

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of )  
 )  
Accessible Emergency Information, and ) MB Docket No. 12-107  
Apparatus Requirements for Emergency )  
Information and Video Description: )  
Implementation of the Twenty-First Century )  
Communications and Video Accessibility Act of )  
2010 )  
 )  
Video Description: Implementation of the ) MB Docket No. 11-43  
Twenty-First Century Communications and )  
Video Accessibility Act of 2010 )

**COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

**I. INTRODUCTION AND SUMMARY**

The Telecommunications Industry Association<sup>1</sup> (“TIA”) submits these comments in response to the Federal Communications Commission’s (“Commission”) Further Notice of Proposed

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<sup>1</sup> TIA is a Washington, DC-based international trade association representing approximately 500 global information and communications technology (“ICT”) manufacturers, vendors, and suppliers. TIA represents the global ICT industry through standards development, advocacy, business opportunities, market intelligence and networking. TIA’s member companies manufacture or supply the products and services used in global communications across all technology platforms. Since 1924, TIA has been enhancing the business environment for broadband, mobile wireless, information technology, networks, cable, satellite and unified communications. Members’ products and services empower communications in every industry and market, including healthcare, education, security, public safety, transportation, government, the military, the environment and entertainment. TIA is accredited by the American National Standards Institute (“ANSI”).

TIA represents its members on the full range of public policy issues affecting the ICT industry and forges consensus on industry standards. Please see TIA’s 2013 Policy Playbook, which provides an overview of the ICT market, technologies and policies that drive innovation and investment. See <http://www.tiaonline.org/policy/tia-2013-playbook>.

Rulemaking (“FNPRM”) in the above-referenced docket.<sup>2</sup> In the FNPRM, the Commission addresses the provision of linear programming to mobile and other devices; the provision of emergency information and video description services on mobile or other devices, tagging of the secondary audio stream, and customer support services.<sup>3</sup> More specifically, in the FNPRM, the Commission seeks input on whether an MVPD’s video programming must include video description and emergency information when provided on mobile or other devices (“tablets, laptops, personal computers, smartphones, or similar devices”).<sup>4</sup> The Commission’s R&O applies only to devices that receive or play back traditional MVPD services – in other words, devices such as set-top boxes, devices that function as set-top boxes, and television sets that receive linear video programming.<sup>5</sup> Consistent with the FNPRM, our discussion below encompasses non-traditional devices that receive or playback linear video programming such as laptops, tablets, smart phones, gaming consoles, and other computing devices.

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<sup>2</sup> 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; Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, MB Docket Nos. 12-107; 11-43, *Report and Order and Further Notice of Proposed Rulemaking* (rel. Apr. 8, 2013) (“FNPRM”).

<sup>3</sup> Pub. L. No. 111-260, § 204, 124 Stat. 2751 (2010). *See also* Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-265, 124 Stat. 2795 (2010).

<sup>4</sup> FNPRM at par. 81.

<sup>5</sup> That means, under the R&O, gaming consoles and PCs not designed as set-top box replacements would not need to display VD or EI since they do not directly receive the MVPD content but rather pass through the signals from other Section 203-covered devices. Therefore, only gaming consoles or PCs that have cable tuner cards or other similar hardware installed -- that replace a MVPD set-top box, receive and render the video stream, including VD/EI -- should be required to display VD/EI.

## II. THE COMMISSION LACKS AUTHORITY TO APPLY VIDEO DESCRIPTION AND EMERGENCY INFORMATION REQUIREMENTS TO INTERNET-DELIVERED VIDEO PROGRAMMING CONTENT

In the R&O, the Commission concluded that the emergency information rules do not apply to Internet protocol-delivered video programming, such as the programming provided by online video distributors (“OVDs”).<sup>6</sup> We agree that Congress did not authorize the FCC to apply video description or emergency information requirements to over-the-top (“OTT”) Internet protocol-delivered programming, but allows for study of technical and operational issues, costs, and benefits of applying video description to Internet protocol-delivered programming.<sup>7</sup> We believe this is an appropriate finding for feasibility reasons as well, as it is technically challenging to apply these requirements to Internet protocol-delivered video from OTT providers. The Commission has already noted geographic alerting issues,<sup>8</sup> and the Video Programming Accessibility Advisory Committee (“VPAAC”) noted no applicable technical standards exist.<sup>9</sup> Issues also exist with the timing of these alerts as it would not be reasonable to require non-linear programming to include local information about a “current emergency”

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<sup>6</sup> See R&O at par. 8.

