

United States Laws on Communications and Video Programming Access for People with Disabilities

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Access to Telecommunications and Technology Means:



- Jobs
- Education
- Information
- Recreation
- Marketplace
- Transportation
- Independence
- Privacy

Communications and Video Programming Issues

- Access to Equipment
- Access to Services
- Telecommunications Relay Services
- Closed Captioning
- Video Description
- Emergency Access
- Hearing Aid Compatibility and Volume Control



U.S. Telecommunications Policy: People with Disabilities

- Reliance on “Universal Service” obligation to mandate access
- Recognition of costs to society of “lost access”
- Recognition of pervasiveness of the telephone/Internet in commercial transactions and personal contacts
- Meeting accessibility promotes innovation
- Accessibility achieves access for all (beyond disability community)

Goal: Incorporate access at design stages - when access is built into technologies early, it is more easily integrated into product design; otherwise retrofitting can be burdensome and expensive

Market Forces Have Not Always Guarded Access

Recognition of limits of a competitive marketplace for people with disabilities

- Each disability market is too small
- Lower incomes mean less purchasing power
- Need for adaptive equipment discourages purchases

New technologies often create gaps for people with disabilities - government steps in where market fails

Case Examples of Access Once Provided and Then Taken Away

- **Hearing Aid Compatibility** - digital wireless phones (hard of hearing)
- **Graphical Interfaces** - computers (blind)
- **Digital (vs. analog) Television Captioning** - FCC rules to prevent loss of access, but slow implementation
- **Closed Captioning** - movement of programming from television sets via broadcast, cable and satellite to portable wireless devices via Internet protocol

Rehabilitation Act of 1973

- **Section 501** - Reasonable accommodations required for federal employees: includes access to telecommunications, information services, and videos (e.g., for training)
- **Section 504** - Federal programs and activities must provide effective communication
- **Section 508** - Federal agencies must develop, procure, maintain, and use electronic information and telecommunications technologies that is accessible to federal employees and members of the public with disabilities.
Covers:
 - ◆ Telecommunications equipment
 - ◆ Computers - hardware and software
 - ◆ Web-based information and applications (websites, webinars, etc.)
 - ◆ Office equipment
 - ◆ Multimedia applications - CDs, videos

Hearing Aid Compatibility

- **Telecommunications for the Disabled Act of 1982:**
First federal law to recognize right of people with disabilities to have access to telecommunications: national policy
 - ◆ “Essential” telephones must be hearing aid compatible
 - - Phones frequently needed
 - - Emergency phones
 - - Coin operated phones
 - ◆ Cross subsidies between services and consumer products permitted to continue to keep costs down on assistive equipment
- **Hearing Aid Compatibility Act of 1988** - hearing aid mandates expanded to all wireline/cordless phones

Americans with Disabilities Act of 1990

Effective Communications Required by:

- **Title I** - Private employers with more than 15 employees
- **Title II** - State and local governments
- **Title III** - Places of public accommodation (hotels, businesses, educational facilities, recreational establishments)

- **Title IV** - Common carriers must provide nationwide telecommunications relay services; states may get certified to provide these services.

Telecommunications Relay Services TTY Version



A person with a TTY is using the relay service to place an order for pizza delivery.

Telecommunications Relay Services

- Telecommunications Accessibility Enhancement Act of 1988 - establishment of federal relay system (for calls to, from and within federal agencies)
- Americans with Disabilities Act of 1990 (Title 4) - mandate for nationwide functionally equivalent telecommunications relay services:
 - ◆ Unrestricted hours of operation
 - ◆ No limits on length or number of calls
 - ◆ Unrestricted types of calls
 - ◆ Confidentiality guaranteed
 - ◆ Emergency access guaranteed
 - ◆ Funding support from telephone subscribers/phone companies

U.S. Supported Advanced Relay Technologies

- Video Relay (sign language): approved March 2000
- Speech-to-Speech (difficult-to-understand speech): mandated March 2000
- Spanish Relay: mandated March 2000
- 711 Dialing Access: mandated July 2000
- IP Relay (text over Internet): approved April 2002
- Captioned Telephone Relay (voice carryover plus captions): approved August 2003
- IP Captioned Telephone Relay: approved January 2007
- 10-Digit Numbering: mandated 2008

Closed Captioning



- 1976 - FCC approved Line 21 for closed captioning services
- 1976 - FCC required visual access to emergency notices (Emergency Broadcasting System)
- 1990 - Television Decoder Circuitry Act - U.S. Congress mandated closed captioning capability on TVs with screens larger than 13 inches

