

[DISCUSSION DRAFT]110TH CONGRESS
1ST SESSION**H. R.** _____

To ensure that individuals with disabilities have access to emerging Internet-based communication and video programming technologies in the 21st Century.

IN THE HOUSE OF REPRESENTATIVES

Mr. MARKEY introduced the following bill; which was referred to the Committee on _____

A BILL

To ensure that individuals with disabilities have access to emerging Internet-based communication and video programming technologies in the 21st Century.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Twenty-first Century Communications and Video Acces-
6 sibility Act of 2007”.

7 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

1 “(21) INTERCONNECTED VOIP SERVICE.—The
2 term ‘interconnected VoIP service’ means a service
3 that—

4 “(A) enables real-time, two-way voice com-
5 munications;

6 “(B) requires an internet connection from
7 the user’s location;

8 “(C) requires customer premises equip-
9 ment that is Internet protocol-compatible (or
10 equipment compatible with a successor pro-
11 tocol); and

12 “(D) permits users generally to receive
13 calls that originate on the public switched tele-
14 phone network and to terminate calls to the
15 public switched telephone network.

16 “(22) INTERNET-ENABLED COMMUNICATION
17 SERVICE.—The term ‘Internet-enabled communica-
18 tion service’ means—

19 “(A) a transmission service that—

20 “(i) enables real-time, two-way voice
21 communications;

22 “(ii) requires an Internet connection
23 from the user’s location;

24 “(iii) requires customer premises
25 equipment that is Internet protocol-com-

1 patible (or equipment compatible with a
2 successor protocol); and

3 “(iv) permits users generally to re-
4 ceive calls that originate on the public
5 switched telephone network and to termi-
6 nate calls to the public switched telephone
7 network; or

8 “(B) a transmission service between or
9 among points specified by the user, of informa-
10 tion of the user’s choosing, using the Internet
11 protocol (or a successor protocol) if such trans-
12 mission is for the purpose of enabling bilateral
13 or multilateral voice, text, or video communica-
14 tion, utilization of interactive voice response or
15 voice mail systems, or other similar communica-
16 tions-based applications, and uses—

17 “(i) an Internet connection from the
18 user’s location; and

19 “(ii) customer premises equipment
20 that is compatible with the Internet pro-
21 tocol (or a successor protocol).”.

22 **SEC. 102. HEARING AID COMPATIBILITY.**

23 (a) AMENDMENT.—Section 710(b)(1) of the Commu-
24 nications Act of 1934 (47 U.S.C. 610(b)(1)) is amended—

1 (1) by striking “and” at the end of subpara-
2 graph (A);

3 (2) by inserting “and” after the comma at the
4 end of subparagraph (B); and

5 (3) by inserting after subparagraph (B) the fol-
6 lowing new subparagraph:

7 “(C) all customer premises equipment used to
8 provide an Internet-enabled communication service
9 that provides voice communication via a built-in
10 speaker (typically held to the ear) and that are man-
11 ufactured in the United States (other than for ex-
12 port) more than one year after the date of enact-
13 ment of the Twenty-first Century Communications
14 and Video Accessibility Act of 2007 or shipped in
15 interstate commerce in the United States more than
16 one year after such date.”.

17 **SEC. 103. RELAY SERVICES.**

18 Section 225 of the Communications Act of 1934 (47
19 U.S.C. 225) is amended—

20 (1) in subsection (a), by striking paragraph (3)
21 and inserting the following:

22 “(3) TELECOMMUNICATIONS RELAY SERV-
23 ICES.—The term ‘telecommunications relay services’
24 means telephone transmission or Internet-enabled
25 communication services that provide the ability for

1 an individual who is deaf or hard of hearing or who
2 has a speech disability to engage in communication
3 by wire, radio, or Internet with one or more individ-
4 uals, in a manner that is functionally equivalent to
5 the ability of a hearing individual who does not have
6 a speech disability to communicate using voice com-
7 munication services by wire, radio, or Internet.”;

8 (2) in subsection (c)—

9 (A) in the first sentence—

10 (i) by inserting “and each provider of
11 Internet-enabled communication service
12 that offers voice communication” after
13 “voice transmission services”; and

14 (ii) by striking “other carriers” and
15 inserting “other carriers or providers of
16 Internet-enabled communication service
17 that offer voice communication”;

