

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:

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

MB Docket No. 12-107

**COMMENTS OF THE SOCIETY OF BROADCAST ENGINEERS, INC.
IN SUPPORT OF EXPEDITED RETROACTIVE EXTENSION OF WAIVER**

The Society of Broadcast Engineers, Inc. (“SBE”)¹ submits these comments in support of the National Association of Broadcasters’ (“NAB”) Request for Expedited Extension of Waiver (the “Waiver Request”).² SBE respectfully urges the Commission to grant the Waiver (1) on a retroactive basis and (2) for a period lasting until the Commission makes a final determination regarding the rule modifications raised in NAB’s pending Petition for Rulemaking and Extension of Waiver (the “Rulemaking Petition” and, together with the Waiver Request, the “Requests”).³

¹ SBE is the association for broadcast engineers and multimedia technology professionals with over 5,000 members worldwide.

² National Association of Broadcasters, *Request for Expedited Retroactive Extension of Waiver of the National Association of Broadcasters*, MB Docket No. 12-107 (filed Nov. 27, 2024).

³ National Association of Broadcasters, *Petition for Rulemaking and Extension of Waiver of the National Association of Broadcasters*, MB Docket No. 12-107 (filed Nov. 15, 2024).

I. There is Good Cause to Briefly Retroactively Extend the Waiver While the Commission Considers the Rulemaking Petition’s Proposals

The Requests deal with a provision of 47 C.F.R. § 79.2(b)(2)(ii) (the “Rule”), which requires broadcasters to provide aural description of visual, non-textual emergency information in non-newscast programming. Due to the unavailability of viable compliance options, the FCC has previously waived the foregoing provision of the Rule multiple times in succession.⁴

Through its Requests, NAB now seeks a brief additional waiver period while the Commission considers a Rule clarification that, if adopted, would likely foreclose the need for future similar waivers.⁵ In this regard, there is ample good cause to grant NAB’s Waiver Request, given that a grant would: (1) simply preserve the years-long status quo from prior to the waiver’s recent expiration, during which broadcasters in nearly all cases already made accessible the critical details of emergencies; (2) allow the Media Bureau time to consider NAB’s Rulemaking Petition, which could finally resolve the underlying issue that has already consumed a great deal of Commission and public resources through the many prior waiver proceedings; (3) ensure that stations could continue to provide the maximum amount of emergency information to all viewers without fear of penalty due to unclear compliance obligations; and (4) establish a time period for

⁴ See, e.g., *Media Bureau Seeks Comment on National Association of Broadcasters Petition for Rulemaking and Extension of Waiver of Accessible Emergency Information Requirements*, Public Notice, DA 24-1184 (Nov. 25, 2024) (recounting waiver history).

⁵ Per the Media Bureau’s instructions in its December 6, 2024, Public Notice seeking comments on NAB’s Waiver Request, SBE “limit[s] [this] submission[] to the question of whether the Bureau should grant a retroactive extension of the waiver, and if so, the appropriate timeframe of such a waiver.” *Media Bureau Seeks Comment on National Association of Broadcasters Request for Expedited Retroactive Waiver Extension*, Public Notice, DA 24-1231 (Dec. 6, 2024). However, due to the interrelated nature of NAB’s Waiver Request and Rulemaking Petition, SBE notes that it also supports the Rulemaking Petition. Fundamentally, the public interest would be served by a grant of both Requests given that together they would bring regulatory certainty to the Rule’s language while simultaneously ensuring that the blind and visually impaired continue to receive all critical details available to other viewers regarding an emergency.

the waiver that is no longer than necessary, given that the waiver would be tied to the disposition of the proposal set forth in NAB’s Rulemaking Petition.

Broadcasters have been and remain strongly committed to accessibility for all viewers, including by providing detailed emergency information to the entire disability community and, as relevant here, the blind and visually impaired specifically. However, as SBE, NAB, and other industry members have previously explained, “despite sincere, protracted industry investigation and efforts, there continues to be no viable technical solution to allow for automated creation and delivery of aural descriptions for visual non-textual emergency information, such as dynamic maps of an unfolding event.”⁶ NAB’s quarterly status reports across the last 18 months affirm the continued accuracy of those prior statements.⁷ And SBE is unaware of any developments that alter those prior statements—there is still no automated way for broadcasters to comply with the non-textual component of the audible crawl rule.