Closed Captioning

- 1996 - Section 713 of Communications Act - U.S. Congress mandated closed captioning on TV
- 1997 - FCC adopted rules implementing closed captioning requirements
- 2000 - FCC adopted rules requiring visual access to television programming containing information about emergencies
- 2012 - FCC adopted rules requiring captioning capability on most consumer devices; captioning via Internet protocol

Closed Captioning - 1997 Rules

- Full access for new programming: 100% of all new programming must be closed captioned, with some exemptions
- Maximize access for older programming: 75% of older programming (first shown before January 1998) must be closed captioned with some exemptions
- Applies to both English and Spanish language programming
- Categorical exemptions include: some overnight programming, advertisements, channels producing annual revenues under \$3 million, music without lyrics
- No provider must spend more than 2% of its annual revenues on captioning.

Section 255 of the Communications Act (added in 1996)

- **Accessibility:** Telecommunications products and services must be accessible to and usable by individuals with disabilities, if readily achievable.
- **Compatibility:** When it is not readily achievable to make products and services accessible, companies must make them compatible with peripheral devices or specialized customer premises equipment commonly used by people with disabilities.
- **Usability:** Companies must provide consumers with access to information and documentation for products and services: Includes access to user guides and bills, technical support services, call centers, and repair services.

Section 255

- Telecommunications services and products include: wired and wireless telephone services and products, fax machines, answering machines; Section 255 also covers voice mail and menu systems
- Companies must evaluate and incorporate access throughout the design, development and fabrication stages of their development as early and as consistently as possible
- Companies must include people with disabilities in market research, product testing and trials, pilot demonstrations, and work cooperatively with disability-related organizations
- Goal is universal design: Design and deliver products and services that are usable by people with the widest range of functional capabilities

Turn of Century: Many Gaps in Laws

- Many federal laws enacted in the 1970s, 1980s, and 1990s safeguarding telecommunications access did not keep pace with new Internet-based and digital technologies.
- No mandates for video description
- Limited products required to display captions; no mandates for captioning over the Internet
- No specific protections for deaf-blind population
- No guarantee of emergency access or accessible user interfaces on video devices for people who are blind or visually impaired

Twenty-First Century Communications and Video Accessibility Act (CVAA)

Public Law 111-260; Public Law 111-265

- Need for the Legislation: Americans with disabilities need access to emerging digital and Internet-based technologies to participate in employment, educational, entertainment and civic affairs, and to be independent and productive citizens
 - ◆ Prior focus was on telecommunications
 - ◆ Prior laws applied to legacy technologies

CVAA addresses accessibility challenges of 21st century technologies

Title I - Communications

- Requires access to advanced communications services and products: voice over Internet protocol, electronic messaging, interoperable video conferencing
 - ◆ Covers real-time or near real-time non-voice messages in text - e.g., e-mail, SMS, instant messaging (not on-line posts or blogs)
- Requires accessible Internet browsers on mobile devices
- Authorizes funding support for national deaf-blind equipment distribution program
- Makes enhancements to telecommunications relay service program
- Authorizes rules for reliable and interoperable access to Next Generation (NG) 9-1-1 emergency services
- Applies hearing aid compatibility mandates to devices used with advanced communication services

Advanced Communications Services (ACS)

Expansion of Section 255's Requirements to Advanced Communications – takes effect October 2013

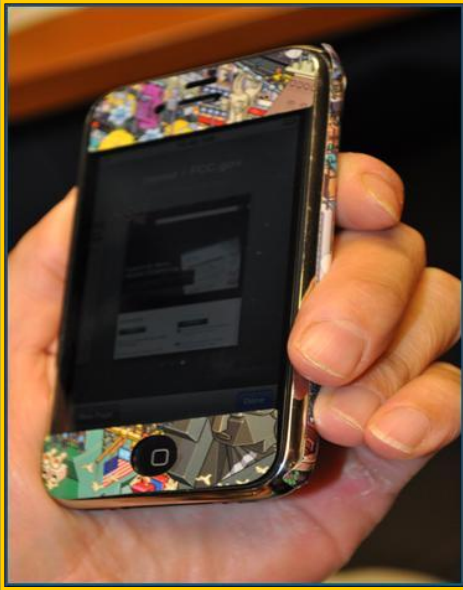
- **Accessibility:** Services and products must be accessible to people with disabilities unless not “achievable.” Manufacturers must identify barriers during design stages, as early as possible
 - ◆ **Industry Flexibility:** access may be built-in or rely on third party solutions
- **Compatibility:** Where access is not achievable, equipment must be compatible with peripheral devices commonly used, if achievable.
- **Usability:** Must ensure access to information and documentation about products and accessibility features, including user guides, bills, product support centers.

