

Section 79.107 User Interfaces Provided by Digital Apparatus; Section 79.108 Video Programming Guides and Menus Provided by Navigation Devices; Section 79.110 Complaint Procedures for User Interfaces, Menus and Guides, and Activating Accessibility Features on Digital Apparatus and Navigation Devices

SUPPORTING STATEMENT

A. Justification:

1. This submission supports the Office of Management and Budget (OMB) approval of the proposed information collection requirements contained in the Commission's *Report and Order and Further Notice of Proposed Rulemaking*, MB Docket Nos. 12-108, 12-107, FCC 13-138 (the *User Interfaces Accessibility Order*). In the *User Interfaces Accessibility Order*, the Commission adopts rules implementing portions of the Twenty-First Century Communications and Video Accessibility Act of 2010 (the CVAA) related to making accessible the user interfaces, text menus and guides of digital apparatus¹ and navigation devices.² These rules are codified at 47 C.F.R. §§ 79.107, 79.108, 79.109, and 79.110.³

Although the Commission is seeking OMB approval now, covered entities will not be required to comply with the rules and information collection requirements contained in the *User Interfaces Accessibility Order* until December 20, 2016.⁴ Therefore, the burden estimates contained in this document will not start until that date.

The information collection requirements consist of:

(a) Requests for Commission determination of achievability for the accessibility requirements for the user interfaces of digital apparatus.

Section 204 of the CVAA provides that “if achievable (as defined by section 716 [of the Communications Act, codified at 47 U.S.C. § 617(g)]) . . . digital apparatus designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, be designed, developed, and fabricated so that control of appropriate built-in apparatus functions are accessible to and usable by individuals who are blind or visually impaired . . .”⁵ Pursuant to 47 C.F.R. § 79.107(a)(1), manufacturers of digital apparatus must comply with the section's provisions “only if achievable as defined in § 79.107(c)(2),” meaning with

¹ Specifically, pursuant to Section 204 of the CVAA, the *User Interfaces Accessibility Order* requires the user interfaces, text menus and visual indicators of digital apparatus designed to receive or play back video programming, including IP-delivered video programming, to be accessible to and usable by individuals who are blind or visually impaired, and requires that the activation mechanisms for closed captioning and video description be reasonably comparable to a button, key or icon.

² Specifically, pursuant to Section 205 of the CVAA, the *User Interfaces Accessibility Order* requires the on-screen text menus and guides provided by navigation devices for the display or selection of multichannel video programming be made audibly accessible in real time upon request by individuals who are blind or visually impaired, and requires that the activation mechanism for closed captioning be reasonably comparable to a button, key or icon.

³ We note that while 47 C.F.R. § 79.109 is discussed throughout this supporting statement, that section does not include any information collection requirements that require OMB approval.

⁴ 47 C.F.R. §§ 79.107(b), 79.108(b), and 79.109(c).

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reasonable effort or expense.

Pursuant to 47 C.F.R. § 79.107(c)(1), before manufacturing or importing the apparatus, manufacturers of digital apparatus may petition the Commission, pursuant to 47 C.F.R. § 1.41, for a determination that compliance with the requirements of 47 C.F.R. § 79.107 is not achievable. Alternatively, manufacturers may assert that a particular digital apparatus does not comply with the requirements of 47 C.F.R. § 79.107 because compliance was not achievable as a defense to a complaint, which the Commission may dismiss upon a finding that such compliance is not achievable. Pursuant to 47 C.F.R. § 79.107(c)(2), such a petition or a response to a complaint must be supported with sufficient evidence to demonstrate that compliance with the requirements is not achievable. The Commission will consider four specific factors when making such a determination. In evaluating evidence offered to prove that compliance is not achievable, the Commission will be informed by the analysis in the *ACS Order*.⁶

(b) Requests for Commission determination of achievability for the accessibility requirements for the text menus and guides provided by navigation devices.

Section 205 of the CVAA provides that “if achievable (as defined by section 716 [of the Communications Act, codified at 47 U.S.C. § 617(g)])” “the on-screen text menus and guides provided by navigation devices (as such term is defined in section 76.1200 of title 47, Code of Federal Regulations) for the display or selection of multichannel video programming are audibly accessible in real-time upon request by individuals who are blind or visually impaired . . .”⁷ Pursuant to 47 C.F.R. § 79.108, manufacturers of navigation devices and covered multichannel video programming distributors (MVPDs) must comply with the section’s provisions “only if achievable as defined in § 79.108(c)(2),” meaning with reasonable effort or expense.

Pursuant to 47 C.F.R. § 79.108(c)(1), before manufacturing or importing the navigation device, manufacturers and covered MVPDs may petition the Commission, pursuant to 47 C.F.R. § 1.41, for a determination that compliance with the requirements of 47 C.F.R. § 79.108 is not achievable. Alternatively, manufacturers and covered MVPDs may assert that a particular navigation device does not comply with the requirements of 47 C.F.R. § 79.108 because compliance was not achievable as a defense to a complaint, which the Commission may dismiss upon a finding that such compliance is not achievable. Pursuant to 47 C.F.R. § 79.108(c)(2), such a petition or a response to a complaint must be supported with sufficient evidence to demonstrate that compliance with the requirements is not achievable. The Commission will consider four specific factors when making such a determination. In evaluating evidence offered to prove that compliance is not achievable, the Commission will be informed by the analysis in the *ACS Order*.⁸

⁵ Codified at 47 U.S.C. § 303(aa)(1).