Moreover, SBE shares NAB’s concern that a viable technical compliance solution may not be developed for quite some time.⁸ As a consequence, SBE fully supports the underlying purpose of NAB’s Requests—to find a viable and certain compliance path that accomplishes the Rule’s underlying goal of ensuring that all members of the disability community receive the critical details regarding an emergency that are available to other viewers. NAB’s Waiver Request must be viewed in light of that context. Put succinctly, any additional waiver period

⁶ *Comments of the Society of Broadcast Engineers, Inc.*, MB Docket No. 12-107 (filed Apr. 24, 2023); *see also, e.g., Reply Comments of the Four Affiliate Associations*, MB Docket No. 12-107 (filed May 1, 2023); *Ex Parte Letter of Support of Society of Broadcast Engineers, Inc.*, MB Docket No. 12-107 (filed May 23, 2023).

⁷ *See, e.g., Audible Crawl Status Report*, MB Docket No. 12-107 (June 3, 2024) (noting that “one private company . . . may be in the very early stages of developing” an automated compliance solution (emphasis added)).

⁸ *Waiver Request* at 6.

would further a meaningful attempt to resolve this proceeding and potentially foreclose a need for additional waivers, rather than continuing to wait on technical solutions that are likely still years away from development.

In this regard, and as NAB has explained, the current text of the relevant portion of the Rule does not clearly state that it may be satisfied by providing in an accompanying crawl equivalent critical details of an emergency as those conveyed by the non-textual information being displayed. Instead the Rule requires “an aural representation of” the “visual emergency information.”⁹ And, of course, precise aural description of non-textual content (usually, e.g., a radar or graphic) containing emergency information is a very different matter than conveying emergency information that is *equivalent* to that depicted in the non-textual content.

Due to the foregoing uncertainty regarding the Rule’s compliance requirements, NAB reports that since the expiration of the last waiver, “numerous large television station groups have ceased the display of . . . weather radar maps and similar visual images.”¹⁰ SBE is also aware of a number of groups that have stopped displaying such graphical content due to compliance concerns.¹¹ This unfortunate result is directly contrary to the Rule’s goal, given that—due to regulatory uncertainty—*less* information is now being provided to viewers regarding emergencies, diminishing broadcasters’ ability to best serve the public interest.

⁹ See 47 C.F.R. § 79.2(b)(2)(ii).

¹⁰ *Waiver Request*, at 2.

¹¹ For instance, many stations in areas that are regularly affected by severe weather typically use the lower-third to display both a text crawl and graphical radar map that together highlight areas that are under watches, warnings, and the like. The critical details of any emergency addressed by the crawl and the radar are the same—generally, e.g., the type of emergency and the areas that will be affected thereby. However, because the crawl does not precisely mirror and/or describe the graphical content of the radar map, stations have elected to remove such radar maps now that the waiver has expired.

Fundamentally, restoring the waiver during the pendency of NAB’s Rulemaking Petition will allow stations to continue to provide the maximum amount of information regarding emergencies—whether in textual or graphical form—without fear of penalty due to uncertain compliance obligations. And doing so on a retroactive basis will shield stations that are currently running the risk of continuing to provide non-textual emergency information despite the aforementioned regulatory uncertainty.

Additionally, the requested waiver is short—it would only run until the Commission has made a final determination regarding the Rule modifications raised in NAB’s Rulemaking Petition—and is likely to last for an extremely limited additional period as compared to the aggregate period across which the waiver has thus far already been in effect. Finally, NAB has indicated that an important stakeholder in this proceeding—the American Council of the Blind (“ACB”)—supports a brief retroactive extension of the waiver.¹²

In sum, there is ample good cause to grant NAB’s Waiver Request, as doing so will ensure that stations are able to continue to provide viewers with the maximum amount of information regarding emergencies throughout the period required for the Commission to consider a proposal that may finally resolve this proceeding.

Conclusion

In light of the foregoing, SBE respectfully requests that the Commission swiftly grant NAB’s Waiver Request.

Respectfully submitted,

¹² *Waiver Request*, at 1.

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