

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

In the Matter of)
)
 Closed Captioning and Video Description)
 of Video Programming)
) MM Docket No. 95-176
 Implementation of Section 305 of the)
 Telecommunications Act of 1996)
)
 Video Programming Accessibility)

REPORT

Adopted: July 25, 1996

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By the Commission:

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I. INTRODUCTION

1. Section 713 of the Communications Act of 1934 ("Act"), as amended by the Telecommunications Act of 1996 ("1996 Act"), directs the Commission to conduct inquiries into the accessibility of video programming to individuals with hearing and visual disabilities.¹ This report is issued in compliance with this statutory requirement. It is based on information submitted by commenters in response to a *Notice of Inquiry* ("Notice") in this docket and publicly available information.²

A. Statutory Requirements

2. Section 713(a) requires the Commission to complete an inquiry within 180 days of enactment of the 1996 Act to ascertain the level at which video programming is closed captioned. A report on the results of this inquiry shall be submitted to Congress. Specifically, Section 713(a) directs the Commission to examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved and any other related factors. The Commission also is required to establish regulations and implementation schedules to ensure that video programming is fully

¹ Section 305 of the 1996 Act, Pub. L. 104-104, 110 Stat. 56 (1996), adds a new Section 713, Video Programming Accessibility, to the Act, 47 U.S.C. § 613.

² See *Closed Captioning and Video Description of Video Programming, Notice of Inquiry*, MM Docket No. 95-176, FCC 95-484, 11 FCC Rcd 4912 (1996) ("Notice"). Commenters are listed in the Appendix. We also received numerous letters and informal filings in this proceeding.

accessible through closed captioning within 18 months of the enactment of the section.³ The Commission will initiate the rulemaking required by the Act with the issuance of a notice of proposed rulemaking in the next several months.

3. Section 713(f) requires the Commission to commence an inquiry within six months after the date of enactment of the 1996 Act "to examine the use of video descriptions of video programming in order to ensure the accessibility of video programming to persons with visual impairments."⁴ The Commission must report to Congress on its findings, including an assessment of the appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate.

4. Section 713 is "designed to ensure that video services are accessible to hearing impaired and visually impaired individuals."⁵ The legislative history of this section states that it is Congress' goal "to ensure that all Americans ultimately have access to video services and programs particularly as video programming becomes an increasingly important part of the home, school and workplace."⁶ The House Committee recognized that there has been a significant increase in the amount of video programming that includes closed captioning since the passage of the Television Decoder Circuitry Act of 1990 ("TDCA").⁷ Nevertheless, the House Committee expressed a concern that video programming through all delivery systems should be accessible to persons with disabilities.⁸

B. Notice of Inquiry

5. On December 1, 1995, prior to the enactment of the 1996 Act, the Commission adopted the *Notice* in this proceeding. It sought information consistent with the legislation that was pending at that time and comment on a wide variety of issues relating to closed captioning and video description of video programming. This inquiry was intended to gather the information needed to assess the current availability, cost and uses of closed captioning and video description. In the *Notice*, the Commission asked specific questions regarding the importance of closed

³ See Section 713(b)-(e), 47 U.S.C. § 613(b)-(e), which are specific provisions relating to the rules the Commission must adopt.

⁴ 47 U.S.C. § 613(f).

⁵ Conference Report, H.R. Report 104-458 (1996), at 182.

⁶ *Id.* at 183.

⁷ House Report, H.R. Report 104-204, Part 1 (1995) at 113. As enacted, Section 713 adopted the House provisions on video accessibility with modifications. Conference Report at 184.

⁸ House Report at 113-114.

captioning to persons with hearing disabilities and of video description to persons with visual disabilities and sought information on other population groups that could benefit from the availability of these services. We requested data on the availability of video programming, both new and previously published, with closed captioning and video description. In the *Notice*, we asked questions regarding the availability of suppliers of closed captioning and video description, the costs of including these services and how they are currently funded.

