



# PUBLIC NOTICE

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## REMINDER REGARDING VIDEO PROGRAMMING DISTRIBUTORS' OBLIGATION TO MAKE EMERGENCY INFORMATION ACCESSIBLE TO PERSONS WITH HEARING OR VISION DISABILITIES

In light of the present hurricane season, as well as the Southern California wildfires, the Commission issues this Public Notice to remind video programming distributors – including broadcasters, cable operators, satellite television services, and “any other distributor of video programming for residential reception that delivers such programming directly to the home”<sup>1</sup> – of their obligation to make emergency information accessible to persons with hearing and vision disabilities in accordance with section 79.2 of the Commission’s rules.<sup>2</sup> Under section 79.2, emergency information encompasses “critical details” regarding the emergency and how to respond to the emergency.<sup>3</sup> This Public Notice also provides information for consumers regarding the process for filing complaints alleging violations of this requirement.

We stress that the need to comply with section 79.2 and make the critical details of emergency information accessible is not limited to the immediate geographic areas affected by the emergency because, for example, information such as how citizens who have been relocated outside the immediate geographic area where the emergency occurred may obtain relief assistance falls within the rule’s mandate.<sup>4</sup> This could include providing information to non-impacted areas sheltering individuals

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<sup>1</sup> 47 C.F.R. § 79.1(a)(2) (defining “video programming distributor”).

<sup>2</sup> See 47 C.F.R. § 79.2 (titled “Accessibility of programming providing emergency information”). Because of the importance of this issue, we have issued several similar Public Notices in the past. See Public Notice, 16 FCC Rcd 15348 (Aug. 13, 2001); Public Notice, 17 FCC Rcd 14614 (July 31, 2002); Public Notice, 18 FCC Rcd 14670 (July 18, 2003); Public Notice, 19 FCC Rcd 9882 (May 24, 2004); Public Notice, 20 FCC Rcd 5918 (Mar. 17, 2005); Public Notice, 20 FCC Rcd 14619 (Sept. 9, 2005) (*Hurricane Katrina PN*); Public Notice, 21 FCC Rcd 7994 (July 20, 2006). See also *Clarification of Obligation of Video Programming Distributors to make Emergency Information Accessible to Persons with Hearing Disabilities Using Closed Captioning*, Public Notice, 21 FCC Rcd 9066 (Aug. 7, 2006); *Obligation of Video Programming Distributors to Make Emergency Information Accessible to Persons With Hearing Disabilities Using Closed Captioning*, Public Notice, 21 FCC Rcd 15084 (Dec. 29, 2006) (*December 2006 PN*).

<sup>3</sup> See 47 C.F.R. § 79.2(a)(2).

<sup>4</sup> See 47 C.F.R. § 79.2 Note to paragraph (a)(2): “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.”

displaced by a large-scale disaster, such as occurred during Hurricane Katrina in 2005. In that case, the need to comply with section 79.2 extended to areas throughout the country where evacuees were temporarily re-located.<sup>5</sup> In addition, we note that there are times when the airing of emergency information pertaining to a matter of national importance will also be of local concern, and therefore should be made accessible.

There are no exemptions to section 79.2, and all video programming distributors that air emergency information are required to make it accessible. A local broadcast licensee is responsible for complying with section 79.2 regardless of the technology used to deliver its signals to consumers.

In the case of persons who are blind or have low vision, emergency information that is provided in the video portion of a regularly scheduled newscast or a newscast that interrupts regular programming must be made accessible.<sup>6</sup> The Commission envisions that distributors will aurally describe the emergency information in the main audio as part of their ordinary operations; this is similar to providing “open” video description.<sup>7</sup> In addition, if the emergency information is being provided in the video portion of programming that is *not* a regularly scheduled newscast (*e.g.*, the programmer provides the emergency information through “crawling” or “scrolling” during regular programming) or a newscast that interrupts regular programming, the information must be accompanied by an aural tone.<sup>8</sup> This tone is intended to alert persons with vision disabilities that the video programming distributor is providing emergency information, and therefore such persons should tune to another source, such as a radio, for more information.

This same information also must be provided in a manner that is accessible to persons who are deaf or hard of hearing. Commission rules generally require that emergency information provided in the audio portion of the programming be made accessible using closed captioning *or* other methods of visual presentation, such as open captioning, crawls, scrolls that appear on the screen, or even handwritten information on a whiteboard.<sup>9</sup> Emergency information provided by these means should not block any closed captioning, and closed captioning should not block any emergency information provided by crawls, scrolls, or other visual means.<sup>10</sup> The “pass through” obligation generally imposed on video programming distributors under the closed captioning rules set forth in section 79.1 also applies to emergency information subject to section 79.2.<sup>11</sup>

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<sup>5</sup> See *Hurricane Katrina PN*.

