

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054**

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 AT&T

AT&T Services, Inc. (“AT&T”) files these Comments in response to the Further Notice of Proposed Rulemaking (“*Notice*”) released by the Federal Communications Commission (the “Commission”) to implement certain provisions of the Twenty-First Century Communications and Video Accessibility Act of 2010¹ (the “CVAA”)² pertaining to the delivery and provision of emergency information and video description.

I. INTRODUCTION AND SUMMARY

When Congress passed the CVAA, it relied on the existing closed captioning rules for the definitions and terminology that define its scope. Because the focus of the closed captioning rules is video programming that is delivered for residential viewing over MVPD systems, that is likewise the focus of the emergency information and video description rules. Thus, the

¹ Twenty-First Century Communications and Video Accessibility Act, S.3304 (P.L. 111-260) (2010), as amended by S. 3828 (P.L. 111-265) (2010) (“21st Century Accessibility Act”).

² 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, MB Docket No. 12-107, *Notice of Proposed Rulemaking* (rel. Nov. 19, 2012) (“*Notice*”).

emergency information and video description rules should not apply to linear video programming³ delivered over the Internet to tablets, laptops, personal computers, smartphones or similar devices. Arguably, the emergency information rules may apply to video programming delivered to these devices over MVPD residential systems (rather than over the Internet). But, that same argument cannot be made for the video description rules, as they apply only to video programming delivered to televisions. Further, the CVAA limits the Commission's authority to impose new video description rules before the expiration of two years from completion of a video description report due to Congress.

AT&T agrees with the Commission that providing publicly available contact information for covered entities would provide a benefit to persons with disabilities. Entities subject to the emergency information regulations should provide contact information on their website only, which is consistent with the IP closed captioning rules. Experience with the television closed captioning rules has demonstrated that contact information provided in bills and telephone directories is less effective.

II. DISCUSSION

A. Emergency Information Must be Provided Only on Video Programming Distributed and Exhibited for Residential Use.

Section 202 authorizes the Commission to impose video description regulations on video programming providers and video programming distributors, as those terms are defined in the Commission's closed captioning rules.⁴ Those closed captioning rules define video programming, video programming providers, and video programming distributors in the context

³ Linear video content means video programs that are offered at a scheduled time of day and on a designated channel and is contrasted with interactive video programming, such as video-on-demand.

⁴ Pub. L. No. 111-260, §203(g)(2), 124 Stat. 2751, 2770 (2010).

of programming that is distributed only for residential use.⁵ Consequently, when an MVPD is allowing its subscribers to access video programming that is distributed to the home via the MVPD's network, the MVPD is subject to the Commission's emergency information rules, regardless of the devices that are accessing the video programming. In that context, an MVPD that allows its subscribers to access linear video programming information via tablets, laptops, personal computers, smartphones, or similar devices must make emergency information accessible when delivered over the MVPD network.

In contrast, linear video programming delivered over the Internet is not distributed or exhibited for residential use and thus, the MVPD is not acting as a video programming provider or video programming distributor, as defined in the Commission's closed captioning rules, when it is distributing such programming. In fact, video content delivered over the Internet to mobile devices is intended to be, and is marketed by providers as, available "anytime," "anywhere," not just for residential use. Therefore, the emergency information rules do not extend to video content distributed or exhibited online to tablets, laptops, personal computers, smartphones, or similar devices, as such distribution is not solely for a residential setting. Any MVPD provided plug-in or application to access that programming need not make emergency information audible on a secondary audio stream.

⁵ See 47 C.F.R §79.1(a)(1) (defining "video programming" to include "[p]rogramming provided by, or generally considered comparable to programming provided by, a television broadcast station that is distributed and exhibited for residential use."); 47 C.F.R §79.1(a)(2) (defining "video programming distributor" to include any television broadcast station, MVPD, and "any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission"); 47 C.F.R §79.1(a)(3) (defining "video programming provider" to include a "video programming distributor and any other entity that provides video programming that is intended for distribution to residential households . . .").

B. The Video Description Rules Apply Only to Programming on Television.

The Further Notice correctly observes that the Commission’s existing video description rules apply to “MVPD systems,”⁶ which are typically associated with video programming delivered for residential use. Tablets, laptops, personal computers, smartphones, or similar devices are designed and used outside of a residential location. In fact, with the exception of the desktop computer, the mobility of these devices is arguably their most important feature. Also, Section 713 of the Communications Act, as passed by the CVAA, authorized the Commission to reinstitute its video description regulations only for “video programming . . . insofar as and programming is transmitted for display on **television** in digital format.”⁷ Tablets, laptops, personal computers, smartphones, and similar devices may display video programming, but they are clearly not televisions. Had Congress intended for the Commission to extend the video description rules to devices other than televisions, it would have expressly done so. Thus, MVPD’s have no obligation to pass-through video description on video content that is made available on tablets, laptops, personal computers, smartphones, and similar devices.

Further, it would be premature for the Commission to adopt rules that require MVPDs to provide video description for linear video programming delivered on tablets, laptops, personal computers, smartphones, and similar devices that are designed to access programming over the Internet. Section 202 of the CVAA requires the Commission to review and report to Congress on the “technical and operational issues, costs, and benefits of providing video descriptions for video programming that is delivered using Internet protocol.”⁸ In anticipation of this report, the

⁶ *Further Notice*, at 57, ¶83.

⁷ 47 U.S.C. §613(f)(2)(A).

⁸ 47 U.S.C. §613(f)(3)(B).

Commission recently released a Public Notice eliciting comment on those issues (and on the issues associated with the provision of video description over television), which will be used to create the report to Congress.⁹ Not only should the Commission wait to consider the information from that report before imposing any new video description rules, but such a pause is required by law. Section 713 of the Communications Act prohibits the Commission from imposing new video description regulations any earlier than two years after the video description report is completed.¹⁰ Thus, the Commission should wait until the expiration of this period before adopting video description regulations that would apply to devices accessing video programming over the Internet.

C. Customer Contact Information.

AT&T supports the Commission's proposal that entities covered by the emergency information rules provide contact information to users. The Commission should adopt the consumer outreach procedures incorporated into the IP-Closed Captioning rules rather than the consumer outreach rules adopted for television closed captioning. The television closed captioning rules require distributors to provide contact information for making inquiries and complaints in telephone directories, in consumer bills, and on company websites. In contrast, the IP closed captioning rules allow covered entities to provide general contact information in a conspicuous location on their websites. The general notice allowed by the IP closed captioning rules is more effective at communicating contact information to consumers, who more than ever, contact their providers and other merchants via their websites or, at a minimum, find contact information on those websites. Contact information provided in telephone directories can

⁹ Public Notice, Video Description in Video Programming Distributed on Television and on the Internet, MB Docket No. 11-43 (June 25, 2013).

¹⁰ 47 U.S.C. §613(f)(4).

become outdated shortly after the directory is published, frustrating the efforts of consumers to get their inquiries or complaints resolved. Further, because contact information in telephone directories and subscriber bills is also accessible to consumers without disabilities, the vast majority of complaints/inquiries that AT&T has received on the television closed captioning contact phone number and e-mail address relate to issues other than closed captioning.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert Vitanza", with a long horizontal flourish extending to the right.

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