

American Council of the Blind

1703 N. Beauregard St., Suite 420, Alexandria, VA 22311 • Tel: (202) 467-5081 • Fax: (703) 465-5085

June 23, 2016

Honorable Tom Wheeler, Chairman
Federal Communications Commission
445 12th Street SE
Washington, DC 20554

Re: NPRM — Expanding video consumers' navigation choices (MB Docket No. 11-43)

Dear Chairman Wheeler:

The American Council of the Blind (ACB) welcomes the opportunity to comment on the Federal Communications Commission (Commission) Notice of Proposed Rule Making (NPRM) for regulations guiding the expansion of descriptive audio provided under the 21st Century Communications & Video Accessibility Act (CVAA).

ACB is the nation's leading grassroots consumer-based advocacy group for Americans who are blind and visually impaired. With over 20,000 members, ACB is comprised of 70 state and special-interest affiliates. ACB played a vital part in the development and passage of the 21st Century Communications and Video Accessibility Act of 2010 (PL 111-260, 111-265), which made significant advancements in the accessibility to mobile and telecommunications media providers. Subsequently, ACB has been actively involved with government and industry to assure that the intent of the CVAA remains a priority for the Commission, and that accessibility standards are met with great consideration toward the consumer's best interest.

Chief among these priorities around the CVAA is advocacy for expansion of audio description (AD). According to the Centers for Disease Control's (CDC) Vision Health Initiative, the incidence of blindness will continue to significantly increase over the next couple of decades, essentially doubling from the time the CVAA was passed in 2010.

This increase continues to create an increase in demand for accessible video programming. As older-age adults rely more on the care of their families, it can reasonably be assumed that the impact will ripple across the overall market share of households, wherein families choose to seek reasonable accommodations for their loved ones. Indeed, ACB has recognized this demand and remains the leading voice in our country for AD, and has personally invested its resources into the training of qualified audio describers. Our Audio Description Project (ADP) convenes its AD training academy whenever we hold a national meeting of our membership, and we continually work with other private, public, and not-for-profit organizations throughout the year, in order to assure that compliance and growth continue to meet the increase in demand. Occupying this vantage reaffirms our belief that the market is capable of expanding AD, and we believe the Commission should move forward on the fundamental assertion that the benefits will far outweigh the costs carried out through this proposed rule.

Paragraph 6 — Economic Burden

As the Commission points out in paragraph six of its NPRM, no such request for full or partial exemption due to economic burden has been requested since the initial CVAA rule took effect. As more and more content is audio described, the catalog of accessible content continues to grow. Advances in delivery technology also provide additional means for consumers to access content with audio description. For instance, it is now possible for consumers to purchase over 300 films with included audio description via Apple's iTunes store. Recognizing the increase in market demand and positive social impact, broadcast and cable networks have also gone beyond the scope of the CVAA, including audio description on older

programs like those aired on Turner broadcast networks or via PBS stations. For this reason, ACB believes that the marketplace is in a much stronger and fertile environment for expansion of AD at this time, compared to when the initial regulations were put into place. Therefore, if no economic burden has been reported up to this point, ACB finds it hard to believe that any market forces would result in creating any such constraints that would result in greater economic burden.

Paragraph 8 — Additional Regulations & Cost/Benefit Analysis

ACB agrees with the commission in that the benefits are greater than the technical and economic costs. As previously noted, the marketplace will only continue to grow sizably for increased demand for accessible content over the next 20 years. It is crucial that industry be in a position to meet this demand, assuring that equal access to programming expand along with the market demand. To this end, the Commission should exercise its authority and assure that the benefits of equal access in the spirit of the CVAA are further strengthened through expansion of AD content. While closed captioning for the hearing impaired has existed for over four decades, AD remains relatively new. However, its social impact is no less than that which captioning has obtained over the decades. And while captioning is at roughly full saturation now, AD remains a fraction of that programming footprint. In order for Americans who are blind or visually impaired to gain equal access and full participation in our culture, it is important that government and industry recognize the responsibility we all have toward full inclusion. For this reason, any such expansion of AD holds substantial social benefits, and ACB affirms the Commission's proposal to further the inclusion of people who are blind or visually impaired.

