



PUBLIC NOTICE

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ACCESSIBILITY RECORDKEEPING COMPLIANCE AND CONTACT INFORMATION REPORTING REQUIREMENTS FOR ENTITIES SUBJECT TO SECTIONS 255, 716, AND 718 OF THE COMMUNICATIONS ACT

The Federal Communications Commission (FCC or Commission) reminds service providers and equipment manufacturers that are subject to Section 255, 716, or 718 of the Communications Act¹ (the Act) of their obligation, beginning January 30, 2013, to maintain records of the efforts they take to implement these requirements.² The Commission also reminds these entities of their obligation to file their first annual recordkeeping certification, along with their contact information, by April 1, 2013.³ In addition, the Commission announces the establishment of the “Recordkeeping Compliance Certification and Contact Information Registry,” a web-based system designed to facilitate compliance with these and related obligations under Section 717 of the Act.⁴

Background

Section 255 of the Act requires telecommunications service providers and equipment manufacturers to ensure that their services and equipment are accessible to individuals with disabilities, if readily achievable.⁵ In 2007, the Commission adopted rules to extend these accessibility obligations to interconnected voice over Internet protocol (VoIP) service providers and equipment manufacturers.⁶ The Twenty-First Century Communications and Video Accessibility Act of 2010⁷ (CVAA) added additional accessibility obligations to the Communications Act by, among other things, adding new Sections 716, 717, and 718 as follows:

¹ 47 U.S.C. §§ 255, 617, 619. *See also* 47 C.F.R. Part 6, Part 7, and Part 14.

² 47 U.S.C. § 618(a)(5)(A). *See also* 47 C.F.R. §§ 14.30(b), 14.31(a).

³ 47 C.F.R. § 14.31(b)(3).

⁴ 47 U.S.C. § 618. *See also* 47 C.F.R. § 14.31(b).

⁵ 47 U.S.C. § 255; 47 C.F.R. Part 6 and Part 7. *See also Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as enacted by the Telecommunications Act of 1996*, WT Docket No. 96-198, Report and Order and Further Notice of Inquiry, 16 FCC Rcd 6417 (1999).

⁶ *See Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, Report and Order, 22 FCC Rcd 11275 (2007).

⁷ Pub. L. No. 111-260, 124 Stat. 2751 (2010); Pub. L. No. 111-265, 124 Stat. 2795 (2010) (technical corrections to the CVAA).

- Section 716 requires providers of advanced communications services and manufacturers of equipment used for those services to ensure that such services and equipment are accessible to and usable by individuals with disabilities, unless doing so is not achievable.⁸
- Section 717 addresses the recordkeeping and enforcement obligations of service providers and equipment manufacturers that are subject to Sections 255, 716, and 718.⁹
- Section 718 requires manufacturers of telephones used with public mobile services and providers of mobile service to ensure that the functions of the Internet browser that they include or arrange to be included in such telephones are accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable.¹⁰

On October 7, 2011, the Commission adopted rules to implement Sections 716 and 717 and sought comment on proposed rules to implement Section 718 and related matters.¹¹ Beginning January 30, 2012, the effective date of the Commission’s rules implementing Section 716, covered entities must take accessibility into consideration as early as possible during the design or redesign process for new and existing equipment and services and begin taking steps to ensure that equipment and services are accessible to and usable by individuals with disabilities.¹² Beginning October 8, 2013, equipment and services offered in interstate commerce must be accessible, unless not achievable.¹³ Section 718 becomes effective on October 8, 2013.¹⁴

Recordkeeping Requirements

Beginning January 30, 2013, entities subject to Sections 255, 716, and 718 must maintain, in the ordinary course of business and for a reasonable period, records of the efforts they have taken to implement Sections 255, 716, and 718, including the following:

- information about the manufacturer's or provider's efforts to consult with individuals with disabilities;

⁸ 47 U.S.C. § 617. “Advanced communications services” means interconnected VoIP service, non-interconnected VoIP service, electronic messaging service, and interoperable video conferencing service. 47 U.S.C. § 153(1). However, the requirements of Section 716 do not apply to any equipment or services, including interconnected VoIP service, that were subject to the requirements of Section 255 of the Act on October 7, 2010, and such services and equipment remain subject to the requirements of Section 255. 47 U.S.C. § 617(f). “Achievable” means with reasonable effort or expense, as determined by the Commission. 47 U.S.C. § 617(g).

