

April 1, 2019

Honorable Agit Pai, Chairman
Federal Communications Commission
445 12th Street
Washington D.C. 20554

Submitted electronically
FCC504@fcc.gov

Re: Comments to Media Bureau on Video Description Marketplace Improvements DA 19-40; MB Docket No. 11-43

Dear Chairman Pai:

This comments on the Federal Communications Commission (Commission) Request for Comments on improvements to the video description marketplace covered under the 21st Century Communications & Video Accessibility Act, which may be found at Pub. Law 111-260. The Act has a culturized a key part of American life to be accessible for individuals who are blind or visually impaired. As a new Chair of a state-based civil rights Agency, who also happens to be blind and happens to be the first visible lawyer with a disability to lead the Board and Agency, I appreciate that law can impact culture, and vice versa.

As a visible official with a disability in Maryland, I receive any range of inquiries regularly that I would enjoy television. And how could I, if television is supposedly a visual related activity. Well, I did see standard television at one point in my disease progression, which has long since not been the circumstance. I now require audio-description. As such, I am always amazed at the power of the law to advance technology, and vice versa, leading to accessible, if nifty, opportunities to access services of civil society.

Outlook and Need for the Act and its Implementation:

According to the Centers for Disease Control and Prevention's Vision Health Initiative, the incidence of blindness will continuously increase during the next couple of decades. Moreover, studies show that over 75% of individuals who are blind or have significant vision loss live in a household with more than one individual. We must thusly ensure that more and more American age healthily in their homes – not in expensive institutions. To this end, television provides a window into the outside world, especially for older adults. Many of whom will be women.

The Act influenced advancements in the accessibility to mobile and telecommunications media providers. The Act covers both entertainment as well as issues related to emergency preparedness. I applaud my friends in advocacy organizations, such as the American Council of the Blind and the National Federation for the Blind headquartered here in Baltimore, who played a vital part in the development, passage, and implementation of the Act. Work yet remains on a national as well as on a state or local level to leverage this Act for a more inclusive civil society.

The Law and the Market: Now that we, as a society, have achieved steady progress in a culturizing a robust audio-described landscape because of the Act, we now need the Act to keep-up with newer technologies. These technologies are changing, and will change, how we interact with platforms. I understand that, in the summer of 2016, the American Council of the Blind conducted a survey on the use of audio description. That study evidently reaffirmed that, while the Act opened the door to audio-described programming on television, there remained a need for comparable standing with accessible

programming for audiences who are deaf and hard of hearing, who through their advocacy have been able to achieve a nearly 100% ratio of accessible captioned content. I understand that the organization echoed the findings of the survey before the Commission in the days leading up to the July 2017 Commission vote of the rule in order to expand the quarterly requirement from 50 to 87.5 hours. The Commission voted in support of this expansion, which I applaud.

Distinction between fee-based Internet services and multi-video programming distributors have been clouded some in recent years with online services like SlingTV that provide live television streams. Since the passage of the Act, data shows that more and more Americans are moving away from the model of broadcast and cable television. Without clear regulations from the Department of Justice on Title III of the Americans with Disabilities Act (ADA) and web accessibility, many of these services operate without clear and concise regulations guaranteeing equal access. Such lack of guidance has resulted in litigation, which is often a costly and time-consuming process. However, the courts play a role as a stick to bring Providers to the table. Once the law can be leveraged in this fashion, I am confident of the ability of state and local leaders to advance the market that almost has always found a source of profit by catering to the interests of the disabled and older Americans.

As companies like Comcast, who have been recognized as leaders in accessible programming, strive to remain competitive by offering similar streaming app-based services, the marketplace will continue to have a variety of alternative multi-programming distribution systems. A clear and defined stance lacks by the Commission toward the role accessibility plays in this new era of television. I agree with organizations, such as the American Council of the Blind that, if the Internet is used to carry live terrestrial broadcast television, then the Commission should have jurisdiction under the Act to regulate such program delivery systems if provided alternatively through internet streaming to smart devices. This should include assurances that audio-description will be expanded, and that programming guides will be accessible. So, users can independently access audio-described programming.

I also understand that, with the evolving systems and technologies for accessing media, many of these are moving away from the outdated Secondary Audio Program on televisions. These next-generation platforms, as I understand, can be set up to have multiple audio feeds in tandem with a video feed. I understand that, for example, foreign airline carriers currently use such systems for providing in-flight entertainment in multiple languages, such as Virgin Atlantic Airways, who with their partner Blue Box developed a video streaming application that integrated seamlessly audio described programming on tablets provided to airline customers. I understand that, at a 2018 APEX Tech conference, the Blue Box developer acknowledged the deliberations of a transportation working group tasked with developing in-flight entertainment systems in sync with the CVAA as a catalyst for their own desire to develop accessible solutions for customers.

The reality is that dynamic IP based distribution systems more than adequately hold the potential of distributing accessible content. As we move into the next generation of MPDS, the traditional technical and economic constraints will become a footnote in our progress toward developing fully universally accessible programming.

Now that entertainment has migrated to our very phones. We need to ensure that this is also accessible. On June 13, 2016, the Commission awarded Disney Corporation its AAA Accessibility Award, in response to the Disney Movies Anywhere App. This app for Apple iOS devices allows synchronized audio description capable of running in tandem with Disney movies wherever the movie is being presented. Further developments like WGBH's automated text-to-speech scripting for online videos, produced through their National Center on Accessible Media (NCAM), demonstrates the work undertaken in the industry to develop innovative solutions toward meeting the future of video as it moves more toward IP delivery systems.

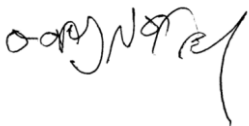
As the foregoing shows, the marketplace can achieve progress when properly nudged. Therefore, I commend broadcaster and program developers for working collaboratively to expand access to accessible media for individuals who are blind and visually impaired. Work yet remains.

Partnership: To this end, the commission and Congress, along with state partners, play unique roles in encouraging similar relationships between industry and advocates. As more and more MPDS providers move away from traditional terrestrial broadcast and cable delivery models, government has not just a responsibility to assure accessibility of our public airways. For example, the continued convening of industry and advocates through the commission's Disability Advisory committee (DAC) is one such example of how stakeholders can come together at the table and partner toward expanding further access to media. I also hope to play a role on the state-level in brokering more robust compliance with the Act.

- A real need exists in brokering local stakeholders in Maryland, such as the Commission, the Maryland Department of Disabilities, and the great Maryland Public Television to ensure accessible emergency alerts.
- As next-generation technologies develop, such as AI, which influence how we access entertainment and information, there is a need for unique leaders with disabilities to have a seat at the table with software and product designers.
- Entertainment and information spaces will continuously blur. For example, most sighted people can access the Internet as equally while they play a video game. As a healthcare attorney by trade, I hope to broker these intersections for improving the health of people with disabilities and older adults.

In conclusion, the Act has provided significant advantages toward creating an audio description marketplace that was minimal at best prior to the legislation. As the incidence of blindness will increase, the demand for such content will also increase. The Commission and congress, as well as state and local non-governmental partners, will continue to seek ways to cultivate robust audio description.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary C. Norman".

Gary C. Norman, Esq. L.L.M.
Lawyer and Columnist