



PUBLIC NOTICE

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REMINDER TO VIDEO PROGRAMMING DISTRIBUTORS OF OBLIGATION TO MAKE EMERGENCY INFORMATION ACCESSIBLE TO PERSONS WITH HEARING DISABILITIES

Under a Commission rule adopted on April 14, 2000, video programming distributors are required to make emergency information that is provided in the audio portion of the programming accessible to persons with hearing disabilities through closed captioning or by using a method of visual presentation, such as open captioning, crawls, or scrolls that appear on the screen.¹ The rule also provides that emergency information provided by means other than closed captioning should not block any closed captioning and any closed captioning provided should not block any emergency information provided by means other than closed captioning. The rule, which became effective on August 29, 2000, applies to emergency information primarily intended for distribution to an audience in the geographic area in which the emergency is occurring. *See Second Report and Order, In the Matter of Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Accessibility of Emergency Programming, MM Docket No. 95-176 (15 FCC Rcd 6615 (2000)); 47 C.F.R. § 79.2 (Accessibility of programming providing emergency information).*

Since January 2001, the Federal Communications Commission has received a number of complaints from residents of California, Colorado, Florida, Indiana, Louisiana, Maryland, Michigan, Minnesota, Missouri, New York, North Carolina, Ohio, Oklahoma, and Texas contending that video programming distributors have failed to make local emergency information accessible to deaf and hard of hearing viewers. Among other things, complainants have reported a failure to provide visual information about the direct path of hurricanes, storms, and other dangerous weather conditions, as well as precautions needed to respond to those conditions. Some consumers have also reported blocking of critical visual emergency information (*e.g.*, emergency school closing information) by other information on the screen. These complaints generally allege that contacting programming distributors has resulted in little relief to complainants. Some programming distributors, upon receiving complaints, stated

¹ This Public Notice relates to accessibility of emergency information to persons with hearing disabilities. Video programming distributors are also required to make the critical details of any local emergency information they provide accessible to persons with visual disabilities. *See Report and Order, Implementation of Video Description of Video Programming, MM Docket No. 99-339, 15 FCC Rcd 15230, 15251 at ¶ 51 (2000), on recon.*, 16 FCC Rcd 1251 (2001), *appeal pend.*, *Motion Picture Association of America et al. v. FCC*, No. 01-1149 (D.C. Cir. filed Mar. 28, 2001); *National Federation of the Blind v. FCC*, No. 01-1155 (D.C. Cir. filed Apr. 2, 2001) (consolidated).

their erroneous belief that the only means of complying with the new access rule is to provide closed captions for emergency programming, and have argued that they do not have sufficient funds to caption all of their emergency programming. As noted above, closed captioning is only one way to comply with the emergency information rule.

Emergency broadcasts lacking visual displays deny persons with hearing disabilities access to vital information. It appears that some video programming distributors are unaware of the nature of their obligations under the Commission's emergency information rule. This Notice therefore reminds them of their obligation and that failure to comply with the rule may result in appropriate enforcement action.

Attached is a fact sheet that provides information about what the rule requires and procedures for submitting complaints. Attached to the fact sheet is the text of the rule itself. This fact sheet, the closed captioning rule and a fact sheet summarizing the closed captioning rule are also available at the FCC Consumer Information Bureau's website, <http://www.fcc.gov/cib> and the Cable Services Bureau's website, <http://www.fcc.gov/csb>.

The full text of these documents are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554.

Through August 27, 2001, these documents may also be purchased from the Commission's duplicating contractor, ITS Inc., 1231 20th Street, NW, Washington, DC 20036, www.itsdocs.com (202) 837-3800, (202) 837-3805 (fax), (202) 484-8831 (TTY).

Effective August 28, 2001, these document may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com (202) 837-3800 (voice), (202) 837-3805 (fax), (202) 484-8831 (TTY).

Effective August 28, 2001, if parties are requested to file a copy of comments or replies with the duplicating contractor, please use the following address: Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554

Should you have any questions or concerns regarding this email, please do not hesitate to contact Bill Cline, Director, Reference Information Center, (202) 418-0267, or via email bcline@fcc.gov.

This document is available to individuals with disabilities requiring accessible formats (electronic ASCII text, Braille, large print, and audiocassette) by contacting Brian Millin at (202) 418-7426 (Voice), (202) 418-7365 (TTY), or by sending an email to access@fcc.gov.

