

March 20, 2014

BY ELECTRONIC FILING

Marlene H. Dortch
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Re:MB Docket No. 12-107- 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, and MB Docket No. 11-43 - Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010– Ex Parte Filing by the American Foundation for the Blind and American Council of the Blind

Dear Ms. Dortch:

On behalf of the American Foundation for the Blind (AFB) and the American Council of the Blind (ACB), we are grateful for the opportunity, pursuant to the Commission's ex parte rules, to offer these brief supplemental comments for the above-captioned dockets.

The Commission asks the question whether MVPDs that provide access to linear video programming via tablets, laptops, personal computers, smartphones, or similar devices (hereafter, less restrictive means), continue to have obligations concerning delivery of accessible emergency information. As we have said over and over again in proceedings concerning the Twenty-First Century Communications and Video Accessibility Act (CVAA), it is imperative that the Commission craft rules that are grounded firmly in the experience of the consumer who is blind or visually impaired and that are not disconnected from such experience by preoccupation with artificial distinctions. We therefore do not comment per se on the legal application or interpretation of the CVAA as such but rather urge the Commission to remember that the consumer makes no fundamental distinction between less restrictive means for accessing video programming and conventional means; consumers expect that less restrictive means will not deprive them of essential elements of the viewing experience available via conventional means.

Secondly, and perhaps most importantly, as we have said repeatedly, emergencies are different; while we are persuaded that the CVAA requires MVPDs to facilitate description of programming through both conventional and less restrictive means, the very nature of emergency information demands that it be made available via any and all means whatsoever to consumers with vision loss who, arguably, are/will be among the most enthusiastic adopters of the less restrictive means for obtaining cable and satellite programming. To not require the delivery of accessible emergency information via less restrictive means would be to, in effect, leave consumers with vision loss at potentially serious risk

simply because such customers wish to avail themselves of the many advantages of less restrictive means, such as miniaturization, portability, and consolidation of widely diverse video and non-video functions into a single device. The Commission cannot stand idly by while consumers who are blind or visually impaired are lured or compelled out of convenience or necessity to use less restrictive means and are thereby shut out of essential services, i.e., emergency information.

We believe that both MVPDs and apparatus manufacturers must have obligations to ensure the delivery of accessible emergency information. We are not going to attempt to describe how such responsibilities are apportioned or distinguished one from another except to simply point out that, when there is a relationship of dependency, either for technical or other reasons, the Commission needs to be able under its rules to hold the offending party accountable. So, for instance, when an MVPD requires this or that device to adhere to certain technical or other proprietary restrictions or protocols that interfere in some way with the delivery of accessible emergency information, the MVPD must be held responsible. The apparatus in question may also be in violation of the CVAA in itself, but all links in the chain have responsibilities.

Again, consumers do not make, and may not be capable of making, distinctions between each of the links in that chain. If and when emergency information is not delivered and a consumer complaint is filed, the Commission will need to have each link in the chain prove their accessibility and not simply point to the alleged noncompliance of others.

As for whether video description must also be facilitated through both less restrictive and conventional means, clearly the answer is a resounding yes as we have said above. In effect, the obvious CVAA and public interest obligations to make accessible emergency information available via less restrictive means, coupled with the practical reality that accessible emergency information will be made available through a secondary audio stream, eliminates the need for any debate here if there needed to be a debate in the first place. Emergencies must be conveyed, description can be made available through the same means as such emergencies are conveyed accessibly, and so the legal, if not moral, obligation to provide consumers with vision loss accessible emergency information circumvents and makes moot any supposed legal barrier to the provision of description via less restrictive means. We would not propose any particular time frame for entities to come into compliance. It is the role of consumers to demand the accessible emergency information and description that consumers deserve, and it is industry's role to justify any delay.

Finally, with regard to the need for tagging and customer service, yes, by all means, tagging needs to be required. This is especially true given that the mere fact of tagging will, in itself, raise awareness of the availability of accessible emergency information and description. As for customer service, the scores of individual consumer comments that we have encouraged to be entered into various CVAA rulemaking proceedings tell the story time and time again about how consumers who are blind or visually impaired cannot locate competent personnel or reliable information concerning use of description. It is critical that MVPDs dedicate resources to meet their customers' needs effectively. It is likewise critical that MVPDs be conscripted into service as full partners in the promotion of the availability of description and accessible emergency information. By this, we mean that good customer service means not waiting for a frustrated consumer to call; it means actively promoting the availability of these valuable services via paper and electronic communications, websites, brief PSA-type announcements over an MVPDs own channels (e.g., a cable company's brief ten-second video ad to its subscribers alerting customers to the availability of the emergency and description features), and through all other appropriate means.

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As we have said, both accessible emergency information and description are of obvious value to the nearly 25 million Americans with significant vision loss, but all customers should be made aware of these services in order to ensure that the maximum possible population can benefit from them. Consumer and advocacy groups are not in the best position to make this happen; MVPDs are.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Richert".

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