

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )  
Accessible Emergency Information, and Apparatus )  
Requirements for Emergency Information and ) MB Docket No. 12-107  
Video Description: Implementation of the Twenty- )  
First Century Communications and Video )  
Accessibility Act of 2010 )

**COMMENTS OF THE WEATHER CHANNEL, LLC**

The Weather Channel, LLC (“TWC”) hereby files these comments in response to the Commission’s Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>1</sup>

**I. INTRODUCTION**

TWC owns and operates The Weather Channel®, which debuted in 1982 and has become America’s premiere national weather information television network. The Weather Channel is dedicated to providing local and national weather information to more than 100 million subscribers to multichannel video services nationwide. TWC also operates Weatherscan®, a 24-hour all-local weather network, which provides an additional local weather channel to 14 million cable subscribers across the country.<sup>2</sup>

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<sup>1</sup> Accessible Emergency Information, and apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, *Notice of Proposed Rulemaking*, MB Docket No. 12-107, FCC 12-142 (rel. November 19, 2012) (the “*Notice*”); *see also* Media Bureau announces Comment and Reply Comment Deadlines for the Notice of Proposed Rulemaking Regarding Accessible Emergency Information and Apparatus Requirements for emergency Information and Video Description, MB Docket No, 12-107, DA 12-1908 (rel. Nov. 28, 2012).

<sup>2</sup> In addition to these television channels, TWC owns and operates the Weather Channel Radio Network, popular websites (*e.g.*, weather.com, wunderground.com) that reach more than 60 million users monthly, as well as a mobile web site and smartphone applications that reach 30 million users monthly. Another TWC affiliate, WSI, provides professional weather services, particularly for the media, aviation, marine and energy sectors.

Through these networks, TWC provides its viewers with comprehensive, up-to-the-minute local, national, and international weather forecasts, programming highlighting weather events and their impact, weather-related travel news, and topical weather-oriented features.<sup>3</sup> A critical part of the services provided by The Weather Channel and Weatherscan is a focus on providing coverage of severe weather and immediately alerting viewers to severe weather watches and warnings issued by the National Weather Service. Over the years, viewers consistently have placed a high value on The Weather Channel's specialized programming, ranking the network in the top 5 most-valued cable channels in the last 12 annual Beta Brand Research Studies of cable consumers.<sup>4</sup>

TWC's success is based in large part on its ability to operate as a national network that provides hyper-local service to viewers in all areas of the country. TWC's focus on local weather and emergency weather events gives it a keen interest in the FCC's rules promoting access to emergency information for viewers with hearing and visual impairments. TWC seeks to inform and warn all its viewers when severe weather threatens or strikes, and it strongly supports the efforts of Congress and the Commission to ensure that no one is left behind when disaster hits and information dissemination is critical. And even without government

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<sup>3</sup> The Weather Channel offers a full schedule of national weather programming supplemented several times per hour by forecast information specific to the geographical area where each customer is located. The key to this customized service is in the complex, patented and Emmy Award winning technology TWC has deployed to deliver targeted local weather news and national weather service alerts to each of its cable viewers. TWC transmits local weather information for the entire country in a single, satellite-delivered data stream. To ensure that viewers see locally-relevant weather news, TWC has outfitted individual cable headends that serve viewers of The Weather Channel and Weatherscan with proprietary WeatherSTAR® equipment ("WeatherSTARs") that filters the national satellite data stream and permits only geographically relevant information to be delivered to each viewer. In this way, TWC is able to offer a unique hybrid national/local service that keeps its viewers informed and – in severe weather situations – gives them the information they need to stay safe.

<sup>4</sup> See Fact sheet – The Weather Company, available at <http://press.weather.com/company-info/fact-sheet-the-weather-channel-llc/>, last visited Dec. 16, 2012.

regulations, as explained in greater detail below, TWC has added aural alerts to its on-screen warnings of severe weather for many of its viewers.

TWC looks forward to the opportunity to work with the Commission in this proceeding to ensure that Congress's intent to expand access to emergency alerts is realized in the form of clear and effective FCC rules. Such rules should be focused on achieving the outcome of expanded access, not on mandating the technological means programmers and multichannel video programming distributors must use to achieve that outcome. Effective rules will provide responsible parties with the flexibility they need to make emergency information more accessible and avoid insisting all providers conform to a single technical standard.

The rules also should provide responsible parties with sufficient time to come into compliance with any new rules, taking into account the technical and equipment changes necessary to implement the new requirements. As described below, while some parties may find compliance relatively simple, others, like TWC, will be required to perform upgrades to thousands of pieces of equipment, dispersed at cable headends across the country, in order to implement the Commission's proposed rules. In adopting its final regulations, the Commission should provide companies with unusual compliance challenges sufficient time to make the technical upgrades necessary to ensure access to emergency information for all viewers.

