

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
) MM Docket No. 99-339
)
Implementation of Video Description)
of Video Programming)

To: The Commission

**REPLY COMMENT OF THE NATIONAL TELEVISION
VIDEO ACCESS COALITION**

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SUMMARY

REPLY COMMENTS OF THE NATIONAL TELEVISION VIDEO ACCESS COALITION

Many of the opponents' reply comments echo past objections to the expansion of closed captioning. It is impossible to imagine that commercial television cannot add descriptions to programs if they so choose. Two organizations have been doing it for 10 years. Objectors gave little or no information on how descriptions can be phased into TV. Apparently objections would melt away if video descriptions were voluntary. But there is virtually no voluntary action.

The number of people potentially benefiting from video description range from 10 to 12 million. This increases as the population ages. And ophthalmologists report that many low vision patients lack visual acuity to respond to TV. MPAA statistic concerning blind people on welfare is offensive and irrelevant. Blindness and visual impairment strike people from all socio-economic backgrounds and ages. The National Federation of the Blind has a membership that at best is only a small fraction of the total blindness population. Not all members agree with NFB official statements including video description.

The majority of NFB members are congenitally blind and often do not relate to the visual world, but the overwhelming majority of the remainder of the visually impaired population still possess some residual vision or have had vision. Yet many congenitally blind find TV descriptions are very useful. NFB has a history of opposing many services to benefit the blind which the remainder of the population favors. While the NFB does provide some useful services, there exist differences of philosophy between NFB and the rest of the population. The other major national consumer organization, the American Council of the Blind, strongly supports video description.

Description will never be as pervasive as closed captioning. Descriptions can be inserted only during natural pauses in dialog, narration or music. Programs which are mostly verbal or musical should not require description. Other exemptions could apply, including live newscasts and undue burden based on closed captioning rules. Descriptions become the property of the copyright holder who has total control whether they are created in house or by an outside provider. Thus they can ensure that the descriptions do not violate the artistic integrity of the program.

Closed captioning is not considered unconstitutional even though captions are not merely a word for word rendering of the spoken dialogue. Captions flickering across the screen change the visual presentation by obscuring a portion of the screen. Also tone of voice, irony and emotional expressions are not conveyed in print. Descriptions are a "translation" of the visual elements into a verbally accessible presentation. A trained describer does not editorialize, interpret, explain or evaluate.

If you accept MPAA's premise that there is no reason why blind people should relate to anything which is partially visual, then blind people should stay home in isolation. We cannot agree that descriptions only marginally enhance TV. Descriptions are not a substitute for good vision, but they are infinitely preferable to nothing. No study indicates that blind people have different viewing desires from the general population. AFB's study, "Who's Watching?" was misinterpreted. People did not list program preferences. They listed types of programs they wished to have described because of strong visual elements making these programs much more difficult to understand without descriptions.

Making TV accessible to blind and low vision people is a civil rights issue. Broadcasting should be accessible to everyone. Does this include the deaf and hard of hearing but exclude the

blind and visually impaired? Blind and low vision people do tune in to non-described TV but this is a testament to its importance in our society even when only partially accessible. TV is a quality of life issue. We must begin to phase in descriptions so that a backlog of described programs will build up as it did during the early days of closed captioning. The broadcast and motion picture industries are multi-million dollar enterprises. The broadcast industry has received a gift of free spectrum space worth billions of dollars. Why can't these industries use their resources to solve problems connected with descriptions?

Some commenters misread Congress's failure to mandate video description as a prohibition on FCC action on video description. Nothing in the Act or its legislative history suggests that Congress intended to restrict the Commission from acting in this area. The FCC regularly requires its licensees and regulatees to make announcements and disclosures which they might not otherwise make and in a format they might not otherwise adopt. The First Amendment permits the government to regulate the time, place, and manner of speaking. Because video description is essentially a content-neutral translation of speech, it is not subject to the strict scrutiny analysis of laws that prevent people from speaking or compel them to say what they don't want to say.