⁹ 47 U.S.C. § 618.

¹⁰ 47 U.S.C. § 619.

¹¹ 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; Amendments to the Commission’s Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1966; Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket No. 10-213, WT Docket No. 96-198, CG Docket No. 10-145, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557 (2011) (*ACS Report and Order* and *ACS FNPRM*). See also 47 C.F.R. Part 14.

¹² *ACS Report and Order*, 26 FCC Rcd at 14602, ¶ 108.

¹³ *ACS Report and Order*, 26 FCC Rcd at 14602, ¶ 110.

¹⁴ CVAA, § 104(b).

- descriptions of the accessibility features of its products and services; and
- information about the compatibility of such products and services with peripheral devices or specialized customer premise equipment commonly used by individuals with disabilities to achieve access.¹⁵

Recordkeeping Compliance Certification and Contact Information Reporting Requirements

By April 1, 2013, an officer of each entity that is subject to Section 255, 716, or 718 must submit to the Commission a certification that records are being kept in accordance with the statute.¹⁶ The certificate must state that the manufacturer or service provider, as applicable, has established operating procedures that are adequate to ensure compliance with the recordkeeping rules and that it is keeping records accordingly.¹⁷ The certificate must be supported with an affidavit or declaration under penalty of perjury, signed and dated by the authorized officer of the company with personal knowledge of the representations provided in the company's certification, verifying the truth and accuracy of the information therein.¹⁸

The certificate must also identify the name and contact details of the person (or persons) within the company who is authorized to resolve complaints¹⁹ and the agent designated for service of informal and formal complaints alleging violations of Sections 255, 716, and 718 of the Act or the Commission's accessibility rules.²⁰ Contact information shall include, for the manufacturer or the service provider, a name or department designation, business address, telephone number, and, if available, TTY number,

¹⁵ 47 U.S.C. § 618(a)(5)(A). *See also* 47 C.F.R. §§ 14.30(b), 14.31(a).

¹⁶ 47 U.S.C. § 618(a)(5)(B). *See also* 47 C.F.R. § 14.31(b). The certification must be filed with the Commission annually thereafter by April 1 for records pertaining to the previous calendar year. 47 C.F.R. § 14.31(b)(3).

¹⁷ 47 C.F.R. § 14.31(b)(1).

¹⁸ 47 C.F.R. § 14.31(b)(1). If the manufacturer or service provider is an individual, the individual must sign. In the case of a partnership, one of the partners must sign on behalf of the partnership. In cases where the manufacturer or service provider is, for example, an unincorporated association or other legal entity that does not have an officer or partner, or its equivalent, the certification must be signed by a person with authority to sign on behalf of the association or entity.

¹⁹ The Commission will make the contact information for the person(s) within the company available on the Commission's website to facilitate consumers' ability to communicate directly with equipment manufacturers and service providers about accessibility issues or concerns. This contact information will also be used by the Commission for the purpose of contacting a company to facilitate resolution of an accessibility issue when a consumer files a request for dispute assistance with the Commission. The Commission also encourages covered entities to clearly and prominently identify their points of contact for accessibility matters in, among other places, their company websites, directories, manuals, brochures, and other promotional materials.

