

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Accessible Emergency Information, and Apparatus) MB Docket No. 12-107
Requirements for Emergency Information and)
Video Description: Implementation of the Twenty-)
First Century Communications and Video)
Accessibility Act of 2010)

MEMORANDUM OPINION AND ORDER

Adopted: December 20, 2024

Released: December 20, 2024

By the Chief, Media Bureau:

I. INTRODUCTION

1. In this Memorandum Opinion and Order, we address the National Association of Broadcasters (NAB) request for an expedited retroactive extension of the waiver of a rule that requires television broadcasters to provide an aural representation of visual, non-textual emergency information that is displayed during non-newscast programming, such as radar maps or other graphics, on a secondary audio stream (Request).1 For the reasons discussed below, we grant the Request for a six-month period (from November 26, 2024 through May 27, 2025) or until there is a ruling on the underlying NAB petition for rulemaking and waiver extension, whichever is sooner. We note that this action will maintain the status quo that existed prior to the expiration of the waiver on November 26, 2024 while the underlying petition is considered and this action does not prejudge the issues pending in that underlying petition.

II. BACKGROUND

2. Section 79.2(b)(2)(ii) of the Commission’s rules requires that emergency information provided visually during non-newscast video programming be made audibly accessible to individuals who are blind or visually impaired through the use of a secondary audio stream (the Audible Crawl Rule).2 Although the Audible Crawl Rule includes a compliance deadline of May 26, 2015, the Media Bureau has granted NAB’s successive waiver requests pertaining to aural representations of visual, non-textual emergency information, the most recent of which expired on November 26, 2024.3 On November

1 Request for Expedited Retroactive Extension of Waiver of the National Association of Broadcasters, MB Docket No. 12-107 (filed Nov. 27, 2024).

2 47 CFR § 79.2(b)(2)(ii).

3 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, MB Docket Nos. 12-107 and 11-43, Memorandum Opinion and Order, 30 FCC Rcd 5012, 5021-22, para. 16 (MB 2015) (2015 Waiver Order); 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, Memorandum Opinion and Order, 31 FCC Rcd 12540 (MB 2016) (2016 Waiver Order); Accessible Emergency Information, and Apparatus Requirements for Emergency

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15, 2024, NAB filed a petition requesting modification of the Audible Crawl Rule and a waiver of the rule for 18 months.⁴ On November 25, 2024, the Bureau sought comment on the Petition; comments are due December 26, 2024, and reply comments are due January 9, 2025.⁵

3. On November 27, 2024, NAB filed the Request, which indicates that because the waiver expired during the comment period on the Petition, “numerous large television station groups have ceased the display of such weather maps and similar visual images,” which “will harm the public.”⁶ According to NAB, compliance with the rule remains impossible, and a temporary waiver extension “will benefit all viewers by allowing broadcasters to maximize their news reporting capabilities during severe weather and other emergencies.”⁷ The Request states that the American Council of the Blind (ACB) has informed NAB that it supports the Request.⁸ The Bureau sought comment on the Request.⁹ Four comments and three reply comments all support the proposed retroactive temporary extension; no commenter opposes it.¹⁰

4. We evaluate the retroactive waiver request pursuant to the general waiver authority in section 1.3 of the Commission’s rules.¹¹ Waiver of the Commission’s rules is appropriate only if both (i)

Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, MB Docket No. 12-107, Memorandum Opinion and Order, 33 FCC Rcd 5059 (MB 2018) (2018 Waiver Order); *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, Memorandum Opinion and Order, 38 FCC Rcd 4982 (MB 2023) (2023 Waiver Order).

⁴ See Petition for Rulemaking and Extension of Waiver of the National Association of Broadcasters, MB Docket No. 12-107 (filed Nov. 15, 2024) (Petition).

⁵ See Media Bureau Seeks Comment on National Association of Broadcasters Petition for Rulemaking and Extension of Waiver of Accessible Emergency Requirements, Public Notice, MB Docket No. 12-107, DA 24-1184 (rel. Nov. 25, 2024).

⁶ See Request at 2.

⁷ *Id.* at 2-3.

⁸ *Id.* at 1.