REPLY COMMENTS OF THE NATIONAL TELEVISION VIDEO ACCESS COALITION

1. These Reply Comments are filed by the National Television Video Access Coalition (“the Coalition”), a group of leading organizations concerned with visual impairment issues. A list of entities making up the Coalition is attached as Appendix A. The first section of these comments deals with the benefits and characteristics of video description. They do not contain additional comments on issues sufficiently covered in our original reply comments. The second section deals with legal aspects. Detailed technical comments may be found in submissions by others.

Deja vu

2. In words ascribed to Yogi Berra, this is deja vu all over again -- echoes of objections by the TV and motion picture industries at the birth of captioning.

3. It is hard, if not impossible, to imagine that commercial for-profit industries are not capable of doing what one non-profit organization (WGBH) and one for-profit company (NTN) have been doing for more than 10 years -- to make their products accessible to millions of visually impaired and blind individuals.

4. We believe a great many comments filed by broadcast and motion picture industries are mean spirited, and, in the case of MPAA, in part offensive to blind and visually impaired people.

5. There was little or no information on how mandated descriptions can be phased into the television world, only a long laundry list of reasons why it should never take place. On one hand they say there are so many technical, legal and financial barriers to the production of descriptions it is a wonder that for the past 10 years any programs could have been aired with descriptions. On the other hand, it appears that these technical and legal barriers melt away if provision for

access is to be voluntary. Considering that the record of voluntary production of descriptions by commercial entities is virtually non-existent, one wonders how NAB and MPAA for example, can suggest the voluntary approach with straight faces.

NFB and MPAA numbers

6. We do not agree with the statistics concerning blindness and visual impairment cited by the National Federation of the Blind (NFB) and The Motion Picture Association of America (MPAA). The FCC NPRM 99-339 cites estimates of the number of persons with visual disabilities ranging from more than eight million (U.S. Department of Commerce/Census) to nearly twelve million (NCAM). However, the 1990 census Survey of Independence and Program Participation (SIP) cites a figure of ten million. After ten years this figure certainly is higher.

In addition, ophthalmologists report that many patients with low vision do not have the visual acuity to respond adequately to the television screen. This number is increasing daily as the population ages.

1. MPAA cites a statistic of only 132,935 blind people receiving Social Security welfare payments, thus implying that the majority of blind people are on welfare. This number has no validity in assessing the number of blind individuals. Furthermore this is offensive. Actually the overwhelming majority are not and never were on welfare.

Equal opportunity player.

8. Blindness and visual impairment is an equal opportunity player, striking people from all socio-economic backgrounds and ages. Indeed, a former president of the National Association of Broadcasters (NAB) and a U.S. Secretary of State were among users of the Metropolitan Washington Ear's reading services.

9. The majority are above fifty years of age. This is a difficult group to reach because most do not receive welfare, have not participated in rehabilitation, and have not chosen to become affiliated with any organizations of and for the blind and visually impaired.

10. NFB claims a membership of 50,000. Most of us in the field of work for the blind seriously doubt that they have an active membership of that number, and we know that NFB officials do not speak for all their members. We have heard many members disagree with some of NFB's official pronouncements, including views on video description. To our knowledge the NFB does not have a mechanism in place to poll their members on this issue. But even if we concede that the membership figure is accurate, their membership constitutes only a fraction of one percent of the blind and visually impaired population who could benefit from mandated descriptions. The NFB is entitled to their opinions, but they are not entitled to dictate what type of services the entire blind and low vision population should or should not have.

11. The majority of NFB members are congenitally blind and have never lived in a visual world, but the overwhelming majority of the remainder of the blind and low vision population still possess some residual vision or have had vision in the past.

12. Some of NFB's members may not appreciate the value and importance of visual information, but this is by no means true of all congenitally blind people. According to the study, "Who's Watching?" conducted by The American Foundation for the Blind and funded by the U.S. Department of Education, congenitally blind people reported that descriptions were very helpful in comprehending television programs. And at the NFB annual conferences described movies from the Narrative Television Network and Descriptive Video Services have been a very popular feature.