Achievability Standard

With Reasonable Effort or Expense - must consider:

- Nature and cost of steps needed for specific equipment or service
- Technical and economic impact on operation of manufacturer or provider and specific equipment or service
- Type of operations of manufacturer or provider
- Extent to which service provider or manufacturer offers accessible services or equipment containing varying degrees of functionality and features at different price points

Internet Browsers on Mobile Phones



- Internet browsers built into mobile phones must be accessible to and usable by persons who are blind or have a visual impairment, when achievable.
- Industry flexibility to incorporate access or use third party apps or peripheral devices, available to the consumer at nominal cost.
- No requirement to make Internet content, apps, or services accessible.
- Takes effect October 2013

Improved Accountability Measures

- Industry Recordkeeping Requirements
 - ◆ Keep records of accessibility and compatibility features, efforts to consult with people with disabilities
 - ◆ Certify recordkeeping to FCC annually (beginning April 1, 2013)
 - ◆ Keep records for 2 years
- FCC Reporting Requirements
 - ◆ Report for Congress every 2 years
- FCC Clearinghouse of Information on Accessible Products and Services

National Deaf-Blind Equipment Distribution Program (NDBEDP) Launched July 1, 2012

- Authorizes \$10 million annually for local programs to distribute equipment to low income people who are deaf-blind
- Covers equipment to make telecommunications service, Internet access service, and advanced communications, services accessible
- Covers reasonable costs of assessments, training, equipment warranties, maintenance, repairs, and outreach
- 53 local entities certified to distribute equipment
- National outreach coordinator selected for nationwide campaign to educate community

CVAA Changes to Telecommunications Relay Service Program

- Requires VoIP contributions to support these services
- Updates relay service definition to:
 - ◆ Include people who are deaf-blind
 - ◆ Permit calls using multiple forms of relay services between and among people with disabilities (previously: funding support only for calls between a person with a hearing or speech disability and a person without a disability)

Emergency Access

- Title 2 of the Americans with Disabilities Act - access to 911 (112) emergency call centers
- Title 4 of the Americans with Disabilities Act - access by relay users
- CVAA: Emergency Access Advisory Committee
 - ◆ Conducted survey of people with disabilities - Spring 2011
 - ◆ Produced report on survey - July 2011
 - ◆ Submitted recommendations on reliable, interoperable communication to enable people with disabilities to access next generation (NG) 9-1-1 services to FCC - December 2011
- September 2011 Proceeding on NG 911 - looking at text to 911
- Verizon/AT&T roll out of text-to-911 in 2013

Title II - Video Programming

- Closed captioning on the Internet
- Video description on television
- Access to emergency information for people who are blind and visually impaired
- Access to video devices:
 - ◆ Content - closed captioning, video description, accessible emergency information
 - ◆ Device capabilities - User interfaces, on-screen text menus and programming guides for people who are blind and visually impaired

Closed Captioning on Video Programming Delivered Via Internet Rules Adopted January 2012

What's covered?

- Full length programming first exhibited on TV in the U.S. after certain dates
- No outtakes or video clips (but segments covered if full length programming divided for the Internet)
- No consumer generated media
- No unauthorized (pirated) postings

IP Captioning Deadlines

Programming must be captioned immediately when added to the provider's or distributor's Internet distribution library if shown on TV with captions on or after:

- September 30, 2012 - pre-recorded programming/not edited for Internet distribution;
- March 30, 2013 - live and near-live programming (programming performed and recorded < 24 hours prior to first showing on television); and
- September 30, 2013 - pre-recorded programming edited for Internet distribution.
- March 30, 2014 - programming already in the provider's or distributor's Internet distribution library if the programming is shown on television with captions on or after certain dates

Title II - Video Devices

- Video devices of all sizes must provide captioning, video description, emergency access, if achievable
- Easy access to closed captioning and video description - for example, through a button, key, or icon
- Recording devices must render or pass through closed captions, video description signals, and emergency information, if achievable
- Interconnection mechanisms (cables) between TVs and other devices must permit or render the display of closed captions, video description, and audible emergency information

