

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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

**COMMENTS OF  
THE NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

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The National Cable & Telecommunications Association (“NCTA”)<sup>1</sup> hereby responds to the Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>2</sup> The *Notice* proposes to implement certain provisions of the Twenty-First Century Communications and Video Accessibility Act (“CVAA”) governing the accessibility of emergency information and certain apparatus requirements for emergency information and video description.<sup>3</sup> NCTA and its members support the goals of the CVAA and the Commission, and have been actively involved in the Video Programming Accessibility Advisory Committee (“VPAAC”) process that led to several of the recommendations that form the basis for the *Notice*.

In the *Notice*, the Commission proposes to implement Section 202 of the CVAA by making “emergency information” that appears as a crawl or scroll in non-news programming

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<sup>1</sup> NCTA is the principal trade association for the U.S. cable industry, representing cable operators serving more than 90 percent of the nation’s cable television households and more than 200 cable program networks. The cable industry is the nation’s largest provider of broadband service after investing over \$185 billion since 1996 to build two-way interactive networks with fiber optic technology. Cable companies also provide state-of-the-art competitive voice service to more than 23 million customers.

<sup>2</sup> See *In re 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, 27 FCC Rcd 14728 (2012) (“*Notice*”).

<sup>3</sup> Twenty-First Century Communications and Video Accessibility Act of 2010 §§ 202, 203, 47 U.S.C. §§ 613, 303(u) (“CVAA”).

accessible to individuals who are blind or visually impaired. The *Notice* also proposes to implement Section 203, which requires related rules to ensure that “apparatus have the capability to decode and make available emergency information in a manner that is accessible” to such individuals, and also requires apparatus “to decode and make available video description services.”

Cable operators will be able to provide emergency information delivered in an audio format so long as broadcasters include it in the same audio stream in which video description is being provided today. In addition, operators already provide equipment that gives cable customers the ability to access video description and other audio contained in this second audio stream. The Commission should not adopt rules that would require operators to modify the way in which cable customers receive video description today.

## **DISCUSSION**

### **I. THE INSTANT PROCEEDING APPROPRIATELY FOCUSES ON EMERGENCY INFORMATION PROVIDED SOLELY AS A VISUAL CRAWL DURING NON-NEWS PROGRAMMING.**

Pursuant to the CVAA, the Commission must conduct a proceeding to (1) “identify methods to convey emergency information (as that term is defined in section 79.2 of title 47, Code of Federal Regulations) in a manner accessible to individuals who are blind and visually impaired; and (2) promulgate regulations that require video programming providers and video programming distributors (as those terms are defined in section 79.1 of title 47, Code of Federal Regulations) and program owners to convey such emergency information in a manner accessible to individuals who are blind or visually impaired.”<sup>4</sup>

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<sup>4</sup> CVAA § 202(a)(3), 47 U.S.C. § 613(g).

The Commission currently has rules in place that address the accessibility of emergency information for individuals who are blind or visually impaired.<sup>5</sup> According to the Commission, there is no need to revise current rules governing accessibility of emergency information during regularly scheduled newscasts or newscasts that interrupt regular programming.<sup>6</sup> Thus, “the focus of the instant proceeding” is the discrete situation where “emergency information is provided solely visually during programming that is not a newscast (such as through an on-screen crawl).”<sup>7</sup> This approach makes sense. Indeed, in its Second Report on Emergency Information, the VPAAC focused principally on enhancing the accessibility of emergency information accompanied by an aural tone that broadcasters provide in a crawl during non-news programming.<sup>8</sup> Moreover, the Commission’s focus is consistent with the accessibility needs emphasized during the legislative process, when advocates for the blind and visually impaired stressed the need for more than “an audible tone on television to alert people who are blind or visually impaired that they should go seek out emergency information somewhere else.”<sup>9</sup>

Based on the recommendations in the VPAAC Second Report and the record the Commission has assembled, the *Notice* proposes “to require covered entities to make emergency information that is provided visually during programming that is not a newscast (such as provided via crawls) accessible to individuals who are blind or visually impaired by using a

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<sup>5</sup> See 47 C.F.R. § 79.2.