13. NFB has a repeated history of opposing many services to benefit the blind which the remainder of the blind and low vision population were actively promoting. They also have a history of being on both sides of the same issue at one time or another. This occurred for raised bump platform edges to warn people of the drop off in the Washington Metro subway system. At first these warnings were considered by the NFB to be unnecessary for blind people. Indeed, NFB stated that blind people had as much right as sighted people to fall off subway platforms and be killed. Later they did an about face when substantial funds became available for a study of infrared equipment that was supposed to help people locate the edge. This equipment was later rejected by the government and Metro. Now Metro is installing platform edges with raised bumps.

14. NFB has also shifted its position on video description. In the fall of 1995 and in July of 1996 they apparently were supportive at meetings we attended (as guests of the MPAA) with representatives of five major studios in Hollywood and later at another meeting in FCC headquarters in Washington D.C. NFB has since reversed this apparent support.

Philosophical differences

15. While the NFB does provide some services useful for blind people, there exists extreme differences of philosophy between NFB and the rest of the low vision and blind population.

16. It is important to understand the NFB philosophy. They believe that "if a blind person has proper training and opportunity, blindness is only a physical nuisance" and that blind people can learn to do almost everything that sighted people do. They reject a great many services because they believe these will make it appear that blind people are incompetent, always needing special help from sighted people. NFB fears this will make it more difficult for blind people to find employment.

17. Their members do not appear to empathize with people who lose vision later in life and who may also have other physical problems. There is little understanding that people who have at one time lived with vision (the majority of "blind" people) wish to continue to relate to the visual world as much as possible. This is one of many reasons why descriptions are so important.

18. Finally, NFB is one of two major nationwide consumer membership organizations. The other, the American Council of the Blind (AFB), is strongly and thoroughly supportive of mandating video description.

19. Further on statistics, we respond to MPAA's statement that sales figures for described videos are very low. There are two major causes for this Blind and low vision people who have managed to learn of the existence of described videos mostly borrow them free of charge from libraries serving the blind throughout the country. They simply order the videos by phone and receive them in the mail. When they have finished with the videos they can merely reverse the address card on the container and leave it for the postman. The video will be returned to the library postage free. Under these circumstances it is easy to understand why most people would not choose to purchase them. State level special needs librarians report that they cannot keep described videos on their shelves.

Services not well known

20. The second reason is that the majority of blind and low vision people who could enjoy the descriptions do not know about them because these people are not affiliated with any organization of and for the blind. It is difficult to gain this information from other sources unless one happens to know someone who uses the videos. Even after 60+ years of The Library of Congress Talking Book Program, large numbers of people losing vision later in life never have

heard of the library services. Ophthalmologists are notoriously remiss in passing this information to their patients who can no longer effectively read ordinary print. It is not uncommon for those of us engaged in work for the blind to meet people who have been deprived of reading for years because they did not know the library service is available to them. Described videos have been around for less than ten years so it is not surprising that they are even less known than Talking Books.

21. Aside from questioning the authority of the FCC to impose the rule, and bemoaning technical and financial issues, the objections to mandated descriptions fall into three main categories: copyright, compelled or forced speech, and the lack of compelling need because, they aver, descriptions only enhance television rather than transforming it from an inaccessible medium to an accessible one as closed captioning does for the deaf and hard of hearing.

22. Before commenting on these objections we will discuss several other points.

Description not all pervasive

23. Video description will never be as pervasive on television as closed captioning is. Since descriptions can only be inserted during natural pauses in dialog or music, programs which are essentially almost totally verbal or musical should not require description.

24. This is true for live newscasts. (However, it would be useful if news programs would choose to verbalize the names of people shown on the screen or if these names were available on the SAP channel instead of the print version flashed on the TV screen.)