⁶ See *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557, 14607-19, ¶¶ 119-48 (2011) (“*ACS Order*”).

⁷ Codified at 47 U.S.C. § 303(bb)(1).

⁸ See *ACS Order*, 26 FCC Rcd at 14607-19, ¶¶ 119-48.

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(c) Requests to MVPDs and navigation device manufacturers for accessible equipment.

Pursuant to 47 C.F.R. § 79.108(a)(5), manufacturers of navigation devices and covered MVPDs must permit individuals who are blind or visually impaired to request accessible navigation devices through any means that such covered entities generally use to make available navigation devices to other consumers. Such requests could require navigation device manufacturers and MVPDs to collect information from consumers and require consumers to provide information to navigation device manufacturers and/or MVPDs to obtain an accessible navigation device.

(d) Notifications by covered MVPDs regarding the availability of accessible equipment.

Pursuant to 47 C.F.R. § 79.108(d), covered MVPDs must notify consumers that navigation devices with the required accessibility features are available upon request to consumers who are blind or visually impaired. MVPDs must clearly and conspicuously inform consumers about the availability of accessible navigation devices when providing information about equipment options in response to a consumer inquiry about service, accessibility, or other issues. In addition, MVPDs must provide prominent notice on their official websites about the availability of accessible navigation devices in a manner that is accessible to people with disabilities.

(e) Contact information for the receipt and handling of accessibility complaints.

Pursuant to 47 C.F.R. § 79.110(b), covered entities must make their contact information available (*e.g.*, posted on their official websites) for the receipt and handling of complaints regarding the requirements of 47 C.F.R. §§ 79.107-79.109. The contact information required must include the name of a person with primary responsibility for accessibility compliance issues. This contact information must also include that person's title or office, telephone number, fax number, postal mailing address, and e-mail address. A covered entity must keep this information current and update it within 10 business days of any change.

(f) Submission and review of verification of consumer eligibility in connection with accessibility solutions provided by sophisticated equipment and/or services at a price lower than that offered to the general public.

Pursuant to 47 C.F.R. § 79.108(e), covered entities may require consumers to provide verification of eligibility as an individual who is blind or visually impaired to the extent a covered entity chooses to rely on an accessibility solution that involves providing the consumer with sophisticated equipment and/or services at a price that is lower than that offered to the general public. In these situations, covered entities must allow a consumer to provide a wide array of documentation to verify eligibility for the accessibility solution provided and must comply with the requirements of 47 U.S.C. § 338(i)(4)(A) and 47 U.S.C. § 631(c)(1) to protect personal information gathered from consumers through verification procedures.

(g) Complaints alleging violations of the digital apparatus and navigation device accessibility rules.

The *User Interfaces Accessibility Order* adopts procedures for consumers to file complaints alleging violations of the rules requiring the accessibility of user interfaces, text menus and guides of digital

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apparatus and navigation devices, and requirements for activating certain accessibility features.⁹

Pursuant to 47 C.F.R. § 79.110(a)(1), a complaint alleging a violation of the requirements of 47 C.F.R. §§ 79.107, 79.108, or 79.109 must be filed with the Commission or with the covered entity within 60 days after the date the complainant experiences a problem relating to compliance with the requirements of §§ 79.107, 79.108, or 79.109. A complaint filed with the Commission may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as the Commission's online informal complaint filing system, letter, facsimile, telephone (voice/TRS/TTY), e-mail, or some other method that would best accommodate the complainant's disability. (Because some of the rules we are adopting are intended to make apparatus or navigation devices accessible to individuals who are blind or visually impaired, and therefore complainants may themselves be blind or visually impaired, if a complainant calls the Commission for assistance in preparing a complaint, Commission staff will document the complaint in writing for the consumer.)

Pursuant to 47 C.F.R. § 79.110(a)(2), complaints should include the following information:

- (i) The complainant's name, address, and other contact information, such as telephone number and e-mail address;
- (ii) The name and contact information of the covered entity;
- (iii) Information sufficient to identify the software or digital apparatus/navigation device used;
- (iv) The date or dates on which the complainant purchased, acquired, or used, or tried to purchase, acquire, or use the digital apparatus/navigation device;
- (v) A statement of facts sufficient to show that the covered entity has violated, or is violating, the Commission's rules;
- (vi) The specific relief or satisfaction sought by the complainant;
- (vii) The complainant's preferred format or method of response to the complaint; and
- (viii) If a complaint pursuant to § 79.108 of this part, the date that the complainant requested an accessible navigation device and the person or entity to whom that request was directed.

