



PUBLIC NOTICE

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Media Bureau Reminds Covered Mid-Sized and Smaller MVPDs of December 20, 2018 Accessible User Interfaces Deadline

MB Docket No. 12-108

In October 2013, the Commission adopted rules pursuant to Sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA)¹ to make user interfaces and video programming guides and menus accessible on televisions, set-top boxes, and other devices used to view video programming. When adopting the accessible user interfaces rules, the Commission set a later compliance deadline for certain mid-sized and smaller multichannel video programming distributors (MVPDs).² 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 subject to a two-year deferred compliance deadline and are expected to comply by December 20, 2018.³ This Public Notice serves as a reminder of this approaching compliance deadline for mid-sized and smaller MVPDs that are not subject to the recently-granted waiver discussed herein.

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 be audibly accessible in real time upon request by individuals who are blind or visually impaired,⁴ if achievable.⁵ In addition, navigation devices with built-in closed captioning

¹ Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified in various sections of 47 U.S.C.). *See also* Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA).

² *See 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, 17402, para. 115 (2013) (*Accessible User Interfaces Order*).

³ 47 CFR §§ 79.108(b)(1)-(2), 79.109(c)(1)-(2). Entities covered by the accessible user interfaces rules were required to comply by December 20, 2016, subject to certain exceptions. *See* 47 CFR §§ 79.108(b), 79.109(c). *See also infra* note 8 and accompanying text.

⁴ 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).

⁵ 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.* §

capability must include a mechanism that is reasonably comparable to a button, key, or icon for activating the closed captioning.⁶ MVPDs that lease or sell navigation devices, as well as navigation device manufacturers, are responsible for compliance with these 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.⁷

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.⁸ To inform this review, the Media Bureau issued a Public Notice in 2017 that sought comment on issues related to the accessibility solutions used by larger MVPDs and on the types of solutions available to mid-sized and smaller MVPDs to achieve accessibility in anticipation of the December 20, 2018 deadline.⁹ Because the record in response to the Public Notice indicates that only a narrow subset of small and mid-sized MVPDs will not be able to comply with the accessible user interfaces rules by the December 20, 2018 deadline, this deadline is retained for covered entities, excepting those subject to the waivers discussed below.

On November 2, 2018, the Media Bureau granted two waivers of its rules requiring the accessibility of user interfaces on covered navigation devices for certain small and mid-sized MVPDs, as requested by the American Cable Association (ACA).¹⁰ First, the Bureau granted ACA's request for a limited waiver of the accessible user interfaces requirements for certain mid-sized or smaller systems that utilize quadrature amplified modulation (QAM), as they apply to the system's two-way service offerings (*e.g.*, video on demand).¹¹

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).

⁶ 47 CFR § 79.109(b).

⁷ 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). 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).

⁸ *Accessible User Interfaces Order*, 28 FCC Rcd at 17401, para. 114.

⁹ See *Media Bureau Seeks Comment on December 20, 2018 Accessible User Interfaces Deadline for Mid-Sized and Smaller MVPDs*, Public Notice, 32 FCC Rcd 7332 (MB 2017).

¹⁰ See *Accessibility of User Interfaces, and Video Programming Guides and Menus*, Memorandum Opinion and Order, MB Docket No. 12-108, DA 18-1130 (MB rel. Nov. 2, 2018) (*ACA Waiver Order*). See also *Petition for Waiver of the American Cable Association*, MB Docket No. 12-108 (filed June 15, 2018) (Petition).

¹¹ See *Petition* at 9-11. Specifically, the Bureau granted a waiver of the accessible user interfaces requirements in section 79.108 of the Commission's rules as they apply to a cable system's two-way service offerings, if the system: (i) is subject to the December 20, 2018 compliance deadline under section 79.108(b) of the Commission's rules; (ii) satisfies the definition of a digital cable system under section 76.640(a) of the Commission's rules; and (iii) is offering a user guide as of December 20, 2018 that either does not enable the accessibility of all functions required by section 79.108 that are offered by the system or for which the provider of such guide has not released a software update or application for a third-party device that alone would enable the accessibility of all such functions offered

Additionally, the Bureau granted ACA's request for a waiver of the accessible user interfaces requirements for certain small cable systems that offer any video programming channels in only analog format or do not offer broadband Internet access service to their residential video subscribers.¹² Covered entities that meet the criteria for waiver are not expected to comply by the December 20, 2018 deadline.

A Small Entity Compliance Guide intended to help small entities comply with the rules adopted in MB Docket No. 12-108 can be accessed [here](#). For further information, contact Maria Mullarkey, Maria.Mullarkey@fcc.gov or (202) 418-2120.

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by the system. *ACA Waiver Order* at para. 17. This waiver is subject to certain conditions, including the requirement that the cable systems provide notice annually to current customers for as long as the system chooses to rely on the waiver and provide notice to both current and potential customers when they inquire about accessibility options. *Id.*

¹² Petition at 12-14. Specifically, the Bureau granted a waiver of the accessible user interfaces requirements in section 79.108 of the Commission's rules for a system that (i) qualifies for the partial waiver of section 79.108 as it applies to a system's two-way service offerings; (ii) has 20,000 or fewer subscribers; and (iii) as of December 20, 2018, offers any video programming channels in only an analog format or does not offer broadband Internet access service to its residential video subscribers. *ACA Waiver Order* at para. 17. This waiver is subject to certain conditions, including the requirement that the systems provide notice annually to current customers for as long as the system chooses to rely on the waiver and provide notice to both current and potential customers when they inquire about accessibility options. *Id.*