



PUBLIC NOTICE

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REMINDER REGARDING OBLIGATIONS TO MAKE TELEVISED EMERGENCY INFORMATION ACCESSIBLE TO VIEWERS WITH DISABILITIES

The Federal Communications Commission (FCC or Commission) issues this Public Notice to remind video programming distributors (VPDs) – including broadcasters, cable operators, satellite television services, and “any other distributor of video programming for residential reception that delivers such programming directly to the home”¹ – of their obligation under section 79.2 of the Commission’s rules to make televised emergency information accessible to persons with disabilities.² This Public Notice also provides information for consumers on how to file complaints for noncompliance with this obligation.³

Background. Under section 79.2, emergency information is defined as “[i]nformation, about a current emergency, that is intended to further the protection of life, health, safety, and property, *i.e.*, critical details regarding the emergency and how to respond to the emergency.”⁴ Examples include “tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather.”⁵ Critical details include, but are not limited to “details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter in one’s home, instructions on how to secure personal property, road closures, and how to obtain relief assistance.”⁶ Unlike the closed captioning obligations contained in section 79.1 of the rules,⁷ there are no exemptions to the emergency information requirement.

We note that sometimes critical details about an emergency and how to respond, such as relocation information, may need to reach individuals outside an area immediately affected by an emergency, but nevertheless would fall within section 79.2’s mandate. This is especially likely to happen when a large-scale disaster primarily affects one region, but has an impact on outlying areas. Hurricane

¹ 47 CFR § 79.1(a)(2) (defining “video programming distributor”).

² See 47 CFR § 79.2. Because of the importance of this issue, we have issued several similar Public Notices in the past. Recent notices can be found at: Public Notice, 28 FCC Rcd 13865 (2013); Public Notice, 29 FCC Rcd 10596 (2014) (§79.2 *Reminder 2014 Public Notice*); Public Notice, 30 FCC Rcd 13615 (2015); Public Notice, 31 FCC Rcd 10906 (2016) (§79.2 *Reminder 2016 Public Notice*).

³ See 47 CFR § 79.2(c).

⁴ See 47 CFR § 79.2(a)(2).

⁵ *Id.*

⁶ Note to 47 C.F.R. § 79.2(a)(2).

⁷ 47 CFR § 79.1.

Harvey, for instance, recently inflicted great damage in Houston, but various other localities in Texas and neighboring states also needed to take protective and responsive measures to safeguard life and property.⁸

Individuals who are Blind or Visually Impaired. To ensure access to emergency information by persons who are blind or visually impaired, Commission rules require that emergency information that is provided in the video portion of a regularly scheduled newscast or a newscast that interrupts regular programming be made accessible by aurally describing the emergency information in the main audio portion of the programming.⁹ When emergency information is conveyed visually during programming other than newscasts (i.e., through “crawling” or “scrolling” text during regular programming), the information must be accompanied by an aural tone and immediately thereafter be conveyed aurally through the use of a secondary audio stream.¹⁰ Such information must be imparted in full at least twice.¹¹ In addition, multichannel video programming distributors (MVPDs) must pass through the secondary audio stream containing audible emergency information when it is provided on linear programming accessed on second screen devices (e.g., tablets, smartphones, laptops and similar devices) over their networks as part of their MVPD services.¹² Linear programming is generally video programming that is prescheduled by the video programming provider.

Individuals who are Deaf or Hard of Hearing. Commission rules also require access to emergency information provided in the audio portion of programming to persons who are deaf or hard of hearing using closed captioning or other methods of visual presentation, including open captioning, crawls or scrolls that appear on the screen.¹³ Emergency information provided by these means may not block any closed captioning, and closed captioning may not block any emergency information provided by crawls, scrolls, or other visual means.¹⁴

Distributors that are not permitted by Commission rules to count captions created using the electronic newsroom technique (ENT)¹⁵ are required to provide closed captions on all new non-exempt

⁸ See USA Today Website, Harvey floods Tennessee, Kentucky, as Hurricane Irma spins up in the Atlantic, <https://www.usatoday.com/story/news/2017/09/01/harvey-remnants-flood-tennessee-kentucky-irma-picks-up-steam-crossing-atlantic/624205001/> (last visited Sept. 19, 2017).

⁹ 47 CFR § 79.2(b)(2)(i).

¹⁰ See 47 CFR § 79.2(b)(2)(ii). A secondary audio stream is an audio channel, other than the main program audio channel, that is typically used for foreign language audio and video description.

¹¹ 47 CFR § 79.2(b)(2)(ii).

