



Federal Communications Commission
Washington, D.C. 20554

February 29, 2024

DA 24-190

SMALL ENTITY COMPLIANCE GUIDE

**Video Description: Implementation of the Twenty-First Century
Communications and Video Accessibility Act of 2010**

**FCC 23-82
MB Docket No. 11-43
Adopted October 17, 2023**

In accordance with the requirements of section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, this Small Entity Compliance Guide (Guide) is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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Videophone: 1-844-4-FCC-ASL (1-844-432-2275)
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I. OBJECTIVES OF THE PROCEEDING

Audio description makes video programming more 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.”¹ To access audio description, consumers generally switch from the main program audio to the secondary audio stream on which audio description is typically provided.

The Commission’s audio description rules currently require certain television broadcast stations and multichannel video programming distributors (MVPDs) to provide audio description for a portion of the video programming they distribute to consumers. The rules apply to commercial television broadcast stations that are affiliated with one of the top four commercial television broadcast networks (ABC, CBS, Fox, and NBC) and are located in certain designated market areas (DMAs). Audio description is required in DMAs 1 through 60, pursuant to an order the Commission adopted in 2011. In 2020, the Commission expanded the audio description requirements to DMAs 61 through 100 on a phased schedule that was completed on January 1, 2024.

In the *Second Report and Order (Order)* in MB Docket No. 11-43, the Commission took the unopposed action of expanding its audio description requirements by phasing them in for an additional 10 designated market areas (DMAs) each year until all 210 DMAs are included. Consistent with the requirements of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA),² the Commission found that the costs of expanding the audio description regulations to DMAs 101 through 210 are reasonable for program owners, providers, and distributors. The Commission’s action will help ensure that a greater number of individuals who are blind or visually impaired can be connected, informed, and entertained by television programming.

II. COMPLIANCE REQUIREMENTS

A. The Schedule to Phase-in the Additional Designated Market Areas.

The *Order* modifies 47 CFR § 79.3(b)(1), which will phase in the existing audio description requirements for an additional 10 DMAs each year until all 210 DMAs are covered. The substance of the audio description requirements will not change, but rather, expands the DMAs in which broadcast television stations in the additional markets must comply with the requirements. The DMAs will be phased in the following time frames:

- Expansion to DMAs 101 through 110 on January 1, 2025
- Expansion to DMAs 111 through 120 on January 1, 2026
- Expansion to DMAs 121 through 130 on January 1, 2027
- Expansion to DMAs 131 through 140 on January 1, 2028
- Expansion to DMAs 141 through 150 on January 1, 2029
- Expansion to DMAs 151 through 160 on January 1, 2030
- Expansion to DMAs 161 through 170 on January 1, 2031
- Expansion to DMAs 171 through 180 on January 1, 2032
- Expansion to DMAs 181 through 190 on January 1, 2033
- Expansion to DMAs 191 through 200 on January 1, 2034
- Expansion to DMAs 201 through 210 on January 1, 2035

¹ 47 CFR § 79.3(a)(3).

² Pub. L. No. 111-260, § 202(a); 47 U.S.C. § 613(f)(4)(C)(iv).

B. Updated Nielsen Determination of Market Rankings.

The revised rules utilize DMA rankings “as determined by The Nielsen Company as of January 1, 2023,” rather than the January 1, 2020, date used in the previous rules. This change extended the audio description requirements to DMAs 91 through 100 as of January 1, 2024. Utilizing the updated Nielsen market rankings resulted in certain DMAs falling into different categories than they were prior to this change, which impacted corresponding dates for compliance prior to January 1, 2024.

- **Paducah-Cape Girardeau-Harrisburg DMA and Cedar Rapids-Waterloo-Iowa City and Dubuque DMA.** Utilizing the updated Nielsen market rankings, these two DMAs were required to comply with the deadline for DMAs 91 through 100 utilizing the Nielsen figures as of January 1, 2023.³
- **Chattanooga DMA and Charleston, SC DMA.** Conversely, utilizing the updated Nielsen market rankings, these two DMAs were required to comply with the earlier deadline for DMAs 81 through 90 utilizing the Nielsen figures as of January 1, 2023.⁴

C. Exemptions and Waivers of the Audio Description Rules.

Section 79.3 of the Commission’s rules will continue to govern any petitions for exemption due to economic burden, and section 1.3 will continue to govern waivers of the Commission’s rules generally.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The Commission’s actions in the *Order* did not create any additional recordkeeping or other reporting requirements.

IV. IMPLEMENTATION DATE

The amended rules in the *Order* became effective November 27, 2023.

V. INTERNET LINKS

A copy of the *Second Report and Order*, FCC 23-82, MB Docket No. 11-43, is available at: <https://www.fcc.gov/document/fcc-expands-audio-description-requirements-all-television-markets>

A copy of the Federal Register Summary of the *Second Report and Order* is available at: <https://www.govinfo.gov/content/pkg/FR-2023-10-27/pdf/2023-23760.pdf>

³ Paducah-Cape Girardeau-Harrisburg moved from DMA 84 to DMA 92, and Cedar Rapids-Waterloo-Iowa City and Dubuque moved from DMA 90 to DMA 93.

⁴ Chattanooga moved from DMA 92 to DMA 84, and Charleston, SC moved from DMA 91 to DMA 88.