<sup>6</sup> See *Notice* ¶ 8. These rules, among other things, require that “emergency information” provided during such programming “must be made accessible to persons with visual disabilities.” See 47 C.F.R. § 79.2(b)(1)(ii).

<sup>7</sup> *Notice* ¶ 4.

<sup>8</sup> See generally *Second Report of the Video Programming Accessibility Advisory Committee (“VPAAC”) on the Twenty-First Century Communications & Video Accessibility Act of 2010, Access to Emergency Information* (Apr. 9, 2012) (“VPAAC Second Report: Access to Emergency Information”), available at [120409 VPAAC Access to Emergency Information REPORT AS SUBMITTED 4-9-2012.pdf](http://www.fcc.gov/record/documents/attachments/2012/120409/vpaac-access-to-emergency-information-report-as-submitted-4-9-2012.pdf).

<sup>9</sup> Press Release, Coal. of Orgs. for Accessible Tech. (“COAT”), *COAT Applauds US Senate for Passage of 21st Century Communications & Video Accessibility Act (S.3304)* (Aug. 10, 2010) (quoting Eric Bridges of the American Council of the Blind), available at <http://www.coataccess.org/node/9790>.

secondary audio stream to provide that emergency information aurally and concurrently with the emergency information being conveyed visually.”<sup>10</sup> As the Commission reports in the *Notice*, the VPAAC, consisting of representatives of industry (including the cable industry) and consumer groups, “supports the use of a secondary audio stream for this purpose.”<sup>11</sup>

If broadcasters use the second audio stream for these purposes, cable operators will be able to pass through the second audio stream received from the broadcaster that contains an audible version of the emergency information crawl. Cable operators already pass through to their subscribers content that broadcasters provide in secondary audio streams to comply with video description obligations.<sup>12</sup> Therefore, we anticipate that any pass through requirement for emergency information that broadcasters provide in that same stream would present few technical challenges for operators.<sup>13</sup> The VPAAC Second Report on Video Description “identified no technical impediments to the reliable transport of video description throughout th[e] chain” through which video description is sent by MVPDs to customers.<sup>14</sup> It also explained that video description provided by broadcast stations in a second audio stream can be delivered today on cable-provided equipment.<sup>15</sup> Thus, using the same audio stream for conveyance of

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<sup>10</sup> *Notice* ¶ 7.

<sup>11</sup> *See id.* ¶ 9.

<sup>12</sup> As of July 1, 2012, cable operators are required to provide or pass-through video description to customers (if the operator has the technical capability to do so and if the capability is not being used for some other, program-related service). *See* 47 C.F.R. § 79.3(b).

<sup>13</sup> Broadcasters that have not provided video description in a second audio stream should ensure that they include the ISO-639 language descriptor in their broadcast transmission so cable set-top boxes can locate the second audio stream containing the emergency information. *See* discussion *infra*.

<sup>14</sup> *See generally* *Second Report of the Video Programming Accessibility Advisory Committee (“VPAAC”) on the Twenty-First Century Communications & Video Accessibility Act of 2010, Video Description* at 8 (Apr. 9, 2012) (“VPAAC Second Report: *Video Description*”), available at <http://vpaac.wikispaces.com/file/view/120409+VPAAC+Video+Description+REPORT+AS+SUBMITTED+4-9-2012.pdf>.

<sup>15</sup> *See id.* at 13-14.

emergency information as for video description makes sense for enhancing accessibility at this time.

Finally, the Commission should provide flexibility to covered entities that would allow for alternative methods of compliance as technology evolves and new solutions emerge.<sup>16</sup> Future technological developments likely will present better solutions than are available today. In the meantime, so long as compliance can be achieved in alternative ways, the Commission should be mindful that it does not hinder the provision of emergency information by locking in requirements that are unnecessarily rigid.