## **II. EFFECTIVE IMPLEMENTATION OF THE CVAA REQUIRES A FLEXIBLE APPROACH THAT FOCUSES ON OUTCOMES AND AVOIDS NARROW TECHNICAL MANDATES.**

As the *Notice* recognizes, Congress has directed the Commission to adopt regulations that make emergency information accessible to the blind and visually impaired, but has left the agency with significant discretion regarding how to achieve this end.<sup>5</sup> TWC greatly appreciates

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<sup>5</sup> *Notice* at ¶¶ 2, 7. *See also* Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 (2010); Amendment of Twenty-

the work of the Video Programming Accessibility Advisory Committee (“VPAAC”) in analyzing implementation questions and formulating recommendations for approaches to achieving Congress’s intent.<sup>6</sup> And TWC has no reason to doubt that the VPAAC’s recommendation that emergency information provided visually during non-newscast programming should be made available to the blind and visually impaired using a secondary audio programming stream (“SAP”) may be the quickest and most effective way for many covered entities to realize Congress’s vision.<sup>7</sup>

The Commission must recognize, however, that requiring use of the SAP to provide aural emergency alerts will place substantial compliance costs on companies like TWC with a large base of installed equipment that will need to be upgraded in order to implement a SAP-based solution. TWC has literally thousands of its WeatherSTARs deployed in cable headends across the country. These devices determine what emergency information is passed on to local viewers, so if the Commission mandates an SAP-based solution, each of these devices must either be replaced entirely or reconfigured to accommodate it. TWC currently has six different generations of WeatherSTARs in service, and while its most recent models are capable of providing emergency information aurally, none currently would support doing so using SAP.<sup>8</sup> Moreover, TWC’s preliminary analysis indicates that only about 12% of its WeatherSTARs in service could be upgraded to implement a SAP-based requirement, which means that the

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First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-265, 124 Stat. 2795 (2010) (collectively, the “CVAA”).

<sup>6</sup> See Notice at ¶ 3.

<sup>7</sup> See *id.* at ¶ 7.

<sup>8</sup> TWC is continuously upgrading its WeatherSTAR devices to take advantage of new technology and associated new capabilities. TWC has deployed 8 different generations of the WeatherSTAR since 1982 and is currently working on designing, building, and deploying a 9th generation device. Over its more than 30 years of operation, TWC has been able to decommission and retire three of its original eight generations of WeatherSTARs, leaving 6 still in service today.

remaining approximately 88% of these devices would need to be replaced, at an estimated cost of at least \$14 million. These costs go far beyond anything contemplated by the *Notice* and would place a substantial financial burden on TWC, which ultimately would be reflected in higher licensing fees and subscriber cable rates. The Commission should only require that TWC bear these costs if that is the only reasonable way to achieve compliance with Congress's goals in the CVAA.

The *Notice* recognizes that there may be alternatives to a requirement that responsible parties use the SAP to provide required aural emergency alerts and seeks comments on what alternatives, if any, it should permit.<sup>9</sup> TWC suggests a different approach. Instead of trying to determine in advance all the technological methods of providing aural emergency notices that the Commission will permit, the rules should simply mandate that responsible entities must make those notices available and allow responsible entities the flexibility to fulfill this requirement using whatever technical means are feasible. The rule could create a compliance "safe harbor" for providers that use SAP or one of the other proposed methods of delivering the required information, but should not prohibit responsible entities from utilizing other feasible methods.

In addition, the rules should offer responsible parties the flexibility to convey aural emergency alerts that differ in some respects from the text that appears in an on-screen scroll.<sup>10</sup> It should not be required that aural emergency warnings be verbatim recitations of the words contained in the scroll. Rather, the standard for the aural alert should be the same as the standard for the scroll alert, *i.e.*, both should be required to include the critical details of the emergency and instructions about how to respond.<sup>11</sup>

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<sup>9</sup> *Id.* at ¶ 18.

<sup>10</sup> *Id.* at ¶ 13.

<sup>11</sup> *See* 47 C.F.R. §79.2(b)(3)(ii).

At this time, TWC's most advanced WeatherSTARs already are capable of providing aural alerts along with on-screen scrolls, but these alerts are very limited, and certainly are not verbatim duplications of the on-screen scroll alert.<sup>12</sup> For example, current aural alerts are limited to simple announcements, such as, "A severe thunderstorm alert has been issued for our area." A crawl with more detailed information would run concurrently with the aural announcement.<sup>13</sup> This process best serves TWC's viewers because in some cases the on-screen scrolls (during hurricane watches or warnings, for example) are so lengthy that the requirement that they be repeated verbatim aurally would interrupt programming for long stretches of time, far longer than necessary to provide a reasonable warning of the emergency.<sup>14</sup> If TWC can make the aural alert an equivalent warning to the on-screen scroll, it should not be required to make those warnings identical.

