



PUBLIC NOTICE

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

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Media Bureau Seeks Comment on American Cable Association's Petition for Waiver of Accessible User Interfaces Requirements

MB Docket No. 12-108

Comments Due: July 10, 2018
Reply Comments Due: July 20, 2018

The American Cable Association (ACA) has filed a petition¹ requesting that the Media Bureau grant a waiver of the Commission's rules requiring the accessibility of user interfaces on covered navigation devices for certain limited classes of multichannel video programming distributor (MVPD) systems.²

In October 2013, the Commission adopted rules under the authority of Sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) to make user interfaces and video programming guides and menus accessible on televisions, set-top boxes, and other devices used to view video programming. Section 79.108 of the rules requires that on-screen text menus and guides provided by navigation devices for the display or selection of multichannel video programming must be audibly accessible in real time upon request by individuals who are blind or visually impaired,³ if achievable.⁴ In addition, Section 79.109 of the rules requires navigation devices with built-in closed captioning capability to include a mechanism that is reasonably comparable to a button, key, or icon for activating the closed captioning.⁵ MVPDs that lease or sell navigation devices, as

¹ Petition for Waiver of the American Cable Association, MB Docket No. 12-108 (filed June 15, 2018) (Petition).

² 47 CFR § 79.108. See also *Accessibility of User Interfaces, and Video Programming Guides and Menus; Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 17330 (2013) (*Accessible User Interfaces Order*).

³ 47 CFR § 79.108(a)(1)-(3). The rules also specify how covered entities should make accessible navigation devices available to requesting blind or visually impaired consumers, and how such entities can comply through the use of separate equipment or software. See *id.* § 79.108(a)(5)-(7).

⁴ *Id.* § 79.108(c); *Accessible User Interfaces Order*, 28 FCC Rcd at 17379-80, paras. 77-78. "Achievable" means "with reasonable effort or expense," and the Commission will consider four specific factors when determining whether compliance with the requirements of the rules is not achievable. 47 CFR § 79.108(c)(2).

⁵ 47 CFR § 79.109(b). In accordance with further rules adopted in 2015, MVPDs and manufacturers of navigation devices are also required to ensure that individuals with disabilities are aware of the availability of accessible navigation devices and have ready access to information and support that will allow them to operate such devices. See *Accessibility of User Interfaces, and Video Programming Guides and Menus*, Second Report and Order, Order

well as navigation device manufacturers, are responsible for compliance with these rules, which set a compliance deadline of December 20, 2016, subject to certain exceptions.⁶ When adopting the accessible user interfaces rules, the Commission set a later compliance deadline for certain mid-sized and smaller MVPDs.⁷ In particular, MVPD operators with 400,000 or fewer subscribers as of year-end 2012, and MVPD systems with 20,000 or fewer subscribers that are not affiliated with an operator serving more than 10 percent of all MVPD subscribers as of year-end 2012, are currently subject to a two-year deferred compliance deadline and expected to comply by December 20, 2018.⁸

Although many mid-sized and smaller systems will be able to comply by the December 20, 2018 deferred deadline, ACA has identified certain classes of systems that it claims will be unable to partially or fully comply due to the unavailability of compliant solutions in the market that work for these systems.⁹ Specifically, ACA requests that the Media Bureau waive the requirements of Section 79.108 for certain mid-sized or smaller systems that utilize quadrature amplified modulation (QAM), as they apply to the system's two-way service offerings (e.g., video on demand).¹⁰ Additionally, ACA requests that the Media Bureau grant a full waiver from the requirements of Section 79.108 for certain small cable systems that offer any video programming channels in only analog format or do not offer broadband Internet access service to their residential video subscribers.¹¹ ACA proposes that cable systems that qualify for either a partial or full waiver would be required to provide notice annually to current customers for as long as the system chooses to rely on the waiver and to provide notice to both current and potential customers when they inquire about accessibility options.¹² We seek comment on ACA's requests.

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).

on Reconsideration, and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 13914 (2015); 47 CFR § 79.108(d)(1)-(2), (f).

⁶ See 47 CFR §§ 79.108(b), 79.109(c).

⁷ *Accessible User Interfaces Order*, 28 FCC Rcd at 17401-02, paras. 114-15.

⁸ 47 CFR §§ 79.108(b)(1)-(2), 79.109(c)(1)-(2). In the *Accessible User Interfaces Order*, the Commission delegated authority to the Media Bureau to review the marketplace after the December 20, 2016 deadline for larger MVPDs to determine whether the delayed compliance deadline for mid-sized and smaller MVPDs should be retained or extended, in whole or in part. *Accessible User Interfaces Order*, 28 FCC Rcd at 17401, para. 114. The Bureau initiated that review by issuing a Public Notice on September 28, 2017. See *Media Bureau Seeks Comment on December 20, 2018 Accessible User Interfaces Deadline for Mid-Sized and Smaller MVPDs*, Public Notice, 32 FCC Rcd 7332 (2017). ACA filed comments and reply comments in response to the Public Notice. See Comments of the American Cable Association, MB Docket No. 12-108 (filed Oct. 30, 2017); Reply Comments of the American Cable Association, MB Docket No. 12-108 (filed Nov. 13, 2017).

⁹ Petition at 1-2.

¹⁰ *Id.* at 9-11. ACA explains that, although a retail "plug-in" solution is available to such systems that provides audible accessibility for the majority of covered functions, because the solution is not compatible with two-way services, those services – and the covered functions utilized to navigate them – would not be accessible. See *id.*

¹¹ *Id.* at 12-14. ACA explains that systems that do not offer broadband Internet access service to residential customers will not be able to utilize the "plug-in" solution, as these devices obtain their user guide data via the Internet. See *id.* Further, programming offered by systems only in an analog format cannot be accessed by the "plug-in" solution because these devices do not have an analog tuner. See *id.*

¹² *Id.* at 15-16.

- 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 Street, 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 9050 Junction Drive, Annapolis Junction, MD 20701.
- 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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Filings are also 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, telephone (202) 418-0270.

For further information, contact Maria Mullarkey, Maria.Mullarkey@fcc.gov or (202) 418-2120.

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