## **II. MAINTAINING THE STATUS QUO WITH RESPECT TO KEY ELEMENTS OF THE PROPOSED EMERGENCY INFORMATION RULE WILL SMOOTH IMPLEMENTATION.**

As noted above, the cable industry generally supports the VPAAC's recommendations addressing accessibility of emergency information. To implement the proposed rule based on those recommendations, the Commission should take certain actions to facilitate a smooth transition to the new rules that will benefit those who are blind or visually impaired.

For example, the Commission should maintain the focus on "critical details" contained in the current definition of "emergency information."<sup>17</sup> The CVAA specifically cites to the current regulatory definition of "emergency information" and directs the Commission to "promulgate regulations that require [covered entities] to convey *such emergency information*" in an

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<sup>16</sup> See CVAA § 202(b), 47 U.S.C. § 613(c)(3).

<sup>17</sup> See Notice ¶ 13 (seeking comment on whether to require emergency information presented aurally to be identical to that presented textually). "Emergency information" is defined in the Commission's rules as "[i]nformation, about a current emergency, that is intended to further the protection of life, health, safety, and property, *i.e., critical details* regarding the emergency and how to respond to the emergency." 47 C.F.R. § 79.2(a)(2) (emphasis added).

accessible manner.<sup>18</sup> The statute does not direct the Commission to expand the definition and the Commission should not do so in this proceeding.

Covered entities are familiar with this definition, which applies to accessibility requirements beyond those at issue here. In particular, the same definition governs accessibility requirements for emergency information during newscasts. The Commission concluded that it would not change the newscast-related rule, since “no commenters indicated a need to revise the existing rules for [newscasts].”<sup>19</sup> The Commission should maintain consistency in the rules to ensure that critical information is conveyed to consumers. The Commission should not require more than “critical details” to be presented.

In addition, the Commission should make clear, as it did in the *Notice*, that “emergency information” for purposes of this proceeding does not encompass emergency alerts delivered through the Emergency Alert System (“EAS”).<sup>20</sup> EAS already is subject to its own accessibility requirements.<sup>21</sup> The statutory text supports this interpretation. The CVAA provision requiring accessibility of emergency information specifically references existing definitions in Part 79 of the Commission’s rules, whereas EAS requirements are contained in Part 11.<sup>22</sup> According to the *Notice*, “[a]ccessibility of this emergency information is a separate matter from accessibility of an activation of [the EAS], which facilitates emergency communications from the President, the

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<sup>18</sup> CVAA § 202(a)(3), 47 U.S.C. § 613(g)(1)-(2) (directing the Commission to “identify methods to convey *emergency information (as that term is defined in section 79.2 of title 47, Code of Federal Regulations)* in a manner accessible to individuals who are blind or visually impaired; and promulgate regulations that require [covered entities] to convey such emergency information in a manner accessible to individuals who are blind or visually impaired”) (emphasis added).

<sup>19</sup> *Notice* ¶ 8.

<sup>20</sup> *See id.* ¶ 2, n.8.

<sup>21</sup> *See* 47 C.F.R. §§ 11.51(g), (h) (detailing requirements for audio alert messages on analog and digital cable systems).

<sup>22</sup> *See* CVAA § 202(a)(3), 47 U.S.C. § 613(g)(1)-(2); *see also* VPAAC *Second Report: Access to Emergency Information* at 3-4 (“It is important to note that “emergency information” is not necessarily the same as an emergency that would trigger activation of the [EAS].”).

heads of State and local government, their designated representatives, or the National Weather Service.”<sup>23</sup> Thus, as to emergency information, this proceeding is appropriately narrowly focused on addressing the concerns raised by groups representing blind and visually-impaired individuals regarding access to non-EAS emergency information included in crawls during non-news programming.