²⁰ 47 C.F.R. § 14.31(b)(2). This contact information will be used by the Commission's Enforcement Bureau to serve informal and formal complaints. We also note that the regulations implementing Section 255 also require that covered service providers and equipment manufacturers designate an agent or agents for service of informal and formal complaints received by the Commission. 47 C.F.R. §§ 6.18(b), 7.18(b). Contact information for designated agents for entities subject to Section 255 was submitted to the Commission via e-mail and made available to the public on the Commission's website – http://www.fcc.gov/cgb/dro/section255_manu.html (equipment manufacturers), http://www.fcc.gov/cgb/dro/service_providers.html (service providers), and http://www.fcc.gov/cgb/dro/section255_colleges.html (affected colleges and universities). Contact information for designated agents for entities subject to Section 255 must now be filed in accordance with 47 C.F.R. § 14.31(b) by using the web-based "Recordkeeping Compliance Certification and Contact Information Registry." The requirement to submit and maintain contact information by e-mail will end on October 8, 2013. 47 C.F.R. §§ 6.16, 7.16.

facsimile number, and e-mail address.²¹ The certificate must be updated when necessary to keep the contact information current.²²

The Consumer and Governmental Affairs Bureau (CGB) has established the “Recordkeeping Compliance Certification and Contact Information Registry,” a web-based system as the sole means for filing these various submissions.²³

Recordkeeping Compliance Certification and Contact Information Registry

Covered entities must use the web-based Recordkeeping Compliance Certification and Contact Information Registry established by the Commission to submit their recordkeeping compliance certifications and required contact information annually, and to update that information as needed. To submit a recordkeeping certification or to enter or update contact information in compliance with the Commission’s rules, go to <https://apps.fcc.gov/rccci-registry/>. Follow the instructions provided on the website for submitting the certification and contact information.

Administrative Matters

Accessible Formats. To request materials, such as this Public Notice, in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY). This Public Notice can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/encyclopedia/advanced-communications-services-acs>.

Additional Information. For further information regarding this Public Notice, contact Rosaline Crawford, Consumer and Governmental Affairs Bureau, Disability Rights Office, at 202-418-2075 or by e-mail to Rosaline.Crawford@fcc.gov.

Attachment: Frequently Asked Questions

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²¹ 47 C.F.R. § 14.31(b)(2).

²² 47 C.F.R. § 14.31(b)(3). Whenever the information is no longer correct in any material respect, equipment manufacturers and service providers must update the information within 30 days of any change to the information on file with the Commission. *ACS Report and Order*, 26 FCC Rcd at 14667, n.686. Because, as discussed above, the information will be used by the Commission for purposes of facilitating resolution of accessibility issues and notifying the manufacturer or service provider of complaints, we encourage such entities to update the information as soon as possible to minimize the risk of misdirected service, which could shorten the period of time that such company has to respond.

²³ Failure to file a certification and failure to keep information current is a violation of the Commission’s rules and may subject the filer to forfeiture or other penalties. *See* 47 U.S.C. § 503(b). In addition, if an informal complaint is not served to the correct address, it could delay or prevent that applicable manufacturer or service provider from timely responding. Failure to respond to a complaint or order of the Commission may subject a party to sanctions or other penalties. *See* 47 U.S.C. § 503(b).

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FREQUENTLY ASKED QUESTIONS

The following frequently asked questions are addressed in this Public Notice:

- Where can I find the accessibility recordkeeping and contact information reporting rules?
- Who is required to file?
- Is there an exemption for small companies?
- When are companies required to file the recordkeeping compliance certification and contact information?
- Is the recordkeeping compliance certification and contact information filing the same as my form 499 filing or my USF filing?
- How do I file the recordkeeping compliance certification and contact information?
- What if I have questions or need assistance?

Where can I find the new accessibility recordkeeping and contact information reporting rules?

The new recordkeeping and contact information reporting rules are found at 47 C.F.R. § 14.31:

- (a) Each manufacturer and service provider subject to section 255, 716, or 718 of the Act, must create and maintain, in the ordinary course of business and for a two year period from the date a product ceases to be manufactured or a service ceases to be offered, records of the efforts taken by such manufacturer or provider to implement sections 255, 716, and 718 with regard to this product or service, as applicable, including:
 - (1) Information about the manufacturer's or service provider's efforts to consult with individuals with disabilities;
 - (2) Descriptions of the accessibility features of its products and services; and
 - (3) Information about the compatibility of its products and services with peripheral devices or specialized customer premise equipment commonly used by individuals with disabilities to achieve access.
- (b) An officer of each manufacturer and service provider subject to section 255, 716, or 718 of the Act, must sign and file an annual compliance certificate with the Commission.
 - (1) The certificate must state that the manufacturer or service provider, as applicable, has established operating procedures that are adequate to ensure compliance with the recordkeeping rules in this subpart and that records are being kept in accordance with this section and be supported with an affidavit or declaration under penalty of perjury, signed and dated by the authorized officer of the company with personal knowledge of the representations provided in the company's certification, verifying the truth and accuracy of the information therein.
 - (2) The certificate shall identify the name and contact details of the person or persons within the company that are authorized to resolve complaints alleging violations of our accessibility rules and sections 255, 716, and 718 of the Act, and the agent designated for service pursuant to § 14.35(b) of this subpart and provide contact information for this agent. Contact information shall include, for the manufacturer or the service provider, a

name or department designation, business address, telephone number, and, if available TTY number, facsimile number, and email address.

- (3) The annual certification must be filed with the Commission on April 1, 2013 and annually thereafter for records pertaining to the previous calendar year. The certificate must be updated when necessary to keep the contact information current.
- (c) Upon the service of a complaint, formal or informal, on a manufacturer or service provider under this subpart, a manufacturer or service provider must produce to the Commission, upon request, records covered by this section and may assert a statutory request for confidentiality for these records under 47 U.S.C. 618(a)(5)(C) and § 0.457(c) of this chapter. All other information submitted to the Commission pursuant to this subpart or pursuant to any other request by the Commission may be submitted pursuant to a request for confidentiality in accordance with § 0.459 of this chapter.

Who is required to file?

Any entity that is subject to Section 255, 716, or 718 of the Communications Act must submit its recordkeeping compliance certification and contact information annually and update that information as needed.

Section 255 and the Commission's implementing rules apply to the following:

- (a) any provider of telecommunications, interconnected VoIP, voicemail, or interactive menu service;
- (b) any manufacturer of telecommunications or interconnected VoIP equipment or customer premises equipment; and
- (c) any telecommunications carrier.²⁴

Section 716 and the Commission's implementing rules apply to the following, with some exceptions:

- (a) any manufacturer of equipment used for advanced communications services,²⁵ including end user equipment, network equipment, and software, that such manufacturer offers for sale or otherwise distributes in interstate commerce;²⁶ and
- (b) any provider of advanced communications services that such provider offers in or affecting interstate commerce.²⁷

²⁴ See 47 C.F.R. §§ 6.1, 7.1.

²⁵ "Advanced communications services" means interconnected VoIP service, non-interconnected VoIP service, electronic messaging service, and interoperable video conferencing service. 47 U.S.C. § 153(1); 47 C.F.R. § 14.10(c).

²⁶ 47 U.S.C. § 617(a)(1); 47 C.F.R. § 14.1(a). A manufacturer of end user equipment is responsible for the accessibility of the hardware and manufacturer-provided software used for advanced communications services, not for the accessibility of software that is independently selected and installed by the user, or software that the user chooses to use in the cloud, except when the manufacturer relies on a third-party solution to comply with its accessibility obligations. *ACS Report and Order*, 26 FCC Rcd at 14564, ¶ 13. Section 716 does not impose independent regulatory obligations on a provider of software that the end user acquires separately from equipment used for advanced communications services. *ACS Report and Order*, 26 FCC Rcd at 14581, ¶ 58.

²⁷ 47 U.S.C. § 617(b)(1); 47 C.F.R. § 14.1(b). A provider of advanced communications services is responsible for the accessibility of the underlying components of its service, including software applications, not for the accessibility of components that it does not provide, except when the provider relies on a third-party solution to comply with its accessibility obligations. *ACS Report and Order*, 26 FCC Rcd at 14565, ¶ 14.

