§ 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 subsections 1 (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 sections 2(a) through (c).

(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.

Footnotes
1 So in original. Probably should be “subsection”.
2 So in original. Probably should be “subsections”.


Amendments