unjust and unreasonable practices on the part of TRS providers, it would not likely impose additional regulatory compliance obligations on TRS providers, including small entities, because a prohibition on unjust and unreasonable practices is implicit in the current TRS requirements.

118. If the Commission were to terminate the “guest user” procedure for VRS, which requires VRS providers to provide temporary service to users while verification of the user’s eligibility is pending, the change in rules would not impose new compliance requirements on VRS providers, including small entities, because VRS providers are already required to refuse service to unqualified individuals. The new requirements would simply expand the circumstances under which individuals would be denied service.

119. If the Commission were to explicitly require that, if a VRS provider offers a video mail feature to its customers, the provider must ensure that video mail messages can be left by video point-to-point callers who are customers of other VRS providers and are using access technology provided by such other providers, VRS providers, including small entities, would be obligated to comply with such regulations. However, such regulations would benefit small entities because the regulations would enhance the ability of small entities to compete by ensuring that point-to-point callers using the services of all VRS providers, including small entities, would be able to leave video mail messages with consumers using any VRS provider.

120. If the Commission were to prohibit non-competition agreements in VRS CA employment contracts, VRS providers, including small entities, would be obligated to comply with such regulations and would be subject to additional recordkeeping and reporting requirements if the Commission were to require that such information be included with certification applications and/or annual reports. However, such regulations would benefit small entities because the regulations would enhance the ability of small entities to compete by ensuring that all VRS providers, including small entities, would be able to hire VRS CAs without the pool of available VRS CAs being limited by non-competition agreements.

121. If the Commission were to permit VRS CAs to work from home during the overnight hours, it would reduce the regulatory burdens on VRS providers, including small entities, because VRS providers, including small entities, would be afforded more flexibility with VRS CA staffing.

Ordering Clauses

Pursuant to sections 1, 2, 4(i), (j), 225, 251 254 and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j) and (o), 225, 251, 254 and 303(r), document FCC 13–82 is adopted.

The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this document to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,
Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–15925 Filed 7–2–13; 11:15 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[MB Docket No. 11–43; DA 13–1438]

Inquiry Regarding Video Description in Video Programming Distributed on Television and on the Internet

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; solicitation of comments.

SUMMARY: In this document, the Federal Communications Commission (Commission) solicits public comment on issues related to video description in video programming that is delivered via both television and the Internet. The comments received in response to these inquiries will inform a report to Congress required by the CVAA on the status, benefits, and costs of video description on television and Internet-provided video programming, which must be completed no later than July 1, 2014.

DATES: Comments may be filed on or before September 4, 2013, and reply comments may be filed on or before October 2, 2013.

ADDRESSES: You may submit comments, identified by MB Docket No. 11–43, by any of the following methods:
Commission released a Report and Order on August 25, 2011, published at 76 FR 55585, September 8, 2011, reinstating the video description rules previously vacated by the U.S. Court of Appeals for the District of Columbia Circuit. Under the reinstated rules, certain television broadcast stations and MVPDs have an obligation to provide video description for a portion of the video programming that they offer to consumers. Video description is “the insertion of audio narrated descriptions of a television program’s key visual elements into natural pauses between the program’s dialogue.” It makes video programming accessible to individuals who are blind or visually impaired. The Media Bureau seeks comment on specific inquiries related to video description in video programming that is delivered via both television and the Internet, as the CVAA requires. The comments received in response to these inquiries will inform a report to Congress required by the CVAA on the status, benefits, and costs of video description on television and Internet-provided video programming, which must be completed no later than July 1, 2014.

2. Background. The video description rules require commercial television broadcast stations that are affiliated with one of the top four commercial television broadcast networks and are located in the top 25 television markets to provide 50 hours per calendar quarter of video-described prime time or children’s programming. In addition, MVPD systems that serve 50,000 or more subscribers must provide 50 hours of video description per calendar quarter during prime time or children’s programming on each of the top five national nonbroadcast networks that they carry on those systems. The rules also impose video description “pass through” obligations on all network-affiliated broadcast stations regardless of market size, and on all MVPDs regardless of the number of subscribers. Any programming aired with video description must include video description if it is re-aired on the same station or MVPD channel. The video description rules were reinstated as of October 8, 2011, and broadcasters and MVPDs were required to be in full compliance with the video description requirements beginning on July 1, 2012. Video description services for television are provided on a secondary audio stream, and typically a consumer can access video description through an on-screen menu provided by the home television receiver or set-top box. The Commission recently adopted rules requiring apparatus that is designed to receive, play back, or record video programming transmitted simultaneously with sound to make secondary audio streams available for video description services. Those rules go into effect on June 24, 2013, except for the rules that require approval by the Office of Management and Budget. In a separate rulemaking proceeding, the Commission recently issued a Notice of Proposed Rulemaking seeking comment on issues related to implementation of Sections 204 and 205 of the CVAA, which generally require that user interfaces on digital apparatus used to view video programming, as well as on-screen text menus and guides on navigation devices, be accessible to and usable by individuals who are blind or visually impaired.

3. Video Description in Television Programming. Section 713(f)(3)(A) of the Communications Act of 1934 as amended (the “Communications Act”), as added by the CVAA, directs the Commission to inquire about the following specific issues related to video description in television programming:

- The availability, use, and benefits of video description on video programming distributed on television;
- The technical and creative issues associated with providing such video description; and
- The financial costs of providing such video description for providers of video programming.

