

FCC Expands Emergency Alert Access Obligations for Equipment Manufacturers and MVPDs

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Late last week, the FCC released [a Second Report and Order and Second Further Notice of Proposed Rulemaking](#) imposing additional emergency alert accessibility obligations on both device manufacturers and multichannel video programming distributors (MVPDs) pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). The new requirements are designed to make access to emergency information easier for individuals who are blind or visually impaired. The initial obligations will be effective at the end of 2016, and comments will be due on the FNPRM 30 days after publication in the Federal Register.

When displaying an emergency alert such as an on-screen crawl, MVPDs are currently required to provide a secondary audio stream with an audible version of the alert displayed. Manufacturers of video playback devices (e.g., TVs, tablets, smartphones) must then provide a mechanism with which to access that secondary audio stream when consumers hear the aural emergency alert tone.

Consumers have noted that the methods of accessing the audio alerts are sometimes too difficult, and for some consumers, impossible. By December 20, 2016, covered manufacturers must ensure that the mechanism to access the secondary audio stream on their device is “simple and easy to use.” Note, however, that industry will have flexibility in deciding how they will meet that requirement, because the FCC has declined to provide specific guidance. In other proceedings implementing the CVAA, the FCC has decided to rely on complaints and enforcement proceedings to determine the meaning of key terms and requirements.

Additionally, MVPDs will soon be required to pass through the secondary audio stream when they permit consumers to view linear programming on their mobile devices through MVPD-provided apps and plugins. However, device manufacturers are not required to guarantee that MVPD apps running on their devices are compliant with this obligation, and this requirement does not affect over-the-top (OTT) services like Netflix or Hulu.

Finally, the FNPRM seeks input on three questions: (1) whether the FCC should adopt rules regarding the prioritization of simultaneous displays of emergency messages; (2) whether school closings should continue to be announced on secondary audio streams (which some have argued is overly burdensome); and (3) whether the MVPD apps that allow consumers to view linear programming ought to be required to make the secondary audio stream “simple and easy” to activate.

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Leah Rabkin, a summer associate, contributed to this post.