18 (B) in the second sentence, by striking “A
19 common carrier” and inserting “A common car-
20 rier or provider of Internet-enabled communica-
21 tion service that offers voice communication”;
22 and

23 (C) in paragraphs (1) and (2)—

24 (i) by striking “such common carrier”
25 each place it appears and inserting “such

1 common carrier or provider of Internet-en-
2 abled communication service that offers
3 voice communication”; and

4 (ii) by striking “the carrier is pro-
5 viding” each place it appears and inserting
6 “such carrier or provider is providing”;

7 (3) by adding at the end of subsection (f) the
8 following new paragraph:

9 “(5) RULE OF CONSTRUCTION.—Nothing in
10 this section shall be construed to limit the authority
11 of a State to regulate its certified State-operated
12 relay program, including a program that employs the
13 use of Internet-based relay services.”.

14 **SEC. 104. ACCESS TO INTERNET-BASED SERVICES AND**
15 **EQUIPMENT.**

16 Title II of the Communications Act of 1934 (47
17 U.S.C. 201 et seq.) is amended by inserting after section
18 255 the following new section:

19 **“SEC. 255A. ACCESS TO INTERNET-BASED SERVICES AND**
20 **EQUIPMENT.**

21 “(a) MANUFACTURING.—A manufacturer of equip-
22 ment used for Internet-enabled communication services,
23 including end user equipment, network equipment, and
24 software, shall ensure that the equipment is designed, de-
25 veloped, and fabricated to be accessible to and usable by

1 individuals with disabilities, unless this would result in an
2 undue burden.

3 “(b) SERVICE PROVIDERS.—A provider of Internet-
4 enabled communication service shall ensure that its service
5 is accessible to and usable by individuals with disabilities,
6 unless this would result in an undue burden.

7 “(c) REAL-TIME TEXT SUPPORT.—Real-time text
8 conversation over the public switched network and the
9 Internet shall be supported wherever there is voice con-
10 versation support using, at a minimum, the standard text
11 conversation format for that voice transport technology,
12 unless this would result in an undue burden.

13 “(d) COMPATIBILITY.—Whenever the requirements
14 of subsections (a), (b), and (c) constitute an undue bur-
15 den, such manufacturer or provider shall ensure that the
16 equipment or service is compatible with existing peripheral
17 devices or specialized customer premises equipment com-
18 monly used by individuals with disabilities to achieve ac-
19 cess, unless this would result in an undue burden.

20 “(e) NETWORK INTERCONNECTION.—Each provider
21 of Internet-enabled communication service has the duty
22 not to install network features, functions, or capabilities
23 that do not comply with the regulations established pursu-
24 ant to this section.

1 “(f) REGULATIONS.—Within one year after the date
2 of enactment of the Twenty-first Century Communications
3 and Video Accessibility Act of 2007, the Commission shall
4 prescribe such regulations as are necessary to implement
5 this section. In prescribing the regulations, the Commis-
6 sion shall—

7 “(1) include standards to ensure the accessi-
8 bility, usability, and compatibility of Internet-en-
9 abled communication services and equipment by in-
10 dividuals with disabilities;

11 “(2) include standards to ensure the real-time
12 text support required by subsection (c);

13 “(3) provide that Internet-enabled communica-
14 tion services, Internet-enabled communication net-
15 works, and the equipment used for such services
16 may not impair or impede the accessibility of infor-
17 mation content when accessibility has been incor-
18 porated into that content for transmission through
19 Internet-enabled communication services, networks,
20 or equipment;

21 “(4) require each provider of Internet-enabled
22 communication service—

23 “(A) to file a report containing a written
24 analysis of product development accessibility
25 and compatibility to the Commission that de-

1 scribes steps to achieve access, including infor-
2 mation about the company's efforts to consult
3 with individuals with disabilities, descriptions of
4 a product or service's accessibility features, and
5 information about the product or service's com-
6 patibility with peripheral devices or specialized
7 customer premises equipment commonly used
8 by persons with disabilities to achieve access;
9 and

10 “(B) to file copies of their product and
11 service development accessibility and compat-
12 ibility analyses under this paragraph with the
13 Commission on an annual basis;

14 “(5) include enforcement and complaint proce-
15 dures that shall—

16 “(A) require the Commission to resolve
17 complaints alleging a violation of this section
18 within 90 days;

19 “(B) provide for a separate and identifi-
20 able electronic, telephonic, and physical recep-
21 tacle for the receipt of (both formal and infor-
22 mal) complaints filed under this section; and

23 “(C) facilitate the filing of formal com-
24 plaints.