### **III. RULES IMPLEMENTING SECTION 203 SHOULD BE FOCUSED ON THE CAPABILITY OF EQUIPMENT TO MAKE VIDEO DESCRIPTION AND EMERGENCY INFORMATION AVAILABLE.**

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Cable operators have been providing video description to customers pursuant to rules adopted implementing a separate provision of the CVAA.<sup>24</sup> That rulemaking resolved a number of the questions that the *Notice* raises in this proceeding. Those questions should not be revisited here. Section 203 of the CVAA was intended to address a *different* issue: the capability of “apparatus” to “decode and make available” the video description transmitted by cable operators (and other MVPDs and broadcasters) under the newly reinstated rules.<sup>25</sup> Therefore, Section 203 is appropriately directed toward the ability of equipment to access material that cable operators and other MVPDs provide with video description; it was not meant to be another provision by which the Commission could impose new obligations – technical or otherwise – on cable operators’ provision of video description.<sup>26</sup>

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<sup>23</sup> *Notice* ¶ 2, n.8.

<sup>24</sup> *See In re Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report & Order, 26 FCC Rcd 11847 (2011) (implementing Section 202(a) of the CVAA) (“*Video Description Order*”).

<sup>25</sup> *See* CVAA § 203(a) (requiring certain apparatus to “have the capability to decode and make available the transmission and delivery of video description services as required by regulations reinstated and modified pursuant to section 713(f)”; *id.* § 203(b) (referring to “other devices”); *id.* § 203(c) (providing authority to implement the those two provisions as well as amendments to Section 330 of the Communications Act of 1934, “Prohibition Against Shipment of Certain Television Receivers”).

<sup>26</sup> Thus, for example, the *Notice* appears to unreasonably broaden the intended scope of Section 330(b) of the Communications Act of 1934. That section – entitled “Prohibition Against the Shipment of Certain Television Receivers” – clearly was meant to address issues of whether apparatus shipped in commerce has the “capability

**A. Cable Operator-Supplied Equipment Can Decode and Make Available Emergency Information and Video Description Presented in a Second Audio Stream**

The *Notice* raises a number of questions aimed at ensuring that viewers will be able to obtain any video description or emergency information that is provided through equipment in their homes. Equipment provided by cable operators to their customers makes this information available. As the Commission is aware, cable operators and other MVPDs use a second audio stream to pass through video description as well as secondary foreign language audio to customers.<sup>27</sup> That second stream can also be used for the pass through of emergency information. Consequently, consistent with the requirements of the CVAA, cable-provided set-top boxes already “have the capability” to “decode and make available the transmission and delivery of video description services as required by regulation reinstated and modified pursuant to section 713(f).”<sup>28</sup> Operator-provided set-top boxes will also be able to “decode and make available emergency information (as that term is defined in section 79.2 of the Commission’s regulation) ... in a manner that is accessible to individuals who are blind or visually impaired”<sup>29</sup> if that information is transmitted in an audible format in that same stream.

In addition, the *Notice* asks several questions regarding the capability of MVPD-supplied apparatus that suggest that the Commission contemplates a role for cable operators in the provision of these services that is neither technically possible nor required by the Act.

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designed to display” video description and emergency information transmitted or conveyed to the device. *See* 47 U.S.C. § 330. Nothing about that section evidences an intent to affect the distributor of that information, such as the cable operator.

<sup>27</sup> *See Video Description Order* ¶ 29 (stating that “many industry commenters ... argue that, given the current state of technology, we cannot assume that MVPDs and broadcasters are able to carry numerous audio streams. NCTA notes that cable systems have been designed, and cable equipment manufactured, for a two-stream architecture. AT&T, CenturyLink, DirecTV, and DISH point to similar legacy equipment issues, as well as potential bandwidth constraints.”).

<sup>28</sup> CVAA § 203(a), 47 U.S.C. § 303(u).