25. For most live programs it is impractical to apply descriptions, with the possible exceptions of presidential inaugurations or funerals or perhaps the opening of the Olympics. (The two inaugurations of President Clinton were successfully described.) Sports programs which are broadcast over local radio stations should also be exempt for obvious reasons.

Other exemptions

26. Game shows, shopping programs, foreign language programs produced outside the United States and all programs which can demonstrate undue financial burden based upon the regulations already existing for closed captioning should be exempt from adding descriptions. These programs are mostly verbal and/or have a lower priority for visually impaired people. Short TV promos and advertisements should also be exempt just as they are for closed captioning.

28. However, there are certain minor modifications which some programs could make which would be extremely useful for visually impaired people. For example, if QVC, the shopping network, would verbalize the telephone numbers required to purchase the products, it would reach a larger audience and increase the number of buyers.

28. C-Span is another case in point. On the radio they manage to verbally identify the people who are speaking. Why can't they do the same for television?

Copyright etc.

29. Now as to those supposed copyright problems, first amendment violations and "compelled or forced speech". Others have cited case law and real experience to answer these objections. But common sense asks: How can unsurmountable difficulties exist with copyright issues when both DVS and NTN have never encountered them during the past ten years?

30. Descriptions added to a program or movie are piggybacked onto the rights of the copyright holder. They become the property of the copyright holder. Producers and copyright holders will have total control over the descriptions whether they create them in house or contract with an outside description provider. They can ensure that the descriptions do not violate the artistic integrity of the program.

31. Since the UK has already mandated descriptions for television, one wonders if the MPAA will create a dispute with the World Trade Organization. If these issues can be worked out in the UK, why can't they work in our country?

32. Closed captioning is not considered unconstitutional in spite of the fact that captions are not merely a word for word rendering of the spoken dialogue into print. Because of time constraints, rewording or omissions do occur. Sound effects must be translated into the printed word. And captions flickering across the TV screen certainly change the visual presentation by obscuring a portion of the screen. Also tone of voice, irony and emotional expressions are not conveyed in print.

33. Therefore, why should video descriptions, which are also an alternative version just as captioning is, be considered unduly coercive? People need not hear them unless they choose to. These descriptions are merely a "translation" of the visual elements into a verbal presentation accessible to blind and low vision people. Apparently, according to the MPAA, it is preferable not to have descriptions rather than making their work accessible to a larger audience.

34. It is true that a written script must be created. The essential visual elements on the screen plus the amount of available time for the description without stepping on lines totally drives the content of the descriptions. A properly trained describer understands that what goes in the eye must come out the mouth without editorializing, interpreting, explaining, or evaluating. After all, producers and copyright holders will have total control over descriptive content and could change the wording or voicing of any scene which they do not believe adequately reflects the intent of the writer or artist.

Offensive Suggestion

35. MPAA states that since television is primarily visual there is no reason to make it accessible to blind people. This is also highly offensive. Television is a combination of pictures and sound just as life itself is a combination of the visual world and the world of sound. If you accept MPAA's premise that there is no reason why blind people should attempt to relate to anything which is in part visual, then blind people would do well to stay home, listen to music, read only books on tape or in braille, and never bother to participate in mainstream activities which in any way involve vision. This is not the way blind people in general choose to live. They strongly wish and need to become a part of mainstream society.

36. We do agree that since spoken dialogue and sound effects are equally accessible to low vision and blind people as they are for sighted viewers, television, even without descriptions, is more understandable to sight-impaired people than it would be without closed captioning to deaf and hard of hearing people. Having said this, we certainly cannot agree with MPAA's statement that descriptions only marginally enhance television for low vision and blind people.

37. Without descriptions, sight-impaired viewers are cut off from facial expressions, body language, actions, proper identification of characters, physical appearance of people, their mode of dress, settings, written credits, subtitles etc. During most long silences one does not have a clue as to what is happening on the screen. Depending upon the type of program, the difference between programs with or without descriptions can be enormous.

