

have been adopted by the Commission but that have not yet become effective.

(b) The operation of all radio frequency devices that are included in a market trial must be authorized under this rule section, including those devices that are designed to operate under parts 15, 18, or 95 of this chapter.

(c) If more than one entity will be responsible for conducting the same market trial *e.g.*, manufacturer and service provider, each entity will be authorized under a separate license. If more than one licensee is authorized, the licensees or the Commission shall designate one as the responsible party for the trial.

(d) All transmitting and/or receiving equipment used in the study shall be owned by the experimental licensees. Marketing of devices is only permitted as follows:

(1) The licensees may sell equipment to each other, *e.g.*, manufacturer to service provider,

(2) The licensees may lease equipment to trial participants for purposes of the study, and

(3) The number of devices to be marketed shall be the minimum quantity of devices necessary to conduct the market trial as approved by the Commission.

(e) Licensees are required to ensure that trial devices are either rendered inoperable or retrieved by them from trial participants at the conclusion of the trial. Licensees are required to notify trial participants in advance that operation of the trial device is subject to this condition.

(f) The size and scope of the experiment are subject to limitations as the Commission shall establish on a case-by-case basis. If the Commission subsequently determines that a market trial is not so limited, the trial shall be immediately terminated.

(g) Broadcast experimental station applicants and licensees must also meet the requirements of § 5.205.

EFFECTIVE DATE NOTE: At 78 FR 25162, Apr. 29, 2013, § 5.602 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

PART 6—ACCESS TO TELECOMMUNICATIONS SERVICE, TELECOMMUNICATIONS EQUIPMENT AND CUSTOMER PREMISES EQUIPMENT BY PERSONS WITH DISABILITIES

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AUTHORITY: 47 U.S.C. 151–154, 251, 255, and 303(r).

SOURCE: 64 FR 63251, Nov. 19, 1999, unless otherwise noted.

Subpart A—Scope—Who Must Comply With These Rules?

§ 6.1 Applicability.

The rules in this part apply to:

(a) Any provider of telecommunications service;

(b) Any manufacturer of telecommunications equipment or customer premises equipment;

(c) Any telecommunications carrier;

(d) Any provider of interconnected Voice over Internet Protocol (VoIP)

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service, as that term is defined in § 9.3 of this chapter; and

(e) Any manufacturer of equipment or customer premises equipment that is specially designed to provide interconnected VoIP service and that is needed for the effective use of an interconnected VoIP service.

[64 FR 63251, Nov. 19, 1999, as amended at 72 FR 43558, Aug. 6, 2007]

Subpart B—Definitions

§ 6.3 Definitions.

(a) The term *accessible* shall mean that:

(1) Input, control, and mechanical functions shall be locatable, identifiable, and operable in accordance with each of the following, assessed independently:

(i) Operable without vision. Provide at least one mode that does not require user vision.

(ii) Operable with low vision and limited or no hearing. Provide at least one mode that permits operation by users with visual acuity between 20/70 and 20/200, without relying on audio output.

(iii) Operable with little or no color perception. Provide at least one mode that does not require user color perception.

(iv) Operable without hearing. Provide at least one mode that does not require user auditory perception.

(v) Operable with limited manual dexterity. Provide at least one mode that does not require user fine motor control or simultaneous actions.

(vi) Operable with limited reach and strength. Provide at least one mode that is operable with user limited reach and strength.

(vii) Operable with a Prosthetic Device. Controls shall be operable without requiring body contact or close body proximity.

(viii) Operable without time-dependent controls. Provide at least one mode that does not require a response time or allows response time to be by-passed or adjusted by the user over a wide range.

(ix) Operable without speech. Provide at least one mode that does not require user speech.

(x) Operable with limited cognitive skills. Provide at least one mode that

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minimizes the cognitive, memory, language, and learning skills required of the user.

(2) All information necessary to operate and use the product, including but not limited to, text, static or dynamic images, icons, labels, sounds, or incidental operating cues, comply with each of the following, assessed independently:

(i) Availability of visual information. Provide visual information through at least one mode in auditory form.

(ii) Availability of visual information for low vision users. Provide visual information through at least one mode to users with visual acuity between 20/70 and 20/200 without relying on audio.

(iii) Access to moving text. Provide moving text in at least one static presentation mode at the option of the user.

(iv) Availability of auditory information. Provide auditory information through at least one mode in visual form and, where appropriate, in tactile form.