Pursuant to 47 C.F.R. § 79.110(a)(3), if a complaint is filed first with the Commission, the Commission will forward a complaint satisfying the above requirements to the named covered entity for its response, as well as to any other entity that Commission staff determines may be involved. The covered entity or entities must respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

Pursuant to 47 C.F.R. § 79.110(a)(4), if a complaint is filed first with the covered entity, the covered entity must respond in writing to the complainant within 30 days after receipt of a complaint. If the covered entity fails to respond to the complainant within 30 days, or the response does not satisfy the consumer, the complainant may file the complaint with the Commission within 30 days after the time allotted for the covered entity to respond. If the consumer subsequently files the complaint with the Commission (after filing with the covered entity) and the complaint satisfies the requirements, the Commission will forward the complaint to the named covered entity for its response, as well as to any other entity that Commission staff determines may be involved. The covered entity must then respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the

⁹ See 47 C.F.R. §§ 79.110 (detailing the procedures for filing complaints concerning an alleged violation of the requirements of §§ 79.107, 79.108, or 79.109).

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Commission.

Pursuant to 47 C.F.R. § 79.110(a)(5), in response to a complaint, the covered entity must file with the Commission sufficient records and documentation to prove that it was (and remains) in compliance with the Commission's rules. Conclusory or insufficiently supported assertions of compliance will not carry the covered entity's burden of proof. If the covered entity admits that it was not, or is not, in compliance with the Commission's rules, it must file with the Commission sufficient records and documentation to explain the reasons for its noncompliance, show what remedial steps it has taken or will take, and show why such steps have been or will be sufficient to remediate the problem.

Pursuant to 47 C.F.R. § 79.110(a)(6), the Commission will review all relevant information provided by the complainant and the covered entity, as well as any additional information the Commission deems relevant from its files or public sources. The Commission may request additional information from any relevant parties when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violations of Commission rules. When the Commission requests additional information, parties to which such requests are addressed must provide the requested information in the manner and within the time period the Commission specifies.

The statutory authority for this collection of information is contained in the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751, and Sections 4(i), 4(j), 303(r), 303(u), 303(aa), 303(bb), and 716(g) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. §§ 154(i), 154(j), 303(r), 303(u), 303(aa), 303(bb), and 617(g).

2. The Commission will use the information submitted by a digital apparatus manufacturer or other party to determine whether it is achievable for digital apparatus to be fabricated so that control of appropriate built-in apparatus functions are accessible to and usable by individuals who are blind or visually impaired. The Commission will use the information submitted by an MVPD or navigation device manufacturer or other party to determine whether it is achievable for a navigation device to be fabricated so that control of appropriate built-in apparatus functions are accessible to and usable by individuals who are blind or visually impaired. Consumers will use the information provided by MVPDs notifying consumers of the availability of accessible navigation devices to determine whether they wish to request an accessible navigation device. MVPDs and manufacturers of navigation devices will use the information provided by consumers who are blind or visually impaired consumers when requesting accessible navigation devices to fulfill such requests. MVPDs will use information provided by customers who are blind or visually impaired as reasonable proof of disability as a condition to providing equipment and/or services at a price that is lower than that offered to the general public. Consumers will use the contact information of covered entities to file written complaints regarding the accessibility requirements for digital apparatus and navigation devices. Finally, the Commission will use information received pursuant to the complaint procedures for violations of sections 79.107-79.109 to enforce the Commission's digital apparatus and navigation device accessibility requirements. The Commission will forward complaints, as appropriate, to the named manufacturer or provider for its response, as well as to any other entity that the Commission determines may be involved, and it may request additional information from relevant parties.

This information collection includes personally identifiable information (PII) with respect to complainants and other parties.

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(a) As required by OMB Memorandum M-03-22 (September 26, 2003), the FCC completed a Privacy Impact Assessment (PIA) on June 28, 2007, that gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys the PII covered by these information collection requirements. The PIA may be reviewed at:
http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

(b) Furthermore, as required by the Privacy Act, 5 U.S.C. § 552a, the FCC also published a system of records notice (SORN), FCC/CGB-1, "Informal Complaints and Inquiries," in the *Federal Register* on December 15, 2009 (74 FR 66356), which became effective on January 25, 2010.¹⁰

3. Requests for Commission determination achievability of the digital apparatus or navigation device accessibility requirements may be filed pursuant to 47 C.F.R. § 1.41. Manufacturers of navigation devices and MVPDs must permit a requesting blind or visually impaired individual to request an accessible navigation device through any means that such covered entities generally use to make available navigation devices to other consumers. Any such means must not be more burdensome to a requesting blind or visually impaired individual than the means required for other consumers to obtain navigation devices. A manufacturer that provides navigation devices at retail to requesting blind or visually impaired consumers must make a good faith effort to have retailers make available compliant navigation devices to the same extent they make available navigation devices to other consumers generally.

MVPDs must provide consumers with clear and conspicuous notification that navigation devices with the required accessibility features are available to consumers who are blind or visually impaired upon request whenever providing information about equipment options in response to a consumer inquiry about service, accessibility or other issues, regardless of the form that inquiry takes. MVPDs must also provide notice on their official websites about the availability of accessible navigation devices in a way that makes such information available to all current and potential subscribers and in a website format accessible to people with disabilities. MVPDs may determine how customers who are blind or visually impaired can submit reasonable documentation of disability in order to obtain an accessibility solution that involves providing the consumer with sophisticated equipment and/or services at a price that is lower than that offered to the general public. The contact information for MVPDs may be provided by any method, including through a general notice on the MVPD's website.