### **III. THE COMMISSION MUST PROVIDE COVERED ENTITIES WITH SUBSTANTIAL TIME TO IMPLEMENT ANY NEW REQUIREMENTS.**

The Commission seeks comment on the appropriate time frame for implementation of any new aural alert requirement.<sup>15</sup> To a certain extent, the appropriate period for compliance will depend on the rules the Commission ultimately adopts. For example, TWC's preliminary

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<sup>12</sup> Unlike most broadcasters and cable networks, TWC provides its viewers with the vast majority of National Weather Service bulletins issued for the local area through on-screen crawls. TWC also transmits to viewers emergency management bulletins issued both by the National Weather Service and by local emergency management authorities.

<sup>13</sup> TWC generally crawls the entire, unaltered alerts from the National Weather Service. These messages are not standardized and their contents vary significantly depending on the office issuing the alert. The wide variability among messages creates technical challenges for designing a text-to-speech solution that would enable full aural renderings of each text crawl. Currently, TWC's most advanced WeatherSTARs are capable of extracting the subject of each National Weather Service alert based on standardized header information and using that information to compose the brief aural announcement of an incoming alert.

<sup>14</sup> A requirement that all crawl alerts be repeated aurally would require substantial changes to TWC's WeatherSTAR devices and their operating software. While some devices may be able to be upgraded to accomplish such a mandate, others would need to be replaced entirely.

<sup>15</sup> See Notice at ¶ 11.

estimates suggest that it would take TWC at least two and a half years, and perhaps considerably longer, to upgrade and replace its WeatherSTARs to comply with a SAP-based requirement.<sup>16</sup>

The time needed for compliance might be substantially less for programmers that have a smaller installed base of equipment that would require upgrades. A shorter compliance period also may be possible if the Commission permits responsible parties the flexibility TWC requests.

However, even then, TWC is not currently aware of, and has not developed, an alternative means to deliver more detailed aural alerts. Moreover, because weather alerts are, by their nature, locally relevant, it is likely that any solution will require that TWC work with, and accommodate, the many hundreds of cable, telco and major satellite television operators, and the thousands of local headends.

Whatever implementation timeframe the Commission adopts, it should make clear that it will consider waivers of the compliance deadline for providers like TWC that may face the daunting costs and technical challenges of rapidly replacing a large installed base of equipment. While TWC shares the Commission's eagerness to ensure that blind and visually impaired subscribers gain improved access to emergency information, there are limits to what can reasonably be expected from responsible parties, and the Commission should be willing to weigh the costs and benefits of requiring rapid compliance. In some cases, a brief extension may be

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<sup>16</sup> Implementation of a SAP mandate would require a significant software and hardware development effort to produce compliant WeatherSTARs. Substantial software changes would be required to double TWC's audio processing capability from one audio path through its system to two audio paths (primary and SAP) on the newer digital output WeatherSTARs. In addition to these software changes, TWC's analog output WeatherSTARs would present special challenges because each individual device would require time-consuming hardware modifications to physically add a second set of audio output connections. Deployment of more than 4,000 new devices is likely to be the most time-consuming portion of the effort. Deployment of TWC's newest WeatherSTAR platform has involved only 600 new devices and has taken almost two years. While TWC is typically able to build and ship new devices relatively quickly, TWC relies on MSOs to install TWC equipment in local headends and provide critical details of their operating environment required by WeatherSTAR devices.

warranted to ensure that the new requirements are implemented in a measured, reasonable way that does not compromise service for all viewers as the cost for expanding access.<sup>17</sup>

### **CONCLUSION**

For these reasons stated herein, TWC asks the Commission to adopt flexible rules and timelines for implementation of any aural alert requirement. Wherever possible, the Commission should avoid mandating specific technical solutions and instead offer responsible parties guidelines for what their aural alerts must accomplish and the flexibility to adopt any technical solutions that achieve the required level of access for the blind and visually impaired.

Respectfully submitted,

**THE WEATHER CHANNEL, LLC**

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<sup>17</sup> In 2000, the Commission granted TWC a waiver of the implementation date of the Commission's original video description rules to permit equipment upgrades necessary to ensure compliance. *See* Implementation of Video Description of Video Programming, *Waiver Order*, 16 FCC Rcd 19784 (2001).