

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Video Device Innovation)
NBP #27) GN Docket Nos. 09-47, 09-51,
) 09-137
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Comments of the Coalition of Organizations for Accessible Technology

I. Introduction

The Coalition of Organizations for Accessible Technology¹ hereby submits comments in response to the Federal Communications Commission’s (FCC or Commission) request for input on video device innovation in the above captioned proceeding.² As the FCC points out, the amount of video programming now being posted and watched over the Internet is astounding. As this “killer app” continues to proliferate, however, people with disabilities are being left behind. There are no requirements for the user interfaces on devices used with Internet-based video programming to be accessible to people with disabilities; television programs that must be captioned over traditional television mediums, such as broadcast, cable and satellite, are not captioned when re-shown over the Internet; and scarcely any Internet-based programs have video description. The FCC’s National Broadband Plan should address these accessibility issues as the Commission increases its role in ensuring that video devices will work across all delivery

¹ The Coalition of Organizations for Accessible Technology (COAT) is a coalition of over 260 national, state, and community-based disability-related organizations dedicated to ensuring full access by people with disabilities to evolving high speed broadband, wireless and other Internet Protocol (IP) technologies.

² Public Notice, Comment Sought on Video Device Innovation, GN Dkt. Nos. 09-47, 09-51, 09-137; CS Dkt. No. 97-80, DA 09-2510 (December 3, 2009).

platforms, including multichannel video programming distributors (MVPD) platforms and broadband-based video platforms.

II. Accessible User Interfaces

As the types of video programming devices that can access Internet-based video programming services have proliferated, so too has the complexity of these devices. Nowadays, all too often, operating a video device requires familiarity with complicated controls and on-screen displays. For America's approximately 54 million consumers with disabilities, as well as the millions of senior citizens who grew up with physical, three dimensional knobs on their TV sets, operating these devices can be daunting. When these controls are not designed to be accessible or "disability friendly," accessing programming content can be impossible. For example, the commonplace task of choosing options from on-screen menus routinely requires vision and manual dexterity to make the selection through a "point and click" remote control or via a touch screen. But individuals with sensory, motor, and cognitive disabilities, as well as seniors, struggle to manipulate these devices and menus.

Although Section 508 of the Rehabilitation Act of 1973³ requires accessible controls in information and electronic technologies, including video equipment, purchased or used by the federal government, there currently is no federal law requiring accessible user interfaces on video devices purchased by private citizens. Moreover, there has been little demonstrable commitment on the part of industry as a whole to voluntarily implement accessible controls for devices used to receive and display video programming in an Internet-based environment. To remedy this inequity, federal policy should ensure that video equipment is designed and developed to provide disability access to electronic program guides and menus, remote controls,

³ 29 U.S.C. § 794d.

Internet-based features and connectivity, and on-screen displays. In addition, it is critical that individuals who rely on captions and video description to access video communication and information have an easy means of accessing those accessibility features when provided.

If accessible user interfaces are required on all video devices, the incremental cost of adding these features will become insignificant. By way of example, the Television Decoder Circuitry Act (Decoder Act),⁴ which has revolutionized the television experience through the mandate of caption-enabling technology, proved that incorporating an accessibility feature into all television sets was not only workable, but of negligible impact on device manufacturing costs and customer price points.

III. Closed Captioning

The Decoder Act requires that television receivers with picture screens 13 inches or larger contain built-in decoder circuitry designed to display closed captioned television transmissions. The FCC has also applied this mandate to computers equipped with television circuitry that are sold together with monitors that have viewable pictures at least 13 inches in diameter, digital television (DTV) sets that have screens measuring 7.8 inches vertically (approximately the equivalent of a 13-inch diagonal analog screen), and stand-alone DTV tuners and set-top boxes, regardless of the screen size with which these are marketed or sold. The Decoder Act also requires the FCC to ensure that closed captioning services continue to be available to consumers as new video technology is developed.

The 13-inch threshold established in the Decoder Act grew out of concerns that viewers would not be able to read captions on smaller screens. Improvements in video displays, along with new digital technologies, have since eliminated this concern. Today, viewers enjoy their

⁴ 47 U.S.C. §§ 303(u) and 330(b).

favorite television shows, as well as new Internet-based programming on their PDAs, laptops, MP3 players, and cell phones. Such portable video devices may offer the *only* means for people who are deaf or hard of hearing (who cannot hear radio announcements) to acquire information in the event of an emergency.