¹² 47 CFR § 79.2(b)(6). See Consumer & Governmental Affairs Bureau Reminds MVPDs of July 10, 2017 Deadline to Pass Through Audible Emergency Information During Linear Programming on Second Screen Devices, Public Notice, 32 FCC Rcd 4773 (2017).

¹³ 47 CFR § 79.2(b)(1). For example, the Commission’s rules permit the use of “[o]pen captioning or subtitles in the language of the target audience” in lieu of closed captioning. 47 CFR § 79.1(e)(2).

¹⁴ See 47 CFR § 79.2(b)(4). We note that some state and local government officials provide American Sign Language (ASL) interpreter services during their televised emergency announcements and press conferences. To the extent this service is provided, we encourage VPDs and video programmers to ensure that the interpreter is visible on the television screen at all times in order to benefit viewers who use ASL. See, e.g., National Council on Disability, *Effective Communications for People with Disabilities: Before, During, and After Emergencies*, <https://ncd.gov/publications/2014/05272014/> (May 27, 2014); National Association of the Deaf, *Position Statement on Accessible Emergency Management for Deaf and Hard of Hearing People*, <https://www.nad.org/about-us/position-statements/position-statement-on-accessible-emergency-management-for-deaf-and-hard-of-hearing-people/> (last visited Aug. 29, 2017).

¹⁵ See 47 CFR § 79.1(e)(3). The Commission’s rules permit live programming to be captioned using the electronic newsroom technique, a technique that uses teleprompters to create closed captions, with the exception of live

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programming, including breaking news and emergency alerts.¹⁶ Entities that are permitted to and are using captions created with ENT for their live programming (for determining compliance with section 79.1)¹⁷ are reminded that if the ENT method does not automatically caption non-scripted news, the provider must either caption or make the emergency information accessible by some other form of visual presentation as required by section 79.2.¹⁸ Lastly, a distributor in a market that is permitted to use ENT, but chooses to use real-time captions rather than ENT for its live programming, must provide closed captions on emergency information contained in that programming.

Individuals with Cognitive Disabilities. While not required by the Commission's rules, VPDs and video programmers are encouraged to make alerts accessible to people with cognitive disabilities. To achieve this, it would be helpful to provide emergency information and instructions in plain language, and through multiple means (e.g., maps, charts, and other pictorial information.)¹⁹

Consumer Complaints and Enforcement

The Commission will continue to monitor complaints alleging violations of section 79.2, and will review them for possible enforcement action. If you are a consumer who has a complaint regarding the inaccessibility of emergency information, you may file a complaint with the FCC, or contact the VPD directly for quick resolution of the problem. VPD contact information is located on the FCC's webpage at: <http://esupport.fcc.gov/vpd-search/search.action>.

You may file your complaint with the FCC online at: www.fcc.gov/complaints or by contacting the FCC using the following methods:

Federal Communications Commission
Consumer and Governmental Affairs Bureau
445 12th Street, SW
Washington, DC 20554
Phone: 1-888-225-5322 (voice); 1-844-432-2275 (videophone); 1-888-835-5322 (TTY)
E-mail: fccinfo@fcc.gov
Fax: 866-418-0232

More information about access to televised emergency information is available at the FCC's Web site at: <https://www.fcc.gov/general/access-emergency-information-television>.

To request this *Public Notice* or any other materials in accessible formats for people with

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programming exhibited by the major national broadcast television networks (*i.e.*, ABC, CBS, Fox and NBC), affiliates of these networks in the top 25 television markets, and national non-broadcast networks serving at least 50% of all homes subscribing to multichannel video programming services. *Id.*

¹⁶ See *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking*, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 29 FCC Rcd 2221 (2014) (adopting captioning quality standards – accuracy, synchronicity, program completeness, and placement – and technical compliance rules to ensure that video programming is fully accessible to individuals who are deaf or hard of hearing). These quality standards apply to captioned televised emergency information provided under 47 CFR §79.2. See §79.2 *Reminder 2014 Public Notice*, 29 FCC Rcd at 1059.

¹⁷ See 47 CFR § 79.1(e)(3).

¹⁸ See *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Accessibility of Emergency Programming*, Second Report and Order, 15 FCC Rcd 6615, 6623-24, para. 16 (2000).

¹⁹ For more information about the communication needs of people with cognitive disabilities with respect to emergency information, see § 79.2 *Reminder 2016 Public Notice*, 31 FCC Rcd at 10909-10.

disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 844-432-2275 (videophone), or 202-418-0432 (TTY).

Consumer and Governmental Affairs Bureau Contact: Will Schell, Attorney Advisor, Disability Rights Office, 202-418-0767, e-mail Will.Schell@fcc.gov.

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