

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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)
)

To: The Commission

**REPLY COMMENTS OF
THE CONSUMER ELECTRONICS ASSOCIATION**

The Consumer Electronics Association (“CEA”) hereby replies to comments filed regarding the Notice of Proposed Rulemaking (“*Notice*”) in the above-captioned proceeding.¹ CEA appreciates the importance of making video description and emergency information available to individuals who are blind or visually impaired, consistent with the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”).²

The record in response to the *Notice* demonstrates that industry, including CEA and its member companies, is committed to working with the Commission and individuals who are blind or visually impaired to facilitate increased access to video-described programming and emergency information.³ This commitment also was evident in the extensive and thoughtful

¹ *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*”). Unless otherwise noted, all comments referenced in these reply comments are short-cited, and were filed in MB Docket No. 12-107 on or about December 18, 2012.

² Pub. L. No. 111-260, 124 Stat. 2751 (2010) (“CVAA”) (as codified in various sections of Title 47 of the United States Code), *amended by* Pub. L. 111-265, 124 Stat. 2795 (2010).

³ *See, e.g.*, AT&T Services, Inc. (“AT&T”) Comments at 2; CEA Comments at 1; DIRECTV, LLC (“DIRECTV”) Comments at 1; DISH Network LLC (“DISH”) Comments at 1; National Association of Broadcasters (“NAB”) Comments at 2; National Cable & Telecommunications

work of industry and other stakeholder representatives in producing the portions of the second report of the Video Programming Accessibility Advisory Committee (“VPAAC”) that addressed video description and emergency information, as mandated by the CVAA.⁴

Consistent with CEA’s initial comments, the record shows that because of the limited authority granted to the Commission by Congress, careful implementation of the CVAA’s video description and emergency information provisions for apparatus is needed. Such implementation also must ensure that industry has (i) the continued flexibility to innovate in providing video description and emergency information to all Americans⁵ and (ii) sufficient time to implement the changes needed to comply with the new requirements.⁶

CEA is concerned that some commenters’ proposals would lead the Commission to exceed its authority by imposing video description and emergency information requirements on devices used to access video content delivered via Internet protocol (“IP”) (*e.g.*, on-demand or streaming IP-delivered video programming).⁷ Other proposals would impose on device manufacturers rigid technical rules⁸ or short compliance deadlines⁹ that would hamper

Association (“NCTA”) Comments at 1; National Public Radio, Inc. (“NPR”) Comments at 2; Telecommunications Industry Association (“TIA”) Comments at 2; The Weather Channel, LLC (“TWC”) Comments at 2.

⁴ See SECOND REPORT OF THE VIDEO PROGRAMMING ACCESSIBILITY ADVISORY COMMITTEE ON THE TWENTY-FIRST CENTURY COMMUNICATIONS AND VIDEO ACCESSIBILITY ACT OF 2010 (2012), available at <http://vpaac.wikispaces.com/>.

⁵ See, *e.g.*, CEA Comments at 10–11; Entertainment Software Association (“ESA”) Comments at 6; NAB Comments at 15; NCTA Comments at 5, 13–14; TIA Comments at 10–11; TWC Comments at 5.

⁶ See, *e.g.*, CEA Comments at 12–13; ESA Comments at 7; NAB Comments at 20; TIA Comments at 8–9; TWC Comments at 6–7.

⁷ See, *e.g.*, American Council of the Blind (“ACB”) Comments at 4; Rehabilitation Engineering Research Center for Wireless Technologies (“Wireless RERC”) Comments at 13–14.

⁸ See, *e.g.*, Kelly Pierce Comments at 5–6; ACB Comments at 3–4.

⁹ See *id.* at 2.

innovation. The Commission should reject all such proposals and focus instead on meeting the CVAA's deadline of October 9, 2013, for the apparatus rules.