Complaints alleging violations of the digital apparatus and navigation device accessibility requirements (47 C.F.R. §§ 79.107-79.109) may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as the Commission's online informal complaint filing system, letter in writing or Braille, facsimile transmission, telephone (voice/TRS/TTY), e-mail, or some other method that would best accommodate the complainant's disability. Consumers may also file their complaint using the FCC's web-based form, which many consumers experience as the least burdensome method. The web-based form is located on the Commission's website at https://esupport.fcc.gov/ccmsforms/form2000.action?form_type=2000C&request_locale=en.

Given that the population intended to benefit from the rules will be blind or visually impaired, if a complainant calls the Commission for assistance in preparing a complaint, Commission staff will document the complaint in writing for the consumer.

¹⁰ The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

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4. No other agency imposes a similar information collection on the respondents. There is no similar data available.

5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the information collection burden for small business concerns, including those with fewer than 25 employees.

With regard to the accessibility requirements of 47 C.F.R. §§ 79.107(a)(1) and 79.108(a)(1), the *User Interfaces Accessibility Order* adopts procedures enabling the Commission to determine, in response to a petition, that compliance is not achievable (*i.e.*, cannot be accomplished with reasonable effort or expense). This process will allow the Commission to address the impact of the rules on individual entities, including smaller entities, on a case-by-case basis and to modify the application of the rules to accommodate individual circumstances, which can reduce the costs of compliance for these entities. Two of the four statutory factors that the Commission will consider in determining achievability are particularly relevant to small entities: the nature and cost of the steps needed to meet the requirements, and the technical and economic impact on the entity's operations. Small entities can also benefit from the ability to file a request pursuant to Section 1.41 of the Commission's rules for a determination that a particular solution is a permissible alternate means of compliance that satisfies the digital apparatus accessibility requirements, or to claim in defense to a complaint or enforcement action that the Commission should determine that the party's actions were permissible alternate means of compliance. Similarly, covered entities, including small entities, have maximum flexibility to select the means of compliance with the navigation device accessibility requirements.

The Commission provides procedural guidance for consumers to file complaints with the Commission alleging violations of the digital apparatus and navigation device accessibility requirements. These complaint procedures provide the Commission with flexibility to request additional information from any relevant party when such information is needed, thereby minimizing the information collection burden on small business concerns, including businesses with fewer than 25 employees. Finally, the Commission adopted a two-year delay in compliance with the requirements of Section 205 for certain mid-sized and smaller MVPD operators and small MVPD systems. Specifically, the later deadline will apply to: (1) MVPD operators with 400,000 or fewer subscribers; and (2) MVPD systems with 20,000 or fewer subscribers that are not affiliated with an operator serving more than 10 percent of all MVPD subscribers. The delayed compliance deadline (which will be five (5) years from the date the *User Interface Accessibility Order* is published in the Federal Register) for such smaller entities will help minimize the economic impact of Section 205's requirements.

6. These information collections are necessary for the Commission to carry out the purposes of and to comply with the CVAA. Completion of these information collections will afford the Commission an opportunity to ensure that the accessibility mandated by Congress under sections 303(aa) and 303(bb) of the Communications Act of 1934, as amended by the CVAA, will provide individuals with disabilities with better access to devices used to view video programming.

For example, these information collections provide individuals with disabilities a mechanism to file complaints with the Commission, which will assist the Commission in the enforcement of its apparatus rules. If this information collection was not conducted, the Commission might have no basis for enforcing its essential rules implementing the CVAA mandate to ensure the accessibility of digital apparatus and navigation devices. A consumer complaint process is critical to such enforcement efforts. Relatedly,

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requiring covered entities to make contact information available will allow consumers to directly contact covered entities with equipment-related accessibility complaints.

In addition, these information collections are needed so that consumers are notified about the availability of accessible navigation devices and can request such accessible navigation devices. These information collections are also needed to enable the Commission to provide greater certainty to apparatus manufacturers about what requirements are achievable.

Finally, these information collections allow MVPDs to verify that a customer has a visual disability when that customer requests an accessibility solution that involves providing sophisticated equipment and/or services at a price that is lower than that offered to the general public.

7. Respondents theoretically could file complaints to the Commission more than quarterly depending on the frequency of alleged rule violations. Otherwise, this collection of information is consistent with the guidelines in 5 C.F.R. § 1320.5.

8. The Commission published a notice in the *Federal Register* on June 10, 2014 at 79 FR 33190 seeking comments on the information collection requirements contained in this supporting statement. No comments have been received from the public.

9. No payment or gift will be provided to respondents.

10. Some assurances of confidentiality are being provided to the respondents.

Parties filing requests for Commission determinations of achievability or responses to complaints alleging violations of the Commission's rules may seek confidential treatment of information they provide pursuant to the Commission's existing confidentiality rules.¹¹

Regarding complaints alleging violations of the digital apparatus or navigation device accessibility requirements, the Commission provides that complaints should include the name, postal address, and other contact information of the complainant. Any use of this information is covered under the routine uses listed in the Commission's SORN, FCC/CGB-1, "Consumer Inquiries and Complaints Division."

