under this paragraph, and the beginning calendar quarter for which compliance shall be calculated.

(C) The regulations may permit a provider of video programming or a program owner to petition the Commission for an exemption from the requirements of this section upon a showing that the requirements contained in this section be economically burdensome.

(D) The Commission may exempt from the regulations established pursuant to paragraph (1) a service, class of services, program, class of programs, equipment, or class of equipment for which the Commission has determined that the application of such regulations would be economically burdensome for the provider of such service, program, or equipment.

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

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

(G) The Commission shall consider extending the exemptions and limitations in the reinstated regulations for technical capability reasons to all providers and owners of video programming.

(3) Inquiries on further video description requirements

The Commission shall commence the following inquiries not later than 1 year after the completion of the phase-in of the reinstated regulations and shall report to Congress 1 year thereafter on the findings for each of the following:

(A) Video description in television programming

The availability, use, and benefits of video description on video programming distributed on television, the technical and creative issues associated with providing such video description, and the financial costs of providing such video description for providers of video programming and program owners.

(B) Video description in video programming distributed on the Internet

The technical and operational issues, costs, and benefits of providing video descriptions for video programming that is delivered using Internet protocol.

(4) Continuing Commission authority

(A) In general

The Commission may not issue additional regulations unless the Commission determines, at least 2 years after completing the reports required in paragraph (3), that the need for and benefits of providing video description for video programming, insofar as such programming is transmitted for display on television, are greater than the technical and economic costs of providing such additional programming.

(B) Limitation

If the Commission makes the determination under subparagraph (A) and issues additional regulations, the Commission may not increase, in total, the hour requirement for additional described programming by more than 75 percent of the requirement in the regulations reinstated under paragraph (1).

(C) Application to designated market areas

(i) In general

After the Commission completes the reports on video description required in paragraph (3), the Commission shall phase in the video description regulations for the top 60 designated market areas, except that the Commission may grant waivers to entities in specific designated market areas where it deems appropriate.

(ii) Phase-in deadline

The phase-in described in clause (i) shall be completed not later than 6 years after October 8, 2010.

(iii) Report

Nine years after October 8, 2010, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report assessing—

(I) the types of described video programming that is available to consumers;

(II) consumer use of such programming;

(III) the costs to program owners, providers, and distributors of creating such programming;

(IV) the potential costs to program owners, providers, and distributors in designated market areas outside of the top 60 of creating such programming;

(V) the benefits to consumers of such programming;

(VI) the amount of such programming currently available; and

(VII) the need for additional described programming in designated market areas outside the top 60.

(iv) Additional market areas

Ten years after October 8, 2010, the Commission shall have the authority, based upon the findings, conclusions, and recommendations contained in the report under clause (iii), to phase in the video description regulations for up to an additional 10 designated market areas each year—

(I) if the costs of implementing the video description regulations to program owners, providers, and distributors in those additional markets are reasonable, as determined by the Commission; and

(II) except that the Commission may grant waivers to entities in specific designated market areas where it deems appropriate.

(g) Emergency information

Not later than 1 year after the Advisory Committee report under subsection (e)(2)¹ is submitted to the Commission, the Commission shall complete a proceeding to—

(1) identify methods to convey emergency information (as that term is defined in section 79.2 of title 47, Code of Federal Regulations) in a manner accessible to individuals who are blind or visually impaired; and

(2) promulgate regulations that require video programming providers and video programming distributors (as those terms are defined in section 79.1 of title 47, Code of Federal Regulations) and program owners to convey such emergency information in a manner accessible to individuals who are blind or visually impaired.

(h) Definitions

For purposes of this section, section 303 of this title, and section 330 of this title:

(1) Video description

The term “video description” means the insertion of audio narrated descriptions of a television program’s key visual elements into

natural pauses between the program's dialogue.

(2) Video programming

The term "video programming" means programming by, or generally considered comparable to programming provided by a television broadcast station, but not including consumer-generated media (as defined in section 153 of this title).

(j)² Private rights of actions prohibited

Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

(June 19, 1934, ch. 652, title VII, § 713, as added Pub. L. 104-104, title III, § 305, Feb. 8, 1996, 110 Stat. 126; amended Pub. L. 111-260, title II, § 202, Oct. 8, 2010, 124 Stat. 2767; Pub. L. 111-265, § 2(6)-(11), Oct. 8, 2010, 124 Stat. 2795, 2796.)

REFERENCES IN TEXT

Subsection (e)(1) of the Twenty-First Century Communications and Video Accessibility Act of 2010 and subsection (e)(2), referred to in subssecs. (c)(2)(A) and (g), respectively, probably mean subsections (e)(1) and (e)(2) of section 201 of Pub. L. 111-260, which are set out as a note under this section.

The Act, referred to in subsec. (c)(2)(D)(v), (vi), probably means act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

PRIOR PROVISIONS

A prior section 613, act June 19, 1934, ch. 652, title VII, § 713, as added Nov. 16, 1988, Pub. L. 100-667, title II, § 203, 102 Stat. 3958, related to report to Congress on discrimination, prior to repeal by Pub. L. 103-414, title III, § 304(a)(18), Oct. 25, 1994, 108 Stat. 4297.

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-260, § 202(b), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming."

Subsec. (c)(2)(D)(iii). Pub. L. 111-265, § 2(9), substituted "programming distributors" for "programming distribution".

Subsec. (c)(2)(D)(v). Pub. L. 111-265, § 2(10), substituted "programming providers" for "progamming providers".

Subsec. (c)(2)(D)(vi). Pub. L. 111-265, § 2(11), substituted "and makes" for "and video description signals and make".

Subsec. (d)(3). Pub. L. 111-260, § 202(c), added par. (3) and struck out former par. (3) which read as follows: "a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden."

Subsec. (f). Pub. L. 111-260, § 202(a)(1), (3), added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: "Within 6 months after February 8, 1996, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility

of video programming to persons with visual impairments, and report to Congress on its findings. The Commission's report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate."

Subsec. (f)(2)(A). Pub. L. 111-265, § 2(6), substituted "such" for "and".

Subsec. (f)(2)(B). Pub. L. 111-265, § 2(7), inserted "have" after "nonbroadcast networks that".

Subsec. (f)(4)(C)(iii). Pub. L. 111-265, § 2(8), inserted "and Commerce" after "Energy".

Subsec. (g). Pub. L. 111-260, § 202(a)(1), (3), added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows: "For purposes of this section, 'video description' means the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue."

Subsecs. (h), (j). Pub. L. 111-260, § 202(a)(2), (3), added subsec. (h) and redesignated former subsec. (h) as (j).

VIDEO PROGRAMMING AND EMERGENCY ACCESS
ADVISORY COMMITTEE

Pub. L. 111-260, § 201, Oct. 8, 2010, 124 Stat. 2764, as amended by Pub. L. 111-265, § 1(2)-(5), Oct. 8, 2010, 124 Stat. 2795, provided that:

"(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act [Oct. 8, 2010], the Chairman shall establish an advisory committee to be known as the Video Programming and Emergency Access Advisory Committee.

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

"(1) Representatives of distributors and providers of video programming or a national organization representing such distributors.

"(2) Representatives of vendors, developers, and manufacturers of systems, facilities, equipment, and capabilities for the provision of video programming delivered using Internet protocol or a national organization representing such vendors, developers, or manufacturers.

