

ALERT

# FCC Seeks Comment on Proposed Rules Requiring Accessibility of User Interfaces on Set-Top Boxes, Smartphones, PCs and other Devices Used to View Video Programming

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May 31, 2013

On May 30, 2013, the Federal Communications Commission (Commission) adopted a Notice of Proposed Rulemaking (NPRM) seeking comment on the initial implementation of Section 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). Sections 204 and 205 of the CVAA require that, if achievable, the user interfaces of digital apparatus and navigation devices used to receive or play back video programming be made accessible to persons who are blind or visually impaired. Comments will be due 25 days after publication in the Federal Register. Reply comments will be due 50 days after publication in the Federal Register.

## ***Applicability of the Rules***

The Commission seeks comment on the categories of devices that should be covered under Sections 204 and 205. "Navigation devices" is defined by the Commission's rules as "[d]evices such as converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems." The Commission notes that it has interpreted this definition broadly to encompass televisions, personal computers, cable modems and VCRs.

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## **Practice Areas**

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Media  
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Section 204 states that digital apparatus “does not include navigation devices.” However some parts of Section 205 are limited only to navigation devices supplied to subscribers by multichannel video programming distributors (MVPDs). The Commission suggests that interpreting this exception “literally could largely nullify Section 204,” and that Congress' intent in using the terms “digital apparatus” and “navigation devices” was unclear. As such, the Commission asks whether it should interpret Section 205 as being applied only to navigation devices that are supplied to subscribers by multichannel video programming distributors (MVPDs), and read Section 204 as applying to all other digital apparatus, including navigation devices not provided by MVPDs. Alternatively, the Commission asks whether it should read the terms literally, and, in either case, what the implications would be in terms of the devices and functions covered by the two statutory Sections.

The Commission further seeks comment on whether Section 205's requirements apply to software and applications developed by MVPDs to enable subscribers to access their services on tablets, laptops, smartphones and computers.

### ***Functions That Must be Made Accessible***

The Commission proposes interpreting Sections 204 and 205 to require that all “user functions” of a digital apparatus or navigation device are made accessible to individuals who are blind or visually impaired. The Commission notes that the Video Programming Accessibility Advisory Committee (VPAAC) identified 11 essential functions of an apparatus such as power on/off, volume adjustment, channel selection, etc. The Commission proposes that the VPAAC list should be used as a representative list of “user functions” that must be accessible to individuals who are blind or visually impaired. Under the proposed rules, “user functions” do not include debugging or diagnostic functions.

### ***Accessibility Features Available on Request***

The Commission seeks comment on implementing the CVAA's requirement that certain accessibility features be activated through mechanisms that are comparable to buttons, keys and icons by requiring that such features can be activated and deactivated in a single step.

The Commission also seeks comment on various other aspects of Section 204 and 205 implementation including:

- Allowing covered entities to comply with the requirements of the CVAA through alternate means than those prescribed through regulation;
- Applying the same compliance procedures adopted in the IP-closed captioning context;
- Implementing the Section 205 exemption for small cable systems;
- Appropriate phase-in periods for the new obligations; and,
- Eliminating its requirement that manufacturers label analog TV sets based on whether they include a closed-captioned decoder.