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### Initial Draft Industry Offer on IFE Accessibility

This draft is offered as a starting point regarding inflight entertainment (IFE) in the ongoing DOT ACCESS Committee. As of the distribution date of September 15, 2016 positions remain under review by carriers and content providers and should be considered preliminary.<sup>1</sup>

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The draft consists of two sections: a draft core offer and potential alternative means of compliance (at Attachment A). Carriers look forward to presenting the rationale for their offer as suggested by the facilitator and the Department.

#### A. Definitions

- 1) "New Aircraft" are aircraft that operate or will operate to/from or within the United States and are ordered more than three years after the effective date of a final rule or delivered more than seven years after the effective date of a final rule.
- 2) "Existing Aircraft" are aircraft that operate or will operate to/from or within the United States and were ordered no later than three years after the effective date of a final rule or delivered no later than seven years after the effective date of a final rule.
- 3) "Inflight Entertainment Systems" (or "IFES") are systems installed onboard aircraft to deliver television, audio, and/or movie content to commercial airline passengers.
- 4) "Seatback Inflight Entertainment Systems" (or "Seatback IFES") are systems installed onboard aircraft to deliver television, audio, and/or movie content to commercial airline passengers that display the visual element of such content on screens installed in aircraft seats.
- 5) "Overhead IFES" are systems installed onboard aircraft to deliver television, audio, and/or movie content to commercial airline passengers that are characterized by publicly visible, retractable or fixed monitors where the display is shared by multiple passengers.
- 6) "Wireless IFES" are systems in which IFE Content, stored locally on an aircraft server, is sent to a passenger-owned portable electronic device ("PED").
- 7) "New Seatback IFES" are Seatback IFES that are ordered more than two years after the effective date of a final rule or delivered more than three years after the effective date of a final rule.
- 8) "Existing Seatback IFES" are Seatback IFES that were ordered no later than two years after the effective date of a final rule or delivered no later than three years after the effective date of a final rule.

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<sup>1</sup> In particular, non-U.S. regulations, including those regarding content, as well as the complexity and expected disproportionate cost of enhancing accessibility create unique challenges for non-U.S. carriers; ACCESS Committee members representing those interests therefore continue to review this draft and have not agreed to or disagreed with it as of the distribution date. IFE Content providers are also in the process of completing their review.

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- 9) “New Standard Seatback IFES” are Seatback IFES that are capable of delivering subtitles, including captions in bitmap and multiple soundtrack selection, including audio descriptions or any other standard that the Department of Transportation deems equally or more accessible.
- 10) “Inaccessible Legacy Systems” are IFE Systems that do not meet the standards of “New Standard Seatback IFES.”
- 11) “IFE Content” means television shows and full-length movies.

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**B. IFES Hardware**

- 1) For all New Aircraft, all installed Seatback IFES and all Wireless IFES will meet the standards described in “New Standard Seatback IFES”.
- 2) For all Existing Aircraft equipped, as of three years after the effective date of a final rule, with Existing Seatback IFES that meet neither the definition of “New Standard Seatback IFES” nor of any Seatback IFES deemed to be equally or more accessible by the Department, aircraft operators must replace Existing Seatback IFES with New Standard Seatback IFES, or with any other Seatback IFES the Department deems equally or more accessible, only whenever the air carrier or another party otherwise installs new Seatback IFES in Existing Aircraft more than three years after the effective date of a final rule.
- 3) Exclusions:
  - a) For cabin modification projects beginning no later than three years after the effective date of a final rule, nothing shall prevent the installation on a New Aircraft or an Existing Aircraft of any Existing Seatback IFES or components thereof, or acquisition of additional IFES or parts of such existing IFES sufficient to ensure commonality among systems within a carrier’s fleet.
  - b) Nothing shall prevent the installation or use on a New Aircraft or an Existing Aircraft of any existing aircraft passenger seats in a carrier’s inventory as of three years after the effective date of a final rule that are equipped with existing Seatback IFES display units.
  - c) Nothing shall prevent an air carrier from purchasing or using an existing IFES or any existing IFES components installed no later than three years after the effective date of a final rule, regardless of the original or any subsequent purchaser.
  - d) Nothing requires that an air carrier must maintain in use, in whole or in part, any Existing Seatback IFES, any Overhead IFES, any New Seatback IFES, or any of their components.
  - e) Inaccessible Legacy Systems (e.g. analog, Overhead IFES) will not be required to upgrade to New Standard IFES, or to any other type of IFES deemed equally or more accessible by the Department, except as provided in B2, above.

