



Federal Communications Commission
Washington, D.C. 20554

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SMALL ENTITY COMPLIANCE GUIDE

**Video Description: Implementation of the Twenty-First Century
Communications and Video Accessibility Act of 2010**

**FCC 20-155
MB Docket No. 11-43**

This Guide is prepared in accordance with the requirements of section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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I. OBJECTIVES OF THE PROCEEDING

Audio description makes video programming more accessible to individuals who are blind or visually impaired through “[t]he insertion of audio narrated descriptions of a television program’s key visual elements into natural pauses between the program’s dialogue.”¹ To access audio description, consumers generally switch from the main program audio to the secondary audio stream on which audio description is typically provided.

In the Report and Order in MB Docket No. 11-43, the Commission took the unopposed action of expanding its audio description requirements by phasing them in for an additional 10 designated market areas (DMAs) each year for the next four years. Consistent with the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), the Commission found that the costs of expanding the audio description regulations to DMAs 61 through 100 are reasonable for program owners, providers, and distributors.² The Commission’s action will help ensure that a greater number of individuals who are blind or visually impaired can be connected, informed, and entertained by television programming. In addition, the Commission modernized the terminology in part 79 of its rules to use the more common and widely understood term “audio description” rather than “video description.” Finally, the Commission adopted its proposal to delete from the rules outdated references to compliance deadlines that have passed.

II. COMPLIANCE REQUIREMENTS

Phase in for additional DMAs. The Commission adopted its proposal to phase in the audio description requirements for an additional 10 DMAs each year for four years, beginning on the later of January 1, 2021, or the effective date of the Order. In other words, the audio description requirements will extend to DMAs 61 through 70 on January 1, 2021, to DMAs 71 through 80 on January 1, 2022, to DMAs 81 through 90 on January 1, 2023, and to DMAs 91 through 100 on January 1, 2024.

Updated Nielsen determination of market rankings. The Commission adopted its proposal to base the extension to additional DMAs on an updated Nielsen determination of market rankings. The Commission found that using updated Nielsen data will facilitate the efficient roll out of audio description obligations to more television households. The revised rules will apply to the relevant DMAs “as determined by The Nielsen Company as of January 1, 2020.”³ Any station that was not in the top 60 markets as of January 1, 2015, but is in the top 60 markets as of January 1, 2020, is expected to come into compliance with the audio description rules by the compliance deadline for DMAs 61 through 70.

¹ 47 CFR § 79.3(a)(4)

² The Report and Order explained the basis for a finding that the costs of the expansion are reasonable, including that they have held steady since 2017, covered broadcasters already are required to have the equipment and infrastructure necessary to deliver a secondary audio stream for purposes of the emergency information requirements, and network affiliates in all DMAs are already required to pass through the audio description they receive via a network feed.

³ See MediaTracks Communications, Nielsen DMA Rankings 2020, available at <https://mediatracks.com/resources/nielsen-dma-rankings-2020/>.

Exemptions and waivers of the audio description rules. Section 79.3 of the Commission’s rules will continue to govern any petitions for exemption due to economic burden, and section 1.3 will continue to govern waivers of the Commission’s rules generally.

Expansion beyond the top 100 DMAs. In 2023, the Commission will determine whether to continue expanding its audio description requirements to an additional 10 DMAs per year. Any further expansion will be undertaken only following a future determination of the reasonableness of the associated costs.

Modernizing terminology. The Commission adopted its proposal to make a non-substantive amendment to the rules to substitute the term “audio description” for the term “video description” for purposes of part 79. This approach is consistent with a recommendation by the Commission’s Disability Advisory Committee and with the terminology used by other federal agencies.

Technical update to the rules. The Commission adopted its proposal to delete from the audio description rules the outdated references in section 79.3(b)(1) and (4) to the compliance deadlines of July 1, 2015, and July 1, 2018, which have passed.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The Commission’s actions in the 2020 audio description order did not create any additional recordkeeping or reporting requirements.

IV. IMPLEMENTATION DATE

The amended rules shall become effective 30 days after the date of publication in the Federal Register, which is on December 30, 2020.

V. INTERNET LINKS

A copy of the Report and Order, FCC 20-155, MB Docket No. 11-43, is available at: <https://docs.fcc.gov/public/attachments/FCC-20-155A1.pdf>.

A copy of the Federal Register Summary of the Report and Order is available at: <https://www.govinfo.gov/content/pkg/FR-2020-11-30/pdf/2020-24897.pdf>.