⁹ See Media Bureau Seeks Comment on National Association of Broadcasters Request for Expedited Retroactive Waiver Extension, Public Notice, MB Docket No. 12-107, DA 24-1231 (rel. Dec. 6, 2024). Comments were due December 13, 2024, and reply comments were due December 18, 2024.

¹⁰ See Comments of Gray Local Media, Inc., MB Docket No. 12-107 (filed Dec. 13, 2024) (Gray Comments); Comments of Block Communications, Inc., CMG Media Corporation, Cowles Company, Imagicomm Communications, Mitts Telecasting Company, LLC, Nexstar Media Inc., Sun Broadcasting, Inc., The E.W. Scripps Company, and WBOC, Inc., MB Docket No. 12-107 (filed Dec. 13, 2024) (Joint Broadcasters Comments); Comments of American Broadcasting Cos., Inc., CBS Broadcasting, Inc., Fox Corporation, and NBCUniversal Media, LLC, MB Docket No. 12-107 (filed Dec. 13, 2024) (Network Commenters Comments); Comments of Society of Broadcast Engineers, Inc., MB Docket No. 12-107 (filed Dec. 13, 2024) (SBE Comments); Reply Comments of One Ministries, Inc., MB Docket No. 12-107 (filed Dec. 16, 2024) (OMI Reply); Reply Comments of LPTV Broadcasters Association, MB Docket No. 12-107 (filed Dec. 17, 2024) (LPTVBA Reply); Reply Comments of ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates, MB Docket No. 12-107 (filed Dec. 18, 2024) (Affiliates Associations Reply).

¹¹ 47 CFR § 1.3 (“The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.”). We note that the Commission generally delegated authority to the Media Bureau and the Consumer and Governmental Affairs Bureau to consider waiver requests of the rules adopted in the *Emergency Information Order. Accessible Emergency Information, and Apparatus*

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special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.¹²

III. DISCUSSION

5. We continue to recognize the critical importance of making emergency information accessible to individuals who are blind or visually impaired. At the same time, we note that NAB states that numerous broadcasters have amended the practices they used during the period the rule was subject to prior waivers (from 2015-2024) and ceased the use of graphics subject to the Audible Crawl Rule. NAB states this “will lead to diminished useful information about emergencies for all Americans, including deaf and hard of hearing individuals who may rely on the visual emergency information conveyed by radar maps and similar images.”¹³ Commenters also indicate that some broadcasters now have ceased the use of such graphics.¹⁴ Moreover, we note that our prior waivers, like the comments on the record in support of the Request, indicate that the critical details of an emergency provided in graphic form are in most instances duplicative of information conveyed in textual crawls, which are already aurally described and accessible to individuals who are blind or visually impaired.¹⁵

6. Accordingly, based on the record in this proceeding, in light of the pendency of the Petition, the fact that a temporary retroactive waiver would maintain the status quo, and the fact that no commenter opposed the Request, we conclude that special circumstances warrant a further temporary waiver from this aspect of the Audible Crawl Rule for a brief period. Consistent with prior waivers, we continue to strongly encourage broadcasters to provide the critical details of graphically displayed emergency information in an accessible manner whenever possible during the pendency of this waiver.¹⁶

7. Although the Request asked for the temporary waiver to extend until the underlying

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, MB Docket Nos. 12-107 and 11-43, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 4871, 4932, para. 99 (2013) (*Emergency Information Order*). See 47 CFR §§ 0.61, 0.283, and 1.3.

¹² *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹³ Request at 2.

¹⁴ See Gray Comments at 2 (“While Gray believes it is in the public interest to provide visual, non-textual information to viewers, it worries that doing so could place it in violation of the current Audible Crawl rule. Therefore, Gray directed its stations to remove all maps and other non-textual information from its emergency crawls when the FCC allowed its waiver to expire.”); Joint Broadcasters Comments at 1 (“[A]s long as the Audible Crawl Rule is in effect, broadcasters cannot air critical emergency information without incurring the risk of substantial regulatory sanctions.”); Network Commenters Comments at 1-2 (“[E]ach day [the Audible Crawl Rule] remains in effect without waiver risks diminution of visual coverage of emergency information that could otherwise benefit the public.”); SBE Comments at 4 (noting that a number of broadcast groups “have stopped displaying such graphical content due to compliance concerns”); Affiliates Associations Reply at 3 (“Many local broadcasters have altogether ceased providing graphic emergency information in order to avoid unintended violation of the Rule and the enforcement sanctions that could follow.”) (footnote omitted); LPTVBA Reply at 1-2 (“[S]wift grant of the requested waiver extension would serve the public interest by enabling broadcasters to continue to provide (or to resume providing) visual, non-textual emergency information (such as weather radar maps) to the public during non-news video programming without risking enforcement action.”).