"(3) Representatives of manufacturers of consumer electronics or information technology equipment or a national organization representing such manufacturers.

"(4) Representatives of video programming producers or a national organization representing such producers.

"(5) Representatives of national organizations representing accessibility advocates, including individuals with disabilities and the elderly.

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

"(7) Other individuals with technical and engineering expertise, as the Chairman determines appropriate.

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

"(d) TECHNICAL STAFF.—The Commission shall appoint a member of the Commission's technical staff to provide technical assistance to the Advisory Committee.

"(e) DEVELOPMENT OF RECOMMENDATIONS.—

"(1) CLOSED CAPTIONING REPORT.—Within 6 months after the date of the first meeting of the Advisory Committee, the Advisory Committee shall develop and submit to the Commission a report that includes the following:

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

² So in original. No subsec. (i) has been enacted.

“(B) An identification of the performance objectives for protocols, technical capabilities, and technical procedures needed to permit content providers, content distributors, Internet service providers, software developers, and device manufacturers to reliably encode, transport, receive, and render closed captions of video programming, except for consumer generated media, delivered using Internet protocol.

“(C) An identification of additional protocols, technical capabilities, and technical procedures beyond those available as of the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010 [Oct. 8, 2010] for the delivery of closed captions of video programming, except for consumer generated media, delivered using Internet protocol that are necessary to meet the performance objectives identified under subparagraph (B).

“(D) A recommendation for technical standards to address the performance objectives identified in subparagraph (B).

“(E) A recommendation for any regulations that may be necessary to ensure compatibility between video programming, except for consumer generated media, delivered using Internet protocol and devices capable of receiving and displaying such programming in order to facilitate access to closed captions.

“(2) VIDEO DESCRIPTION, EMERGENCY INFORMATION, USER INTERFACES, AND VIDEO PROGRAMMING GUIDES AND MENUS.—Within 18 months after the date of enactment of this Act, the Advisory Committee shall develop and submit to the Commission a report that includes the following:

“(A) A recommended schedule of deadlines for the provision of video description and emergency information.

“(B) An identification of the performance objectives for protocols, technical capabilities, and technical procedures needed to permit content providers, content distributors, Internet service providers, software developers, and device manufacturers to reliably encode, transport, receive, and render video descriptions of video programming, except for consumer generated media, and emergency information delivered using Internet protocol or digital broadcast television.

“(C) An identification of additional protocols, technical capabilities, and technical procedures beyond those available as of the date of enactment of the Twenty-First Century Communications and Video Accessibility Act of 2010 for the delivery of video descriptions of video programming, except for consumer generated media, and emergency information delivered using Internet protocol or digital broadcast television that are necessary to meet the performance objectives identified under subparagraph (B).

“(D) A recommendation for technical standards to address the performance objectives identified in subparagraph (B).

“(E) A recommendation for any regulations that may be necessary to ensure compatibility between video programming, except for consumer generated media, delivered using Internet protocol or digital broadcast television and devices capable of receiving and displaying such programming, except for consumer generated media, in order to facilitate access to video descriptions and emergency information.

“(F) With respect to user interfaces, a recommendation for the standards, protocols, and procedures used to enable the functions of apparatus designed to receive or display video programming transmitted simultaneously with sound (including apparatus designed to receive or display video programming transmitted by means of services using Internet protocol) to be accessible to and usable by individuals with disabilities.

“(G) With respect to user interfaces, a recommendation for the standards, protocols, and procedures used to enable on-screen text menus and other visual indicators used to access the functions on an apparatus described in subparagraph (F) to be accompanied by audio output so that such menus or indicators are accessible to and usable by individuals with disabilities.

“(H) With respect to video programming guides and menus, a recommendation for the standards, protocols, and procedures used to enable video programming information and selection provided by means of a navigation device, guide, or menu to be accessible in real-time by individuals who are blind or visually impaired.

“(3) CONSIDERATION OF WORK BY STANDARD-SETTING ORGANIZATIONS.—The recommendations of the advisory committee shall, insofar as possible, incorporate the standards, protocols, and procedures that have been adopted by recognized industry standard-setting organizations for each of the purposes described in paragraphs (1) and (2).

“(f) MEETINGS.—

“(1) INITIAL MEETING.—The initial meeting of the Advisory Committee shall take place not later than 180 days after the date of the enactment of this Act [Oct. 8, 2010].

“(2) OTHER MEETINGS.—After the initial meeting, the Advisory Committee shall meet at the call of the Chairman.

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

“(g) PROCEDURAL RULES.—

“(1) QUORUM.—The presence of one-third of the members of the Advisory Committee shall constitute a quorum for conducting the business of the Advisory Committee.

“(2) SUBCOMMITTEES.—To assist the Advisory Committee in carrying out its functions, the Chairman may establish appropriate subcommittees composed of members of the Advisory Committee and other subject matter experts.

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

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

[For definitions of terms used in section 201 of Pub. L. 111-260, set out above, see section 206 of Pub. L. 111-260, set out as a note under section 153 of this title.]

§ 614. Telecommunications Development Fund

(a) Purpose of section

It is the purpose of this section—

(1) to promote access to capital for small businesses in order to enhance competition in the telecommunications industry;

(2) to stimulate new technology development, and promote employment and training; and

(3) to support universal service and promote delivery of telecommunications services to underserved rural and urban areas.

(b) Establishment of Fund

There is hereby established a body corporate to be known as the Telecommunications Development Fund, which shall have succession until dissolved. The Fund shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof.

(c) Board of Directors**(1) Composition of Board; Chairman**

The Fund shall have a Board of Directors which shall consist of 7 persons appointed by the Chairman of the Commission. Four of such directors shall be representative of the private sector and three of such directors shall be representative of the Commission, the Small Business Administration, and the Department of the Treasury, respectively. The Chairman of the Commission shall appoint one of the representatives of the private sector to serve as chairman of the Fund within 30 days after February 8, 1996, in order to facilitate rapid creation and implementation of the Fund. The directors shall include members with experience in a number of the following areas: finance, investment banking, government banking, communications law and administrative practice, and public policy.

(2) Terms of appointed and elected members

The directors shall be eligible to serve for terms of 5 years, except of the initial members, as designated at the time of their appointment—

- (A) 1 shall be eligible to service for a term of 1 year;
- (B) 1 shall be eligible to service for a term of 2 years;
- (C) 1 shall be eligible to service for a term of 3 years;
- (D) 2 shall be eligible to service for a term of 4 years; and
- (E) 2 shall be eligible to service for a term of 5 years (1 of whom shall be the Chairman).

Directors may continue to serve until their successors have been appointed and have qualified.

(3) Meetings and functions of the Board

The Board of Directors shall meet at the call of its Chairman, but at least quarterly. The Board shall determine the general policies which shall govern the operations of the Fund. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Fund and shall discharge all such functions, powers, and duties.

(d) Accounts of Fund

The Fund shall maintain its accounts at a financial institution designated for purposes of this section by the Chairman of the Board (after consultation with the Commission and the Secretary of the Treasury). The accounts of the Fund shall consist of—

- (1) interest transferred pursuant to section 309(j)(8)(C) of this title;
- (2) such sums as may be appropriated to the Commission for advances to the Fund;
- (3) any contributions or donations to the Fund that are accepted by the Fund; and
- (4) any repayment of, or other payment made with respect to, loans, equity, or other extensions of credit made from the Fund.