TV is blind to the importance

38. How can anyone, much less the television industry, say that television is only marginally important? It is, for better or worse, one of the most important mediums in our society. It supplies information, shapes opinions and yes, it also provides entertainment which is a window

to our culture and a shared experience with family, friends and coworkers. It can help blind and visually impaired people live better lives and become better citizens. To be largely cut off from it is to become socially marginalized. People who have had, or still have some vision do not wish to stop relating to the visual world and be forced to focus only upon the world of sound. There is indeed a compelling state interest to make it possible for this group to more fully participate in society and become better and more informed people. Descriptions are not a substitute for good vision, but they are infinitely preferable to doing without them.

39. Questions have also been raised about the viewing habits of the blind. We know of no study or no logical reason why anyone should assume that as a group their preferences differ from the population in general. Many people with sight problems are older and/or retired with freedom to watch television during the day if they choose. However, this does not mean that they all go to bed promptly at 6 p.m. and never watch in the evening when prime time programs are aired.

40. AFB's study, "Who's Watching?" has been misinterpreted. People were not listing program preferences but were instead listing the types of programs they most wished to have described because of the strong visual elements which make these programs much more difficult to understand without descriptions. Game shows, music or newscasts for example require little or no descriptions and would therefore not be at the top of anyone's list.

Civil rights and quality of life issues.

41. Making television accessible to blind and low vision people is a civil rights issue. Broadcasting is supposed to be accessible to everyone. Does this include the deaf and hard of hearing but exclude the blind and visually impaired? Yes, blind and low vision people do watch, or attempt to watch non-described television but this is actually a testament to its importance in

our society even when only partially accessible. People who cannot adequately see the TV screen watch with varying degrees of frustration, apparently preferring only half a loaf or less to nothing at all. This does not mean that there is no compelling reason to restore the missing visual elements as much as possible. This is also a quality of life issue. Why should the broadcast and motion picture industries assert that television should be accessible, including entertainment, to the population in general but not to millions of low vision and blind people? Is this group not equally entitled to a quality of life which is routinely available to everyone else?

Phasing in

42. We must begin to phase in descriptions for programs which require them so that a backlog or library of described programs will build up as it did during the early days of closed captioning. This will make it possible for blind and low vision people to enjoy ever larger numbers and varieties of described programs in the coming years.

Standards

43. Some objectors have mentioned standards. From Washington Ear's 19 years of experience in providing descriptions for live theater productions, we know that what most people expect is the ability to understand what is taking place on stage without confusion via descriptions of the essential visual elements. Everyone realizes that because of time limitations it is impossible to describe every aspect of the visual presentation of any scene, let alone the entire play. When the audience laughs we want to be able to laugh with everyone else because we have heard what humorous action is silently occurring on stage.

44. Blind people know if the descriptions are inadequate or confusing, or if the delivery is lacking in some manner. They could not know in the theater, and do not know in television what

should have been described and was omitted unless someone with normal vision tells them about it.

Quality of product

45. We hope that producers of programs to be described will want to ensure that the quality of the descriptions matches the quality of the program. If this is faithfully done, in most cases the descriptions will be received with appreciation, not criticism. We strongly recommend that if descriptions are to be created by people or organizations with no previous experience with descriptions, proper training should be a vital prerequisite before signing on with them.

Where there's a will there's a way

46. The broadcast and motion picture industries are multi-million dollar companies. They employ very talented people. The broadcast industry has received a gift from the government of free spectrum worth billions of dollars. It is difficult for us to understand why these industries cannot use their resources to solve any problems connected with producing descriptions, particularly since descriptions have already been produced for television for more than ten years. We do not believe that they cannot find workable solutions if they only choose to look for them.

47. Finally, to end on a more positive note, responses from the deaf community were truly heart warming. Because they, too, suffer from a severe sensory deprivation, they understand better than most just how much it means to be able to access television. They join with us in hoping that in the very near future all Americans will have the right to fully access television regardless of the nature of their disability.