<sup>6</sup> See 47 C.F.R. § 79.2(b)(1)(ii).

<sup>7</sup> See *Implementation of Video Description of Video Programming*, MM Docket No. 99-339, Report and Order, 15 FCC Rcd 15230, 15250, para. 49 (Aug. 7, 2000).

<sup>8</sup> See 47 C.F.R. § 79.2(b)(1)(iii).

<sup>9</sup> See 47 C.F.R. § 79.2(b)(1)(i); *December 2006 PN*, 21 FCC Rcd at 15086.

<sup>10</sup> See 47 C.F.R. § 79.2(b)(3)(i).

<sup>11</sup> See 47 C.F.R. § 79.1(c). All video programming distributors are required to pass through any captions that they receive from the originating source and are responsible for maintaining their equipment in working order to ensure the accurate transmission of the closed captions. See *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, Second Report and Order, 15 FCC Rcd 6615, 6622, para. 13 n.48 (April 14, 2000) (*2000 Order*).

Distributors that are not permitted by Commission rules to count captions created using the electronic newsroom technique (ENT)<sup>12</sup> are now required to close caption all new non-exempt programming, including breaking news and emergency alerts.<sup>13</sup>

We recognize that emergency information is the type of information that is typically not available in advance, and that it may be difficult for some stations to obtain closed captioning services on short notice. Nevertheless, we emphasize that, while closed captioning services are being obtained, section 79.2 requires all distributors to make emergency information accessible by some other visual presentation method, in a manner that ensures the same access to emergency information for persons with hearing disabilities as for any other viewer.<sup>14</sup> Similarly, entities that are permitted to and are using captions created using ENT for their live programming for determining compliance with section 79.1<sup>15</sup> are reminded that if the ENT method does not automatically caption non-scripted news, the provider must either caption or make the emergency information accessible by some other form of visual presentation as required by section 79.2.<sup>16</sup> Lastly, a distributor in a market that is permitted to use ENT, but does not use ENT for its live programming, must caption its emergency information.

### **Consumer Complaints and Enforcement**

The Commission will continue to monitor closely complaints alleging violations of section 79.2, and will review for possible enforcement action.

If you are a consumer who has a complaint, you can first contact the video programming distributor, although you are not required to do so. You can also complain directly to the FCC. Your complaint should include:

- The name of the video programming distributor (*e.g.*, broadcast station, cable company, satellite TV provider) against whom the complaint is alleged;
- The date and time of the transmission of emergency information in a format not accessible to persons with disabilities; and
- The type of emergency.

You can file your complaint with the FCC using the on-line complaint Form 2000C found at [www.fcc.gov/cgb/complaints.html](http://www.fcc.gov/cgb/complaints.html). You also may contact the FCC by letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, audio-cassette recording, Braille, or any other method that would best accommodate your disability. Send your complaint to:

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<sup>12</sup> See 47 C.F.R. § 79.1(e)(3). The relevant text of that subsection reads: “Live programming or repeats of programming originally transmitted live that are captioned using the so-called ‘electronic newsroom technique’ will be considered captioned, except that effective January 1, 2000, and thereafter, the major national broadcast television networks (*i.e.*, ABC, CBS, Fox and NBC), affiliates of these networks in the top 25 television markets as defined by Nielsen’s Designated Market Areas (DMAs) and national nonbroadcast networks serving at least 50% of all homes subscribing to multichannel video programming services shall not count electronic newsroom captioned programming towards compliance with these rules.”

<sup>13</sup> See *December 2006 PN*, 21 FCC Rcd at 15084. The Commission’s rules permit the use of “[o]pen captioning or subtitles in the language of the target audience” in lieu of closed captioning. 47 C.F.R. § 79.1(e)(2).

<sup>14</sup> See 47 C.F.R. § 79.2(b)(1)(i).

<sup>15</sup> See 47 C.F.R. § 79.1(e)(3).

<sup>16</sup> See *2000 Order*, 15 FCC Rcd at 6623-24, para. 16.

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Fact sheets summarizing the closed captioning and access to emergency information rules are available at the FCC's Web site at <http://www.fcc.gov/cgb/consumerfacts/closedcaption.html>,

and <http://www.fcc.gov/cgb/consumerfacts/emergencyvideo.html>. To request this *Public Notice* or any other materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY). This *Public Notice* can be downloaded in Word and Portable Document Formats (PDF) at <http://www.fcc.gov/cgb/dro/caption.html>.

Consumer and Governmental Affairs Bureau Contact: Traci Randolph, (202) 418-0569 (voice); (202) 418-0537 (TTY); e-mail [traci.randolph@fcc.gov](mailto:traci.randolph@fcc.gov).

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