(e) Use of Fund

All moneys deposited into the accounts of the Fund shall be used solely for—

- (1) the making of loans, investments, or other extensions of credits to eligible small businesses in accordance with subsection (f) of this section;
- (2) the provision of financial advice to eligible small businesses;
- (3) expenses for the administration and management of the Fund (including salaries, expenses, and the rental or purchase of office space for the fund);¹
- (4) preparation of research, studies, or financial analyses; and
- (5) other services consistent with the purposes of this section.

(f) Lending and credit operations

Loans or other extensions of credit from the Fund shall be made available to an eligible small business on the basis of—

- (1) the analysis of the business plan of the eligible small business;
- (2) the reasonable availability of collateral to secure the loan or credit extension;
- (3) the extent to which the loan or credit extension promotes the purposes of this section; and
- (4) other lending policies as defined by the Board.

(g) Return of advances

Any advances appropriated pursuant to subsection (d)(2) of this section shall be disbursed upon such terms and conditions (including conditions relating to the time or times of repayment) as are specified in any appropriations Act providing such advances.

(h) General corporate powers

The Fund shall have power—

- (1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;
- (2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;
- (3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;
- (4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;
- (5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated, for the purposes of the Fund;
- (6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Fund;
- (7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;
- (8) to appoint such officers, attorneys, employees, and agents as may be required, to de-

¹ So in original. Probably should be "Fund";.

termine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, to make loans and equity investment, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(i) Accounting, auditing, and reporting

The accounts of the Fund shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants. A report of each such audit shall be furnished to the Secretary of the Treasury and the Commission. The representatives of the Secretary and the Commission shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Fund and necessary to facilitate the audit.

(j) Report on audits by Treasury

A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Fund, together with such recommendations with respect thereto as the Secretary may deem advisable.

(k) Definitions

As used in this section:

(1) Eligible small business

The term “eligible small business” means business enterprises engaged in the telecommunications industry that have \$50,000,000 or less in annual revenues, on average over the past 3 years prior to submitting the application under this section.

(2) Fund

The term “Fund” means the Telecommunications Development Fund established pursuant to this section.

(3) Telecommunications industry

The term “telecommunications industry” means communications businesses using regulated or unregulated facilities or services and includes broadcasting, telecommunications, cable, computer, data transmission, software, programming, advanced messaging, and electronics businesses.

(June 19, 1934, ch. 652, title VII, § 714, as added Pub. L. 104–104, title VII, § 707(b), Feb. 8, 1996, 110 Stat. 154; amended Pub. L. 108–494, title II, § 205, Dec. 23, 2004, 118 Stat. 3996.)

AMENDMENTS

2004—Subsec. (f). Pub. L. 108–494 reenacted heading without change and amended text generally. Prior to

amendment, text read as follows: “Loans or other extensions of credit from the Fund shall be made available in accordance with the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and any other applicable law to an eligible small business on the basis of—

“(1) the analysis of the business plan of the eligible small business;

“(2) the reasonable availability of collateral to secure the loan or credit extension;

“(3) the extent to which the loan or credit extension promotes the purposes of this section; and

“(4) other lending policies as defined by the Board.”

§ 615. Support for universal emergency telephone number

The Federal Communications Commission shall encourage and support efforts by States to deploy comprehensive end-to-end emergency communications infrastructure and programs, based on coordinated statewide plans, including seamless, ubiquitous, reliable wireless telecommunications networks and enhanced wireless 9–1–1 service. In encouraging and supporting that deployment, the Commission shall consult and cooperate with State and local officials responsible for emergency services and public safety, the telecommunications industry (specifically including the cellular and other wireless telecommunications service providers), the motor vehicle manufacturing industry, emergency medical service providers and emergency dispatch providers, transportation officials, special 9–1–1 districts, public safety, fire service and law enforcement officials, consumer groups, and hospital emergency and trauma care personnel (including emergency physicians, trauma surgeons, and nurses). The Commission shall encourage each State to develop and implement coordinated statewide deployment plans, through an entity designated by the governor, and to include representatives of the foregoing organizations and entities in development and implementation of such plans. Nothing in this section shall be construed to authorize or require the Commission to impose obligations or costs on any person.

(Pub. L. 106–81, § 3(b), Oct. 26, 1999, 113 Stat. 1287.)

CODIFICATION

Section was enacted as part of the Wireless Communications and Public Safety Act of 1999, and not as part of the Communications Act of 1934 which comprises this chapter.

FINDINGS AND PURPOSE

Pub. L. 106–81, § 2, Oct. 26, 1999, 113 Stat. 1286, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) the establishment and maintenance of an end-to-end communications infrastructure among members of the public, emergency safety, fire service and law enforcement officials, emergency dispatch providers, transportation officials, and hospital emergency and trauma care facilities will reduce response times for the delivery of emergency care, assist in delivering appropriate care, and thereby prevent fatalities, substantially reduce the severity and extent of injuries, reduce time lost from work, and save thousands of lives and billions of dollars in health care costs;

“(2) the rapid, efficient deployment of emergency telecommunications service requires statewide coordination of the efforts of local public safety, fire

service and law enforcement officials, emergency dispatch providers, and transportation officials; the establishment of sources of adequate funding for carrier and public safety, fire service and law enforcement agency technology development and deployment; the coordination and integration of emergency communications with traffic control and management systems and the designation of 9-1-1 as the number to call in emergencies throughout the Nation;

“(3) emerging technologies can be a critical component of the end-to-end communications infrastructure connecting the public with emergency medical service providers and emergency dispatch providers, public safety, fire service and law enforcement officials, and hospital emergency and trauma care facilities, to reduce emergency response times and provide appropriate care;

“(4) improved public safety remains an important public health objective of Federal, State, and local governments and substantially facilitates interstate and foreign commerce;

“(5) emergency care systems, particularly in rural areas of the Nation, will improve with the enabling of prompt notification of emergency services when motor vehicle crashes occur; and

“(6) the construction and operation of seamless, ubiquitous, and reliable wireless telecommunications systems promote public safety and provide immediate and critical communications links among members of the public; emergency medical service providers and emergency dispatch providers; public safety, fire service and law enforcement officials; transportation officials, and hospital emergency and trauma care facilities.

“(b) PURPOSE.—The purpose of this Act [see Short Title of 1999 Amendments note set out under section 609 of this title] is to encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation’s public safety and other communications needs.”

§ 615a. Service provider parity of protection

(a) Provider parity

A wireless carrier, IP-enabled voice service provider, or other emergency communications provider, and their officers, directors, employees, vendors, and agents, shall have immunity or other protection from liability in a State of a scope and extent that is not less than the scope and extent of immunity or other protection from liability that any local exchange company, and its officers, directors, employees, vendors, or agents, have under Federal and State law (whether through statute, judicial decision, tariffs filed by such local exchange company, or otherwise) applicable in such State, including in connection with an act or omission involving the release to a PSAP, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or trauma care facility of subscriber information related to emergency calls, emergency services, or other emergency communications services.

(b) User parity

A person using wireless 9-1-1 service, or making 9-1-1 communications via IP-enabled voice service or other emergency communications service, shall have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under applicable

law in similar circumstances of a person using 9-1-1 service that is not via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service.