I. THE RECORD DEMONSTRATES THAT THE SCOPE OF THE NEW RULES IS LIMITED BY THE CVAA

As multiple commenters show, the new apparatus rules should apply only to devices that (i) include a receiver used to access television broadcast or traditional multichannel video programming distributor (“MVPD”) services¹⁰ and (ii) are designed to receive, play back, or record “video programming” as defined in the CVAA.¹¹ As CEA and others explain in detail, Section 203 of the CVAA does not authorize the Commission to impose the video description rules or the emergency information rules on devices that merely interact with content delivered via IP or devices that can – but are not designed to – receive, play back, or record video programming.¹² Suggestions that the Commission apply the apparatus requirements to devices used to view video content delivered via IP, such as tablets and personal computers,¹³ or to standalone removable media players,¹⁴ ignore the clear language and limited scope of Section 203 of the CVAA.

Section 203 of the CVAA restricts the apparatus requirements for video description and emergency information to devices that are “designed to receive, play back, or record television broadcast services or MVPD services.”¹⁵ Section 203 requires the Commission to promulgate apparatus requirements for the decoding and delivery of the video description services provided

¹⁰ See CEA Comments at 4–6; ESA Comments at 3–5; TIA Comments at 7–8.

¹¹ See CEA Comments at 6–8.

¹² See *supra* notes 9–10.

¹³ See ACB Comments at 1-2; Wireless RERC Comments at 13–14.

¹⁴ See *Notice*, at 14747 ¶ 34; see also ACB Comments at 4.

¹⁵ See *Notice*, at 14745 ¶ 30; see also *id.*, at 14734 ¶ 6; 47 C.F.R. §§ 79.2(a)–(b), 79.3(a)–(c).

pursuant to the Commission’s reinstated video description rules, and those rules apply only to broadcast television and traditional MVPD services.¹⁶ Section 203 also requires the Commission to promulgate apparatus requirements for the decoding and delivery of emergency information, which by definition excludes information transmitted by means other than traditional broadcast television and MVPD services (*e.g.*, on-demand or streaming video content delivered via IP).¹⁷ Thus, contrary to the claims of some parties,¹⁸ the Commission is not authorized to extend the video description or emergency information apparatus rules beyond devices that receive broadcast television and MVPD delivery of video programming.¹⁹

As CEA stated in its initial comments, the *Notice*’s proposed definition of apparatus also exceeds the scope of CVAA Section 203 by including “video players” installed by manufacturers.²⁰ Section 203 limits the applicability of the apparatus requirements to a **subset** of video players — players designed to receive or play back video programming (*i.e.*, video programming players).²¹ In order to align the new apparatus rules with the CVAA, proposed

¹⁶ See CEA Comments at 4–5. Section 202 of the CVAA, which reinstates the video description rules, “appl[ies] to video programming . . . insofar as [such] programming is transmitted for display on television in digital format.” CVAA § 202(a) (inserting into Section 713 of the Act new subparagraph (f)(2)(A)). See also 47 U.S.C. § 303(u)(1)(B).

¹⁷ See *id.* § 303(u)(1)(C); 47 C.F.R. § 79.2.

¹⁸ See ACB Comments at 1–2, 4; Wireless RERC Comments at 13–14.

¹⁹ See NCTA Comments at 15; TIA Comments at 5–6. This limitation contrasts with the broader scope of the apparatus requirements for IP closed captioning, which are in another subsection of the Act. See 47 U.S.C. §303(u)(1)(A).

²⁰ See *Notice*, at 14746 ¶ 32 & n.117.

²¹ See CEA Comments at 6–7. This issue is the subject of a pending petition for reconsideration by CEA in the IP captioning docket. See CEA, Petition for Reconsideration, MB Docket No. 11-154, at 3–8 (filed Apr. 30, 2012) (“CEA IP Captioning PFR”).

Sections 79.105(a) and 79.106(a) and the accompanying notes should be revised by replacing “video player” with “video programming player.”²²

Moreover, Section 203’s apparatus requirements for video description and emergency information were not intended to reach standalone removable media players.²³ Instead, Congress intended the requirements to apply to devices that access the types of programming covered by the Commission’s reinstated video description and current emergency information rules²⁴ — traditional, linear broadcast and MVPD services.²⁵

II. RIGID TECHNICAL RULES WOULD HARM THE PUBLIC INTEREST

With respect to technical issues, the record shows that the Commission should not adopt any technical mandates or specific performance standards for covered apparatus.²⁶ Refraining from adopting inflexible technical rules would be consistent with the Commission’s approach to implementing the CVAA’s accessibility requirements for advanced communications services and equipment.²⁷ Further, a flexible approach would reduce the risk of delaying or preventing the release of new, innovative products as technologies evolve.