1 “(g) REMEDIES.—The limitations on actions in sec-
2 tion 255(f) shall not apply to this section.

3 “(h) REPORTING.—Every two years after the date of
4 enactment of the Twenty-first Century Communications
5 and Video Accessibility Act of 2007, the Commission shall
6 submit a report to the Committee on Commerce, Science,
7 and Transportation of the Senate and the Committee on
8 Energy and Commerce of the House of Representatives
9 that assesses the level of compliance with this section and
10 evaluates the extent to which any accessibility barriers still
11 exist with respect to new technologies. Such report shall
12 include information about the number and resolution of
13 complaints brought under this section.

14 “(i) CLEARINGHOUSE.—The Commission shall, in co-
15 ordination with the Access Board and the National Tele-
16 communications and Information Administration, estab-
17 lish a clearinghouse of information on the availability of
18 accessible products and services and accessibility solutions
19 required under this section. Such information shall be
20 made publicly available on the Commission’s website and
21 by other means, and shall include an annually updated list
22 of products and services with access features.

23 “(j) OUTREACH AND EDUCATION.—Within one year
24 after the date of enactment of the Twenty-first Century
25 Communications and Video Accessibility Act of 2007, the

1 Commission, in coordination with the National Tele-
2 communications and Information Administration, shall
3 conduct an informational and educational program de-
4 signed to inform the public about the availability of the
5 clearinghouse, and the protections and remedies available
6 under this section.

7 “(k) DEFINITION.—For purposes of this section the
8 term ‘undue burden’ means significant difficulty or ex-
9 pense. In determining whether the requirements of this
10 section would result in an undue burden, the factors to
11 be considered include—

12 “(1) the nature and cost of the steps required
13 for the manufacturer or provider;

14 “(2) the impact on the operation of the manu-
15 facturer or provider;

16 “(3) the financial resources of the manufacturer
17 or provider; and

18 “(4) the type of operations of the manufacturer
19 or provider.”.

20 **SEC. 105. UNIVERSAL SERVICE.**

21 (a) CONSUMERS WITH DISABILITIES.—Section 254
22 of the Communications Act of 1934 (47 U.S.C. 254) is
23 amended—

24 (1) in subsection (b)—

1 (A) by redesignating paragraph (7) as
2 paragraph (8); and

3 (B) by inserting after paragraph (6) the
4 following new paragraph:

5 “(7) ACCESS BY CONSUMERS WITH DISABIL-
6 TIES.—Consumers with disabilities should have ac-
7 cess to telecommunications and Internet-enabled
8 communication services, including interexchange
9 services and advanced telecommunications and infor-
10 mation services, that are functionally equivalent to
11 those services provided to consumers without disabili-
12 ties and that are available at rates that are reason-
13 ably comparable to rates charged for similar services
14 to consumers without disabilities within a State.”;
15 and

16 (2) in subsection (c)—

17 (A) in paragraph (1)(B), by inserting “in-
18 cluding customers with disabilities” after “resi-
19 dential customers”; and

20 (B) by adding at the end the following new
21 paragraph:

22 “(4) INDIVIDUALS WITH DISABILITIES.—Not-
23 withstanding subsection (j), the Commission may
24 designate broadband telecommunications services
25 that are needed by individuals with disabilities to en-

1 gage in communication with one or more other indi-
2 viduals in a manner that is functionally equivalent
3 to the ability of individuals without disabilities to en-
4 gage in such communication as services supported
5 by Lifeline and Link Up assistance programs and
6 other Federal universal service support mecha-
7 nisms.”.