(c) PSAP parity

In matters related to 9-1-1 communications via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service, a PSAP, and its employees, vendors, agents, and authorizing government entity (if any) shall have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under applicable law accorded to such PSAP, employees, vendors, agents, and authorizing government entity, respectively, in matters related to 9-1-1 communications that are not via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service.

(d) Basis for enactment

This section is enacted as an exercise of the enforcement power of the Congress under section 5 of the Fourteenth Amendment to the Constitution and the power of the Congress to regulate commerce with foreign nations, among the several States, and with Indian tribes.

(Pub. L. 106-81, §4, Oct. 26, 1999, 113 Stat. 1288; Pub. L. 110-283, title II, §201(a), July 23, 2008, 122 Stat. 2624.)

CODIFICATION

Section was enacted as part of the Wireless Communications and Public Safety Act of 1999, and not as part of the Communications Act of 1934 which comprises this chapter.

AMENDMENTS

2008—Pub. L. 110-283, §201(a)(1), substituted “Service provider parity of protection” for “Parity of protection for provision or use of wireless service” in section catchline.

Subsec. (a). Pub. L. 110-283, §201(a)(2), substituted “wireless carrier, IP-enabled voice service provider, or other emergency communications provider, and their officers” for “wireless carrier, and its officers” and “emergency calls, emergency services, or other emergency communications services” for “emergency calls or emergency services”.

Subsec. (b). Pub. L. 110-283, §201(a)(3), substituted “using wireless 9-1-1 service, or making 9-1-1 communications via IP-enabled voice service or other emergency communications service, shall” for “using wireless 9-1-1 service shall” and “that is not via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service” for “that is not wireless”.

Subsec. (c). Pub. L. 110-283, §201(a)(4), substituted “9-1-1 communications via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service, a PSAP” for “wireless 9-1-1 communications, a PSAP” and “that are not via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service” for “that are not wireless”.

§ 615a-1. Duty to provide 9-1-1 and enhanced 9-1-1 service

(a) Duties

It shall be the duty of each IP-enabled voice service provider to provide 9-1-1 service and enhanced 9-1-1 service to its subscribers in accordance with the requirements of the Federal Com-

munications Commission, as in effect on the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008 and as such requirements may be modified by the Commission from time to time.

(b) Parity for IP-enabled voice service providers

An IP-enabled voice service provider that seeks capabilities to provide 9-1-1 and enhanced 9-1-1 service from an entity with ownership or control over such capabilities, to comply with its obligations under subsection (a), shall, for the exclusive purpose of complying with such obligations, have a right of access to such capabilities, including interconnection, to provide 9-1-1 and enhanced 9-1-1 service on the same rates, terms, and conditions that are provided to a provider of commercial mobile service (as such term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))), subject to such regulations as the Commission prescribes under subsection (c).

(c) Regulations

The Commission—

(1) within 90 days after the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008, shall issue regulations implementing such Act, including regulations that—

(A) ensure that IP-enabled voice service providers have the ability to exercise their rights under subsection (b);

(B) take into account any technical, network security, or information privacy requirements that are specific to IP-enabled voice services; and

(C) provide, with respect to any capabilities that are not required to be made available to a commercial mobile service provider but that the Commission determines under subparagraph (B) of this paragraph or paragraph (3) are necessary for an IP-enabled voice service provider to comply with its obligations under subsection (a), that such capabilities shall be available at the same rates, terms, and conditions as would apply if such capabilities were made available to a commercial mobile service provider;

(2) shall require IP-enabled voice service providers to which the regulations apply to register with the Commission and to establish a point of contact for public safety and government officials relative to 9-1-1 and enhanced 9-1-1 service and access; and

(3) may modify such regulations from time to time, as necessitated by changes in the market or technology, to ensure the ability of an IP-enabled voice service provider to comply with its obligations under subsection (a) and to exercise its rights under subsection (b).

(d) Delegation of enforcement to State commissions

The Commission may delegate authority to enforce the regulations issued under subsection (c) to State commissions or other State or local agencies or programs with jurisdiction over emergency communications. Nothing in this section is intended to alter the authority of State commissions or other State or local agencies with jurisdiction over emergency commu-

nications, provided that the exercise of such authority is not inconsistent with Federal law or Commission requirements.

(e) Implementation

(1) Limitation

Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technological standard.

(2) Enforcement

The Commission shall enforce this section as if this section was a part of the Communications Act of 1934 [47 U.S.C. 151 et seq.]. For purposes of this section, any violations of this section, or any regulations promulgated under this section, shall be considered to be a violation of the Communications Act of 1934 or a regulation promulgated under that Act, respectively.

(f) State authority over fees

(1) Authority

Nothing in this Act, the Communications Act of 1934 (47 U.S.C. 151 et seq.), the New and Emerging Technologies 911 Improvement Act of 2008, or any Commission regulation or order shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State, political subdivision thereof, Indian tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act, as amended (85 Stat. 688) [43 U.S.C. 1601 et seq.]¹ for the support or implementation of 9-1-1 or enhanced 9-1-1 services, provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge. For each class of subscribers to IP-enabled voice services, the fee or charge may not exceed the amount of any such fee or charge applicable to the same class of subscribers to telecommunications services.

(2) Fee accountability report

To ensure efficiency, transparency, and accountability in the collection and expenditure of a fee or charge for the support or implementation of 9-1-1 or enhanced 9-1-1 services, the Commission shall submit a report within 1 year after the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008, and annually thereafter, to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives detailing the status in each State of the collection and distribution of such fees or charges, and including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any such fees or charges are specified.

(g) Availability of PSAP information

The Commission may compile a list of public safety answering point contact information,

¹ So in original. A comma probably should appear.

contact information for providers of selective routers, testing procedures, classes and types of services supported by public safety answering points, and other information concerning 9-1-1 and enhanced 9-1-1 elements, for the purpose of assisting IP-enabled voice service providers in complying with this section, and may make any portion of such information available to telecommunications carriers, wireless carriers, IP-enabled voice service providers, other emergency service providers, or the vendors to or agents of any such carriers or providers, if such availability would improve public safety.

(h) Development of standards

The Commission shall work cooperatively with public safety organizations, industry participants, and the E-911 Implementation Coordination Office to develop best practices that promote consistency, where appropriate, including procedures for—

- (1) defining geographic coverage areas for public safety answering points;
- (2) defining network diversity requirements for delivery of IP-enabled 9-1-1 and enhanced 9-1-1 calls;
- (3) call-handling in the event of call overflow or network outages;
- (4) public safety answering point certification and testing requirements;
- (5) validation procedures for inputting and updating location information in relevant databases; and
- (6) the format for delivering address information to public safety answering points.

(i) Rule of construction

Nothing in the New and Emerging Technologies 911 Improvement Act of 2008 shall be construed as altering, delaying, or otherwise limiting the ability of the Commission to enforce the Federal actions taken or rules adopted obligating an IP-enabled voice service provider to provide 9-1-1 or enhanced 9-1-1 service as of the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008.

(Pub. L. 106-81, §6, as added Pub. L. 110-283, title I, §101(2), July 23, 2008, 122 Stat. 2620; amended Pub. L. 110-368, §1(a), Oct. 8, 2008, 122 Stat. 4027.)

REFERENCES IN TEXT

The date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008, referred to in subsecs. (a), (c)(1), (f)(2), and (i), is the date of enactment of Pub. L. 110-283, which was approved July 23, 2008.