Mass Media Bureau Contact: Jane Gross, (202) 418-2130 (voice); 202-418-0189 (TTY)

Consumer Information Bureau Contact: Jennifer Simpson (202) 418-0008 (voice); 202-418-0034 (TTY)

Cable Services Bureau Contact: Marcia Glauber (202) 418-7046 (voice); 202-418-7172 (TTY)

FEDERAL COMMUNICATIONS COMMISSION



FACT SHEET

September 2000

**ACCESSIBILITY OF EMERGENCY
VIDEO PROGRAMMING
TO PERSONS WITH HEARING DISABILITIES**

Rules issued by the Federal Communications Commission (FCC or Commission) now require all emergency information presented on television to be accessible to persons who are deaf or hard of hearing. These rules supplement other FCC rules that require an increasing amount of closed captioning of television programming over a period of years. Information about the FCC's closed captioning rules is contained in a different FCC Fact Sheet entitled *Closed Captioning of Video Programming*. That Fact Sheet and other information about the closed captioning rules are available at the Disabilities Rights Office web site, www.fcc.gov/cib/dro. For further information, please contact the Commission toll-free at 1-888-CALL-FCC (1-888-225-5322); TTY 1-888-TELL-FCC (1-888-835-5322) or send a message to access@fcc.gov.

The information provided below explains the rules concerning access to televised emergency information (emergency access rules) and provides instructions on how to file a complaint when you believe these rules have been violated. The emergency access rules themselves are provided at the end of this Fact Sheet.

Q: What do the new rules require?

A: The FCC rules require video programming distributors to make local emergency information that is provided to television viewers accessible to persons who are deaf or hard of hearing. This means that if emergency information is provided aurally, such information also must be provided in a visual format.

Q: What are video programming distributors – i.e., who is covered by the rules?

A: Video programming distributors include broadcasters, cable operators, satellite television services (such as DirecTV and the Dish Network), and other multichannel video programming distributors.

Q: Who is actually responsible for making sure the information is presented in an accessible format?

A: With respect to broadcast television, the local broadcast station ordinarily provides programming about emergencies (as opposed to a broadcast network, a syndicator, etc.) For this type of provider, the local broadcast station (such as WAAA-TV) would be providing the accessible information. The broadcast station is also considered a distributor of programming, so the local broadcast station would be responsible for compliance.

With respect to cable television service, satellite services, and others, a programmer that is a separate entity from the distributors of such programming ordinarily provides programming about emergencies. The programming might be provided by a local or regional cable network (e.g., NewsChannel 8, New York One, Florida News Channel, Bay News 9). It is this entity that would likely be the one to actually make the programming accessible. However, it is the cable television operator (e.g., ACME Cable of Maplewood) or the satellite distributor (e.g., DirecTV) that, as the distributor of such programming, would have the responsibility to ensure compliance with the emergency access rule. We expect that these distributors will incorporate the requirement to provide access into their contracts with producers, programmers, or owners.

Q: Does the rule apply any time emergency information is provided?

A: Yes. These rules apply whether the provision of information regarding an emergency occurs during a regularly scheduled newscast, an unscheduled break during regular programming, as part of continuing coverage of a situation, or in any other fashion. There could be a limited number of rare instances, however, where an emergency affects the broadcast station or nonbroadcast network or distributor and it may be impossible to provide accessible emergency information.

Q: How does the emergency information need to be made accessible?

A: The information may be closed captioned or presented through an alternative method of visual presentation. Such methods include open captioning, crawls, or scrolls that appear on the screen.

Q: What qualifies as an emergency?

A: Emergency information is information that is intended to further the protection of life, health, safety, or property. Examples include:

- immediate weather situations: tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, warnings and watches of impending changes in weather
- community situations such as: discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions.

This list is intended to provide guidance only and is not intended to be an exhaustive list.

Q: What information about the emergency must be provided?

A: The information provided visually must include critical details regarding the emergency and how to respond. Critical details could include, among other things:

- specific details regarding the areas that will be affected by the emergency
- evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes
- approved shelters or the way to take shelter in one's home, instructions on how to secure personal property, road closures, and how to obtain relief assistance

This list provides only a few examples of critical details. Although programmers may not be required to provide all of the information about an emergency situation that they are providing aurally in an accessible format, there may be other details not listed here which are critical to responding appropriately in the event of an emergency. In determining whether particular details need to be presented visually, programmers may rely on their own good faith judgments.

Q: The closed captioning requirements for new programming are being phased in over a transition period. Is the requirement for access to emergency information also being phased in?

A: No. This rule became effective on August 29, 2000, upon approval by the U.S. Office of Management and Budget.

Q: Must everyone comply with this rule?

A: Yes. Unlike the closed captioning rules, there are no exemptions to the requirement for video programming distributors to make emergency information accessible to persons who are deaf and hard of hearing.

Q: Is there any limitation on the rule?

A: Yes. This rule applies to emergency information primarily intended for distribution to an audience in the geographic area in which the emergency is occurring. Viewers do not ordinarily turn to national services for information on how to respond to an emergency.

Q: Does this rule require that broadcasters or other video distributors provide emergency information to their viewers?

A: No. The rule does not require any entity to provide emergency information. The rule applies only where a programmer already is providing emergency information to its viewers. The purpose of the rule is to make sure that when emergency information is provided, it is made accessible to persons who are deaf and hard of hearing.