6. The *Notice* also sought comment on the appropriate means of promoting wider use of closed captioning and video description in programming delivered by broadcast television, cable television, and other video providers. In particular, we sought comment on the general form any mandatory closed captioning or video description rules should take, if they are deemed necessary, including technical standards, quality standards, exemptions for classes of programmers or delivery systems, appropriate timetables for implementing any mandatory requirements and the scope of the Commission's jurisdiction to impose mandatory closed captioning or video description requirements on video service providers and program producers and owners.

7. Because the 1996 Act adopted the provisions concerning the availability of video programming with closed captioning and video descriptions which formed the basis of the Commission's December 1995 inquiry, the Commission decided to use the comments filed in that proceeding for the inquiries it is required to conduct pursuant to Sections 713(a) and (f) of the Act. In an *Order* adopted February 27, 1996, the Commission announced this decision and asked that commenters direct their comments towards the specific provisions of the statute.⁹

II. SUMMARY OF THIS REPORT

A. Scope of this Report

8. This report addresses each of the issues the Commission is required to examine under Section 713 with respect to closed captioning and video description of video programming. We examine the extent to which programming is currently closed captioned (Section III) and the amount of video description of video programming currently provided (Section IV). With respect to closed captioning, the statutory mandate directs the Commission to study the current status of this technology and its uses. Thus, we provide a general description of closed captioning, the population groups that can benefit from its availability, the methods and costs of closed captioning, the amount of programming now available with captions, current funding of captioning and a description of the quality and accuracy of today's closed captioning. In this report, we do not address issues raised in the *Notice* regarding proposals for specific rules, standards and implementation schedules for closed captioning, as they go beyond the scope of the inquiry requirements of Section 713(a). These matters will be considered in the context of a subsequent notice of proposed rulemaking that we will issue to consider proposed rules to fulfill

⁹ See *Closed Captioning and Video Description of Video Programming, Order*, MM Docket No. 95-176, FCC 96-71, 11 FCC Rcd 5783 (1996). The Commission also extended the time for filing comments.

the Congressional mandate that the Commission adopt rules to implement closed captioning requirements by August 8, 1997.¹⁰

9. Section 713(f) focuses the Commission's inquiry on the appropriate methods and schedules for phasing video description into the marketplace and standards for this technology, including technical and quality standards for video descriptions. In Section IV we provide a general discussion of the availability of video description and general information regarding the population groups that can benefit from its availability, the methods and costs of adding descriptions to video programming, the amount of programming now available with description and the current funding of this technology. As directed by the statute, we then address methods and schedules for phasing video description into the marketplace, including appropriate regulatory and technical requirements.

10. This report encompasses all types of available video programming with closed captioning and video description delivered to consumers through existing distribution technology. We report on the availability of broadcast commercial and noncommercial networks, basic and premium cable networks, syndicated and locally produced broadcast and cable programming with closed captions and video description. In addition to over-the-air broadcast television service and cable television service, we examine the availability of the delivery of closed captions and video descriptions to consumers by other multichannel video programming distributors ("MVPDs"). Among these distributors are direct-to-home ("DTH") satellite services, including direct broadcast satellite ("DBS") services and home satellite dishes ("HSD"), wireless cable systems using the multichannel multipoint distribution service ("MMDS"), instructional television fixed service ("ITFS") or local multipoint distribution ("LMDS"), satellite master antenna television ("SMATV") and local exchange carrier ("LEC") video services.¹¹

B. Summary of Findings

1. Closed Captioning

11. Captioning of video programming has existed since the early 1970s. Through the efforts of Congress, government agencies and a variety of private parties, captioned video programming has grown over the past 25 years so that it is now a common feature associated with the vast majority of popular prime time broadcast television programming. Congress'

¹⁰ Section 713(a). Specific requirements the Commission must consider when adopting regulations are specified in Sections 713(b)-(e) and comments directed at those provisions will be considered in the Notice of Proposed Rulemaking.

¹¹ See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Second Annual Report*, CS Docket No. 95-61, FCC 95-491, 11 FCC Rcd 2060 (1996) ("*1995 Competition Report*"). This report provides detailed information regarding all available video distribution technologies.

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