THE FCC IS FULLY AUTHORIZED TO MANDATE VIDEO DESCRIPTION

As the Commission noted in the NPRM, Congress has charged it with the mission of “mak[ing] available, so far as possible, to all people of the United States, a rapid, efficient, ...

radio communications service.” 47 U.S.C 151. Despite this direct charge, and despite Congress’s stated policy that video programming should be accessible to the visually impaired, a number of commenters suggest that the FCC lacks authority to mandate video description. These comments reflect both a failure of logic and a lapse of statutory construction principles. The theory goes that Congress must not have wanted the FCC to have the authority to mandate video description because it specifically *required* the Commission to implement closed captioning rules but imposed no such mandate with respect to video description. The theory fails on several counts.

First, Congress did nothing to restrict or limit the normal plenary authority granted to the Commission by section 1 of the Communications Act to regulate communications in the public interest. Congress has no trouble telling the FCC explicitly when it is restricting the Commission’s normal discretion to exercise its authority. A recent example was the adoption of Section 309(i), which precluded the FCC from using lotteries to award licenses. Balanced Budget Act of 1997, Section 3002(a)(I). There is no reason whatsoever to impute or fabricate a Congressional restriction where none was adopted. Indeed, if we are looking to impute a Congressional intention from the language of the statute, quite the opposite is the case, for Congress told the Commission to take measures to “ensure” that video programming is accessible to the visually impaired. It is unclear how the Commission could possibly ensure video accessibility without adopting some sort of mandatory program.

Logically, the fact that Congress did not affirmatively direct the Commission to adopt video description rules cannot possibly be read as directing the Commission *not* to adopt such rules. It simply means that Congress left the matter to the discretion of the FCC. The easiest and most straightforward way of reading Section 713 is that:

- a) Congress directed the Commission to adopt closed captioning rules;
- b) Congress directed the Commission to study video description;
- c) Congress directed the Commission to ensure video *accessibility* but did not specify the means by which that should be accomplished. Video description is obviously one means of ensuring that accessibility.

In other words, Congress identified the accessibility problem and told the Commission to solve it, but it did not require the Commission to employ video description per se for that purpose. The Commission is therefore acting in compliance with the Congressional directive by proposing the most readily available solution to the video accessibility problem. How some commenters can glean from the actual language of the statute a *prohibition* on regulatory action is unfathomable. It's just not there.

Not only is no such prohibition in the text of the statute, but there is no indication in any of the legislative history that Congress intended to restrict the Commission from acting. All we can deduce from the history of the statute is that Congress was not prepared to mandate video description itself, leaving it to the FCC to study it and then act accordingly.¹ Surely if Congress had intended the dramatic step of forbidding the Commission from acting on the matter which it had just been directed to study, there would have been some expression of that intention either in the statute itself or in the legislative history. There is no such expression because that was not Congress's intent.

In this regard, we reiterate the discussion in the Coalition's original comments in this Docket regarding the Commission's analysis of its authority to promulgate rules with respect to

¹ It does appear that the Conference Committee deleted language in the House bill indicating that the Commission could adopt regulations promoting video accessibility after the study was completed, but no explanation for the deletion is provided in the conference report. H.R. Conf. Rpt No. 104-458 at 184. (1999) Since the FCC plainly already had the authority to adopt such regulations, the language may well have been deleted as unnecessary.

non-telecommunication information services in the Section 255 proceeding. The Commission there considered whether the absence of an express Congressional mandate to make non-telecommunications services accessible to the disabled somehow acted as a limitation on its ordinary power to regulate in the public interest. The Commission concluded that there was no such implied limitation and proceeded to adopt appropriate rules. The Commission should follow the same theory here.