Regarding consumer eligibility information pertaining to accessibility solutions developed by MVPDs that consist of sophisticated equipment and/or services at a price that is lower than that offered to the general public, the Commission is not requesting that consumers provide reasonable documentation of disability, which may contain confidential information (*e.g.*, personal medical information), to the Commission. Such documentation would be provided directly to the consumer's MVPD.

11. This information collection does not raise any questions or issues of a sensitive nature.

12. Estimated In-House Burden and Hour Burden Costs for Respondents

For purposes of estimating the hour burdens for the collection of information, the following estimates will be used:

¹¹ See 47 C.F.R. § 0.459.

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14 multichannel video programming distributors (MVPDs)¹²

65 manufacturers of digital apparatus and navigation devices¹³

(a) Requests for Commission determination of achievability for the accessibility requirements for the user interfaces of digital apparatus.

The Commission estimates that **6 manufacturers** will file a total of 6 requests annually requesting a determination that the accessibility requirements for the user interfaces of digital apparatus are not achievable.¹⁴

(1) The Commission estimates that 90% of the requests that manufacturers file will be prepared “in house” using the manufacturer’s staff.

6 requests filed by manufacturers x 90% = **5 requests filed using “in-house” staff**

The Commission estimates that an average of 5 hours will be needed to complete all aspects of each request.

5 requests filed by manufacturers x 5 hours/request = **25 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

25 hours x \$88.24/hour for “in house” staff = **\$2,206**

(2) The Commission also estimates 10% of the requests that manufacturers file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

6 requests filed by manufacturers x 10% = **1 request filed using outside legal counsel**

Manufacturers that use outside legal counsel are likely to spend an average of 2 hours per request to coordinate with their outside legal counsel to prepare and submit the request.

1 request filed by a manufacturer x 2 hours/request = **2 hours to consult with outside legal counsel**

¹² From December 20, 2016 until December 19, 2018 only MVPDs with over 400,000 subscribers (i.e., the top 14 MVPDs) will be required to comply with the requirements of the *User Interfaces Accessibility Order*.

¹³ We believe this is a reasonable estimate of the total number of manufacturers of apparatus that receive, play back, or record video programming. This is based in part on a study of manufacturers exhibiting at the industry’s largest trade show and other information in the record identifying entities that would be subject to these rules.

¹⁴ Requests for such determinations may be filed well before the compliance date of December 20, 2016.

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The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

2 hours x \$88.24/hour for “in house” staff = **\$176.48 (rounded to \$177)**

Total Number of Respondents: 6 manufacturers

Total Annual Number of Responses: 5 + 1 = 6 responses

Total Annual Hourly Burden: 25 + 2 = 27 hours

Total Annual “In House” Costs: \$2,206 + \$177 = \$2,383

(b) Requests for Commission determination of achievability for the accessibility requirements for the text menus and guides of navigation devices.

The Commission estimates that **6 manufacturers** will file a total of 6 requests annually requesting a determination that the accessibility requirements for the text menus and guides of navigation devices are not achievable.¹⁵

- (1) The Commission estimates that 90% of the requests that manufacturers file will be prepared “in house” using the manufacturer’s staff.

6 requests filed by manufacturers x 90% = **5 requests filed using “in-house” staff**

The Commission estimates that an average of 5 hours will be needed to complete all aspects of each request.

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The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

25 hours x \$88.24/hour for “in house” staff = **\$2,206**

- (2) The Commission also estimates 10% of the requests that manufacturers file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

6 requests filed by manufacturers x 10% = **1 request filed using outside legal counsel**

Manufacturers that use outside legal counsel are likely to spend an average of 2 hours per request to coordinate with their outside legal counsel to prepare and submit the request.

¹⁵ Requests for such determinations may be filed well before the compliance date of December 20, 2016.

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1 request filed by a manufacturer x 2 hours/request = **2 hours to consult with outside legal counsel**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

2 hours x \$88.24/hour for “in house” staff = **\$176.48 (rounded to \$177)**

Total Number of Respondents: 6 manufacturers

Total Annual Number of Responses: 5 + 1 = 6 responses

Total Annual Hourly Burden: 25 + 2 = 27 hours

Total Annual “In House” Costs: \$2,206 + \$177 = \$2,383

(c) Requests to covered MVPDs and navigation device manufacturers for accessible equipment.

The Commission estimates that between the **14 MVPDs** and **65 navigation device manufacturers**, **5,000 requests** for accessible equipment will be received from consumers who are blind or visually impaired.

14 MVPDs + 65 manufacturers = **79 respondents**

5,000 requests = **5,000 responses**

The Commission estimates that each MVPD or manufacturer will spend approximately .50 hours (30 minutes) to fulfill each request.

5,000 requests x .50 hours/manufacturer or MVPD = **2,500 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to clerical/administrative federal employees (GS-5/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$24.30 per hour.

2,500 hours x \$24.30/hour for “in house” staff = **\$60,750**

Total Number of Respondents: 79 respondents

Total Annual Number of Responses: 5,000 responses

Total Annual Hourly Burden: 2,500 hours

Total Annual “In House” Costs: \$60,750

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(d) Notifications by MVPDs regarding the availability of accessible equipment.

(1) Website notifications. The Commission estimates that **14 MVPDs** will provide notifications on their company websites regarding the availability of accessible equipment.