Built-in TTS Capability. The Commission should not require that covered apparatus include built-in text-to-speech (“TTS”) capability. As recognized by multiple parties, TTS technology currently is not sufficiently reliable for mandatory use in providing emergency

²² See Notice, at 14753–55 ¶¶ 3–4. A “video programming player” should be defined as a component, application, or system that specifically enables access to video programming, not video in general.

²³ See Notice, at 14747 ¶ 34; ACB Comments at 4.

²⁴ See TIA Comments at 7; see also CEA Comments at 8–10.

²⁵ See CEA Comments at 9–10 & n.28. This topic also is the subject of a pending petition for reconsideration by CEA in the IP captioning docket. See CEA IP Captioning PFR at 8–18.

²⁶ See CEA Comments at 10–11; TIA Comments at 10–11.

²⁷ See CEA Comments at 10 & n.33.

information to the blind and visually impaired.²⁸ Thus, in addition to hampering innovation, mandating TTS capability in apparatus would not be an effective means of enabling access to emergency information.

The Commission also should refrain from mandating built-in TTS capability because a platform-based solution is needed for TTS to become a viable means of delivering emergency information (as well as video description). Such a solution will require the participation of video programming distributors and owners as well as equipment manufacturers. Instead of requiring apparatus manufacturers to build in TTS functionality, the Commission should permit manufacturers to develop solutions in collaboration with other industry participants.²⁹

Recording Devices. Although some commenters suggest otherwise, the new apparatus requirements should not apply to recording devices.³⁰ Most modern recording devices are already capable of recording both the primary and secondary audio streams, enabling consumers to play back emergency information or video description that was transmitted on the secondary audio stream when viewing the recorded programming at a later time.³¹ Thus, there is no need for the Commission to adopt new regulations imposing specific requirements on recording devices.

²⁸ See AT&T Comments at 9; TIA Comments at 6; CEA Comments at 10–11; see also Kelly Pierce Comments at 1–2 (stating that guidelines regarding the parameters for the presentation of information must be established before TTS can be used to deliver emergency information); Wireless RERC Comments at 8–9 (stating that covered entities should be allowed to use TTS); NAB Comments at 14 (stating that TTS should be permitted, but not required).

²⁹ See CEA Comments at 11; ESA Comments at 6.

³⁰ See ACB Comments at 3–4; Kelly Pierce Comments at 5.

³¹ See CEA Comments at 9; see also NCTA Comments at 9.

Other Technical Issues. Contrary to the assertions of one commenter,³² the Commission should not consider the receiver-mix proposal of Dolby Laboratories, Inc.³³ As CEA stated in its initial comments, the current revision of the industry digital television audio standard no longer specifies the capability of providing a receiver mix.³⁴ The record also indicates that the Commission need not consider mandating the use of “Visually Impaired” or “VI” to signal video description or consider requiring covered entities to transition to the delivery and support of multiple ancillary audio streams.³⁵ Due to certain limitations in commonly used legacy equipment, many consumers would not be able to locate and select an audio stream tagged as “full service” and “Visually Impaired” even if broadcasters and MVPDs were required to signal video description accordingly.³⁶ For similar reasons, many viewers may be unable to access a third audio stream even if the stream is sent in accordance with standards adopted by the Commission.³⁷ The Commission should not address these issues in this proceeding.

III. THE COMMISSION SHOULD ADOPT A TWO-YEAR PHASE-IN PERIOD FROM THE DATE OF FEDERAL REGISTER PUBLICATION OF THE NEW RULES FOR APPARATUS COMPLIANCE

The record supports adoption of a 24-month phase-in period from the date of Federal Register publication of the new rules for compliance with the apparatus requirements for the delivery of video description and emergency information.³⁸ Although one commenter requests,

³² See Kelly Pierce Comments at 5–6.

³³ See NAB Comments at 18

³⁴ See CEA Comments at 15.

³⁵ See *id.* at 17–18; see also CEA Comments at 15.

³⁶ See NAB Comments at 17.

³⁷ See *id.*

³⁸ See ESA Comments at 7; TIA Comments at 8–9.