<sup>29</sup> *Id.*

First, the *Notice* asks whether MVPD-supplied apparatus “should have the capability to make textual emergency information audible through the use of text-to-speech ... or whether there are any other specific capabilities that apparatus would need to comply with these requirements beyond the ability to select and decode a secondary audio stream. If so, should we require broadcasters and MVPDs to make the textual emergency information available to apparatus?”<sup>30</sup> However, this question misconceives the role of cable operators – and of operator-supplied equipment – in the provision of material in the second audio stream.

Cable operators today pass through a second audio stream received at the headend from a cable program network or from a broadcast station, and thus play essentially a passive role with respect to the content of that stream. That second audio stream might contain emergency information (presented as text-to-speech or otherwise made audible by the broadcaster), video description, or a foreign language. Operator-supplied set-top boxes play no active role in making the information audible in any of those cases; they simply are used to locate the appropriate stream when instructed to do so by the customer. Thus, it would not be appropriate to mandate any particular text-to-speech capability for those devices.

Second, the *Notice* seeks comment on requirements for recording devices to “enable the rendering or the pass through” of video description and emergency information.”<sup>31</sup> Its concerns about recording devices, at least with respect to operator-supplied DVRs, are misplaced. When a cable customer elects to record a particular program on an operator-supplied DVR, the DVR records both the primary and secondary audio streams embedded in that program. So, for example, if a customer is recording a broadcast program and the broadcaster is transmitting emergency information in the second audio stream of the program, that emergency information

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<sup>30</sup> *Notice* ¶ 20.

<sup>31</sup> *Id.* ¶ 21.

will be recorded to the DVR and can be played back when the customer watches the recorded program at a later time.

Third, the *Notice* invites comment on whether steps are needed to ensure that “interconnection mechanisms and standards for digital video source devices are available to carry from the source device to the consumer equipment the information necessary to ... make encoded video description and emergency information audible.”<sup>32</sup> Operator-supplied set-top boxes already use interconnection mechanisms that make available audio provided via the secondary audio stream (*i.e.*, secondary audio is embedded in the program stream and passed along the set-top box to the connected device). In light of this fact, we agree with the Commission that no further steps are necessary to implement this requirement.<sup>33</sup>

In sum, no regulations are needed to ensure that cable customers using operator-supplied equipment can obtain emergency information or video description that an operator receives from a broadcast station or cable network and passes through in a second audio stream. Operators already have equipment that is capable of making that information available to those customers that choose the second audio stream.

**B. The Commission Should Not Mandate that Operators Adhere to the Broadcasters’ Method for Signaling the Availability of Video Description or Redesign Systems and Equipment to Provide an Additional Audio Stream**

The VPAAC Report examined the roles played by the different entities involved in providing video description to consumers today. As noted above, the VPAAC “identified no technical impediments to the reliable transport of video description throughout [the] chain” by

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<sup>32</sup> *Id.* ¶ 23.

<sup>33</sup> *Id.* (Commission “do[es] not believe that any further steps are necessary to implement this requirement”).

which video description is sent by MVPDs to customers.<sup>34</sup> It detailed how customers today can receive video description provided by broadcast stations and cable networks in a second audio stream on equipment supplied by cable operators.<sup>35</sup>

The VPAAC also explained that different industry segments use different methods to indicate the availability of video description. The report described how “broadcast, cable, DBS and IPTV providers use varied signaling mechanism” and that “no method is currently in use for unambiguously signaling video description; and for delivering video description disambiguated from secondary language.”<sup>36</sup> However, the *Notice* now asks whether “the Commission should impose a requirement at this time that broadcast receivers detect and decode tracks marked for the ‘visually impaired,’”<sup>37</sup> and if so, whether MVPDs would be affected by any such mandate on television receiver manufacturers.

A requirement that broadcasters transmit video description only in a separate dedicated “VI” audio stream could negatively impact cable customers.<sup>38</sup> One of the challenges the VPAAC identified concerns the impact on legacy equipment – including the millions of cable-supplied set-top boxes in customers’ homes today – of any new method for signaling video description. Digital cable set-top boxes for years have relied on the ISO-639 descriptor to identify a second audio stream.<sup>39</sup> Broadcasters, however, use a different method for labeling the

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<sup>34</sup> *VPAAC Second Report: Video Description* at 8.