Video Devices - User Interfaces, Program Guides, On-Screen Menus

- User Interfaces on digital video apparatus must be accessible if achievable
- Audio access to on-screen text menus
- Audio access to programming guides
- Compliance may be through the use of software, peripheral device, or other solution, and must be provided free to the requesting individual within a reasonable time

Title II - Video Description

- Required for:
 - ◆ 4 national broadcast networks in top 25 markets (top 60 as of July 1, 2015)
 - ◆ Top 5 cable channels: Disney Channel, Nickelodeon, TBS, TNT, and USA
 - ◆ Subscription TV systems (offered over cable, satellite) with 50,000 or more subscribers
- Amount of programming: 4 hours of prime time or children's programming per week
- FCC must conduct additional inquiries on availability, benefits, uses, and costs: 1 year after rule phase-in
- CVAA authorizes expansion to 7 hours of video description per week and eventually all market areas

Title II - Video Programming Emergency Information

- Current rules - Require visual access for people who are deaf and hard of hearing; aural tone for people with visual disabilities
- CVAA:
 - ◆ Identify methods to convey emergency information in a manner accessible to people who are blind or visually impaired
 - ◆ Issue rules requiring video programming providers, distributors and program owners to convey this information in a manner accessible to this population
 - ◆ Rules due April 8, 2013

CVAA: Before and After

- Section 255 Rules for Telecommunications (1998)
 - ◆ CVAA: Advanced Communications Services Rules (2011)
- Closed Captioning Rules for Television (1997)
 - ◆ CVAA: CC Rules for Internet Delivered Programming (2012)
- Closed Captioning Television Decoder Standards: analog and digital (1997, 2000)
 - ◆ CVAA: Rules for Device Delivery of Internet Programming (2012)
- Video Description Rules for Television (2000 - overturned in U.S. federal court after industry challenge in 2002)
 - ◆ CVAA: Restoration of Rules (2011)

CVAA - Before and After

- Telecommunications Relay Services - 1991-present:
 - ◆ Text-Voice (PSTN and IP); Video Relay; Speech-to-Speech; Captioned Telephone; Spanish-ASL; 711 and 10 digit numbering access; emergency access
 - CVAA: Contributions to TRS by VoIP providers (2011)
 - CVAA: National Deaf-Blind Equipment Distribution Program (2012)
 - CVAA: Expansion of TRS Definition to communications between users of different forms of relay; people who are deaf-blind
- Hearing Aid Compatibility (1984 - 2008)
 - ◆ CVAA: New requirements for VoIP phones (2012)

The Future: Designing for Accessibility

- **Leveling the Playing Field:** Achieve independence and autonomy with full access
- **Good Business Sense:** Industry benefits when it incorporates access
- **Avoid Expensive and Burdensome Retrofits:** Incorporate access during design and development phases
- **Inclusion, not Exclusion:** Upgrades should not remove access - avoid a repeat of the “talkies” effect
- **Access Benefits Everyone:** Examples - closed captioning, vibrating mobile phones, slower IVR recordings, mobile phones with audio output and voice input

Consumer Guides

- Section 255, Telecommunications Access for Persons with Disabilities:
<http://transition.fcc.gov/cgb/consumerfacts/section255.pdf>
- Hearing Aid Compatibility for Wireless Telephones:
http://transition.fcc.gov/cgb/consumerfacts/hac_wireless.pdf
- Hearing Aid Compatibility for Wireline Telephones:
http://transition.fcc.gov/cgb/consumerfacts/hac_wireline.pdf
- Telecommunications Relay Services (TRS):
<http://transition.fcc.gov/cgb/consumerfacts/trs.pdf>

Consumer Guides (cont.)

- Closed Captioning:
<http://transition.fcc.gov/cgb/consumerfacts/closedcaption.pdf>
- Closed Captioning of Internet Video Programming:
<http://transition.fcc.gov/cgb/consumerfacts/captionsinternet.pdf>
- Display of Captioning on Equipment Used to View Video Programming:
http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0625/DOC-314815A1.pdf
- Video Description:
<http://transition.fcc.gov/cgb/consumerfacts/videodescription.pdf>
- National Deaf-Blind Distribution Program:
<http://transition.fcc.gov/cgb/consumerfacts/NDBEDP.pdf>

More Information

CVAA:

[http://transition.fcc.gov/cgb/dro/cva
a.html](http://transition.fcc.gov/cgb/dro/cva
a.html)

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