The New and Emerging Technologies 911 Improvement Act of 2008 and such Act, referred to in subsecs. (c)(1), (f)(1), and (i), is Pub. L. 110-283, July 23, 2008, 122 Stat. 2620, also known as the NET 911 Improvement Act of 2008, which enacted this section and amended sections 222, 615a, 615b, and 942 of this title. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 609 of this title and Tables.

The Communications Act of 1934, referred to in subsecs. (e)(2) and (f)(1), is act June 19, 1934, ch. 652, 48 Stat. 1064, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

This Act, referred to in subsec. (f)(1), is Pub. L. 106-81, Oct. 26, 1999, 113 Stat. 1286, known as the Wireless Communications and Public Safety Act of 1999, which enacted sections 615 to 615b of this title, amended sections

222 and 251 of this title, and enacted provisions set out as notes under sections 609 and 615 of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendments note set out under section 609 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (f)(1), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

CODIFICATION

Section was enacted as part of the Wireless Communications and Public Safety Act of 1999, and not as part of the Communications Act of 1934 which comprises this chapter.

PRIOR PROVISIONS

A prior section 6 of Pub. L. 106-81 was renumbered section 7 and is classified to section 615b of this title.

AMENDMENTS

2008—Subsec. (c)(1)(C). Pub. L. 110-368 substituted “paragraph (3)” for “paragraph (2)”.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-368, §1(b), Oct. 8, 2008, 122 Stat. 4027, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as of July 23, 2008, immediately after the enactment of the NET 911 Improvement Act of 2008 (Public Law 110-283) [approved July 23, 2008].”

§ 615b. Definitions

As used in this Act:

(1) Secretary

The term “Secretary” means the Secretary of Transportation.

(2) State

The term “State” means any of the several States, the District of Columbia, or any territory or possession of the United States.

(3) Public safety answering point; PSAP

The term “public safety answering point” or “PSAP” means a facility that has been designated to receive 9-1-1 calls and route them to emergency service personnel.

(4) Wireless carrier

The term “wireless carrier” means a provider of commercial mobile services or any other radio communications service that the Federal Communications Commission requires to provide wireless 9-1-1 service.

(5) Enhanced wireless 9-1-1 service

The term “enhanced wireless 9-1-1 service” means any enhanced 9-1-1 service so designated by the Federal Communications Commission in the proceeding entitled “Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 9-1-1 Emergency Calling Systems” (CC Docket No. 94-102; RM-8143), or any successor proceeding.

(6) Wireless 9-1-1 service

The term “wireless 9-1-1 service” means any 9-1-1 service provided by a wireless carrier, including enhanced wireless 9-1-1 service.

(7) Emergency dispatch providers

The term “emergency dispatch providers” shall include governmental and nongovern-

mental providers of emergency dispatch services.

(8)¹ IP-enabled voice service

The term “IP-enabled voice service” has the meaning given the term “interconnected VoIP service” by section 9.3 of the Federal Communications Commission’s regulations (47 CFR 9.3).

(8)¹ Other emergency communications service

The term “other emergency communications service” means the provision of emergency information to a public safety answering point via wire or radio communications, and may include 9-1-1 and enhanced 9-1-1 service.

(9) Other emergency communications service provider

The term “other emergency communications service provider” means—

(A) an entity other than a local exchange carrier, wireless carrier, or an IP-enabled voice service provider that is required by the Federal Communications Commission consistent with the Commission’s authority under the Communications Act of 1934 [47 U.S.C. 151 et seq.] to provide other emergency communications services; or

(B) in the absence of a Commission requirement as described in subparagraph (A), an entity that voluntarily elects to provide other emergency communications services and is specifically authorized by the appropriate local or State 9-1-1 service governing authority to provide other emergency communications services.

(10) Enhanced 9-1-1 service

The term “enhanced 9-1-1 service” means the delivery of 9-1-1 calls with automatic number identification and automatic location identification, or successor or equivalent information features over the wireline E911 network (as defined in section 9.3 of the Federal Communications Commission’s regulations (47 C.F.R. 9.3) as of July 23, 2008) and equivalent or successor networks and technologies. The term also includes any enhanced 9-1-1 service so designated by the Commission in its Report and Order in WC Docket Nos. 04-36 and 05-196, or any successor proceeding.

(Pub. L. 106-81, §7, formerly §6, Oct. 26, 1999, 113 Stat. 1289; renumbered §7 and amended Pub. L. 110-283, title I, §101(1), (3), title II, §201(b), July 23, 2008, 122 Stat. 2620, 2623, 2624.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 106-81, Oct. 26, 1999, 113 Stat. 1286, known as the Wireless Communications and Public Safety Act of 1999, which enacted sections 615 to 615b of this title, amended sections 222 and 251 of this title, and enacted provisions set out as notes under sections 609 and 615 of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendments note set out under section 609 of this title and Tables.

The Communications Act of 1934, referred to in par. (9)(A), is act June 19, 1934, ch. 652, 48 Stat. 1064, which is classified principally to this chapter. For complete

classification of this Act to the Code, see section 609 of this title and Tables.

CODIFICATION

Section was enacted as part of the Wireless Communications and Public Safety Act of 1999, and not as part of the Communications Act of 1934 which comprises this chapter.

AMENDMENTS

2008—Par. (8). Pub. L. 110-283, §201(b), added par. (8) defining “other emergency communications service”.

Pub. L. 110-283, §101(3), added par. (8) defining “IP-enabled voice service”.

Pars. (9), (10). Pub. L. 110-283, §201(b), added pars. (9) and (10).

§ 615c. Emergency Access Advisory Committee

(a) Establishment

For the purpose of achieving equal access to emergency services by individuals with disabilities, as a part of the migration to a national Internet protocol-enabled emergency network, not later than 60 days after October 8, 2010, the Chairman of the Commission shall establish an advisory committee, to be known as the Emergency Access Advisory Committee (referred to in this section as the “Advisory Committee”).

(b) Membership

As soon as practicable after October 8, 2010, the Chairman of the Commission shall appoint the members of the Advisory Committee, ensuring a balance between individuals with disabilities and other stakeholders, and shall designate two such members as the co-chairs of the Committee. Members of the Advisory Committee shall be selected from the following groups:

(1) State and local government and emergency responder representatives

Representatives of State and local governments and representatives of emergency response providers, selected from among individuals nominated by national organizations representing such governments and representatives.

(2) Subject matter experts

Individuals who have the technical knowledge and expertise to serve on the Advisory Committee in the fulfillment of its duties, including representatives of—

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

(B) vendors, developers, and manufacturers of systems, facilities, equipment, and capabilities for the provision of interconnected and non-interconnected VoIP services;

(C) national organizations representing individuals with disabilities and senior citizens;

(D) Federal agencies or departments responsible for the implementation of the Next Generation E 9-1-1 system;

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

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

(3) Representatives of other stakeholders and interested parties

Representatives of such other stakeholders and interested and affected parties as the

¹ So in original. Two pars. (8) have been enacted.

Chairman of the Commission determines appropriate.