Paragraph 16 — Television Programming

It is the hope of ACB that the Commission will not allow multi-video programming distributors the ability to circumnavigate the CVAA by delivering their content as streaming media via the Internet. In situations where content providers traditionally covered under the CVAA adapt to stream their service via the Internet as an alternative to traditional hardware interfaces, we urge that coverage of the CVAA apply, such that AD can continue to pass through such delivery systems. Clear distinction between fee-based Internet services and multi-video programming distributors have been clouded some in recent years with online services like SlingTV that provide live television streams. Without clear regulations from the Department of Justice (DOJ) on Title III of the Americans with Disabilities Act (ADA) and web accessibility, these services operate without clear and concise regulations guaranteeing equal access under the ADA. ACB asserts that if the Internet is used to carry live terrestrial broadcast television, than the Commission should have jurisdiction under the CVAA to regulate such program delivery systems if provided alternatively through internet streaming to smart devices. This should include assurances that AD will be passed through.

Paragraph 28 — 50 Percent Threshold Elimination

ACB commends the Commission for proposing to remove the 50 percent threshold exemption, opting to set the bar around primetime viewer ratings. There is no question that the rebirth of quality television programming is heavily favored by add-on or premium channels. Some of the greatest and most critically acclaimed programming exists on these channels today, and it is disheartening that there is not equal access to this programming for consumers who are blind or visually impaired. Primetime television is often the conversation most shared around the water cooler, and during season finales often can become social phenomena. Excluding AD from primetime programming that reaches such a level of popularity excludes individuals who are blind from participating in this shared experience.

Paragraph 30 — Expansion to 87.5 Hours per Quarter

ACB is pleased to see a proposed significant expansion from 50 quarterly hours to 87.5 quarterly hours of AD programming. As previously noted, there are ample qualified professionals capable of tracking AD for this increase in demand, and we believe the benefits for the additional recording and tracking of this expanded AD content will far supported for expansion to 10 non-broadcast cable channels.

Paragraph 33 — Dedicated Customer Service Contacts

A frequent complaint ACB receives about access to AD via MVPDS is lack of knowledge among primary customer service representatives, and difficulty in accessing program information on available AD content. ACB supports the Commission's desire to align AD program info with 47CFR79.1(i)(1-3). ACB strives to compile information from networks and posts it to our Audio Description Project page.

However, we rely on a variety of means to collect data on available programming. As such programming increases, it would be a benefit to have a single repository for information on currently available audio-described video content. At a minimum, networks could do a better job of making such information more readily available via listings accessed through telephone or an Internet website. As desktop boxes become covered under the CVAA at the latter end of this year, programming guides should also make such information easily accessible.

Paragraph 38 — Secondary Audio

ACB has been concerned over competing audio feeds for the secondary channel that would prevent AD from being transmitted when other audio streams such as Spanish translation receive priority. As the Commission points out in paragraph 38, the secondary audio stream is a temporary solution:

"that at some point in the near future, due to voluntary upgrades and equipment obsolescence, broadcasters, MVPDS, and the installed base of consumer equipment will be sufficiently advanced to handle a video description audio track that does not conflict with any other program-related service."

ACB strongly believes that advancements in MPVDS, particularly through delivery via software applications, has demonstrated the capability of alternative means of delivery without conflicting with competing audio streams. On June 13, 2016, the Commission awarded Disney Corporation its AAA Accessibility Award, in response to the Disney Movies Anywhere App.

This app for Apple iOS devices allows synchronized audio description capable of running in tandem with Disney movies wherever the movie is being presented. Such innovation demonstrates the capability to include AD through software solutions. ACB believes that expansion of regulations to require multi-video programming distribution systems (MVPDS) have an alternative means to stream AD without the limitations placed by use of a secondary audio stream. As the industry moves toward more software delivery solutions via smart TVs that use applications for streaming over Internet protocol (IP), such a requirement could spur innovative solutions toward delivering AD to consumers via mediums that no longer bear the constraints of traditional terrestrial broadcasting or MVPDS.

In closing, ACB firmly supports the Commission's efforts to expand audio description. As the incidence of blindness will significantly increase over the next decade, the demand for such content will also increase throughout American households. In light of this, ACB hopes that the Commission will map out in any final rule from this NPRM a plan and timeline for future expansion. We assert that the benefits far outweigh the potential technical and economic costs. Furthermore, we commend the Commission for proposing expansion of the rule under 47CFR79.3 to include programming that represents a broader scope of viewers.

If you have questions pertaining to these comments, or need further information, please do not hesitate to contact ACB. We appreciate the opportunity to work with the Commission toward promoting true universal access — embracing programming that is all-inclusive — and look forward to working with the Commission as it moves forward with its proposed rule.

Sincerely,

Anthony Stephens
Director of Advocacy and Governmental Affairs
American Council of the Blind