(v) Availability of auditory information for people who are hard of hearing. Provide audio or acoustic information, including any auditory feedback tones that are important for the use of the product, through at least one mode in enhanced auditory fashion (*i.e.*, increased amplification, increased signal-to-noise ratio, or combination).

(vi) Prevention of visually-induced seizures. Visual displays and indicators shall minimize visual flicker that might induce seizures in people with photosensitive epilepsy.

(vii) Availability of audio cutoff. Where a product delivers audio output through an external speaker, provide an industry standard connector for headphones or personal listening devices (e.g., phone-like handset or earcup) which cuts off the speaker(s) when used.

(viii) Non-interference with hearing technologies. Reduce interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) to the lowest possible level that allows a user to utilize the product.

(ix) Hearing aid coupling. Where a product delivers output by an audio transducer which is normally held up

to the ear, provide a means for effective wireless coupling to hearing aids.

(b) The term *compatibility* shall mean compatible with peripheral devices and specialized customer premises equipment commonly used by individuals with disabilities to achieve accessibility to telecommunications services, and in compliance with the following provisions, as applicable:

(1) External electronic access to all information and control mechanisms. Information needed for the operation of products (including output, alerts, icons, on-line help, and documentation) shall be available in a standard electronic text format on a cross-industry standard port and all input to and control of a product shall allow for real time operation by electronic text input into a cross-industry standard external port and in cross-industry standard format. The cross-industry standard port shall not require manipulation of a connector by the user.

(2) Connection point for external audio processing devices. Products providing auditory output shall provide the auditory signal at a standard signal level through an industry standard connector.

(3) TTY connectability. Products which provide a function allowing voice communication and which do not themselves provide a TTY functionality shall provide a standard non-acoustic connection point for TTYs. It shall also be possible for the user to easily turn any microphone on and off to allow the user to intermix speech with TTY use.

(4) TTY signal compatibility. Products, including those providing voice communication functionality, shall support use of all cross-manufacturer non-proprietary standard signals used by TTYs.

(c) The term *customer premises equipment* shall mean equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications. For purposes of this part, the term customer premises equipment shall include equipment employed on the premises of a person (other than a carrier) that is specially designed to provide interconnected VoIP service and that is needed for the

effective use of an interconnected VoIP service.

(d) The term *disability* shall mean a physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such an impairment.

(e) The term *interconnected VoIP service* shall have the same meaning as in § 9.3 of this chapter.

(f) The term *manufacturer* shall mean an entity that makes or produces a product.

(g) The term *peripheral devices* shall mean devices employed in connection with equipment covered by this part to translate, enhance, or otherwise transform telecommunications into a form accessible to individuals with disabilities.

(h) The term *readily achievable* shall mean, in general, easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(1) The nature and cost of the action needed;

(2) The overall financial resources of the manufacturer or service provider involved in the action (the covered entity); the number of persons employed by such manufacturer or service provider; the effect on expenses and resources, or the impact otherwise of such action upon the operations of the manufacturer or service provider;

(3) If applicable, the overall financial resources of the parent of the entity; the overall size of the business of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(4) If applicable, the type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity; and the geographic separateness, administrative or fiscal relationship of the covered entity in question to the parent entity.

(i) The term *specialized customer premises equipment* shall mean customer premise equipment which is commonly used by individuals with disabilities to achieve access.

(j) *The term telecommunications equipment* shall mean equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades). For purposes of this part, the term telecommunications equipment shall include equipment that is specially designed to provide interconnected VoIP service and that is needed for the effective use of an interconnected VoIP service as that term is defined in §9.3 of this chapter.

(k) *The term telecommunications service* shall mean the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. For purposes of this part, the term telecommunications service shall include “interconnected VoIP service” as that term is defined in §9.3 of this chapter.

(1) The term *usable* shall mean that individuals with disabilities have access to the full functionality and documentation for the product, including instructions, product information (including accessible feature information), documentation, bills and technical support which is provided to individuals without disabilities.

[64 FR 63251, Nov. 19, 1999, as amended at 72 FR 43558, Aug. 6, 2007]

Subpart C—Obligations—What Must Covered Entities Do?

§6.5 General obligations.

(a) *Obligation of Manufacturers.* (1) A manufacturer of telecommunications equipment or customer premises equipment shall ensure that the equipment is designed, developed and fabricated so that the telecommunications functions of the equipment are accessible to and usable by individuals with disabilities, if readily achievable.

(2) Whenever the requirements of paragraph (a)(1) of this section are not readily achievable, the manufacturer shall ensure that the equipment is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individ-

uals with disabilities to achieve access, if readily achievable.

