



August 16, 2013

Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: *In the Matter of Accessibility of User Interfaces, and Video Programming Guides and Menus, MB Docket No. 12-108, Notice of Proposed Rulemaking (FCC 13-77)*

Dear Commissioners:

Montgomery College Television (MCTV) submits this letter in the above-referenced rulemaking proceeding (NPRM) in response to comments filed by: Montgomery County, MD; National Association of Counties, National Association of Telecommunications Officers and Advisors, and the United States Conference of Mayors; and the Alliance for Communications Democracy.

Montgomery College Television (MCTV) is responsible for the cable programming available on the Montgomery College educational access channel. The channel features acquired and originally produced educational, informational and instructional programming which directly supports the College's distance learning and instructional programs, and which provides professional and workforce development and self-enrichment opportunities for community subscribers.

We are a 24/7 operation and therefore carry 8,760 hours of programming annually. A significant number of these programs are closed captioned and it is our goal to become 100% compliant with Section 508. The subscriber base is approximately 275,000 cable households in Montgomery County, Maryland.

We have program descriptions and accessibility information readily available for our programs with accessibility options. However, currently, the MVPD describes our programming as "Local Origination". This level of information is inadequate to meet the accessibility goals of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). We have asked the cable operator to carry this information and they have refused, citing cost. Viewers cannot determine from the MVPD's video programming guide what our programs are and whether our programs are accessible. Thus, viewers with visual or auditory disabilities cannot make meaningful video program choices.

The Video Programming Accessibility Advisory Committee (VPAAC) identified "Channel / Program Selection" and "Display Channel / Program Information" among the

essential functions covered by CVAA,<sup>1</sup> and also expressed concern that “[o]ften it is impossible to determine the accessibility of a program (whether it provides captioning or video description) until after watching a set of previews and/or advertisements. This can lead to frustration on the part of users dependent on such capabilities as they attempt to locate programming that meets their accessibility needs.”<sup>2</sup> The VPAAC identified that “[a] more accessible and usable solution for deaf or hard of hearing and blind or vision impaired users would provide clear identification of the accessibility options that are available for a program *prior to viewing, such as labeling the program as having captions and/or video description within the mechanism used to display channel / program information.*”<sup>3</sup> We urge the Commission to adopt this approach and note that it is even more difficult to locate programming that meets viewers’ accessibility needs if neither the name of the program nor the closed captioning label is included on the video programming guide.

At paragraph 36 of the NPRM, the Commission asks: “Does Section 205 provide us authority to require that MVPDs provide programming description information in programming guides for local programs and channels for the purpose of promoting accessibility?”

We believe the Commission has direct authority under the CVAA to require cable operators to include high level channel and program descriptions or titles, as well as a symbol identifying the programs with accessibility options (captioning and video description) on video programming guides. By enacting the CVAA, Congress has already decided that user interfaces and video programming guides and menus are essential to making video services accessible and it has given the Commission direct responsibility to make them accessible. At a minimum this authority allows the Commission to require that MVPDs provide programming description information in programming guides for local programs and channels with accessibility options. However, we also believe that the Commission has authority, or could exercise ancillary authority, to require that MVPDs include programming description information in programming guides for all local programs and channels because the Commission is authorized to make essential functions such as “Channel / Program Selection” and “Display Channel / Program Information” accessible, and to make this accessibility meaningful, the program guides should include a minimum level of program and channel information.

More than a dozen years ago, when the Commission adopted rules to implement Section 255 of the *Communications Act*, 47 USC § 255, to make telecommunications services accessible, the Commission also exercised its ancillary authority to include within the accessibility requirements two non-telecommunications services – voicemail and interactive menus.<sup>4</sup> Having been charged by Congress to ensure that telecommunications services and equipment are accessible and usable by persons with disabilities, the Commission could not “carry out meaningfully the accessibility requirements”<sup>5</sup> or “fully achieve that objective without this limited

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<sup>1</sup> Second Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010: User Interfaces, and Video Programming Guides and Menus (April 9, 2012) (“Report”) at 8.

<sup>2</sup> Report at 18.

<sup>3</sup> *Id.* (emphasis added).

<sup>4</sup> See 47 CFR Part 7.

<sup>5</sup> *Id.*

use of [its] ancillary jurisdiction.”<sup>6</sup> Similarly, we believe that that the Commission cannot carry out meaningfully the accessibility requirements of the CVAA – to make user interfaces and video programming menus on digital video programming apparatus, and menus and video programming guides provided by navigation devices accessible to people who are blind or visually impaired – or fully achieve that objective without this limited use of the Commission’s ancillary jurisdiction to require that that MVPDs provide programming description information in programming guides for local programs and channels for the purpose of promoting accessibility.

Therefore, we urge the Commission to adopt rules that would require video programming guides and menus which display channel and program information include, for all channels, high level channel and program descriptions and titles, as well as a symbol identifying the programs with accessibility options (captioning and video description).

Thank you for the opportunity to submit these comments.

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<sup>6</sup> *Id.*