14 MVPDs x 1 notification/MVPD = **14 responses**

The Commission estimates that each MVPD will spend approximately 1.0 hours per year to provide website notifications regarding the availability of accessible equipment as required and to update that information as needed.

14 MVPDs x 1.0 hours/MVPD = **14 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to clerical/administrative federal employees (GS-5/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$24.30 per hour.

14 hours x \$24.30/hour for “in house” staff = **\$340.20 (rounded to \$340)**

(2) Other notifications. The Commission estimates that **14 MVPDs** will provide notifications about the availability of accessible navigation devices when providing information about equipment options in response to a consumer inquiry about service, accessibility, or other issues.

The Commission estimates that MVPDs will be required to provide **500,000 notifications** to consumers about the availability of accessible navigation devices when providing information about equipment options in response to a consumer inquiry about service, accessibility, or other issues.

500,000 notifications = **500,000 responses**

The Commission estimates that each MVPD will spend approximately 0.0167 hours (1 minute) to provide a consumer with notice about the availability of accessible navigation devices when

providing information about equipment options in response to a consumer inquiry about service, accessibility, or other issues.

500,000 responses x 0.0167 hours/response = **8,350 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to clerical/administrative federal employees (GS-5/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$24.30 per hour.

8,350 hours x \$24.30/hour for “in house” staff = **\$202,905**

(3) **Annual Burden Hours:** 14 hours + 8,350 hours = **8,364 hours**

(4) **Annual “In House” Hourly Cost:** \$340 + \$202,905 = **\$203,245**

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(e) Contact information for the receipt and handling of user interface accessibility complaints.

The Commission estimates that **65 manufacturers** of digital apparatus and navigation devices and **14 MVPDs** will provide and maintain their contact information as required.

65 manufacturers + 14 MVPDs x 1 listing/manufacture or MVPD = **79 responses**

The Commission estimates that each manufacturer or MVPD will spend approximately .50 hours (30 minutes) per year to provide their contact information as required and to update that information as needed.

65 manufacturers + 14 MVPDs x .50 hours/manufacture or MVPD = **39.5 hours (rounded to 40)**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to clerical/administrative federal employees (GS-5/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$24.30 per hour.

40 hours x \$24.30/hour for “in house” staff = **\$972**

Total Number of Respondents: 79 respondents

Total Annual Number of Responses: 79 responses

Total Annual Hourly Burden: 40 hours

Total Annual “In House” Costs: \$972

(f) Submission and review of verification of consumer eligibility in connection with accessibility solutions provided by sophisticated equipment and/or services at a price lower than that offered to the general public.

(1) Number of customer requests. The Commission estimates that **4,000 MVPD customers** who are blind or visually impaired will be provided with accessibility solutions provided by sophisticated equipment and/or services at a price lower than that offered to the general public. These customers may need to submit reasonable documentation of disability to the MVPD to demonstrate that they are eligible for such an accessibility solution at no additional cost.

4,000 customers x 1 request = **4,000 responses**

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- (2) Eligibility information provided by customer. The Commission estimates the average burden on each customer to obtain reasonable documentation of disability (*e.g.*, proof of participation in a nationally-established program for individuals who are blind or visually impaired, such as the Commission’s National Deaf-Blind Equipment Distribution Program or the National Library Service’s talking books program; or documentation from any professional or service provider with direct knowledge of the individual’s disability, such as a social worker, case worker, counselor, teacher, school superintendent, professional librarian, doctor, ophthalmologist, optometrist, or registered nurse) and to submit such documentation to an MVPD is approximately 2 hours.

4,000 customers x 2 hours/request = **8,000 hours**

Annual “In House” Hourly Costs: **\$0**

- (3) Review of eligibility information and recordkeeping by MVPDs. The Commission expects that MVPDs will use “in house” personnel to review and retain all documentation of disability submitted by customers who are blind or visually impaired used to determine whether the customer is eligible to receive accessibility solutions provided by sophisticated equipment and/or services at a price lower than that offered to the general public.

4,000 customer requests = **4,000 requests reviewed by “in house” personnel**

The Commission estimates that an average of 0.5 hours will be needed for “in house” personnel to review and retain documentation of disability submitted by customers who are blind or visually impaired to determine whether the customer is eligible to receive accessibility solutions provided by sophisticated equipment and/or services at a price lower than that offered to the general public.

4,000 customer requests x 0.5 hour = **2,000 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to clerical/administrative federal employees (GS-5/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$24.30 per hour.

2,000 hours x \$24.30/hour for “in house” staff = **\$48,600**

(4) **Annual Burden Hours:** 8,000 hours + 2,000 hours = **10,000 hours**

(5) **Annual “In House” Hourly Cost:** \$0 + \$48,600 = **\$48,600**

(g) Complaints alleging violations of the digital apparatus and navigation device accessibility requirements.

- (1) Complaint respondents. The Commission estimates that a total of 100 complaints will be filed first with covered entities (either manufacturers or MVPDs) and that 80 complaints will be resolved to the satisfaction of the complainants and 20 complaints (20%) will be re-filed with the Commission. The Commission further estimates that an additional 50 complaints will be filed directly with the Commission. To be most inclusive in its estimates, the Commission assumes that each complaint will be filed by a unique consumer, and that these complaints will be filed

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against unique manufacturers and MVPDs.