<sup>7</sup> See 47 USC 613(f)(3)(B).

<sup>8</sup> R&O at FN 28 (“We also note that Section 79.2(b)(2) applies the rule “to emergency information primarily intended for distribution to an audience in the geographic area in which the emergency is occurring.” 47 C.F.R. § 79.2(b)(2). Given this geographic limitation, applying the rule broadly to cover all IP-delivered video programming, regardless of location, may not serve a useful purpose for and may cause confusion to viewers in areas with no connection to the location of the emergency.”).

<sup>9</sup> Second Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010 Access to Emergency Information, April 9, 2012, at 12.

because such programming is usually not delivered for specific geographic areas and is not designed to be viewed in real-time.<sup>10</sup>

In the FNPRM, the Commission requests input on whether “an MVPD system must comply with the video description rules when it permits its subscribers to access linear video programming via tablets, laptops, personal computers, smartphones, or similar devices.”<sup>11</sup> TIA believes that in the event that the MVPD’s programming is provided outside of the home setting and over the Internet, we believe it is similarly not subject to the CVAA since the FCC lacks authority to impose obligations on such IP-delivered video programming content. The Commission’s video description and emergency information requirements are appropriately limited to the MVPD’s traditional programming offered within the home, and that qualifies as linear video programming under Part 79.1 of the Commission’s rules.

### **III. VIDEO DESCRIPTION AND EMERGENCY INFORMATION REQUIREMENTS FOR PERSONAL COMPUTERS, SMARTPHONES, AND TABLETS ARE NOT THE DEVICE MANUFACTURER’S RESPONSIBILITY**

TIA does not believe that the manufacturer should be responsible for video description and emergency information requirements under Section 203 for apparatus. Device manufacturers do not have control over what video programming is made available through these devices, and cannot require content owners to add video description to such content. While broadcasters are able to add emergency information to their content which is then provided by the MVPD, again, manufacturers of these alternative devices do not have control

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<sup>10</sup> 47 C.F.R. §§ 79.2(b)(2) & (a)(2).

<sup>11</sup> See FNPRM at 83.

over this. Further the CVAA limits video description requirements to linear programming from a MVPD service.<sup>12</sup>

TIA believes that this responsibility falls to the MVPD's software application which enables their programming to be viewed on the alternative device.<sup>13</sup> As we note above, the device manufacturer does not control content, delivery, timing, etc., and it is the MVPD that creates the means through which the programming is viewed via their application for their subscribers. This programming is controlled and encrypted by the MVPD, with the device simply passing the content through. For these reasons, TIA does not believe that the manufacturers of personal computers, tablets, gaming consoles, and smartphones should be responsible for video description and emergency information requirements.

#### **IV. THE COMMISSION SHOULD NOT MANDATE MANUFACTURERS' SEPARATE CUSTOMER SUPPORT FOR BLIND/VISUALLY DISABLED USERS REGARDING ACCESS TO VIDEO DESCRIPTION AND EMERGENCY INFORMATION**

In the FNPRM, the Commission requests input regarding whether dedicated customer support services be provided to assist consumers who are blind or visually impaired with accessing the secondary audio stream.<sup>14</sup> TIA does not believe that such a requirement should be extended to manufacturers. This separated customer support is not authorized by Section

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<sup>12</sup> 47 U.S.C. §§ 613(c) & 613(f)(2)(A) ("such programming is transmitted for display on television in digital format."). We believe that if Congress intended to reach IP-delivered programs, it would have explicitly referenced them, as it did in the context of closed captioning. See *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order, 27 FCC Rcd 787, 78 (¶ 1) (2012).

<sup>13</sup> Examples include apps for Verizon Fios, Time Warner's TWC, Cablevision Optimum, Cox's Mobile Connect, and Comcast's Xfinity.

<sup>14</sup> See FNPRM at 86.

203, and would be, practically, redundant to existing customer support services already offered. Furthermore, as we note above, device manufacturers do not have the ability to aid consumers in gaining access to this information due to the MVPD's control over its own video programming.

**V. CONCLUSION**

For the foregoing reasons, TIA urges the Commission to take into consideration its views in this proceeding.

Respectfully submitted,

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