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**Comment [JK1]:** Previous d) has been deleted; we believe the assumption that the option of not installing any IFE, or of removing / disconnecting / discontinuing use of IFE altogether, remains inherent.

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f) If a carrier has received or inducted into its fleet a New Aircraft or a reconfigured Existing Aircraft with a “first of type” cabin equipment configuration including a Seatback IFES no later than three years after the effective date of a final rule, the remaining New or Existing Aircraft that are to be equipped with the same configuration as the “first of type” aircraft shall constitute a single cabin modification project and shall be defined as Existing Aircraft as long as they maintain the same cabin equipment configuration as the “first of type” aircraft. Their IFES shall be defined as Existing Seatback IFES, for these purposes.

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4) Carriers may, when necessitated by damage, inoperability, data capacity deficiency or similar reasons, replace Existing IFES servers or any other components of Existing IFES, including screens, without being required to replace that aircraft’s IFES or any of its components with New Standard Seatback IFES or any successor types. Any such replacement must be consistent with 14 CFR Part 382.71(b), which requires that, “you must ensure that any replacement or refurbishing of the aircraft cabin or its elements does not reduce the accessibility of that element to a level below that specified in this Part.”

**Comment [JK2]:** This paragraph has been amended to address the concern that aircraft falling within its scope could indefinitely remain outside the reach of accessibility requirements. This is not the intent; rather, the intent is to preserve commonality among the aircraft that are part of a single cabin-modification project. If these aircraft are subsequently reconfigured again, they would be subject to the requirements of paragraph B2.

**C. IFES Software (Timed Text Captions and Caption Customization)**

**Background**

As of September 9, 2016, industry understands from a major IFE service provider that there is no available software upgrade that might be able to upgrade Existing IFES utilizing MPEG-1/2 video compression to deliver timed text captions and caption customization. Based on experience with these IFES and providers, the airline industry expects that any such modification that could be developed would be a significant software upgrade. In addition, not all inflight entertainment systems would be capable of presenting these types of captions, even with a significant software upgrade.

Because, to industry’s knowledge, there is no available software upgrade, and IFE industry experts were unsure of whether there would be an associated certification requirement even if an upgrade were available, industry is unable to make an offer regarding timed text and caption customization at this time. Industry looks forward to any additional information IFE providers or others might bring forth to the IFE Working Group.

**D. Accessible IFES User Interface – Phase II**

**Background**

Industry has studied and appreciates the advocates’ paper explaining general areas of concern about accessible user interfaces. The airline industry has received and appreciates the advocates’ response to the request for performance standards and possible specific modes of interface that might enhance accessibility of user interfaces. Industry continues to await from OEMs and IFE providers information about commercially available products or services permitted under relevant regulation(s) for use on U.S. air carriers. The industry acknowledges the importance of user interface compatibility in achieving the goals of accessible IFE.

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Pending further definition of this goal, information about products or services that might meet this goal, and the efforts of the inflight communications group, industry cannot make an offer at this time but looks forward to further discussion and definition.

## E. Television and Movie IFE Content

### Background

Air carriers are only “licensees” of content provided by the entertainment industry and distributed either directly by the content rights owner or through non-airline intermediaries. Their relationships with third-party providers are governed by contracts of various scope and duration. As the purpose of air travel is to transport passengers safely from one location to another, the entertainment component is not a necessity but is offered as a pastime of which many passengers avail themselves. There is now also a trend toward preloaded, user-selected entertainment and entertainment that is streamed and viewed on personal devices. In addition, because the IFE market represents only a very small segment of the broader filmed-entertainment market and is often secondary, it is, and should be, dependent upon the assets created in the original market – theatrical or broadcast.

- 1) No later than three years after the effective date of a final rule air carriers will pass through IFE Content that is captioned at its source, or is captioned by an intermediary distributor or IFE Content supplier.
- 2) No later than three years after the effective date of a final rule air carriers will pass through IFE Content that is audio described at its source, which remains under the control of and is permissibly licensed by the licensor of the IFE entertainment, or is audio described by an intermediary distributor or IFE Content supplier.
- 3) IFE content that is not both (a) in the English language, and (b) produced and distributed in the United States need not be provided with closed captions or audio description.
- 4) Air carriers must provide the public with information regarding the accessibility of the carrier’s IFES, if any, for each aircraft type that they operate. This information will be made available on the carrier’s U.S. website; via telephone/TTY reservations systems, if any; and in any printed materials provided in flight concerning IFE.

