

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

**COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

I. INTRODUCTION

The National Association of Broadcasters¹ (NAB) hereby responds to the Federal Communication Commission’s (FCC) Second Further Notice of Proposed Rulemaking on accessible emergency information.² NAB appreciates the FCC’s continued willingness to work with broadcasters and the blind and visually-impaired community to resolve a variety of technically challenging accessibility issues, including audible crawls of emergency information. All stakeholders in this proceeding share the goal of ensuring that persons who are blind or visually-impaired have timely access to emergency information.

Our comments below focus on two issues raised in the Second FNPRM: (1) the Commission’s role, if any, in determining a broadcaster’s prioritization of emergency information in audible crawls; and (2) whether the Commission should require broadcasters to include school

¹ NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies and the courts.

² *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*, Second Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 5186 (2015) (Second FNPRM).

closings and school bus schedule changes in accessible crawls in light of technical limitations. With respect to prioritization, NAB urges the FCC to allow broadcasters to evaluate emergency situations in their local communities and provide the most relevant information to their viewers based on the circumstances in each case. For school closings and school bus schedule changes, NAB respectfully requests that the Commission modify its rules to ensure that critical emergency information is not preempted by long school closing announcements on audible crawls. Technical limitations prevent broadcasters from simultaneously transmitting through audible crawls lengthy school closing announcements and other essential information for viewers affecting life, health, safety and property.³ That being said, broadcasters remain committed to ensuring that blind and visually-impaired viewers have access to school closing information, and thus believe continued collaboration among stakeholders is important as technology evolves.⁴

II. THE FCC SHOULD NOT IMPOSE EMERGENCY PRIORITIZATION RULES

As NAB noted in its Petition for Temporary Partial Exemption and Limited Waiver, current technology does not permit stations to prioritize specific emergency information over other life-impacting information if multiple crawls, or a crawl and a graphic, are shown visually.⁵ For example, if a hurricane is causing flooding, high winds, school closings and power failures, broadcasters cannot prioritize the more vital information, such as evacuation instructions, over an ongoing audible crawl containing less urgent information. Recognizing that in these situations broadcasters cannot convey all of the information aurally due to limitations with the secondary

³ 47 C.F.R. § 79.2(a)(2).

⁴ NAB and the American Foundation for the Blind and American Council of the Blind have been working closely together to improve accessibility for the blind and visually-impaired. We look forward to continuing these efforts.

⁵ Petition for Temporary Partial Exemption and Limited Waiver of the National Association of Broadcasters, MB Docket No. 12-107, at 12-13 (Mar. 27, 2015) (NAB Petition).

audio service (SAS), the Second FNPRM asks whether the FCC should “adopt rules regarding how covered entities should prioritize emergency information conveyed aurally on the secondary audio stream when more than one source of visual information is presented on-screen at the same time.”⁶ The Commission poses a number of questions about how such a prioritization scheme might operate.

As is clear from the challenge of writing the appropriate questions themselves, NAB urges the Commission to refrain from enacting one-size-fits-all rules. Given the fact-specific nature of emergencies, especially local ones, broadcasters are in the best position to determine how to prioritize the provision of critical information to their viewers, including those blind or visually-impaired. Because no one emergency or market is exactly like another, generic rules are more likely to hinder broadcasters’ ability to provide timely and relevant information to their local communities for several reasons.

First, no matter how carefully the Commission crafts prioritization rules, Mother Nature is unlikely to follow the script. When emergencies occur flexibility is necessary. Given the broad geographic diversity of the country, priorities will vary by broadcaster location and season. And, because every second counts when informing the public about an emergency, broadcasters should not be pausing to check the prioritization rules before creating crawls. Broadcasters have every incentive to ensure that all of their viewers receive the most timely and relevant information, especially in times of emergency.

⁶ Second FNPRM, ¶¶ 37, 41.

The Commission should also tread lightly in this arena because broadcasters' description and distribution of the news is an editorial decision.⁷ Broadcasters have extensive experience making editorial decisions regarding emergency information. NAB will continue to work with stations and stakeholders to further improve audible crawls based on stations' real-world experience as broadcasters implement audible crawls on the SAS before the November 2015 deadline.⁸

Most importantly, technical limitations directly impact stations' ability to prioritize various types of emergency information or to comply with an FCC-imposed prioritization plan. Broadcasters provide via crawls emergency information from a variety of sources including local authorities, the National Weather Service, state governments, the Federal government and their own reporters. This information is often granular, and can include storm tracking on a street-by-street basis, shelter instructions or preemptive evacuation information. Beyond the limited prioritization capability inherent in Emergency Alert System equipment,⁹ no technology currently exists to interpret the emergency information a TV station receives and automatically prioritize certain types of information over other notifications. Specifically, currently available systems lack the ability to prioritize immediately impactful emergency information over less urgent information including, as discussed below, school closings. Text-to-speech technology can only read the next alert in its

⁷ The Commission always should proceed cautiously when considering any rules "about program content." *Motion Picture Association of America, Inc. v. FCC*, 309 F.3d 796, 807 (D.C. Cir. 2002) (finding that FCC lacked authority to adopt challenged regulations because they "implicate[d] program content").