Q: Sometimes emergency information provided in a visual format covers up the closed captioning on the programming I am watching – is this permitted?

A: No. Emergency information provided by means other than closed captioning may not block any closed captioning.

Q: Sometimes closed captioning covers up the emergency information that is provided in visual format – is this permitted?

A: No. Any closed captioning provided may not block emergency information provided by means other than closed captioning.

Q: Are local news shows that use the electronic newsroom captioning technique required to do anything under the new rule?

A: Yes. The electronic newsroom captioning technique uses computer software to create closed captions from the text in a station's news script computer. Only text transmitted from the scripting computers onto the teleprompter is captioned by this method. Thus, the electronic newsroom technique does not provide captions for unscripted material, such as breaking news, live reports from the field, and some weather and sports reports.

There are likely to be instances in which the electronic captioning newsroom technique is unable to provide up-to-the-minute access to emergency information as required by the new rule. In these instances, the programmer must use another method of visual presentation to ensure that persons who are deaf or hard of hearing have access to the same critical emergency information provided to other viewers. [For more information on the permissible use of the electronic newsroom technique, see the Fact Sheet entitled *Closed Captioning of Video Programming*.]

COMPLAINTS

Q: To whom should I complain if I think someone is not complying with the rule?

A: You may complain to the FCC. Although you may contact the video programming distributor first, you are not required to do so under the new rule.

Q: What should the complaint say?

A: The complaint should include:

- the name of the video programming distributor against whom the complaint is alleged
- the date and time of the omission of emergency information
- the type of emergency

If you are not complaining about a broadcast station, you should include the name of the programmer (e.g., News Channel 8), in addition to the name of the distributor (e.g., ACME Cable of Maplewood).

Q: How do I complain to the FCC?

A: You may contact the Commission by any reasonable means, such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, audio-cassette recording, Braille, or some other method that would best accommodate the complainant's disability.

The Disabilities Rights Office of the Consumer Information Bureau provides assistance in informal dispute resolution and in obtaining compliance with the rules. The Cable Services Bureau is responsible for general enforcement of the closed captioning rules and for the formal actions that are needed to enforce the requirement that emergency information be made visually accessible.

You may write to the FCC at:

Federal Communications Commission
445 12th St. S.W.
Washington, D.C. 20554.

or contact the Disabilities Rights Office, Consumer Information Bureau at:

Phone: 202-418-1771 (voice); 202-418-2520 (TTY)
E-mail: access@fcc.gov; fccinfo@fcc.gov;
Fax: 202-418-1414

or contact the Cable Services Bureau at:

Phone: 202-418-7096 (voice); 202-418-7172 (TTY)
E-mail: CSBINFO@fcc.gov
Fax: 202-418-1195

Q: Whom do I contact if I need assistance in filing my complaint?

A: If you need help with filing your complaint, you may either call one of the above telephone numbers or send an email to access@fcc.gov.

Q: What happens after I file a complaint?

A: The Commission will notify the video programming distributor of the complaint, and the distributor will reply to the complaint within 30 days. Based on the information in the complaint and the response, and any other information the FCC may request from either party, the FCC will make its decision and take appropriate action.

47 C.F.R. § 79.2

§ 79.2 Accessibility of Programming Providing Emergency Information.

(a) Definitions.

(1) For purposes of this section, the definitions in § 79.1 apply.

(2) *Emergency information.* Information, about a current emergency, that is intended to further the protection of life, health, safety, and property, i.e., critical details regarding the emergency and how to respond to the emergency. Examples of the types of emergencies covered include tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather.

Note: Critical details include, but are not limited to, specific details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter in one's home, instructions on how to secure personal property, road closures, and how to obtain relief assistance.

(b) Requirements for Accessibility of Programming Providing Emergency Information.

(1) Video programming distributors must make emergency information, as defined in paragraph (a) of this section, that is provided in the audio portion of the programming accessible to persons with hearing disabilities, either through closed captioning or by using a method of visual presentation.

(2) This rule applies to emergency information primarily intended for distribution to an audience in the geographic area in which the emergency is occurring.

(3) Emergency information provided by means other than closed captioning should not block any closed captioning and any closed captioning provided should not block any emergency information provided by means other than closed captioning.

(c) Complaint Procedures

A complaint alleging a violation of this section may be transmitted to the Commission by any reasonable means, such as letter, facsimile transmission, telephone voice/TRS/TTY), Internet e-mail, audio-cassette recording, and Braille, or some other method that would best accommodate the complainant's disability. The complaint should include the name of the video programming distributor against whom the complaint is alleged, the date and time of the omission of emergency information, and the type of emergency. The Commission will notify the video programming distributor of the complaint, and the distributor will reply to the complaint within 30 days.