



PUBLIC NOTICE

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

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 18-42
January 12, 2018

MEDIA BUREAU ANNOUNCES NATIONAL NONBROADCAST NETWORK RANKINGS FOR PURPOSES OF JULY 1, 2018 UPDATE TO VIDEO DESCRIPTION REQUIREMENTS

MB Docket No. 11-43

As of July 1, 2018, the Commission's video description rules will require multichannel video programming distributor ("MVPD") systems that serve 50,000 or more subscribers to provide 87.5 hours of video description¹ per calendar quarter on channels carrying each of the top five national nonbroadcast networks.² The top five national nonbroadcast networks are defined by an average of the national audience share during prime time of nonbroadcast networks that reach 50 percent or more of MVPD households and have at least 50 hours per quarter of prime time programming that is not live or near-live or otherwise exempt under the video description rules.³ The nonbroadcast networks currently subject to the video description requirements are USA, TNT, TBS, History, and the Disney Channel.⁴

In accordance with the Commission's rules, the list of top five nonbroadcast networks will update at three year intervals to account for changes in ratings, and the second triennial update will occur on July 1, 2018, based on the 2016 to 2017 ratings year.⁵ According to data

¹ Video description makes video programming accessible to individuals who are blind or visually impaired through "[t]he insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue." 47 C.F.R § 79.3(a)(3).

²*Id.* § 79.3(b)(4). The rule requires that 50 hours per calendar quarter be provided in prime-time or during children's programming, while the additional 37.5 hours may be provided at any time between 6 a.m. and 11:59 p.m. local time.

³ *Id.* § 79.3(b)(4). "Live or near-live programming" is defined as programming performed either simultaneously with, or recorded no more than 24 hours prior to, its first transmission by a video programming distributor. *Id.* § 79.3(a)(7).

⁴ *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Order and Public Notice, 30 FCC Rcd 2071, para. 10 (MB 2015).

⁵ 47 C.F.R. § 79.3(b)(4); *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order, 26 FCC Rcd 11847, para. 18

provided by the Nielsen Company, the top ten nonbroadcast networks for the 2016 to 2017 ratings year are: Fox News, ESPN, USA, MSNBC, HGTV, TBS, Discovery, History, Hallmark, and TNT.⁶

If a program network believes it should be excluded from the list of top five networks covered by the video description requirements because it does not air at least 50 hours of prime time programming that is not live or near-live or is otherwise exempt, it must seek an exemption no later than 30 days after publication of this Public Notice.⁷ Filings should be submitted electronically in MB Docket No. 11-43 by accessing the Commission's Electronic Comment Filing System (ECFS): <https://www.fcc.gov/ecfs/>. Filers should follow the instructions provided on the website for submitting filings. The Media Bureau will promptly evaluate requests for exemption and will provide notice of any resulting revisions to the list.

For further information, contact Lyle Elder (202-418-2120; Lyle.Elder@fcc.gov). Press contact: Neil Grace (202-418-0506; Neil.Grace@fcc.gov).

- FCC -

(2011) (“*2011 Video Description Order*”).

⁶ In determining the top five nonbroadcast networks subject to the rules in 2011, the Commission relied on Nielsen's “live +7 day” ratings, which include incremental viewing that takes place during the seven days following a telecast. Consistent with this approach, we rely on Nielsen's “live + 7 day” ratings. The data covers the 2016 to 2017 cable ratings year (September 19, 2016 to October 8, 2017).

⁷ See *2011 Video Description Order*, 26 FCC Rcd at 11857, para. 18; see also 47 C.F.R. § 79.3(b)(4). In the *2011 Video Description Order*, the Commission stated that “[t]o the extent a program network that otherwise would appear in the list of top five nonbroadcast networks does not air at least 50 hours of prime time programming that is not exempt, it must seek an exemption from the video description requirement no later than 30 days after publication of the [2016-2017] ratings information by The Nielsen Company,” noting that “[t]his requirement will ensure that the nonbroadcast network replacing it in the top five has ample time to come into compliance.” *Id.* Although the *Order* indicates that networks must file for exemption 30 days after publication of the ratings information, we will allow parties to file for exemption 30 days after publication of this Public Notice to ensure that all parties are evaluating the same ratings data and have the full time period to evaluate this data and submit a request for exemption, if necessary.