(b) *Obligation of Service Providers.* (1) A provider of a telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

(2) Whenever the requirements of paragraph (b)(1) of this section are not readily achievable, the service provider shall ensure that the service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

(c) *Obligation of Telecommunications Carriers.* Each telecommunications carrier must not install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to this part or part 7 of this chapter.

§6.7 Product design, development, and evaluation.

(a) Manufacturers and service providers shall evaluate the accessibility, usability, and compatibility of equipment and services covered by this part and shall incorporate such evaluation throughout product design, development, and fabrication, as early and consistently as possible. Manufacturers and service providers shall identify barriers to accessibility and usability as part of such a product design and development process.

(b) In developing such a process, manufacturers and service providers shall consider the following factors, as the manufacturer deems appropriate:

(1) Where market research is undertaken, including individuals with disabilities in target populations of such research;

(2) Where product design, testing, pilot demonstrations, and product trials are conducted, including individuals with disabilities in such activities;

(3) Working cooperatively with appropriate disability-related organizations; and

(4) Making reasonable efforts to validate any unproven access solutions through testing with individuals with disabilities or with appropriate disability-related organizations that have

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established expertise with individuals with disabilities.

§ 6.9 Information pass through.

Telecommunications equipment and customer premises equipment shall pass through cross-manufacturer, non-proprietary, industry-standard codes, translation protocols, formats or other information necessary to provide telecommunications in an accessible format, if readily achievable. In particular, signal compression technologies shall not remove information needed for access or shall restore it upon decompression.

§ 6.11 Information, documentation, and training.

(a) Manufacturers and service providers shall ensure access to information and documentation it provides to its customers, if readily achievable. Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. Manufacturers shall take such other readily achievable steps as necessary including:

(1) Providing a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge;

(2) Providing end-user product documentation in alternate formats or alternate modes upon request at no additional charge; and

(3) Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge.

(b) Manufacturers and service providers shall include in general product information the contact method for obtaining the information required by paragraph (a) of this section.

(c) In developing, or incorporating existing training programs, manufacturers and service providers, shall consider the following topics:

(1) Accessibility requirements of individuals with disabilities;

(2) Means of communicating with individuals with disabilities;

(3) Commonly used adaptive technology used with the manufacturer's products;

(4) Designing for accessibility; and

(5) Solutions for accessibility and compatibility.

[64 FR 63251, Nov. 19, 1999, as amended at 72 FR 43558, Aug. 6, 2007; 73 FR 21252, Apr. 21, 2008]

Subpart D—Enforcement

§ 6.15 Generally.

(a) All manufacturers of telecommunications equipment or customer premises equipment and all providers of telecommunications services, as defined under this subpart are subject to the enforcement provisions specified in the Act and the Commission's rules.

(b) For purposes of §§ 6.15 through 6.23, the term "manufacturers" shall denote manufacturers of telecommunications equipment or customer premises equipment and the term "providers" shall denote providers of telecommunications services.

[76 FR 82389, Dec. 30, 2011]

§ 6.16 Informal or formal complaints.

Sections 6.17 through 6.23 of this subpart shall sunset on October 8, 2013. On October 8, 2013, any person may file either a formal or informal complaint against a manufacturer or provider alleging violations of section 255 or this part subject to the enforcement requirements set forth in §§ 14.30 through 14.52 of this chapter.

[76 FR 82389, Dec. 30, 2011]

§ 6.17 Informal complaints; form and content.

(a) An informal complaint alleging a violation of section 255 of the Act or this subpart may be transmitted to the Commission by any reasonable means, e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, and braille.

(b) An informal complaint shall include:

(1) The name and address of the complainant;

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(2) The name and address of the manufacturer or provider against whom the complaint is made;

(3) A full description of the telecommunications equipment or CPE and/or the telecommunications service about which the complaint is made;

(4) The date or dates on which the complainant either purchased, acquired or used, or attempted to purchase, acquire or use the telecommunications equipment, CPE or telecommunications service about which the complaint is being made;

(5) A complete statement of the facts, including documentation where available, supporting the complainant's allegation that: such telecommunications service, or such telecommunications equipment or CPE, is not accessible to, or usable by, a person with a particular disability or persons with disabilities within the meaning of this subpart and section 255 of the Act; or that the defendant has otherwise failed to comply with the requirements of this subpart;

(6) The specific relief or satisfaction sought by the complainant, and

(7) The complainant's preferred format or method of response to the complaint by the Commission and defendant (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, braille; or some other method that will best accommodate the complainant's disability)

§ 6.18 Procedure; designation of agents for service.

