

**STATEMENT OF  
COMMISSIONER AJIT PAI**

Re: *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*, MB Docket No. 12-107; *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-43

It is a Commission priority to make a broad range of information accessible to individuals with disabilities, and emergency information is the most critical because it can make the difference between life and death. The steps we take today to make emergency information more accessible to those who are blind or visually impaired continue our implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010. I am therefore pleased to support this item. Three points, however, deserve further comment.

*First*, we leave for another day the question of whether to grant waivers to small cable systems that lack the equipment to pass through emergency information on secondary audio streams for analog channels. I hope that the Media Bureau will look favorably upon such waiver requests; otherwise, there is a real risk that many small cable systems will shut down rather than bear the cost of complying with our rules. Such an outcome would be especially unfortunate for those living in rural America, *including* those who are blind or visually impaired.

*Second*, my vote today should not be interpreted as an endorsement of the scope of the apparatus requirements set forth in our rules. In this item, we interpret Section 303(u)(1) of the Communications Act in the same manner as did the Commission in the *IP Closed Captioning Order*. Such consistency makes sense since the same statutory language should not mean one thing in the closed captioning context and another thing in the emergency information and video description context.<sup>1</sup> That having been said, a petition for reconsideration of the *IP Closed Captioning Order* remains pending at the Commission that addresses whether removable media players are covered by Section 303(u)(1) and whether we should look only to a device's capabilities to determine whether it falls within the scope of that statutory provision.<sup>2</sup> I believe that petition for reconsideration is the appropriate vehicle for reassessing the scope of the apparatus requirements and, especially since I was not serving at the Commission at the time of the *IP Closed Captioning Order*, I will approach it with an open mind. Additionally, we should rule on that petition sooner rather than later.

*Third*, I am pleased that the Further Notice of Proposed Rulemaking does not reach any tentative conclusions about how our emergency information rules apply where an MVPD permits subscribers to access linear video programming via devices such as tablets and smartphones. Any such tentative conclusions would have been premature. I look forward to reviewing the record that will be compiled on this difficult issue over the next few months.

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<sup>1</sup> Cf. *Clark v. Martinez*, 543 U.S. 371, 378 (2005) (“To give these same words a different meaning for each category would be to invent a statute rather than interpret one.”).

<sup>2</sup> Petition for Reconsideration of the Consumer Electronics Association, MB Docket No. 11-154 (filed Apr. 30, 2012).