⁸ See *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*, Memorandum Opinion and Order, 30 FCC Rcd 5012, ¶ 16 (2015) (Accessible Crawl Extension Order).

⁹ 47 C.F.R. § 11.44. Presidential emergency messages take priority over any other messages. Presidential Emergency Alert Notifications are uniquely designed to allow the President to send a message to the American people within 10 minutes of a disaster. See *Emergency Alert System*, Federal Emergency Management Agency, <http://www.fema.gov/emergency-alert-system>.

queue. Given the lack of an automated solution for prioritizing audible crawls, the FCC should not require a specific prioritization regime. Doing so would have the unintended consequence of discouraging stations from running emergency crawls at all, which would not serve the public interest.¹⁰

Broadcasters operate in a two-audio environment (primary audio and a SAS), primarily due to multichannel video programming distributors' technical inability to accommodate more than two audio streams for each channel. Currently, some broadcasters will include two or more crawls on the bottom of the screen to convey additional information that consumers may find useful but does not further the protection of life, health, safety or property. For example, one crawl may contain emergency information and the additional crawl could convey business closings. Or, a broadcaster could use different crawls to provide information about different geographic regions of its coverage area. Regardless of broadcasters' varying approaches, there is no current solution to the technical and operational limitations that result from being restricted to only one additional audio stream (the SAS). Audible emergency notifications, video description and foreign language audio all utilize the same SAS. But, as the SAS can only distribute one audio signal at a time, only one line of crawl text can be audibly described at a time. The Commission should continue to keep the competing needs of all SAS users in mind when considering its rules for accessibility of emergency information.

As the Second FNPRM notes,¹¹ beyond including a second crawl, broadcasters may also include a graphic when conveying emergency information, such as a moving radar map. Recently, the FCC recognized the technical difficulties associated with graphics and audible crawls and

¹⁰ In fact, during many emergencies broadcasters with live studio capabilities will interrupt programming to report all relevant information as it develops. In such cases, stations will not rely on crawls to convey emergency information, especially the most vital to protecting life, health, safety and property.

¹¹ Second FNPRM. ¶ 40.

adopted a technical waiver of the requirement.¹² The challenge to integrate graphic information in audible crawls remains. Broadcasters are working with vendors to develop possible solutions before the November 2016 deadline.

For these reasons, it is important for the FCC to allow broadcasters to determine the best ways to prioritize information delivered to their viewers. Broadcasters have every incentive to provide the most relevant and critical information to their viewers and are in the best position to make those judgment calls. The absence of specific proposals illustrates the difficulty the FCC would have in crafting prioritization rules. Furthermore, NAB will continue to work with the blind and visually-impaired community to address their concerns about audible crawls and their practical limitations. These stakeholder discussions could provide useful guidance to the Disability Advisory Committee (DAC) and ultimately to the Commission itself.

III. BROADCASTERS SHOULD NOT BE REQUIRED TO INCLUDE SCHOOL CLOSINGS AND SCHOOL BUS SCHEDULE INFORMATION IN AUDIBLE CRAWLS BECAUSE THEY MAY BLOCK DISTRIBUTION OF MORE IMPORTANT EMERGENCY INFORMATION

In its Petition for Temporary Exemption, NAB described the problems created by including school closings and school bus schedule changes in the definition of emergency information that must be made accessible.¹³ Responding to NAB's Petition, the American Council of the Blind and the American Foundation for the Blind recognized that "[d]elivering all content audibly in those circumstances in which the content is particularly extensive may defeat the overall benefit of providing access to the most critical emergency information."¹⁴ NAB agrees. Rather than require

¹² The FCC granted NAB's Petition for Temporary Exemption and Limited Waiver, recognizing that no technical solution exists to audibly describe on-screen graphics. *See* Accessible Crawl Extension Order at ¶ 17.

¹³ NAB Petition at 11.

¹⁴ Comments of the American Council of the Blind and the American Foundation for the Blind, MB Docket 12-107, at 2 (Apr. 20, 2015).

the inclusion of a complete list of school closings and school bus schedule changes in audible crawls, the FCC should allow NAB and blind and visually-impaired stakeholders to work together to find a solution that informs consumers without interfering with the dissemination of more critical information.

For reasons NAB has previously identified,¹⁵ the Commission should modify its rules by removing “school closings and changes in school bus schedules” from the list of emergencies covered by Section 79.2(a)(2).¹⁶ Emergency alerts and related crawls are intended to preserve “life, health, safety, and property.”¹⁷ Effective alerts are timely, clear and succinct so as to ensure that viewers understand the danger and can act promptly. In tests conducted in early 2015, broadcasters found that audibly describing a complete list of school closings often took a considerable amount of time – in some cases over an hour. This is particularly prevalent in communities with multiple school districts. It is impractical to require a blind or visually-impaired consumer to listen for a protracted period of time just to learn if their school is closed or delayed. In addition, completing the required two repetitions¹⁸ of only school-related announcements on the audible crawl could well mean blocking use of the SAS for more important information, including information that – unlike school closings – directly impacts life, health, safety or property. If manually interrupted, a lengthy school announcement crawl will likely simply start over.

