

PUBLIC NOTICE

Federal Communications Commission
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DA 23-308

Released: April 10, 2023

MEDIA BUREAU SEEKS COMMENT ON NATIONAL ASSOCIATION OF BROADCASTERS PETITION FOR EXTENSION OF WAIVER OF ACCESSIBLE EMERGENCY INFORMATION REQUIREMENTS

MB Docket No. 12-107

Comments Due: April 24, 2023

Reply Comments Due: May 1, 2023

The National Association of Broadcasters (NAB) has filed a petition¹ requesting that the Commission grant a two-year extension of the Commission's rules requiring broadcasters to provide an aural representation of visual, non-textual emergency information, such as radar maps or other graphics, on a secondary audio stream. Section 79.2(b)(2)(ii) of the Commission's rules requires video programming providers to ensure that emergency information provided visually during non-newscast programming is made accessible to individuals who are blind or visually impaired through the use of a secondary audio stream to provide such information aurally.² In the *Emergency Information Order*, the Commission found that if visual but non-textual emergency information (e.g., maps or other graphic displays) is shown during non-newscast programming, the aural description of this information must accurately and effectively convey the critical details regarding the emergency and how to respond to the emergency.³ The rule set a compliance deadline of May 26, 2015.⁴

On May 26, 2015, the Media Bureau granted NAB's request for an 18-month waiver of the requirement to aurally describe visual but non-textual emergency information to provide the broadcast industry time to develop a technical solution for compliance.⁵ At the time, NAB explained that an

¹ Petition for Extension of Waiver of the National Association of Broadcasters, MB Docket No. 12-107 (filed Apr. 5, 2023) (Petition).

² 47 CFR § 79.2(b)(2)(ii). In particular, the rule provides that the video programming provider or video programming distributor that creates the visual emergency information content and adds it to the programming stream is responsible for providing an aural representation of the information on a secondary audio stream, accompanied by an aural tone. *Id.* See also *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; Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 4871, 4899, para. 36 (2013) (*Emergency Information Order*).

³ See *Emergency Information Order*, 28 FCC Rcd at 4891-92, para. 24.

⁴ 47 CFR § 79.2(b)(2)(ii). See also *Emergency Information Order*, 28 FCC Rcd at 4900-01, para. 37.

⁵ See *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; Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Memorandum Opinion and Order, 30 FCC Rcd 5012, 5022-23, para. 17 (2015).

automated text-to-speech solution cannot be used to aurally describe maps and other graphics because they do not contain text files that can be converted to speech, and it noted that further work is needed to develop reliable automated solutions.⁶ The Bureau subsequently granted two requests to extend the waiver of the requirement to aurally describe visual but non-textual emergency information. First, on November 16, 2016, the Bureau granted a joint request of ACB, AFB, and NAB to extend the waiver for an additional 18 months.⁷ Second, on May 25, 2018, the Bureau granted a joint request of ACB, AFB, and NAB to further extend the waiver for an additional five years.⁸ The waiver currently is set to expire on May 26, 2023.

NAB contends that, despite efforts to coordinate with entities potentially capable of developing a technical solution for compliance during the existing waiver period, they remain unable to identify a workable solution based on existing technology that can perform the functions required by the rule.⁹ NAB requests a two-year extension of the waiver to explore technical solutions, for example, possibilities afforded by artificial intelligence (AI)-based systems or the ongoing adoption of ATSC 3.0 in more television markets.¹⁰ NAB also indicates that critical details of an emergency provided in a visual, non-textual graphic are usually duplicative of the information provided in accompanying textual crawls, which are already aurally described and accessible.¹¹ We seek comment on NAB's request, including whether two years is the appropriate timeframe for any extension.

Filing Requirements. All filings responsive to this Public Notice must reference MB Docket No. 12-107. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

⁶ *See id.*

⁷ *See 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*, Memorandum Opinion and Order, 31 FCC Rcd 12540 (2016). *See also* Joint Petition for Extension of Limited Waiver of the American Council of the Blind, the American Foundation for the Blind, and the National Association of Broadcasters, MB Docket No. 12-107 (filed Sept. 2, 2016).

⁸ *See 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*, Memorandum Opinion and Order, 33 FCC Rcd 5059 (2018). *See also* Joint Petition for Extension of Waiver of the American Council of the Blind, the American Foundation for the Blind, and the National Association of Broadcasters, MB Docket No. 12-107 (filed Mar. 23, 2018).

⁹ *See* Petition at 2-3. For example, NAB explains that “[o]ne of the obstacles remains how to automatically create an aural description of the information conveyed by a dynamic graphic when the software used to create such graphics for broadcasters does not include text files that can be converted into speech. . . . Moreover, even if such a solution is developed . . . no one has yet figured out how to integrate that element into the existing broadcast system.” *Id.* at 2.

¹⁰ *Id.* at 4-9.

¹¹ *Id.* at 9-11 (“To our knowledge, this remains the case, as broadcasters usually display a radar map or similar graphic to complement or reinforce the emergency information in an accessible accompanying crawl, or verbalized by a reporter. It is extremely rare that a graphic image would convey any distinct or additional information.”).

- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20-304 (March 19, 2020).

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

Availability of Documents. Comments, reply comments, and *ex parte* submissions will be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

Additional Information. For additional information, contact Diana Sokolow, Diana.Sokolow@fcc.gov, of the Media Bureau, Policy Division, (202) 418-2120.

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