(a) The Commission shall promptly forward any informal complaint meeting the requirements of § 6.17 to each manufacturer and provider named in or determined by the staff to be implicated by the complaint. Such manufacturer(s) or provider(s) shall be called on to satisfy or answer the complaint within the time specified by the Commission.

(b) To ensure prompt and effective service of informal and formal complaints filed under this subpart, every manufacturer and provider subject to the requirements of section 255 of the Act and this subpart, shall designate an agent, and may designate additional agents if it so chooses, upon whom

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service may be made of all notices, inquiries, orders, decisions, and other pronouncements of the Commission in any matter before the Commission. Such designation shall include, for both the manufacturer or the provider, a name or department designation, business address, telephone number, and, if available TTY number, facsimile number, and Internet e-mail address.

[64 FR 63251, Nov. 19, 1999, as amended at 72 FR 43559, Aug. 6, 2007; 73 FR 21252, Apr. 21, 2008]

§ 6.19 Answers to informal complaints.

Any manufacturer or provider to whom an informal complaint is directed by the Commission under this subpart shall file an answer within the time specified by the Commission. The answer shall:

(a) Be prepared or formatted in the manner requested by the complainant pursuant to § 6.17, unless otherwise permitted by the Commission for good cause shown;

(b) Describe any actions that the defendant has taken or proposes to take to satisfy the complaint;

(c) Advise the complainant and the Commission of the nature of the defense(s) claimed by the defendant;

(d) Respond specifically to all material allegations of the complaint; and

(e) Provide any other information or materials specified by the Commission as relevant to its consideration of the complaint.

[64 FR 63251, Nov. 19, 1999, as amended at 72 FR 43559, Aug. 6, 2007; 73 FR 21252, Apr. 21, 2008]

§ 6.20 Review and disposition of informal complaints.

(a) Where it appears from the defendant's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the informal complaint closed, without response to the complainant or defendant. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information, the nature of which is specified in paragraphs (b) through (d) of this section,

shall be transmitted to the complainant and defendant in the manner requested by the complainant, (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, or braille).

(b) In the event the Commission determines, based on a review of the information provided in the informal complaint and the defendant's answer thereto, that no further action is required by the Commission with respect to the allegations contained in the informal complaint, the informal complaint shall be closed and the complainant and defendant shall be duly informed of the reasons therefor. A complainant unsatisfied with the defendant's response to the informal complaint and the staff decision to terminate action on the informal complaint may file a formal complaint with the Commission, as specified in § 6.22.

(c) In the event the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that a material and substantial question remains as to the defendant's compliance with the requirements of this subpart, the Commission may conduct such further investigation or such further proceedings as may be necessary to determine the defendant's compliance with the requirements of this subpart and to determine what, if any, remedial actions and/or sanctions are warranted.

(d) In the event that the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that the defendant has failed to comply with or is presently not in compliance with the requirements of this subpart, the Commission may order or prescribe such remedial actions and/or sanctions as are authorized under the Act and the Commission's rules and which are deemed by the Commission to be appropriate under the facts and circumstances of the case.

§ 6.21 Formal complaints, applicability of §§ 1.720 through 1.736 of this chapter.

Formal complaints against a manufacturer or provider, as defined under this subpart, may be filed in the form and in the manner prescribed under §§ 1.720 through 1.736 of this chapter. Commission staff may grant waivers of, or exceptions to, particular requirements under §§ 1.720 through 1.736 of this chapter for good cause shown; provided, however, that such waiver authority may not be exercised in a manner that relieves, or has the effect of relieving, a complainant of the obligation under §§ 1.720 and 1.728 of this chapter to allege facts which, if true, are sufficient to constitute a violation or violations of section 255 of the Act or this subpart.

§ 6.22 Formal complaints based on unsatisfied informal complaints.

A formal complaint filing based on an unsatisfied informal complaint filed pursuant to § 4.16 of this chapter shall be deemed to relate back to the filing date of the informal complaint if it is filed within ninety days from the date that the Commission notifies the complainant of its disposition of the informal complaint and based on the same operative facts as those alleged in the informal complaint.

§ 6.23 Actions by the Commission on its own motion.

The Commission may on its own motion conduct such inquiries and hold such proceedings as it may deem necessary to enforce the requirements of this subpart and section 255 of the Communications Act. The procedures to be followed by the Commission shall, unless specifically prescribed in the Act and the Commission's rules, be such as in the opinion of the Commission will best serve the purposes of such inquiries and proceedings.