8 (b) ALLOCATION OF USF FOR SERVICES FOR INDI-
9 VIDUALS WITH DISABILITIES.—Section 254 of the Com-
10 munications Act of 1934 (47 U.S.C. 254) is further
11 amended—

12 (1) by redesignating subsections (h) through (l)
13 as subsections (i) through (m), respectively; and

14 (2) by inserting after subsection (g) the fol-
15 lowing new subsection:

16 “(h) INDIVIDUALS WHO ARE DEAF-BLIND.—

17 “(1) IN GENERAL.—Within 6 months after the
18 date of the enactment of the Twenty-first Century
19 Communications and Video Accessibility Act of
20 2007, the Commission shall establish rules that de-
21 fine as eligible for universal service support, pro-
22 grams that are certified by a State commission or
23 approved by the Commission for the distribution of
24 specialized customer premises equipment designed to
25 make telecommunications and Internet-enabled com-

1 munication service, including interexchange services
2 and advanced telecommunications and information
3 services, accessible by individuals who are deaf-blind.

4 “(2) DEFINITION.—For the purposes of this
5 subsection, the term ‘individuals who are deaf-blind’
6 has the same meaning as such term has in the
7 Helen Keller National Center Act, as amended by
8 the Rehabilitation Act Amendments of 1992 (29
9 U.S.C. 1905(2)).

10 “(3) ANNUAL AMOUNT.—The total amount of
11 universal service support that may be obligated or
12 expended under this subsection for any fiscal year
13 may not exceed \$10,000,000.”.

14 **TITLE II—VIDEO PROGRAMMING**

15 **SEC. 201. CLOSED-CAPTIONING DECODER AND VIDEO DE-** 16 **SCRIPTION CAPABILITY.**

17 (a) AMENDMENT.—Section 303(u) of the Commu-
18 nications Act of 1934 (47 U.S.C. 303(u)) is amended to
19 read as follows:

20 “(u) Require that every apparatus designed to receive
21 or display video programming transmitted simultaneously
22 with sound, including apparatus designed to receive or dis-
23 play video programming transmitted by means of Internet-
24 enabled services, that are shipped in interstate commerce
25 or manufactured in the United States—

1 “(1) be equipped with built-in closed caption
2 decoding capability designed to display closed-cap-
3 tioned video programming; and

4 “(2) have sufficient capacity to make available
5 the transmission and delivery of video description
6 services as defined in section 713.”.

7 (b) IMPLEMENTING REGULATIONS.—The Federal
8 Communications Commission shall prescribe such regula-
9 tions as are necessary to implement the amendment made
10 by subsection (a) within 18 months after the date of enact-
11 ment of this Act.

12 **SEC. 202. VIDEO DESCRIPTION AND CLOSED CAPTIONING.**

13 Section 713 of the Communications Act of 1934 (47
14 U.S.C. 613) is amended by striking subsections (f) and
15 (g) and inserting the following:

16 “(f) VIDEO DESCRIPTION.—

17 “(1) REINSTATEMENT OF RULES.—The video
18 description regulations of the Commission contained
19 in the report and order identified as Implementation
20 of Video Description of Video Programming, Report
21 and Order (15 F.C.C.R. 15.230 (2000)), shall, not-
22 withstanding the decision of the United States Court
23 of Appeals for the District of Columbia Circuit in
24 *Motion Picture Association of America, Inc., et. al.,*
25 *v. Federal Communications Commission , et. al.* (309

1 F. 3d 796, November 8, 2002), be considered to be
2 in full force and effect and ratified by law.

3 “(2) CONTINUING AUTHORITY OF THE COMMIS-
4 SION.—The Commission—

5 “(A) shall, within 45 days after the date of
6 enactment of the Twenty-first Century Commu-
7 nications and Video Accessibility Act of 2007,
8 republish its video description regulations con-
9 tained in the report and order identified as Im-
10 plementation of Video Description of Video Pro-
11 gramming, Report and Order (15 F.C.C.R.
12 15,230 (2000));

13 “(B) shall—

14 “(i) no later than 180 days after such
15 date of enactment, amend such regulations
16 to apply to video programming tech-
17 nologies that are based in digital signals or
18 other methods; and

19 “(ii) in developing such regulations,
20 ensure that equipment that receives, con-
21 verts, or displays digital signals have suffi-
22 cient capability to make available the deliv-
23 ery and use of video description;

1 “(C) shall initiate a proceeding, to be com-
2 pleted within 18 months after such date of en-
3 actment, to—

4 “(i) identify methods to render on-
5 screen-displayed text in a manner acces-
6 sible to individuals who are blind or vis-
7 ually-impaired; and

8 “(ii) promulgate regulations that re-
9 quire the rendering of on-screen-displayed
10 text in a manner accessible to individuals
11 who are blind or visually impaired; and

12 “(D) shall promulgate any other regulation
13 that the Commission may find necessary to im-
14 plement, enforce, or otherwise carry out the
15 provisions of this subsection, including regula-
16 tions to increase the amount of video descrip-
17 tion required to ensure full access to television
18 programming for individuals who are blind or
19 visually-impaired.