Section 716 and the Commission's implementing rules do not apply:

- (a) to the extent an entity transmits, routes, or stores the communications made available by a third party, or provides an information location tool through which an end user obtains access to advanced communications services, except to the extent an entity relies on third party solutions to comply with these rules;²⁸
- (b) to any equipment or services, including interconnected VoIP service, that were subject to the requirements of Section 255 of the Act on October 7, 2010;²⁹
- (c) to customized equipment and services;³⁰
- (d) to small entities, until October 8, 2013;³¹ and
- (e) to multipurpose services or equipment that are subject to waivers granted by the Commission.³²

Section 718 applies to:

- (a) manufacturers of telephones used with public mobile services that include an Internet browser in such telephone; and
- (b) providers of mobile service that arrange for the inclusion of a browser in telephones to sell to customers.³³

Is there an exemption for small entities?

There is no exemption for small entities under Section 255 or Section 718 of the Communications Act. As such, the requirement to submit recordkeeping compliance certifications and contact information annually, and to update that information, as needed, applies to all entities subject to Section 255 or Section 718, regardless of size.

There is an exemption for small entities under the Commission's rules implementing Section 716 of the Communications Act.³⁴ Until that exemption expires on October 8, 2013, companies that qualify for the small entity exemption³⁵ are not required to submit recordkeeping compliance certifications or contact information.

²⁸ 47 C.F.R. §§ 14.2(a), (b).

²⁹ 47 C.F.R. § 14.2(c).

³⁰ 47 C.F.R. § 14.3.

³¹ 47 C.F.R. § 14.4.

³² 47 C.F.R. § 14.5.

³³ 47 U.S.C. § 619(a).

³⁴ 47 C.F.R. § 14.4.

³⁵ Advanced communications service providers and equipment manufacturers are exempt from the obligations of Section 716 of the Act and, consequently, from the recordkeeping and enforcement requirements of Section 717, if such provider or manufacturer, at the start of the design of a product or service qualifies as a business concern under 13 C.F.R. § 121.105 and, together with its affiliates, as determined by 13 C.F.R. § 121.103, meets the relevant small business size standard established in 13 C.F.R. § 121.201 for the primary industry in which it is engaged as determined by 13 C.F.R. § 121.107. 47 C.F.R. § 14.4(a).

When are companies required to file the recordkeeping compliance certification and contact information?

Covered entities must submit their recordkeeping compliance certification and required contact information with the Commission by April 1, 2013, and must certify that, as of January 30, 2013 (the effective date of the recordkeeping rules), records are being kept in accordance with the Commission's rules.³⁶ Because the certification covers the time period beginning with January 30, 2013, certifications cannot be filed before January 30, 2013.

Thereafter, recordkeeping compliance certifications and contact information must be submitted annually by April 1, and covered entities must certify, for the previous calendar year, that records have been kept in accordance with the Commission's rules.³⁷ For example, the certification for calendar year 2013 must be filed no sooner than January 1, 2014, but no later than April 1, 2014.

Covered entities must update the required contact information on file with the Commission within 30 days of any material change to keep that information current.³⁸

Is the recordkeeping compliance certification and contact information filing the same as my form 499 filing or my USF filing?

No, the recordkeeping compliance certification and contact information filing is separate from form 499 filings or USF filings.

How do I file the recordkeeping compliance certification and contact information?

Use the web-based Recordkeeping Compliance Certification and Contact Information Registry established by the Commission to submit your recordkeeping compliance certification and required contact information annually, and to update that information as needed. To submit your annual recordkeeping certification or to enter or update your contact information in compliance with the Commission's rules, go to <https://apps.fcc.gov/rceci-registry/>. Follow the instructions provided on the website for submitting your certification and contact information.

What if I have questions or need assistance?

For further information or to obtain assistance with submitting your recordkeeping compliance certification and contact information, contact Rosaline Crawford, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418-2075 or by e-mail to Rosaline.Crawford@fcc.gov.

³⁶ 47 C.F.R. § 14.31(b)(3).

³⁷ 47 C.F.R. § 14.31(b)(3).

³⁸ 47 C.F.R. § 14.31(b)(3). *See also ACS Report and Order*, 26 FCC Rcd at 14667, n.686.