(c) Development of recommendations

Within 1 year after the completion of the member appointment process by the Chairman of the Commission pursuant to subsection (b), the Advisory Committee shall conduct a national survey of individuals with disabilities, seeking input from the groups described in subsection (b)(2), to determine the most effective and efficient technologies and methods by which to enable access to emergency services by individuals with disabilities and shall develop and submit to the Commission recommendations to implement such technologies and methods, including recommendations—

(1) with respect to what actions are necessary as a part of the migration to a national Internet protocol-enabled network to achieve reliable, interoperable communication transmitted over such network that will ensure access to emergency services by individuals with disabilities;

(2) for protocols, technical capabilities, and technical requirements to ensure the reliability and interoperability necessary to ensure access to emergency services by individuals with disabilities;

(3) for the establishment of technical standards for use by public safety answering points, designated default answering points, and local emergency authorities;

(4) for relevant technical standards and requirements for communication devices and equipment and technologies to enable the use of reliable emergency access;

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

(6) for deadlines by which providers of interconnected and non-interconnected VoIP services and manufacturers of equipment used for such services shall achieve the actions required in paragraphs (1) through (5), where achievable, and for the possible phase out of the use of current-generation TTY technology to the extent that this technology is replaced with more effective and efficient technologies and methods to enable access to emergency services by individuals with disabilities;

(7) for the establishment of rules to update the Commission's rules with respect to 9-1-1 services and E-911 services (as defined in section 158(e)(4)¹ of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(e)(4))), for users of telecommunications relay services as new technologies and methods for providing such relay services are adopted by providers of such relay services; and

(8) that take into account what is technically and economically feasible.

(d) Meetings

(1) Initial meeting

The initial meeting of the Advisory Committee shall take place not later than 45 days

after the completion of the member appointment process by the Chairman of the Commission pursuant to subsection (b).

(2) Other meetings

After the initial meeting, the Advisory Committee shall meet at the call of the chairs, but no less than monthly until the recommendations required pursuant to subsection (c) are completed and submitted.

(3) Notice; open meetings

Any meetings held by the Advisory Committee shall be duly noticed at least 14 days in advance and shall be open to the public.

(e) Rules

(1) Quorum

One-third of the members of the Advisory Committee shall constitute a quorum for conducting business of the Advisory Committee.

(2) Subcommittees

To assist the Advisory Committee in carrying out its functions, the chair may establish appropriate subcommittees composed of members of the Advisory Committee and other subject matter experts as determined to be necessary.

(3) Additional rules

The Advisory Committee may adopt other rules as needed.

(f) Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.

(g) Implementing recommendations

The Commission shall have the authority to promulgate regulations to implement the recommendations proposed by the Advisory Committee, as well as any other regulations, technical standards, protocols, and procedures as are necessary to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network, where achievable and technically feasible.

(h) Definitions

In this section—

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

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

(3) except as otherwise expressly provided, other terms have the meanings given such terms in section 153 of this title.

(Pub. L. 111-260, title I, §106, Oct. 8, 2010, 124 Stat. 2762.)

REFERENCES IN TEXT

Section 158(e)(4) of the National Telecommunications and Information Administration Organization Act, referred to in subsec. (c)(7), probably means section 158(f)(4) of title I of Pub. L. 102-538, which was formerly classified to section 942(f)(4) of this title and was omitted from the Code.

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

¹ See References in Text note below.

CODIFICATION

Section was enacted as part of the Twenty-First Century Communications and Video Accessibility Act of 2010, and not as part of the Communications Act of 1934 which comprises this chapter.

§ 616. Internet protocol-based relay services

Within one year after October 8, 2010, each interconnected VoIP service provider and each provider of non-interconnected VoIP service shall participate in and contribute to the Telecommunications Relay Services Fund established in section 64.604(c)(5)(iii) of title 47, Code of Federal Regulations, as in effect on October 8, 2010, in a manner prescribed by the Commission by regulation to provide for obligations of such providers that are consistent with and comparable to the obligations of other contributors to such Fund.

(June 19, 1934, ch. 652, title VII, § 715, as added Pub. L. 111-260, title I, § 103(b), Oct. 8, 2010, 124 Stat. 2755.)

§ 617. Access to advanced communications services and equipment**(a) Manufacturing****(1) In general**

With respect to equipment manufactured after the effective date of the regulations established pursuant to subsection (e), and subject to those regulations, a manufacturer of equipment used for advanced communications services, including end user equipment, network equipment, and software, shall ensure that the equipment and software that such manufacturer offers for sale or otherwise distributes in interstate commerce shall be accessible to and usable by individuals with disabilities, unless the requirements of this subsection are not achievable.

(2) Industry flexibility

A manufacturer of equipment may satisfy the requirements of paragraph (1) with respect to such equipment by—

(A) ensuring that the equipment that such manufacturer offers is accessible to and usable by individuals with disabilities without the use of third party applications, peripheral devices, software, hardware, or customer premises equipment; or

(B) if such manufacturer chooses, using third party applications, peripheral devices, software, hardware, or customer premises equipment that is available to the consumer at nominal cost and that individuals with disabilities can access.

(b) Service providers**(1) In general**

With respect to services provided after the effective date of the regulations established pursuant to subsection (e), and subject to those regulations, a provider of advanced communications services shall ensure that such services offered by such provider in or affecting interstate commerce are accessible to and usable by individuals with disabilities, unless the requirements of this subsection are not achievable.

(2) Industry flexibility

A provider of services may satisfy the requirements of paragraph (1) with respect to such services by—

(A) ensuring that the services that such provider offers are accessible to and usable by individuals with disabilities without the use of third party applications, peripheral devices, software, hardware, or customer premises equipment; or

(B) if such provider chooses, using third party applications, peripheral devices, software, hardware, or customer premises equipment that is available to the consumer at nominal cost and that individuals with disabilities can access.

(c) Compatibility

Whenever the requirements of subsections¹ (a) or (b) are not achievable, a manufacturer or provider shall ensure that its equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, unless the requirement of this subsection is not achievable.

(d) Network features, functions, and capabilities

Each provider of advanced communications services has the duty not to install network features, functions, or capabilities that impede accessibility or usability.

(e) Regulations**(1) In general**

Within one year after October 8, 2010, the Commission shall promulgate such regulations as are necessary to implement this section. In prescribing the regulations, the Commission shall—

(A) include performance objectives to ensure the accessibility, usability, and compatibility of advanced communications services and the equipment used for advanced communications services by individuals with disabilities;

(B) provide that advanced communications services, the equipment used for advanced communications services, and networks used to provide advanced communications services may not impair or impede the accessibility of information content when accessibility has been incorporated into that content for transmission through advanced communications services, equipment used for advanced communications services, or networks used to provide advanced communications services;

(C) determine the obligations under this section of manufacturers, service providers, and providers of applications or services accessed over service provider networks; and

(D) not mandate technical standards, except that the Commission may adopt technical standards as a safe harbor for such compliance if necessary to facilitate the manufacturers' and service providers' compliance with sections² (a) through (c).

¹ So in original. Probably should be "subsection".

² So in original. Probably should be "subsections".

(2) Prospective guidelines

The Commission shall issue prospective guidelines for a manufacturer or provider regarding the requirements of this section.

(f) Services and equipment subject to section 255 of this title

The requirements of this section shall not apply to any equipment or services, including interconnected VoIP service, that are subject to the requirements of section 255 of this title on the day before October 8, 2010. Such services and equipment shall remain subject to the requirements of section 255 of this title.