80 complaints filed with and resolved by MVPDs or manufacturers

20 complaints filed with MVPDs or manufacturers and re-filed with the Commission

50 complaints filed directly with the Commission against MVPDs or manufacturers

150 unique consumers

14 MVPDs + 65 manufacturers = 79 MVPDs and manufacturers total

20% of 79 = 15.8 (rounded to 16) unique MVPDs and manufactures against whom complaints are filed

150 unique consumers + 16 unique MVPDs and manufacturers = **166 respondents**

- (2) Complaints. The Commission estimates that each consumer will need 0.5 hours to prepare and submit a complaint, including responding to any Commission request for additional information.¹⁶

80 complaints filed with MVPDs or manufacturers

20 complaints filed with MVPDs or manufacturers and re-filed with the Commission

50 complaints filed directly with the Commission against MVPDs or manufacturers

150 complaints/responses

150 complaints = **150 responses**

150 responses x 1 hour/complaint = **150 hours**

Annual "In House" Hourly Costs: **\$0**

- (3) Responses to complaints. The Commission assumes it will forward complaints to the MVPD or manufacturer and assumes that the MVPD or manufacturer will respond to each forwarded complaint.

- (i) The Commission expects that MVPDs and manufacturers will use "in house" personnel to respond to 50% of the 150 complaints) forwarded by the Commission.

150 x 50% = **75 responses to complaints prepared by "in house" personnel**

The Commission estimates that an average of 3 hours will be needed for "in house" personnel to respond to a complaint, including responding to any Commission request for additional information.

75 responses to complaints x 3 hours/response = **225 hours**

¹⁶ By December 20, 2016, when compliance with these accessibility rules is required, the FCC will amend its Disability Access Complaint Form 2000C and make it available to consumers for filing complaints and transfer the information collection burdens associated with filing these complaints from this information collection to the information collection for FCC complaint forms, OMB Control No. 3060-0874.

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The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

225 hours x \$88.24/hour for “in house” staff = **\$19,854**

- (ii) The Commission expects that MVPDs and manufacturers will use outside legal counsel to respond to 50% of the 150 complaints) forwarded by the Commission.

150 x 50% = **75 responses to complaints prepared by outside legal counsel**

MVPDs and manufacturers are likely to spend an average of 1 hour per complaint to coordinate with their outside legal counsel to prepare and submit the response.

75 responses to complaints x 1 hour/response = **75 hours to consult with outside legal counsel**

The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

75 hours x \$88.24/hour for “in house” staff = **\$6,618**

(4) Recordkeeping in support of complaint responses. The Commission estimates that the average annual burden for manufacturers and MVPDs to perform recordkeeping to enable making information available upon request to the Commission will be 10 hours for each MVPD or manufacturer.¹⁷ All manufacturers and MVPDs will be expected to perform such recordkeeping. The Commission believes that MVPDs and manufacturers will perform these activities “in house.”

65 manufacturers + 14 MVPDs = **79 respondents**

79 respondents x 10 hours/recordkeeping = **790 hours**

¹⁷ The Commission considers all of these recordkeeping and information provision requirements to constitute one response per MVPD or manufacturer, or one set of records kept per manufacturer, for a total of 79 responses, with the 10 hours per response encompassing the burdens associated with fulfilling these requirements.

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The Commission assumes that respondents use “in-house” personnel whose pay is comparable to clerical/administrative federal employees (GS-5/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$24.30 per hour.

790 hours x \$24.30/hour for “in house” staff = **\$19,197**

(5) **Annual Burden Hours:** 150 hours + 225 hours + 75 hours + 790 hours = **1,240 hours**

(6) **Annual “In House” Hourly Cost:** \$0 + \$19,854 + \$6,618 + \$19,197 = **\$45,669**

Total Number of Respondents:

14 MVPDs + 65 manufacturers + 16 unique MVPDs and manufacturers + 4,000 MVPD customers + 150 unique consumers = **4,245 respondents**

Total Annual Number of Responses:

6 responses + 6 responses + 5,000 responses + 14 responses + 500,000 responses + 79 responses + 4,000 responses + 150 responses + 75 responses + 75 responses + 79 responses = **509,484 responses**

Total Annual Burden Hours:

27 hours + 27 hours + 2,500 hours + 8,364 hours + 40 hours + 10,000 hours + 1,240 hours = **22,198 hours**

Total Annual “In House” Costs:

\$2,383 + \$2,383 + \$60,750 + \$203,245 + \$972 + \$48,600 + \$45,669 = **\$364,002**

13. Estimate of the total annual cost burden to the respondents resulting from the collection of information (excluding the value of the burden hours in #12, above):

(a) Requests for Commission determination of achievability for the accessibility requirements for the user interfaces, text menus and guides of digital apparatus.

In #12(a) above, the Commission estimates that 10% of the 6 requests that manufacturers file seeking Commission determinations as to whether it is achievable for certain digital apparatus to comply with accessibility requirements for the user interfaces, text menus and guides of digital apparatus will be prepared using outside legal counsel. The Commission estimates 5 hours will be needed to prepare these requests. The Commission estimates that outside counsel will charge approximately \$300 per hour.