<sup>35</sup> *See id.* at 13-14.

<sup>36</sup> *Id.* at 21.

<sup>37</sup> *Notice* ¶ 24.

<sup>38</sup> *See id.* (seeking comment on carriage of multiple audio services); *id.* ¶ 26 (explaining that “although we do not propose to require video programming distributors to carry more than one additional audio channel at this time, we are concerned that equipment limitations may be discouraging video programming distributors from doing so voluntarily”).

<sup>39</sup> *See Video Description Order* ¶ 21, n.97 (“The ISO-639 language descriptor is essentially a metadata ‘tag’ that is used by digital cable systems for ‘the signaling the presence of and providing information about individual AC-

presence of a second audio stream (AC-3 descriptor) that can be received by television receivers in over-the-air viewers' homes. Due to these differences, cable operators and broadcasters have been coordinating to ensure that any broadcaster-provided video description is appropriately labeled with not only the AC-3 descriptor for television sets but also the ISO-639 audio descriptor used by cable set-top boxes.<sup>40</sup>

The *Notice* also invites comment on whether the Commission should take steps to “facilitate a transition” to deliver a third audio stream.<sup>41</sup> It should not. As the Commission is aware, cable system architecture today typically supports only two channels. Providing an additional dedicated stream for many systems would represent a significant and costly undertaking on top of modifying the signaling used by set-top boxes to locate the audio stream with video description and emergency information. Operators typically would need to install capability to deliver a third audio stream at the headend, and would also need to make changes to program guide software and firmware in the set-top box.

For that reason, any mandate that cable set-top boxes conform to a new method of identifying and tuning to video description – such as the CEA-CEB21, Recommended Practice for Selection and Presentation of DTV Audio<sup>42</sup> – would be problematic. The CEA-CEB21 Recommended Practice is a set of receiver recommendations with a broadcast-centric approach to audio selection. As explained in the VPAAC Report: “elements of the industry are discussing possible transition scenarios towards support for this solution in *broadcast*, but a *pan-industry*

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3 audio streams.’ Many broadcaster use a different ‘tag’, due to updates to the digital broadcast television standard.”).

<sup>40</sup> The Commission is aware of the two different methods of identifying video described programming and “decline[d] to dictate the method of identifying video described programming” when it reinstated its video description rules just last year. *Id.*

<sup>41</sup> *Notice* ¶ 26.

<sup>42</sup> *See id.*

*solution*, which may not be the same as this, needs to be agreed.”<sup>43</sup> To comply with the CEA Recommended Practice, operators would need to overhaul the method by which they signal the presence of audio streams, potentially leaving millions of legacy set-top boxes unable to locate *any* descriptive video. That would not be an acceptable outcome. Instead, cable operators should be allowed to continue to educate their customers about how to locate the video description – only recently being provided – on their cable systems using the equipment in place today.

To the extent the Commission is seeking to ease consumer access to video description and emergency information on devices, that issue will be addressed in an upcoming rulemaking to implement Section 205 of the CVAA, which will require cable operators and other MVPDs to make text menus and guides audibly accessible.<sup>44</sup> “Talking” menus and guides will provide a significant enhancement over any method being discussed today to locate alternative audio to the main audio. In the meantime, the Commission should not adopt rules that would force operators in the short term to modify the method by which customers receive video description.

### **C. Other Issues**

#### **1. The Commission Should Not Adopt Rules Mandating Main Program Audio in the Secondary Audio Stream**

The Commission sought comment on the VPAAC’s recommendation that when video description, alternate language or emergency information is not available on a secondary audio channel, best efforts should be taken to ensure that the channel contains the main program audio rather than silence.<sup>45</sup> This audio is intended to help blind and visually-impaired customers find

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<sup>43</sup> *VPAAC Second Report: Video Description* at 21 (emphasis added).