(g) Achievable defined

For purposes of this section and section 619 of this title, the term “achievable” means with reasonable effort or expense, as determined by the Commission. In determining whether the requirements of a provision are achievable, the Commission shall consider the following factors:

- (1) 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.
- (2) 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.
- (3) The type of operations of the manufacturer or provider.
- (4) 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.

(h) Commission flexibility**(1) Waiver**

The Commission shall have the authority, on its own motion or in response to a petition by a manufacturer or provider of advanced communications services or any interested party, to waive the requirements of this section for any feature or function of equipment used to provide or access advanced communications services, or for any class of such equipment, for any provider of advanced communications services, or for any class of such services, that—

- (A) is capable of accessing an advanced communications service; and
- (B) is designed for multiple purposes, but is designed primarily for purposes other than using advanced communications services.

(2) Small entity exemption

The Commission may exempt small entities from the requirements of this section.

(i) Customized equipment or services

The provisions of this section shall not apply to customized equipment or services that are not offered directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(j) Rule of construction

This section shall not be construed to require a manufacturer of equipment used for advanced

communications or a provider of advanced communications services to make every feature and function of every device or service accessible for every disability.

(June 19, 1934, ch. 652, title VII, §716, as added Pub. L. 111-260, title I, §104(a), Oct. 8, 2010, 124 Stat. 2755; amended Pub. L. 111-265, §2(1), (2), Oct. 8, 2010, 124 Stat. 2795.)

AMENDMENTS

2010—Subsec. (d). Pub. L. 111-265, §2(1), struck out “do not” before “impede accessibility”.

Subsec. (e)(1)(D). Pub. L. 111-265, §2(2), substituted “facilitate” for “facilities”.

§ 618. Enforcement and recordkeeping obligations**(a) Complaint and enforcement procedures**

Within one year after October 8, 2010, the Commission shall establish regulations that facilitate the filing of formal and informal complaints that allege a violation of section 255, 617, or 619 of this title, establish procedures for enforcement actions by the Commission with respect to such violations, and implement the recordkeeping obligations of paragraph (5) for manufacturers and providers subject to such sections. Such regulations shall include the following provisions:

(1) No fee

The Commission shall not charge any fee to an individual who files a complaint alleging a violation of section 255, 617, or 619 of this title.

(2) Receipt of complaints

The Commission shall establish separate and identifiable electronic, telephonic, and physical receptacles for the receipt of complaints filed under section 255, 617, or 619 of this title.

(3) Complaints to the Commission**(A) In general**

Any person alleging a violation of section 255, 617, or 619 of this title by a manufacturer of equipment or provider of service subject to such sections may file a formal or informal complaint with the Commission.

(B) Investigation of informal complaint

The Commission shall investigate the allegations in an informal complaint and, within 180 days after the date on which such complaint was filed with the Commission, issue an order concluding the investigation, unless such complaint is resolved before such time. The order shall include a determination whether any violation occurred.

- (i) If the Commission determines that a violation has occurred, the Commission may, in the order issued under this subparagraph or in a subsequent order, direct the manufacturer or service provider to bring the service, or in the case of a manufacturer, the next generation of the equipment or device, into compliance with requirements of those sections within a reasonable time established by the Commission in its order.

(ii) NO VIOLATION.—If a determination is made that a violation has not occurred,

the Commission shall provide the basis for such determination.

(C) Consolidation of complaints

The Commission may consolidate for investigation and resolution complaints alleging substantially the same violation.

(4) Opportunity to respond

Before the Commission makes a determination pursuant to paragraph (3), the party that is the subject of the complaint shall have a reasonable opportunity to respond to such complaint, and may include in such response any factors that are relevant to such determination. Before issuing a final order under paragraph (3)(B)(i), the Commission shall provide such party a reasonable opportunity to comment on any proposed remedial action.

(5) Recordkeeping

(A) Beginning one year after the effective date of regulations promulgated pursuant to section 617(e) of this title, each manufacturer and provider subject to sections 255, 617, and 619 of this title shall maintain, in the ordinary course of business and for a reasonable period, records of the efforts taken by such manufacturer or provider to implement sections 255, 617, and 619 of this title, including the following:

- (i) Information about the manufacturer's or provider's efforts to consult with individuals with disabilities.
- (ii) Descriptions of the accessibility features of its products and services.
- (iii) Information about the compatibility of such products and services with peripheral devices or specialized customer premise equipment commonly used by individuals with disabilities to achieve access.

(B) An officer of a manufacturer or provider shall submit to the Commission an annual certification that records are being kept in accordance with subparagraph (A).

(C) After the filing of a formal or informal complaint against a manufacturer or provider, the Commission may request, and shall keep confidential, a copy of the records maintained by such manufacturer or provider pursuant to subparagraph (A) of this paragraph that are directly relevant to the equipment or service that is the subject of such complaint.

(6) Failure to act

If the Commission fails to carry out any of its responsibilities to act upon a complaint in the manner prescribed in paragraph (3), the person that filed such complaint may bring an action in the nature of mandamus in the United States Court of Appeals for the District of Columbia to compel the Commission to carry out any such responsibility.

(7) Commission jurisdiction

The limitations of section 255(f) shall apply to any claim that alleges a violation of section 255, 617, or 619 of this title. Nothing in this paragraph affects or limits any action for mandamus under paragraph (6) or any appeal pursuant to section 402(b)(10) of this title.

(8) Private resolutions of complaints

Nothing in the Commission's rules or this chapter shall be construed to preclude a per-

son who files a complaint and a manufacturer or provider from resolving a formal or informal complaint prior to the Commission's final determination in a complaint proceeding. In the event of such a resolution, the parties shall jointly request dismissal of the complaint and the Commission shall grant such request.

(b) Reports to Congress

(1) In general

Every two years after October 8, 2010, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes the following:

(A) An assessment of the level of compliance with sections 255, 617, and 619 of this title.

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

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

(D) A description of the actions taken to resolve such complaints under this section, including forfeiture penalties assessed.

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

(F) The number, status, nature, and outcome of any actions for mandamus filed pursuant to subsection (a)(6) and the number, status, nature, and outcome of any appeals filed pursuant to section 402(b)(10) of this title.

(G) An assessment of the effect of the requirements of this section on the development and deployment of new communications technologies.

(2) Public comment required

The Commission shall seek public comment on its tentative findings prior to submission to the Committees of the report under this subsection.

(c) Comptroller general enforcement study

(1) In general

The Comptroller General shall conduct a study to consider and evaluate the following:

(A) The Commission's compliance with the requirements of this section, including the Commission's level of compliance with the deadlines established under and pursuant to this section and deadlines for acting on complaints pursuant to subsection (a).

(B) Whether the enforcement actions taken by the Commission pursuant to this section have been appropriate and effective in ensuring compliance with this section.

(C) Whether the enforcement provisions under this section are adequate to ensure compliance with this section.

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

(2) Report

Not later than 5 years after October 8, 2010, the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of the study required by paragraph (1), with recommendations for how the enforcement process and measures under this section may be modified or improved.

(d) Clearinghouse

Within one year after October 8, 2010, the Commission shall, in consultation with the Architectural and Transportation Barriers Compliance Board, the National Telecommunications and Information Administration, trade associations, and organizations representing individuals with disabilities, establish a clearinghouse of information on the availability of accessible products and services and accessibility solutions required under sections 255, 617, and 619 of this title. Such information shall be made publicly available on the Commission's website and by other means, and shall include an annually updated list of products and services with access features.