10% of 6 requests = 1 request x 5 hours = 5 hours x \$300 = **\$1,500**

(b) Requests for Commission determination of achievability for the accessibility requirements for the text menus and guides of navigation devices.

In #12(b) above, the Commission estimates that 10% of the 6 requests that manufacturers file seeking Commission determinations as to whether it is achievable for certain navigation devices to comply with the accessibility requirements for text menus and guides will be prepared using outside legal counsel. The Commission estimates 5 hours will be needed to prepare these

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requests. The Commission estimates that outside counsel will charge approximately \$300 per hour.

10% of 6 requests = 1 request x 5 hours = 5 hours x \$300 = **\$1,500**

(c) Requests to MVPDs and navigation device manufacturers for accessible equipment.

There are no outside costs for this requirement.

(d) Notifications by MVPDs regarding the availability of accessible equipment.

There are no outside costs for this requirement.

(e) Contact information for the receipt and handling of user interface accessibility complaints.

There are no outside costs for this requirement.

(f) Submission and review of verification of consumer eligibility in connection with accessibility solutions provided by sophisticated equipment and/or services at a price lower than that offered to the general public.

There are no outside costs for this requirement.

(g) Complaints alleging violations of the digital apparatus and navigation device accessibility requirements.

In #12(g) above, the Commission estimates that 50% of 150 responses to complaints forwarded to manufacturers by the Commission will be prepared using outside legal counsel. The Commission estimates 3 hours will be needed to prepare and submit these responses, including responding to any Commission request for additional information. The Commission estimates that outside counsel will charge approximately \$300 per hour.

50% of 150 responses = 75 responses x 3 hours = 225 hours x \$300 = **\$67,500**

Total annualized capital/start-up cost: \$0

Total annual costs (operation and maintenance): \$1,500 + \$1,500 + \$0 + \$0 + \$0 + \$0 + \$67,500 = **\$70,500**

Total annualized cost requested: \$1,500 + \$1,500 + \$0 + \$0 + \$0 + \$0 + \$67,500 = **\$70,500**

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14. Estimates of annualized costs to the Federal government:

(a) Requests for Commission determination of achievability for the accessibility requirements for the user interfaces, text menus and guides of digital apparatus.

In #12(a) above, the Commission estimates that manufacturers will file 6 requests seeking Commission determinations as to whether it is achievable for certain digital apparatus to comply with the accessibility requirements for the user interfaces, text menus and guides of digital apparatus.

The Commission will use GS 15/5 (\$67.88) staff attorneys to review these requests. The Commission estimates that this will require 5 hours for this review per request.

6 requests x 5 hours/request x \$67.88/hour = **\$2,036.40 (rounded to \$2,036)**

(b) Requests for Commission determination of achievability for the accessibility requirements for the text menus and guides of navigation devices.

In #12(a) above, the Commission estimates that manufacturers will file 6 requests seeking Commission determinations as to whether it is achievable for certain navigation devices to comply with the accessibility requirements for the text menus and guides of navigation devices.

The Commission will use GS 15/5 (\$67.88) staff attorneys to review these requests. The Commission estimates that this will require 5 hours for this review per request.

6 requests x 5 hours/request x \$67.88/hour = **\$2,036.40 (rounded to \$2,036)**

(c) Requests to MVPDs and navigation device manufacturers for accessible equipment.

The Commission estimates no annual costs to the Federal government.

(d) Notifications by MVPDs regarding the availability of accessible equipment.

The Commission estimates no annual costs to the Federal government.

(e) Contact information for the receipt and handling of user interface accessibility complaints.

The Commission estimates no annual costs to the Federal government.

(f) Submission and review of verification of consumer eligibility in connection with accessibility solutions provided by sophisticated equipment and/or services at a price lower than that offered to the general public.

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The Commission estimates no annual costs to the Federal government.

(g) Complaints alleging violations of the digital apparatus and navigation device accessibility requirements.

In #12(g) above, the Commission estimates that it will forward 150 complaints to manufacturers for a response. The Commission will use GS 13/5 (\$48.83) staff analysis to review and forward these informal complaints to manufacturers. The Commission estimates that this will require 1 hour per complaint.

150 complaints x 1 hour/complaint x \$48.83/hour = **\$7,324.50 (rounded to \$7,325)**

The Commission will use GS 15/5 (\$67.88) staff attorneys to review the responses and documents submitted by manufacturers. The Commission estimates that this will require 2 to 4 hours (average 3 hours) for this review per response.

150 responses x 3 hours/response x \$67.88/hour = **\$30,546**

Total Cost to Federal Government: \$2,036 + \$2,036 + \$0 + \$0 + \$0 + \$0 + \$7,325 + \$30,546 = **\$41,943**

15. The Commission adopted information collection requirements that are contained in FCC 13-138. Therefore, there are program changes to this collection which are as follows: 4,245 respondents, 509,484 annual responses, 22,198 annual burden hours and \$70,500 annual cost burden.

16. The Commission does not intend to publish the results of these collections of information.

17. The Commission is not seeking approval not to display the expiration date for OMB approval of these collections of information.

18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

The Commission does not anticipate that the information collection will employ any statistical methods.