20 “(3) ON-SCREEN-DISPLAYED TEXT DEFINED.—
21 In this subsection, the term ‘on-screen-displayed
22 text’ includes written or other non-verbal informa-
23 tion whether scrolled or displayed as characters or
24 images, on television screens—

1 “(A) during regular programming when
2 such information is provided to afford viewers
3 with warnings of and instructions on how to re-
4 spond to emergency or hazardous conditions;

5 “(B) during local and national news bul-
6 letins; and

7 “(C) during the broadcasting of any other
8 information the Commission deems appropriate.

9 “(g) DEFINITIONS.—For purposes of this section:

10 “(1) VIDEO DESCRIPTION.—The term ‘video de-
11 scription’ means the insertion of audio narrated de-
12 scriptions of a television program’s key visual ele-
13 ments into natural pauses between the program’s
14 dialogue.

15 “(2) VIDEO PROGRAMMING.—The term ‘video
16 programming’ means programming provided by, or
17 generally considered comparable to programming
18 provided by, a television broadcast station, even if
19 such programming is distributed over the Internet or
20 by some other means.”.

21 **SEC. 203. USER INTERFACES.**

22 (a) AMENDMENT.—Section 303 of the Communica-
23 tions Act of 1934 (47 U.S.C. 303) is further amended by
24 adding at the end the following new subsection:

25 “(z)(1) Require—

1 “(A) that every apparatus designed to receive
2 or display video programming transmitted simulta-
3 neously with sound, including apparatus designed to
4 receive or display video programming transmitted by
5 means of Internet-enabled services, be designed, de-
6 veloped, and fabricated so that control of all appa-
7 ratus functions, including the receipt, display, navi-
8 gation or selection of video programming, is acces-
9 sible to and usable by individuals with disabilities;

10 “(B) that where on-screen text menus or other
11 visual indicators are used to access video program-
12 ming functions, that such apparatus be used—

13 “(i) to display such menus or indicators;
14 and

15 “(ii) to provide accompanying audio output
16 to enable control of such functions by individ-
17 uals who are blind or have low vision; and

18 “(C) a conspicuous means of accessing closed
19 captioning and video description, including—

20 “(i) the inclusion of a button on the re-
21 mote control of such apparatus designated for
22 activating the closed caption function; and

23 “(ii) the inclusion of ‘closed captions’ and
24 ‘video description’ on the top tier of the on
25 screen menu of such apparatus.

1 “(2) For purposes of this subsection, the term ‘video
2 programming’ has the meaning provided by section 602.”.

3 (b) IMPLEMENTING REGULATIONS.—The Federal
4 Communications Commission shall prescribe such regula-
5 tions as are necessary to implement the amendment made
6 by subsection (a) within 18 months after the date of enact-
7 ment of this Act.

8 **SEC. 204. ACCESS TO VIDEO PROGRAMMING GUIDES AND**
9 **MENUS.**

10 (a) AMENDMENT.—Section 632 of the Communica-
11 tions Act of 1934 (47 U.S.C. 552) is amended by adding
12 at the end the following new subsection:

13 “(e) ACCESS TO VIDEO PROGRAMMING GUIDES AND
14 MENUS.—Each multichannel video programming dis-
15 tributor shall ensure that video programming information
16 and selection provided by means of a navigational device,
17 guide, or menu is accessible in real-time by individuals
18 with disabilities who are unable to read the visual dis-
19 play.”.

20 (b) IMPLEMENTING REGULATIONS.—The Federal
21 Communications Commission shall prescribe such regula-
22 tions as are necessary to implement the amendment made
23 by subsection (a) within 18 months after the date of enact-
24 ment of this Act.