<sup>44</sup> *See* CVAA § 205, 47 U.S.C. § 303.

<sup>45</sup> *See Notice* ¶ 22 (asking whether the Commission “should impose this as a requirement, or recommend it as a best practice?”).

programming that is video described by enabling them to tune to the secondary audio all the time, instead of needing to switch back and forth depending on the availability of video description. The Commission should not freeze innovation and establish a rule mandating that practice.

The reasons for requiring main audio to be present in the second audio stream may lessen as technology develops over time to enable customers to better access video description. In particular, the ability of a person who is blind or visually-impaired to navigate between the main audio and second audio stream will be improved through implementation of the audible menu and guide provision of Section 205.

## **2. Cable Operators Provide Customer Support For Handling Video Description Concerns**

The *Notice* also asks whether MVPDs should be required to provide “customer support services to assist consumers who are blind and visually impaired to navigate between the main and secondary audio streams to access video description and accessible emergency information.”<sup>46</sup> Operators already provide such services. They have established procedures for addressing video description and other concerns, procedures that customer service representatives have been following since the rules went into effect less than 6 months ago. In addition, NCTA has worked with our members to ensure awareness of the new video description rules. The Commission should allow those processes to work without mandating new requirements.

The *Notice* also asks whether to require “the provision and publication of contact information for the resolution of consumer concerns,” such as are required in the closed

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<sup>46</sup> *Id.* ¶ 28.

captioning rules.<sup>47</sup> Nothing in the CVAA apparatus mandate<sup>48</sup> provides the Commission authority to act in this area. Moreover, operators have experienced problems with the Commission’s process for handling captioning complaints, which requires operators to publicize a telephone number and other contact information for the immediate handling of captioning concerns.<sup>49</sup> In some cases, publicizing a dedicated complaint number has resulted in that phone number being misused, wasting valuable resources on issues not at all related to accessibility. While operators remain sensitive to the need to assist customers who are blind or visually impaired, no rules are warranted.

### **3. The Scope of the Apparatus Rules Is Limited**

Finally, the Commission proposes to apply its rules only to apparatus designed to enable users “to view television programming as part of an MVPD service.”<sup>50</sup> We agree. Such apparatus can include MVPD-supplied equipment or third-party devices, such as game consoles or tablets that are used to access MVPD services. In the latter cases, cable operators will send the second audio stream containing video description to those devices.

We also agree that Section 203 of the Act was not intended to address the provision of video description on video programming provided over the Internet. These issues will appropriately be examined in a Commission inquiry addressing “the technical and operational

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<sup>47</sup> *Id.*

<sup>48</sup> *See id.* (asking whether such a requirement would “help fulfill the CVAA’s mandate that apparatus have the capability to decode and make available video description and accessible emergency information, e.g., does the use of the term ‘make available’ in the statute reasonably encompass more than simply apparatus functionality?”). Section 203 – which is entitled “Closed Captioning Decoder and Video Description Capability” – provides the Commission no authority to adopt additional requirements on cable operators’ provision of video description.

<sup>49</sup> 47 C.F.R. § 79.1(i).

<sup>50</sup> *Notice* ¶ 30.

issues, costs, and benefits of providing video descriptions for video programming that is delivered using Internet protocol.”<sup>51</sup>

### **CONCLUSION**

For the foregoing reasons, additional rules regarding cable-supplied equipment are unnecessary to ensure the availability of emergency information and video description for customers who are blind or visually impaired.

Respectfully submitted,

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<sup>51</sup> CVAA § 202(a)(3), 47 U.S.C. § 613(f)(3)(B) (“Video Description in Video Programming Distributed on the Internet”). Moreover, industry reported in the VPAAC Report that there are numerous technical challenges to adding a descriptive audio track to Internet streaming sites. See *VPAAC Second Report: Video Description* at 27-28.