



PUBLIC NOTICE

Federal Communications Commission
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MEDIA BUREAU ACTION
COMMENT DATES ESTABLISHED FOR TWO PETITIONS FOR TEMPORARY PARTIAL
EXEMPTION OR LIMITED WAIVER OF CERTAIN PROVISIONS OF 47 C.F.R. § 79.4(c)(2)(i)
MB Docket No. 11-154

Comment Date: June 15, 2012

Reply Comment Date: July 2, 2012

The Digital Media Association (“DiMA”), a national trade organization devoted primarily to the online video and audio industries, has filed two petitions requesting a temporary exemption of certain provisions of Section 79.4(c)(2)(i) of the Commission’s rules.¹ That rule is part of the Internet protocol (“IP”) closed captioning requirements that the Commission adopted in January 2012.² DiMA’s requests would not just pertain to its members, but rather, would apply to all video programming distributors (“VPDs”). We seek comment on these petitions.

In the first petition, DiMA requests a temporary exemption,³ until January 1, 2014, from the provisions of Section 79.4(c)(2)(i) that require VPD-provided applications, plug-ins, or devices to comply with the user configuration and formatting requirements of Section 79.103(c) of the Commission’s rules.⁴

¹ 47 C.F.R. § 79.4(c)(2)(i) (requiring each video programming distributor and provider to “[e]nable the rendering or pass through of all required captions to the end user, maintaining the quality of the captions provided by the video programming owner and transmitting captions in a format reasonably designed to reach the end user in that quality. A video programming distributor or provider that provides applications, plug-ins, or devices in order to deliver video programming must comply with the requirements of § 79.103(c) and (d).”). Section 79.103(c) of the Commission’s rules sets forth the specific technical capabilities required of all apparatus subject to that section, including captioning functionality related to presentation, character color, character opacity, character size, fonts, caption background color and opacity, character edge attributes, caption window color, language, and preview and setting retention. 47 C.F.R. § 79.103(c).

² *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order, 27 FCC Rcd 787 (2012) (“*IP Closed Captioning Order*”).

³ Alternatively, DiMA requests that the Commission uses its authority under Section 1.3 of its rules to waive for good cause the specified portions of Section 79.4(c)(2)(i) for all VPDs until January 1, 2014.

⁴ Digital Media Association Petition for Temporary Partial Exemption or Limited Waiver (filed May 8, 2012) (available at <http://apps.fcc.gov/ecfs/document/view?id=7021917009>). DiMA member Google does not join the petition. *Id.* at 1 n. 3.

DiMA explains that, while its request would delay the availability of user configuration settings such as the ability to customize caption font and color, it would not affect “the core requirement to ensure that consumers receive captioned video content.”⁵ According to DiMA, an exemption is necessary because several VPDs “simply cannot overcome the significant technical challenges associated with implementing the full suite of user configurations detailed in Section 79.103(c) in the extremely short time allotted by the Commission – a mere six months.”⁶

In the second petition, DiMA requests a temporary exemption,⁷ until January 1, 2014, from the provisions of Section 79.4(c)(2)(i) that relate to the rendering, but not the pass-through, of captions.⁸ The exemption would pertain to VPDs that do not currently provide closed captioning.⁹ DiMA explains that the rendering requirements would “present significant technical difficulties in the time allotted.”¹⁰ DiMA argues that the requested exemption pertaining to the rendering obligations “should be granted because the technological challenge to develop and deploy applications, plug-ins, or devices to render captioning for [VPDs] that have not provided closed captioning previously imposes significant difficulty to achieve by September 30, 2012.”¹¹

This proceeding will be treated as “permit but disclose” for purposes of the Commission’s *ex parte* rules. *See generally* 47 C.F.R. §§ 1.1200-1.1216. As a result of the permit-but-disclose status of this proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission’s rules applicable to non-restricted proceedings.¹² 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 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). 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.

⁵ *Id.* at 2.

⁶ *Id.*

⁷ Alternatively, DiMA requests that the Commission uses its authority under Section 1.3 of its rules to waive for good cause the specified portions of Section 79.4(c)(2)(i) for all VPDs until January 1, 2014.

⁸ Digital Media Association Petition for Temporary Partial Exemption or Limited Waiver from the Provisions of Section 79.4(c)(2)(i) Relating to the Rendering of Captions, Including to the Applications, Plug-Ins, or Devices Provided by a VPD (filed May 8, 2012) (available at <http://apps.fcc.gov/ecfs/document/view?id=7021917008>). DiMA members Apple Inc. and Google do not join the petition. *Id.* at 1 n. 3.

⁹ *Id.* at 1.

¹⁰ *Id.* at 3.

¹¹ *Id.* at 1-2.

¹² 47 C.F.R. § 1.1206.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated at the top 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://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, 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.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

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One copy of each filing must be sent to Diana Sokolow, Media Bureau, Room 4-A734, 445 12th Street, S.W., Washington, D.C. 20554 or Diana.Sokolow@fcc.gov.

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For further information, contact Diana Sokolow, (202) 418-2120 or Diana.Sokolow@fcc.gov. Press inquiries should be directed to Janice Wise, (202) 418-8165 or Janice.Wise@fcc.gov.

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