



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 17-946
September 28, 2017

Media Bureau Seeks Comment on December 20, 2018 Accessible User Interfaces Deadline for Mid-Sized and Smaller MVPDs

MB Docket No. 12-108

Comments Due: October 30, 2017
Reply Comments Due: November 13, 2017

Per the Commission's October 2013 *Accessible User Interfaces Order*,¹ in this Public Notice, the Media Bureau initiates its review of the marketplace for navigation devices with accessible user interfaces and program guides and menus to determine whether the December 20, 2018, compliance deadline for mid-sized and smaller multichannel video programming distributors (MVPDs) should be retained or extended, in whole or in part.

In October 2013, the Commission adopted rules under the authority of Sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) to make user interfaces and video programming guides and menus accessible on televisions, set-top boxes, and other devices used to view video programming. With respect to set-top boxes and other types of navigation devices, the accessible user interfaces rules require that on-screen text menus and guides provided by such devices for the display or selection of multichannel video programming must be audibly accessible in real time upon request by individuals who are blind or visually impaired,² if achievable.³ In addition, navigation devices with built-in closed captioning capability must include a mechanism that is reasonably comparable to a button, key, or icon for activating the closed captioning.⁴ MVPDs that lease or sell navigation devices, as well as navigation device manufacturers, are responsible for compliance with these

¹ *Accessibility of User Interfaces, and Video Programming Guides and Menus; Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 17330 (2013) (*Accessible User Interfaces Order*).

² 47 CFR § 79.108(a)(1)-(3). The rules also specify how covered entities should make accessible navigation devices available to requesting blind or visually impaired consumers, and how such entities can comply through the use of separate equipment or software. *See id.* § 79.108(a)(5)-(7).

³ If a covered entity believes that it is not achievable for them to comply with the accessible user interfaces rules, they may either (i) seek a determination from the Commission that compliance with the rules is not achievable before manufacturing or importing the device; or (ii) raise as a defense to a complaint or Commission enforcement action that a particular device does not comply with the rules because compliance was not achievable. *Id.* § 79.108(c)(1); *Accessible User Interfaces Order*, 28 FCC Rcd at 17379, para. 78. "Achievable" means "with reasonable effort or expense," and the Commission will consider four specific factors when determining whether compliance with the requirements of the rules is not achievable. 47 CFR § 79.108(c)(2).

⁴ 47 CFR § 79.109(b).

rules. In accordance with further rules adopted in 2015, MVPDs and manufacturers of navigation devices are also required to ensure that individuals with disabilities are aware of the availability of accessible navigation devices and have ready access to information and support that will allow them to operate such devices.⁵ Entities covered by the accessible user interfaces rules were required to comply by December 20, 2016, subject to certain exceptions.⁶

When adopting the accessible user interfaces rules, the Commission set a later compliance deadline for certain mid-sized and smaller MVPDs, recognizing that such entities “generally lack the market power and resources to drive independently the development of MVPD headend or customer premises equipment,” and typically rely on the efforts of larger operators with regard to deploying new equipment and services to customers.⁷ In particular, MVPD operators with 400,000 or fewer subscribers as of year-end 2012, and MVPD systems with 20,000 or fewer subscribers that are not affiliated with an operator serving more than 10 percent of all MVPD subscribers as of year-end 2012, are currently subject to a two-year deferred compliance deadline and expected to comply by December 20, 2018.⁸ In the *Accessible User Interfaces Order*, the Commission delegated authority to the Media Bureau to review the marketplace after the December 20, 2016 deadline for larger MVPDs to determine whether the delayed compliance deadline for mid-sized and smaller MVPDs should be retained or extended, in whole or in part.⁹ The Commission noted that the Bureau would be better positioned to assess whether mid-sized and smaller MVPD operators will be able to comply by December 20, 2018 after the three-year compliance deadline for larger operators had passed.¹⁰

In order to inform our review of the marketplace for navigation devices with accessible user interfaces and program guides and menus, we seek comment generally on the accessibility solutions that have been designed and developed by larger MVPDs to meet the December 2016 compliance deadline, and on whether mid-sized and smaller MVPDs can implement such solutions. We also seek comment on whether larger MVPDs have encountered any issues with respect to meeting their obligations. We note that, with two exceptions limited to rear entertainment systems in vehicles,¹¹ the Commission has not received requests for waivers of the accessible user interfaces rules or petitions for a determination of achievability. Further, we seek comment on whether mid-sized and smaller MVPDs subject to the

⁵ See *Accessibility of User Interfaces, and Video Programming Guides and Menus*, Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 13914 (2015). Specifically, MVPDs and navigation device manufacturers must provide notice to consumers about the availability of accessible navigation devices, and must ensure that the contact office or person listed on their website is able to answer both general and specific questions about the availability of accessible equipment. 47 CFR § 79.108(d)(1)-(2). MVPDs must also comply with other information, documentation, and training requirements to ensure that consumers with disabilities have access to information and support, such as accessible installation or user guides and other product documentation, that will allow them to operate navigation devices. *Id.* § 79.108(f).

⁶ See 47 CFR §§ 79.107(b), 79.108(b), 79.109(c). For example, certain categories of digital apparatus such as display-only monitors and video projectors and devices primarily designed for purposes other than displaying video programming are subject to a five-year deferred compliance deadline. *Id.* § 79.107(b)(1)-(3).

⁷ *Accessible User Interfaces Order*, 28 FCC Rcd at 17402, para. 115.

⁸ 47 CFR §§ 79.108(b)(1)-(2), 79.109(c)(1)-(2).

⁹ *Accessible User Interfaces Order*, 28 FCC Rcd at 17401, para. 114.

¹⁰ *Id.*

¹¹ See *Accessibility of User Interfaces, and Video Programming Guides and Menus*, Memorandum Opinion and Order, 32 FCC Rcd 1926 (2017) (granting Honda a waiver of the accessible user interfaces rules); Public Notice, *Media Bureau Seeks Comment on Fiat Chrysler Automobiles US LLC Petition for Waiver of Accessible User Interfaces Requirements*, 32 FCC Rcd 5003 (2017).

deferred compliance deadline have begun the process of identifying and implementing workable accessibility solutions that are compliant with the Commission's rules in anticipation of the December 20, 2018 deadline. What circumstances would necessitate extending the deadline beyond December 20, 2018, given that mid-sized and smaller MVPDs will have had five years to comply? What types of solutions do mid-sized and smaller MVPDs expect to implement to achieve accessibility (*e.g.*, app based solution; software integration into existing set-top box; upgraded set-top box; third-party peripheral device; a combination; or other solution)? We request that MVPDs provide specific information based on their investigation of possible solutions to comply with the requirements. To the extent commenters indicate that the applicable deadline should be extended, we ask them to provide a detailed explanation of the reasons for the request, the steps needed to meet the accessibility requirements, and estimated timeline for compliance.

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

Filings are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554, telephone (202) 418-0270.

For further information, contact Maria Mullarkey, Maria.Mullarkey@fcc.gov or (202) 418-2120.

-FCC-