The financial costs of providing such video description for providers of video programming transmitted simultaneously with sound to make secondary audio streams available for video description services.

4. Other Issues. The Commission also seeks comments on other issues related to video description.

- The availability, use, and benefits of video description on video programming distributed on television;
- The technical and creative issues associated with providing such video description; and
- The financial costs of providing such video description for providers of video programming.
video programming and program owners.\textsuperscript{15} In accordance with Congress’ directive, we request comment on each of the issues set forth above, including information on pertinent developments since the video description rules were reinstated in October 2011. Specifically, we solicit data on the amount of video-described programming that is currently available to consumers on television, as well as the types of programming that are provided with video description. We seek comment on both programming that is video-described voluntarily and programming that is video-described by covered entities to comply with the Commission’s rules and programming that is video-described voluntarily. How much video-described programming is being provided voluntarily? We also seek comment on the extent to which consumers use video description services when viewing television programming, as well as the benefits to consumers of such services, including whether the benefits of video description extend to audiences without visual disabilities or the availability of video description indicated in program guides or other sources?\textsuperscript{16} If it is, is it indicated audibly, and is there a common industry method to indicate that the program is video-described?

4. We seek comment on any technical or creative issues involved with the provision of video-described television programming, whether related to the creation, distribution, or viewing of such programming. We request information regarding the costs of providing video description for video programming on television. What financial costs have been incurred by program owners and video programming providers and distributors, particularly large market broadcast affiliates and large MVPDs that are currently subject to the requirements, to create and distribute video-described programming? What financial costs, if any, have been incurred by network-affiliated broadcast stations and MVPDs to comply with the video description pass through requirements? We further ask commenters to provide information on any other relevant legal and policy issues regarding the provision of video description in television programming that can help inform the Commission’s report to Congress.

5. In the 2011 Video Description Order, the Commission also indicated that it would revisit the need for providing an exception to the video description pass through requirements\textsuperscript{17} and to the requirements applicable to subsequent airings of programs\textsuperscript{18} when the technology used to provide video description is being used for other program-related content.\textsuperscript{19} At that time, the Commission explained that eliminating the exception may lead covered entities to replace other program-related content (e.g., foreign language audio) with video description on the secondary audio stream or, alternatively, to provide video description on a third audio stream tagged in a particular manner (e.g., “visually impaired”), which could make it difficult for consumers to access.\textsuperscript{20} We seek comment on whether we should rescind the need for an exception for other program-related content. We note that the Commission has already addressed issues regarding the capacity to provide more than one audio stream in the Emergency Information/Video Description Order and concluded that it should not mandate more than two audio streams.\textsuperscript{21} Apparatus are required to make video description available only on a secondary audio stream.\textsuperscript{22} Further, in the Emergency Information/Video Description Order, the Commission adopted rules requiring that emergency information provided on a secondary audio stream override all other programming on the secondary audio stream, including video description.\textsuperscript{23}

\textsuperscript{16} See 2011 Video Description Order, 26 FCC Rcd at 11867–72, para. 51 (declining, at that time, “to require that the availability of video description on certain programs be publicized in a certain manner,” but stating the Commission’s expectation “that programmers, stations, and systems will provide this information to viewers in an accessible manner, including on their Web sites and to companies that publish television listings information”). See also User Interfaces/Programming Guides NPRM at 19–20, paras. 45–46.

\textsuperscript{17} See supra notes 9–10.
\textsuperscript{18} See 47 CFR 79.3(c)(3)–(4) (requiring certain television stations and MVPDs to include video description on subsequent airings for programs that have already aired with video description, “unless it is using the technology used to provide video description for another purpose related to the programming that would conflict with providing the video description”).
\textsuperscript{19} See 2011 Video Description Order, 26 FCC Rcd at 11863, para. 31.
\textsuperscript{20} See id. In the Further Notice of Proposed Rulemaking (“FNPRM”) adopted with the Emergency Information/Video Description Order, the Commission inquires whether an audio stream containing video description should include a particular tag (e.g., “VI”). See Emergency Information/Video Description Order, 28 FCC Rcd at 4928–29, para. 85. Any comments relating to this issue should be filed in MB Docket Nos. 12–107, 11–43. Comments are due July 23, 2013, and reply comments are due August 22, 2013. Effective Date PN at 1.
\textsuperscript{22} See id. at 4857, para. 49.
\textsuperscript{23} See id. at 4892–94, para. 26.
provide information on any other relevant legal and policy issues regarding the provision of video description on video programming distributed on the Internet that can help inform the Commission’s report to Congress.

7. Permit-but-Disclose. The proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the Electronic Comment Filing System available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules.

8. Comments and Replies. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments and Reply Comments may be filed using the Commission’s Electronic Comment Filing System (“ECFS”).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://fjallfoss.fcc.gov/ecfs2/.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

9. Availability of Documents. Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

10. People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the FCC’s Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

11. Additional Information. For additional information on this proceeding, contact Maria Mullarkey, Maria.Mullarkey@fcc.gov, of the Media Bureau, Policy Division, (202) 418–2120. Press contact: Janice Wise (202–418–8165; Janice.Wise@fcc.gov).

Thomas Horan,
Chief of Staff, Media Bureau.

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