



PUBLIC NOTICE

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MEDIA BUREAU ANNOUNCES NATIONAL NONBROADCAST NETWORK RANKINGS FOR PURPOSES OF JULY 1, 2021 UPDATE TO AUDIO DESCRIPTION REQUIREMENTS

MB Docket No. 11-43

The Commission's audio description rules¹ require multichannel video programming distributor (MVPD) systems that serve 50,000 or more subscribers to provide 87.5 hours of audio description² per calendar quarter on channels carrying each of the top five national nonbroadcast networks.³ The top five national nonbroadcast networks are defined by an average of the national audience share during prime time among 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 audio description rules.⁴ The nonbroadcast networks currently subject to the audio description requirements are USA, HGTV, TBS, Discovery, and History.⁵

In accordance with the Commission's rules, the list of top five nonbroadcast networks is updated at three year intervals to account for changes in ratings, and the third triennial update will occur on July 1, 2021, based on the 2019 to 2020 ratings year.⁶ According to data provided by the Nielsen Company, the

¹ The Commission recently adopted an order that will modernize the terminology in part 79 of the Commission's rules to use the more common and widely understood term "audio description" rather than "video description." *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order, FCC 20-155, at 1 (Oct. 27, 2020). The Commission has long considered the terms "video description" and "audio description" to be synonymous. *See, e.g.*, 47 CFR § 79.3(a)(3).

² Audio 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 CFR § 79.3(a)(3).

³ *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.

⁴ *Id.* "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).

⁵ *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Order and Public Notice, 33 FCC Rcd 4915, para. 1 (MB 2018).

⁶ 47 CFR § 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, 11857, para. 18 (2011) (*2011 Order*).

top ten nonbroadcast networks for the 2019 to 2020 ratings year are: Fox News, MSNBC, CNN, ESPN, TLC, HGTV, Hallmark, History, TBS, and Discovery.⁷

If a program network believes it should be excluded from the list of top five networks covered by the audio description requirements because it does not air at least 50 hours per quarter 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.⁸ 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 Michael Scurato (202-418-2083; Michael.Scurato@fcc.gov).

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⁷ Consistent with the approach previously adopted by the Bureau, in determining the top five nonbroadcast networks subject to the rules we rely on Nielsen's "live + 7 day" ratings, which include incremental viewing that takes place during the seven days following a telecast. The data covers the 2019 to 2020 cable ratings year (September 23, 2019 to September 20, 2020).

⁸ See *2011 Order*, 26 FCC Rcd at 11857, para. 18; see also 47 CFR § 79.3(b)(4). In the *2011 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 [audio] description requirement no later than 30 days after publication" of 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 *2011 Order* indicates that networks must file for exemption 30 days after publication of the ratings information, consistent with past practice, 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.