All of these devices perform the same functions as traditional television sets, but are not presently required to receive and display captions because of the 13-inch limitation in the Decoder Act. Similarly, although VCRs are presently capable of playing back videos with captions intact, most newer playback and recording devices that are used with Internet-based technologies, including DVRs, are not capable of decoding and displaying captions. The industry itself admits that there is currently no plan to add a mechanism that will support the transfer of caption data to receivers using the High-Definition Media Interface (HDMI) or component video connections; nor can the new high definition DVD players themselves decode and display the captions.⁵ The inability to view captions using these devices poses a considerable hardship to deaf and hard of hearing viewers who must rely on older, obsolete or lower-quality equipment and connections to maintain their caption viewing capability. All video source, recording, and playback devices should be capable of passing through, preserving, and decoding caption signals to the display unit.

Although the FCC's digital captioning rules have begun to expand the scope of devices that must have decoder capability, those rules do not go far enough to reach all of the newer technological innovations now on the market. Now that 100% of all new, non-exempt television programming must carry captions under the FCC's rules, it is especially important that deaf and hard of hearing Americans be able to receive captioning access to Internet-based video

⁵ The new HD-DVD and BluRay advanced DVD formats were developed without including closed caption data support or playback.

programming on all video devices along with their hearing peers. To this end, federal policy should expand the scope of devices that must be capable of displaying closed captions to include video devices of all sizes, including recording and playback devices, that are designed to receive or display analog, digital and Internet video programming.

IV. Video Description and Accessible Emergency Information

Video description is the provision of verbal descriptions of on-screen visual elements that are provided during natural pauses in dialogue. For the 10 million American television viewers with significant vision loss, video description is essential to ensuring a measure of equal access to television programming. In addition to these individuals, the increasing numbers of seniors that is expected over the next 25 years, many of whom are expected to experience vision loss, means that an ever-expanding population of millions of viewers will only be able to enjoy access to video programming with the aid of video description. Even more significant than access to entertainment, audio output of emergency information presented in text format is needed to allow this sizable population to understand and appropriately respond to warnings of hazardous weather and similar emergency conditions. Moreover, given the unequivocal success of the captioning requirements, it is reasonable to expect that all viewers, regardless of disability, will benefit greatly from, and actively use, multi-modal (audio and visual) information dissemination.

The Communications Act of 1996 authorized the FCC to conduct an inquiry to assess the appropriate means of phasing video description into the television marketplace. Although the FCC's response to this grant of authority was a modest requirement that broadcasters and other multimedia video programming providers in the top 25 major national markets provide video

description on only four primetime programming hours per week,⁶ the broadcast and cable television industries successfully pursued litigation to overturn this mandate.⁷ However, during the period in which these rules were in effect, national broadcasters demonstrated the technical and economic feasibility of video description by adding this feature to their programs.

Efforts are underway by consumer groups to get Congress to restore the FCC's modest regulations on video description, and to provide the FCC with the requisite authority to expand these rules appropriately. Accordingly, it is critical that all new devices that can deliver video programming, including devices used to receive Internet-based video programming, be capable of transmitting and delivering video description and conveying emergency information in a manner that is accessible to people who are blind or have low vision. Additionally, it is necessary to put into place guarantees that these viewers will be able to activate and deactivate these accessibility features when these videos are played back on a screen of any size. This requirement, for the transmission and delivery of video description services, is easily attainable in a digital world, where significantly greater bandwidth (than had been available with analog televisions) can more easily and inexpensively accommodate this access feature. This mandate is also in keeping with recommendations adopted by the Advisory Committee on the Public Interest Obligations of Digital Broadcasters (the "Gore Commission"), which was tasked with developing public interest obligations for digital television broadcasters in the mid-1990s.⁸

⁶ *Video Description of Video Programming*, Report and Order, MM Dkt. 99-339, FCC 00-258, 15 FCC Rcd 15230, amended in part at Memorandum Opinion and Order on Reconsideration, FCC 01-7, 16 FCC Rcd 1251 (2001).

⁷ The rules were struck down by the U.S. Court of Appeals for the D.C. Circuit in *Motion Picture Association of America, Inc. v. Federal Communications Commission*, 309 F. 3d 796 (2002).

⁸ *Charting the Digital Broadcasting Future: Final Report of the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters* (Washington, D.C.: December 18, 1998) at 62 stated: "We recommend that broadcasters allocate sufficient audio bandwidth for the

V. Conclusion

The Commission's National Broadband Plan should address accessibility issues to ensure that video devices across all delivery platforms have accessible user interfaces; provide easy access to accessibility features; are capable of passing through, decoding or displaying closed captions; and are capable of providing video description and audio output of emergency information presented in text.

Respectfully submitted,



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On behalf of the Steering Committee of the Coalition of Organizations for Accessible Technology:

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transmission and delivery of video description in the digital age to make expanded use of this access technology technically feasible.”