

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>

DA 24-276

Released: March 19, 2024

MEDIA BUREAU SEEKS COMMENT ON JOINT CLOSED CAPTIONING DISPLAY SETTINGS PROPOSAL

MB Docket No. 12-108

Comments Due: [20 days after publication in the Federal Register]

Reply Comments Due: [30 days after publication in the Federal Register]

With this Public Notice, the Media Bureau seeks comment on a Joint Proposal in the record of this proceeding addressing how the Commission should determine if specific closed captioning display settings are readily accessible. The Joint Proposal is supported by NCTA – The Internet & Television Association (NCTA), Communication Service for the Deaf, the Hearing Loss Association of America, the National Association of the Deaf, and TDIForAccess, Inc (the Organizations).¹

In 2015, the Commission proposed rules that would require manufacturers of covered apparatus and multichannel video programming distributors (MVPDs) to make closed captioning display settings readily accessible to individuals who are deaf and hard of hearing.² In January 2022, the Media Bureau released a Public Notice seeking to refresh the record on the proposals contained in the *Second Further Notice*.³ In January 2023, the Media Bureau released a Public Notice seeking comment on a proposal by a coalition of consumer groups that when the Commission determines if specific closed captioning display settings are readily accessible, it should consider the following factors: proximity, discoverability, previewability, and consistency and persistence.⁴ Comments were due March 3, 2023, and reply comments were due March 20, 2023.⁵ The Joint Proposal states that the Organizations subsequently worked together to develop solutions to concerns raised in the record, and the result is the Joint Proposal.

Under the Joint Proposal, all accessibility functions would be made available “in one area of the

¹ Letter from NCTA *et al.* to Marlene H. Dortch, Secretary, FCC, MB Docket No. 12-108 (Mar. 14, 2024) (Joint Proposal).

² *Accessibility of User Interfaces, and Video Programming Guides and Menus*, Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 13914, 13932-35, paras. 33-40 (2015) (*Second Further Notice*).

³ *See Media Bureau Seeks to Refresh the Record on Accessibility Rules for Closed Captioning Display Settings Under the Television Decoder Circuitry Act*, Public Notice, MB Docket No. 12-108, 37 FCC Rcd 95 (Jan. 10, 2022) (*2022 Closed Captioning Display Settings PN*).

⁴ *See Media Bureau Seeks Comment on Closed Captioning Display Settings Proposal*, Public Notice, MB Docket No. 12-108, 38 FCC Rcd 429 (Jan. 24, 2023) (*2023 Closed Captioning Display Settings PN*).

⁵ *See Announcement of Comment and Reply Comment Dates for Closed Captioning Display Settings Public Notice*, Public Notice, MB Docket No. 12-108, 38 FCC Rcd 1054 (Feb. 1, 2023).

settings . . . accessed via a means reasonably comparable to a button, key, or icon.”⁶ There would be consumer testing requirements “[f]or cable service and navigation devices used to access multichannel video programming that cable operators sell or lease,” as well as previewability requirements for cable service.⁷ For navigation devices, cable operators would commit to making closed caption display settings available by an application programming interface (API) that an over-the-top application provider could utilize.⁸ For a cable operator’s own application on a third-party device, the operator would “respect the operating system-level closed caption settings of the host device upon launch of the app on the device, provided the host device makes those settings available to applications via an API or similar method.”⁹ Finally, cable operators would commit to certain training requirements for customer care and support employees.¹⁰ All of these proposals would be “subject to being achievable and technically feasible,” and they would apply “on a going-forward basis” and “after a reasonable implementation period.”¹¹ While the proposals were framed in terms of NCTA’s cable operator members, the Organizations note that “the proposals could also serve as a model for other MVPDs and equipment manufacturers.”¹²

We believe that the Commission would benefit from further comment on the Joint Proposal, and accordingly, this Public Notice seeks comment on whether the Commission should adopt the proposed requirements discussed therein. Interested parties should focus their comments on the specific issue of whether, if the Commission adopts rules governing the accessibility of closed captioning display settings, it should adopt the Organizations’ proposals as rules. Although the Joint Proposal was focused on the cable context, should the requirements set forth in the Joint Proposal apply broadly to the devices covered by section 303(u) of the Communications Act of 1934, as amended,¹³ and to both manufacturers of covered apparatus and MVPDs? Commenters should provide any other information relevant to the Commission’s determination of whether and how to adopt the Joint Proposal.

Initial Regulatory Flexibility Analysis. The *Second Further Notice* included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to 5 U.S.C. § 603, exploring the potential impact on small entities of the Commission’s proposals.¹⁴ We invite parties to file comments on the IRFA in light of this request for further comment.

Ex Parte Rules. This matter shall continue to be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁵ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the

⁶ Joint Proposal at 1.

⁷ *Id.* at 1-2.

⁸ *Id.* at 2.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 1, n.3.

¹³ 47 U.S.C. § 303(u)(1).

¹⁴ *Second Further Notice*, 30 FCC Rcd at 13936, para. 42.

¹⁵ *Id.* at 13936-37, para. 46. See 47 CFR § 1.1200 *et seq.*

presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Filing Requirements. All filings responsive to this Public Notice must reference MB Docket No. 12-108. 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.
- 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.

-FCC-