(e) Outreach and education

Upon establishment of the clearinghouse of information required under subsection (d), the Commission, in coordination with the National Telecommunications and Information Administration, shall conduct an informational and educational program designed to inform the public about the availability of the clearinghouse and the protections and remedies available under sections 255, 617, and 619 of this title.

(June 19, 1934, ch. 652, title VII, §717, as added Pub. L. 111-260, title I, §104(a), Oct. 8, 2010, 124 Stat. 2758; amended Pub. L. 111-265, §2(3), Oct. 8, 2010, 124 Stat. 2795.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(8), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

2010—Subsec. (a)(5)(C). Pub. L. 111-265 substituted "provider," for "provider in the manner prescribed in paragraph (3)."

§ 619. Internet browsers built into telephones used with public mobile services**(a) Accessibility**

If a manufacturer of a telephone used with public mobile services (as such term is defined in section 610(b)(4)(B) of this title) includes an Internet browser in such telephone, or if a provider of mobile service arranges for the inclusion of a browser in telephones to sell to customers, the manufacturer or provider shall ensure that the functions of the included browser (including the ability to launch the browser) are accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable, except that this subsection

shall not impose any requirement on such manufacturer or provider—

(1) to make accessible or usable any Internet browser other than a browser that such manufacturer or provider includes or arranges to include in the telephone; or

(2) to make Internet content, applications, or services accessible or usable (other than enabling individuals with disabilities to use an included browser to access such content, applications, or services).

(b) Industry flexibility

A manufacturer or provider may satisfy the requirements of subsection (a) with respect to such telephone or services by—

(1) ensuring that the telephone or services that such manufacturer or provider offers is accessible to and usable by individuals with disabilities without the use of third party applications, peripheral devices, software, hardware, or customer premises equipment; or

(2) using third party applications, peripheral devices, software, hardware, or customer premises equipment that is available to the consumer at nominal cost and that individuals with disabilities can access.

(June 19, 1934, ch. 652, title VII, §718, as added Pub. L. 111-260, title I, §104(a), Oct. 8, 2010, 124 Stat. 2761.)

EFFECTIVE DATE

Pub. L. 111-260, title I, §104(b), Oct. 8, 2010, 124 Stat. 2761, provided that: "Section 718 of the Communications Act of 1934 [47 U.S.C. 619], as added by subsection (a), shall take effect 3 years after the date of enactment of this Act [Oct. 8, 2010]."

§ 620. Relay services for deaf-blind individuals**(a) In general**

Within 6 months after October 8, 2010, the Commission shall establish rules that define as eligible for relay service support those programs that are approved by the Commission for the distribution of specialized customer premises equipment designed to make telecommunications service, Internet access service, and advanced communications, including inter-exchange services and advanced telecommunications and information services, accessible by low-income individuals who are deaf-blind.

(b) Individuals who are deaf-blind defined

For purposes of this subsection,¹ the term "individuals who are deaf-blind" has the same meaning given such term in the Helen Keller National Center Act, as amended by the Rehabilitation Act Amendments of 1992 (29 U.S.C. 1905(2)).

(c) Annual amount

The total amount of support the Commission may provide from its interstate relay fund for any fiscal year may not exceed \$10,000,000.

(June 19, 1934, ch. 652, title VII, §719, as added Pub. L. 111-260, title I, §105, Oct. 8, 2010, 124 Stat. 2762; amended Pub. L. 111-265, §2(4), (5), Oct. 8, 2010, 124 Stat. 2795.)

REFERENCES IN TEXT

The Helen Keller National Center Act, referred to in subsec. (b), is title II of Pub. L. 98-221, Feb. 22, 1984, 98

¹ So in original. Probably should be "section."

Stat. 32, which is classified principally to chapter 21 (§1901 et seq.) of Title 29, Labor. The term “individuals who are deaf-blind” is defined in section 206(2) of the Act, as amended by Pub. L. 102-569, which is classified to section 1905(2) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 29 and Tables.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-265, §2(5), inserted “low-income” after “accessible by”.

Pub. L. 111-265, §2(4), made technical amendment to reference in original act which appears in text as reference to “October 8, 2010”.

§ 621. Rulemaking on loud commercials required

(a) Rulemaking required

Within 1 year after December 15, 2010, the Federal Communications Commission shall prescribe pursuant to the Communications Act of 1934 (47 U.S.C. 151 et seq.) a regulation that is limited to incorporating by reference and making mandatory (subject to any waivers the Commission may grant) the “Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television” (A/85), and any successor thereto, approved by the Advanced Television Systems Committee, only insofar as such recommended practice concerns the transmission of commercial advertisements by a television broadcast station, cable operator, or other multichannel video programming distributor.

(b) Implementation

(1) Effective date

The Federal Communications Commission shall prescribe that the regulation adopted pursuant to subsection (a) shall become effective 1 year after the date of its adoption.

(2) Waiver

For any television broadcast station, cable operator, or other multichannel video programming distributor that demonstrates that obtaining the equipment to comply with the regulation adopted pursuant to subsection (a) would result in financial hardship, the Federal Communications Commission may grant a waiver of the effective date set forth in paragraph (1) for 1 year and may renew such waiver for 1 additional year.

(3) Waiver authority

Nothing in this section affects the Commission’s authority under section 1.3 of its rules (47 C.F.R. 1.3) to waive any rule required by this Act, or the application of any such rule, for good cause shown to a television broadcast station, cable operator, or other multichannel video programming distributor, or to a class of such stations, operators, or distributors.

(c) Compliance

Any broadcast television operator, cable operator, or other multichannel video programming distributor that installs, utilizes, and maintains in a commercially reasonable manner the equipment and associated software in compliance with the regulations issued by the Federal Communications Commission in accordance with subsection (a) shall be deemed to be in compliance with such regulations.

(d) Definitions

For purposes of this section—

(1) the term “television broadcast station” has the meaning given such term in section 325 of the Communications Act of 1934 (47 U.S.C. 325); and

(2) the terms “cable operator” and “multichannel video programming distributor” have the meanings given such terms in section 602 of Communications Act of 1934 (47 U.S.C. 522).

(Pub. L. 111-311, §2, Dec. 15, 2010, 124 Stat. 3294.)

REFERENCES IN TEXT

The Communications Act of 1934, referred to in subsec. (a), is act June 19, 1934, ch. 652, 48 Stat. 1064, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

This Act, referred to in subsec. (b)(3), is Pub. L. 111-311, Dec. 15, 2010, 124 Stat. 3294, known as the Commercial Advertisement Loudness Mitigation Act or the CALM Act, which enacted this section and provisions set out as a note under section 609 of this title.

CODIFICATION

Section was enacted as part of the Commercial Advertisement Loudness Mitigation Act, or the CALM Act, and not as part of the Communications Act of 1934 which comprises this chapter.

CHAPTER 6—COMMUNICATIONS SATELLITE SYSTEM

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701. Omitted.
702. Definitions.
703. Satellite service report.

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741 to 744. Omitted.

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SUBCHAPTER VI—COMMUNICATIONS COMPETITION AND PRIVATIZATION

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PART B—FEDERAL COMMUNICATIONS COMMISSION LICENSING CRITERIA: PRIVATIZATION CRITERIA

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