



PUBLIC NOTICE

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MEDIA BUREAU SEEKS COMMENT ON GOOGLE FIBER'S AMENDED PETITION FOR LIMITED WAIVER OF ACCESSIBLE USER INTERFACES REQUIREMENTS

MB Docket No. 12-108

Comment Date: June 17, 2019
Reply Comment Date: July 1, 2019

Google Fiber Inc. (Google Fiber) has filed an amended petition¹ requesting that the Media Bureau grant a limited waiver of the Commission's rules requiring the accessibility of user interfaces on covered navigation devices.² Specifically, Google Fiber requests a limited waiver of Section 79.108 of the Commission's rules for certain video programming functions that cannot be made accessible through Google Fiber's offered accessibility solution for a limited time period.

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.³ 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,⁴ if achievable.⁵ Multichannel video programming distributors (MVPDs) that lease or sell navigation devices, as well as navigation device manufacturers, are responsible for compliance with

¹ Amended Petition for Limited Waiver of Google Fiber Inc., MB Docket No. 12-108 (filed May 13, 2019) (Amended Petition) (amending Petition for Limited Waiver of Google Fiber Inc., MB Docket No. 12-108 (filed Dec. 19, 2018)). The Media Bureau did not seek comment on the original Petition for Limited Waiver because Google Fiber informed the Bureau that the Petition required amendment.

² 47 CFR § 79.108.

³ See *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*).

⁴ 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).

⁵ *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). 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 on Reconsideration, and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 13914 (2015); 47 CFR § 79.108(d)(1)-(2), (f).

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, were subject to a two-year deferred compliance deadline and expected to comply by December 20, 2018.⁸ Google Fiber is subject to the December 20, 2018 compliance deadline.⁹

Google Fiber claims that it is partially unable to comply with the Commission's accessible user interfaces requirements. Currently, Google Fiber makes available to its subscribers an in-home streaming service through its "Fiber TV" app available for iOS and Android devices, which permits subscribers to perform many set-top box functions using their mobile device as a remote control and uses the native and third-party accessibility features of the mobile device (e.g., screen readers) for navigation device accessibility.¹⁰ Google Fiber explains that its current solution provides audible accessibility for consumers who are blind or visually impaired for most of the required video programming functions, but it seeks a waiver with respect to four functions for which it does not provide audible accessibility—(1) activating video description (for certain programming); (2) adjusting the presentation and display of closed captioning; (3) display of current configuration options; and (4) activating set-top box configuration options.¹¹ Google Fiber has determined that it can provide accessibility for the first two of these functions – activating video description and adjusting closed captioning display – by updating its "Fiber TV" app "likely within a matter of months, but no later than by the end of 2019," and it "continues to investigate the steps necessary to make audibly accessible to its customers the remaining two functions."¹²

Google Fiber requests that the Media Bureau grant a waiver of the requirements of Section 79.108 as follows: (1) for one year from the date of the original petition for activating video description and adjusting the presentation and display of closed captioning; and (2) for the sooner of either two years from the date of the original petition, or the date on which it can comply for the display of current configuration options and activating set-top box configuration options.¹³ We seek comment on Google Fiber's request.

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

⁶ See 47 CFR § 79.108(b).

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

⁸ 47 CFR § 79.108(b)(1)-(2). On November 2, 2018, the Media Bureau granted two waivers of its rules requiring the accessibility of user interfaces on covered navigation devices for certain small and mid-sized MVPDs, as requested by the American Cable Association (ACA). See *Accessibility of User Interfaces, and Video Programming Guides and Menus, Memorandum Opinion and Order*, 33 FCC Rcd 11049 (2018). First, the Bureau granted ACA's request for a limited waiver of the accessible user interfaces requirements 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). Additionally, the Bureau granted ACA's request for a waiver of the accessible user interfaces requirements 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.

⁹ Amended Petition at 3.

¹⁰ *Id.* at 4. Google Fiber indicates that its customers can use the Fiber TV app to navigate its programming as long as the mobile device is connected to the same WiFi network as the subscriber's TV set-top box. *Id.*

¹¹ *Id.* at 5.

¹² *Id.* at 2.

¹³ *Id.*

page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).¹⁴

- 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.
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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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¹⁴ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).