Note: Industry has made it clear that advocates’ ask that 100 percent of IFE content be accessible is not feasible. As any regulation that would require a specific share of content to be captioned in the English language might be effectively a rule on national origin, industry urges the convener and DOT to review whether any such requirement would be inconsistent with international trade obligations.

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**Attachment A**

**WiFi or Local Wireless Streaming Access**

**Background**

The DOT and advocates for passengers with disabilities have suggested a carrier-provided PED program, likely with preloaded accessible entertainment content, as an alternative to the advocates' request that carriers retrofit existing IFES under certain conditions and by specific dates. Carriers understand the spirit of the idea that carriers should seek an alternative form of in-flight entertainment for passengers scheduled to travel on aircraft with Inaccessible Legacy IFE after a date in the future, at least if they offer such IFE free of charge. Discussions with carriers and public information suggests that wireless solutions are today or will soon be installed on most U.S. carrier aircraft that would likely be in scope,<sup>2</sup> specifically those with installed IFES that lack bitmap captioning capability.

**Draft Proposal**

Definitions

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<sup>2</sup> Characteristics of the large number of non-U.S. carriers that serve the U.S. market require additional investigation.

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- 8) “Existing Seatback IFES” are Seatback IFES ordered no later than two years after the effective date of a final rule or delivered no later than three years after the effective date of a final rule.
- 9) “New Standard Seatback IFES” are Seatback IFES that are capable of delivering subtitles including captions in bitmap format and multiple soundtrack selection including audio descriptions.
- 10) “Inaccessible Legacy Systems” are IFE Systems that do not meet the standards of “New Standard Seatback IFES” or of any other type of IFES that the Department deems equally or more accessible.
- 11) “IFE Content” means television shows and full-length movies.
- 12) “PED” means portable electronic device.

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Proposal

- A. On flights scheduled to operate more than ten years after the effective date of a final rule to, from or within the United States that offer IFE on Inaccessible Legacy Systems, air carriers will offer qualified individuals with a disability (hearing and/or visual impairment only) access to entertainment and information through passenger-owned PEDs, ordinarily using WiFi.<sup>3</sup> This undertaking applies only when the qualified individual with a disability (hearing and/or visual) is booked and reserved on a carrier/class of service/aircraft scheduled to offer television or movie entertainment through Inaccessible Legacy System IFES.
- B. The carrier-provided access will be free of charge for all carrier/class of service/aircraft combinations for which the Inaccessible Legacy System IFE is provided free of charge. For passengers booked and reserved on a carrier/class of service/aircraft combination for which there is ordinarily a charge for IFE offered through Inaccessible Legacy Systems, a charge is permitted not to exceed the charge for IFE access through the Inaccessible Legacy System.
- C. The carrier’s obligation to enable access (ordinarily by WiFi) for the qualified individual with a disability (hearing and/or visual) is limited to the duration of time in flight during which Inaccessible Legacy Systems Overhead IFES and/or Seatback IFES is generally available.
- D. The exact duration and timing of availability of access via passenger-owned PEDs may vary from the duration of availability of Seatback IFES or Overhead IFES and from the duration of the flight itself.<sup>4</sup>

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<sup>3</sup> Known restrictions on entertainment content that cannot be overcome mean that content available (commonly through WiFi) will not replicate television, movie and audio content generally available onboard the passenger’s flight.

<sup>4</sup> Regulations require large PEDs to be stored and not in use during take-off and landing. Seatback IFE availability may be limited for a number of regulatory and technical reasons. Those periods of limitation may or may not overlap.

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- E. Access will be guaranteed only if pre-reserved with the carrier or its service provider at the time of booking and reserving the flight, or no later than 48-hours before the scheduled departure of the first flight in the itinerary. For reservations made within 48 hours, carriers will make best efforts to accommodate requests.
- F. Qualified individuals with a disability (hearing and/or visual) who chose to seek access on passenger-owned PEDs (commonly via WiFi) as described above shall complete and submit a brief questionnaire online with the carrier or a service provider. Carriers may require supporting documentation under the oversight of the Department of Transportation.
- G. This commitment does not apply when the carrier/class of service/aircraft on which the passenger is booked and reserved does not offer IFE Content. It does not apply when the IFES on the aircraft on which the qualified individual with a disability is scheduled to travel meets standards defined as New Seatback IFES.
- H. Any air carrier may also propose an alternative means of compliance with these requirements to ensure access to IFE no less than the level and at no more than the price, if any, of IFE provided in the class of service/aircraft in which the qualified individual with a disability is booked and reserved.
- I. This commitment applies exclusively to IFE Content, as defined in this document.