¹⁵ See SBE Comments at 2 (granting the waiver request would “simply preserve the years-long status quo from prior to the waiver’s recent expiration, during which broadcasters in nearly all cases already made accessible the critical details of emergencies”); Affiliates Associations Reply at 3-4; *2018 Waiver Order*, 33 FCC Rcd at 5065, para. 14; *2023 Waiver Order*, 38 FCC Rcd at 4986, para. 8.

¹⁶ See *2018 Waiver Order*, 33 FCC Rcd at 5066, para. 14; *2023 Waiver Order*, 38 FCC Rcd at 4987, para. 9.

Petition is resolved,¹⁷ we grant the waiver for a specific six month period (from November 26, 2024 through May 27, 2025) or until there is a ruling on the underlying Petition, whichever is sooner.¹⁸ Commenters present a variety of views on the appropriate timeframe for the waiver.¹⁹ We believe that grant of a temporary waiver that does not include a specific time period would be inconsistent with our prior actions in this area and would require consideration of the arguments at issue in the Petition which is currently open for comment. We thus conclude that a maximum of six months is the best approach.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to the authority found in sections 4(i), 4(j), and 713 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 613, and sections 0.61, 0.283, and 1.3 of the Commission's rules, 47 CFR §§ 0.61, 0.283, and 1.3, this Memorandum Opinion and Order **IS ADOPTED**.

9. **IT IS FURTHER ORDERED** that the request for retroactive waiver of section 79.2(b)(2)(ii) of the Commission's rules, 47 CFR § 79.2(b)(2)(ii), filed by the National Association of Broadcasters **IS GRANTED** until the sooner of May 27, 2025 or the date on which there is a ruling on the November 15, 2024 NAB Petition.

10. 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 Consumer and Governmental Affairs Bureau at 202-418-0530.

FEDERAL COMMUNICATIONS COMMISSION

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Chief, Media Bureau

¹⁷ Request at 2-3.

¹⁸ By adopting a waiver that is retroactive to November 26, 2024, we ensure that stations will not be subject to any enforcement action resulting from failure to provide an aural representation of visual, non-textual emergency information on a secondary audio stream that has occurred since that date. *See* Joint Broadcasters Comments at 4-5 (requesting the Bureau to ensure “that any stations that chose to incur the risk of enforcement by continuing to provide graphical, non-textual information in their broadcasts [] need not worry about being punished in the future for serving the public interest”); SBE Comments at 5 (waiving the rule “on a retroactive basis will shield stations that are currently running the risk of continuing to provide non-textual emergency information despite the aforementioned regulatory uncertainty”).

¹⁹ *See, e.g.*, Request at 1 (indicating that the request is “for a brief retroactive extension of the waiver”); Gray Comments at 2 (“The FCC has previously granted extensions in 18-month intervals, and an additional extension will provide the Commission with time to consider the NAB’s pending Petition to modify the Audible Crawl rule.”); Joint Broadcasters Comments at 2 (urging the Bureau “to grant NAB’s request for a retroactive waiver and then further waive the Audible Crawl Rule until such time as the technology needed to comply with the rule becomes readily available”); SBE Comments at 1 (supporting a waiver “for a period lasting until the Commission makes a final determination regarding the rule modifications raised in NAB’s pending Petition”); Affiliates Associations Reply at 4 (“[A] further waiver need not be indefinite (or yet another 18-month extension in a decade-long series) but only long enough to preserve the status quo while the Commission considers the proposal in NAB’s Petition.”) (footnote omitted).