VIDEO DESCRIPTION IS A REASONABLE REGULATION OF THE MANNER OF BROADCASTING

A number of commenters challenge the proposed rule as a violation of the First Amendment because it compels them to engage in speech which they would otherwise not engage in. These concerns are misplaced. The Commission routinely requires its licensees and regulatees to broadcast information or material which they would not otherwise broadcast without raising First Amendment issues. It requires broadcasters, for example, to broadcast call sign information, licensee ownership information, renewal application information, promotional consideration disclosures, and political sponsorship information. It requires closed captioning of considerable programming, a process which in itself translates the spoken word into a readable format stripped of the various nuances that audible speech would add to the written word. No one has suggested that these regulations constitute impermissible “compelled speech” by the Commission. Video descriptions fall into the same category.

There are two key considerations to take into account in conducting a First Amendment analysis of this issue. First, video description is entirely content-neutral. The “compelled speech” cases deal with situations in which a speaker was being forced to convey a message with which it disagreed or about which it preferred to remain silent. Wooley v. Maynard, 430 U.S.

705 (1977); Pacific Gas and Electric v. Public Utilities Commission, 475 U. S. 1 (1986). No such considerations obtain here. The creator of each program is not restricted at all in the message it conveys; the proposed regulation has no bearing on the content of the material presented by any speaker. The regulation merely requires the speaker to translate that message – whatever it is – into a form that is accessible to more members of the audience.

The appropriate conceptual framework for evaluating this issue is as a “time, place and manner” restriction. The courts have consistently upheld reasonable regulation of how speech is exercised, as opposed to what speech is uttered. The theory is that speech is not unduly burdened so long as the content is not impacted and people are not precluded from speaking at all. Kovacs v. Cooper, 336 U.S. 77, 81-2 (1949). (“Most obviously, complete speech bans, unlike content-neutral restrictions on time, place and manner of expression...are particularly dangerous because they all but foreclose alternative forms of disseminating certain information.” 44 Liquormart v. Rhode Island, 517 U. S. 484, 501 (1996)).

The regulation at issue here merely requires mass media distributors to deliver whatever message they are delivering in a form accessible to the blind. The Commission’s regulations have long required broadcasters who broadcast primarily in a foreign language to broadcast their renewal announcements in that foreign language. 47 CFR 73.3580(d). The courts of the District of Columbia require eviction notices to be delivered in both Spanish and English. No one contends that it is a violation of the First Amendment for businesses to be required to deliver these important messages in both English and another language. In effect, video description is a translation of the programmer’s message into a “language” which the visually impaired can understand. As with all translations, the translated video description version is not exactly like the original, but, as with all translations, video description attempts to be as faithful to the

original as possible. The video distributor is only being “compelled” to deliver the message of its choice in an additional form, and such non-intrusive, non-content-related restrictions pass constitutional muster by a wide margin.

CONCLUSION

For the reasons set forth above and in our original Comments, the National Coalition urges the Commission to promptly adopt the proposed rules. A list of the entities comprising the Coalition is attached.

Respectfully submitted,

National Coalition for Video Access

By _____
Dr. Margaret Pfanstiehl

Donald J. Evans

¹ It does appear that the Conference Committee deleted language in the House bill indicating that the Commission could adopt regulations promoting video accessibility after the study was completed, but no explanation for the deletion is provided in the conference report. H.R. Conf. Rpt. No. 104-458 at 184. (1999) Since the FCC plainly already had the authority to adopt such regulations, the language may well have been deleted as unnecessary.

NATIONAL TELEVISION VIDEO ACCESS COALITION

American Association of Retired Persons
American Council of the Blind American
Foundation for the Blind
American Library Association
Association for Education and Rehabilitation of the Blind and Visually
Impaired Association for Macular Diseases
Blinded Veterans Association
Foundation Fighting Blindness
Gray Panthers
Jewish Social Service Agency
Macular Degeneration International
Metropolitan Washington Ear
National Association of Parents of Visually Impaired
National Association for Visually Handicapped
National Council on the Aging
National Organization on Disability
Prevention of Blindness Society
World Institute on Disability

Coordinators:

Dr. Margaret and Cody Pfanstiehl
426 Branch Drive
Silver Spring MD 20901-2617