¹⁵ NAB Petition at 11.

¹⁶ The revised 47 C.F.R. § 79.2(a)(2) would read: “Emergency information. Information, 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. Examples of the types of emergencies covered include tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, and civil disorders resulting from such conditions, and warnings and watches of impending changes in weather.”

¹⁷ 47 C.F.R. § 79.2(a)(2).

¹⁸ 47 C.F.R. § 79.2(b)(2)(ii).

There are more effective methods to inform parents, students and school employees instead of including school closings and bus schedule changes in audible crawls. This information is often distributed to affected parents and school employees via a number of targeted means including robocalls, phone trees, texts, emails, Twitter, Facebook, school websites, over the radio and through specific smart phone applications.¹⁹ This targeted outreach is a far more efficient and effective method to contact parents and guardians with information that does not interest many viewers. One solution could be the inclusion of an audibly crawled statement saying, “due to inclement weather some schools have closed or modified their school bus schedule. Additional information is available on our website www.example.com, or at ____.” NAB is working closely with consumer groups to identify more appropriate methods to distribute school closing information. This includes informal polls and discussion groups about how blind and visually-impaired consumers receive school closing or bus schedule changes.

NAB does not support a requirement to provide school closing and bus schedule change information on the SAS only when no other emergency information is being audibly conveyed.²⁰ In that circumstance, there is likely no current emergency risk to life, health, safety and property and the crawl is not being offered to protect the public. If the FCC adopts that proposal, broadcasters

¹⁹ Increasingly, districts are using automated phone message systems to inform parents of school closings and important school events, and parents often report that this is a convenient way to be informed about what is happening at school. See *Giving Parents Options: Strategies for Informing Parents and Implementing Public School Choice And Supplemental Educational Services Under No Child Left Behind*, US Department of Education (Sept. 2007) http://www2.ed.gov/admins/comm/choice/options/report_pg14.html. Arlington Public Schools, for example, post school closing information on their home page, send emails, record a message on a hotline in both Spanish and English, post the information on public access channel bulletin boards, and call it in to local radio stations and TV stations. See *Emergency Announcements*, Arlington Public Schools, <http://www.apsva.us/emergencyalerts>. Many broadcasters also allow viewers to sign up online to receive text alerts automatically from the broadcaster itself when the station receives any school closing announcements. See, e.g., SchoolAlert, KSTP.com, <http://kstp.com/article/123/>.

²⁰ Second FNPRM, ¶ 46.

will likely run the crawls out of an abundance of caution to avoid running afoul of the rules. The end result could be that the SAS becomes a *de facto* school closing announcement channel in the winter. Given the length of school announcements, this would eliminate use of the SAS audio for video description or second language audio for large periods at a time. Indeed, the FCC’s previous determination to allow broadcasters to “pause” school-related alerts to avoid impacting video description²¹ underscores the difference between school closing/bus schedule information and emergency information.

To be clear, NAB does not question the need for emergency information crawls for events, such as severe weather, natural or man-made disasters or police activity, that impact public safety. NAB remains committed to working with consumer groups to address the school closing and school bus schedule issues so that relevant information is effectively and efficiently disseminated to meet their needs and expectations.

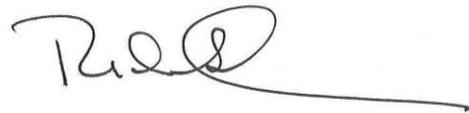
IV. CONCLUSION

NAB pledges to continue its work with the blind and visually-impaired community to ensure their timely access to emergency information. Broadcasters do not believe that the FCC’s adoption of rules limiting broadcaster flexibility to distribute emergency information will improve the quality and amount of information about specific local emergencies available to the public or the timely distribution of that information. In lieu of regulation, the FCC should rely on the good faith discretion of broadcasters and their natural incentives to deliver timely emergency information to affected viewers.

²¹ See *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*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 4871, ¶ 31 (2013). Even if stations paused school closing announcements as currently allowed the crawl will resume at some point and preempt all other SAS programming.

The FCC has appropriately recognized the many problems associated with including school closings and bus schedule changes in the SAS audible crawl, and should remove these categories from the list of emergencies covered by Section 79.2(a)(2). This action would allow broadcasters to focus more directly on their ongoing and positive dialogue with other stakeholders to address how local stations can meet the needs of blind and visually-impaired consumers in these instances.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal line extending to the right.

**NATIONAL ASSOCIATION OF
BROADCASTERS**

1771 N Street, NW
Washington, D.C. 20036
(202) 429-5430

Rick Kaplan
Jerianne Timmerman
Ann West Bobeck
Justin L. Faulb

Kelly Williams
Senior Director
Engineering and Technology Policy

August 10, 2015