



April 15, 2013

Sent to the five TV stations serving El Paso County

Re: Effective Emergency Communications

To whom it may concern:

The Independence Center, working with the local deaf community and the Colorado Springs Chapter of Hearing Loss Association of America, is inviting all of the TV stations serving our El Paso/Teller County region to meet with us to develop an understanding of “effective communications” during an emergency as required by the Federal Communications Commission (FCC). Information distributed by TV media during the Waldo Canyon Fire was less than effective in our view. Rather than file a complaint at this point in time, we would like to meet with all of you and discuss how to implement Rule 79.2 requirements from the FCC that deal with broadcasters' responsibilities during an emergency. Working together, we hope to come to an agreement for better alerts and information during future emergencies.

Scope of the problem

The Hearing Loss Association of America website cites the National Council on Aging for the statistic of 1 in 3 people over the age of 65 have a hearing loss. In El Paso County we know from the 2010 Census that 63,470 (10.2% of 644,946 residents) are over the age of 65 resulting in a potential for 21,156 seniors with hearing loss (1 in 3). The 2010 Census also tells us that, in El Paso County alone there are 22,478 individuals of all ages who claim a hearing loss on the Census form. Many seniors and others do not identify themselves as hard of hearing or disabled so these numbers likely significantly understate the number of people who are deaf or hard of hearing.

Background

In 1972, the Public Broadcasting Service (PBS) introduced open captioning on a cooking show, moved on to providing captioning for the ABC Evening News in 1973 and began to develop a closed captioning system. The FCC, in 1976 reserved Line 21 for the closed captioning signal. This opened up information that TV had been providing to everyone else since the 1950s! In 1990, Congress enacted the Television Decoder Circuitry Act that required all TV sets (larger than 13 inches) to have closed captioning receivers build in. The law was future oriented in that it required that all future television technology must also be caption-enabled.

The Telecommunications Act of 1996 added provisions that required Cable systems, all video programming providers/distributors and owners that transmit video programming to customers' homes, including broadcasters, cable operators, satellite operators and other programming distributors (most



recently Netflix has been ordered to comply) to provide captioning. There are a few exemptions but emergency broadcasts are not one of them.

Rules around emergency broadcasts first began to be promulgated in 1977. At that time emergency broadcasts were to be presented both visually and aurally when using the Emergency Broadcasting System. Prior to that time, there was no way for deaf or hard of hearing individuals to know that an emergency was in progress. Several deaf people burned to death in the 1970 California wildfires because of a lack of information. By 1997, the FCC expanded its requirements for access to emergency bulletins to cable networks through the Emergency Alert System. Cable systems with fewer than 5000 subscribers have several options for how they provide “visual and aural” information (interrupt on all stations, or just one and educate their subscribers as to which is the emergency information channel).

Fast forward to 2006, the FCC indicated its expectation that there should be 100% captioning available and certain distributors are not to use Electronic newsroom techniques (ENT) on programming including emergency broadcasts (i.e., top 25 media markets). Rule 79.2 of the FCC regulation deals with all video programming entities' responsibilities during an emergency.

All of this background is to say that it has been public policy in this country since the late 1970s to ensure that people who are deaf/hard of hearing and/or blind/visually impaired have access not just to regular television but specifically to emergency information as well. Television remains one of the top sources of information and as such, it must be equally as available as it is to non-disabled individuals.

Current FCC Requirements

In June of 2011, the FCC put out a reminder Public Notice entitled “Video Programming Distributors’ Obligation to Make Emergency Information Accessible to Persons with Hearing or Vision Disabilities.” This reminder, based on the rule-making process in 2006, lays out the expectations for effective communications with people with disabilities during a local or national emergency in accordance with section 79.2 of the FCC rules. All video programming distributors must make critical information available in an **effective manner**. Here are the details from the rule:

- Critical details of an emergency include but not limited to:
 - Specific details about the area affected
 - Evacuation orders
 - Detailed descriptions of areas to be evacuated
 - Specific evacuation routes
 - Approved shelters or how to take shelter in one’s home
 - Instructions on how to secure personal property
 - Road closures
 - How to obtain relief assistance

- Information must be made available to the larger geographic area to include areas where people are being evacuated or sheltered.
- It is expected that the Video Programming Distributors (VPDs) will aurally describe the emergency information as a part of their operations; thus providing “open video description”.
- When scrolls and other visually based alerts are used but the regular programming is not interrupted, the visual information must be accompanied by an aural tone.

- Emergency information must be provided in a manner that is accessible to persons who are deaf or hard of hearing, i.e., closed captioning, open captioning, crawls or scrolls.
- Captioning may not block any closed captioning and closed captioning may not block any emergency information.
- There is a pass-through obligation that requires VPDs to ensure that viewers receive closed captioning intact.
- VPDs who are allowed to use electronic newsroom captioning (ENT) may NOT do so if it does not automatically capture non scripted news such as emergency updates, briefings, etc.
- FCC encourages VPDs to contract in advance for Live Captioning Services; the FCC indicates that it expects effective access to information to occur at the beginning of an emergency and throughout the event.
- ENT is allowed in media markets outside the top 25; **however** in speaking with Traci Randolph (202-418-0569), at the FCC, she indicated that in recent complaint resolutions, timeliness is an issue. The FCC allows for virtually no delay in captioning "critical details." That is to say that when those details are spoken on air, they need to appear in text at virtually the same time. It is assumed that live captions will need to be available.

A copy of the June 17, 2011 Public Notice from which the above was taken is attached. A fact sheet in laypersons' language can be found electronically at <http://www.fcc.gov/guides/emergency-video-programming-accessibility-persons-hearing-and-visual-disabilities>. To see how FCC has responded to complaints about timeliness go to <http://www.fcc.gov/encyclopedia/tcd-emergency-information-access-detailed-information>.

Moving Forward: Our expectations for “effective communication”

During the Waldo Canyon Fire, deaf and hard of hearing individuals were frantically trying to figure out what was happening with the fire and the evacuations. Clearly, “effective visual information” was not conveyed to the community until several days later during the event. This is not acceptable "effective communication." While the TV stations and the Deaf/HOH community could argue about who did what when, it is more important to focus on how to not let that happen again. We do not wish to see TV stations spend their limited funds on FCC fines but would rather see that money go toward the improvement of local captioning.

To this end, here are our expectations for emergency information broadcasts going forward:

1. Immediate provision of live captioning at the start of the emergency and for all critical information whenever it is delivered to the hearing public.
2. Live real time captioning during all official briefings and updates.
3. As of March 30, per FCC rules, TV stations who are streaming videos must provide captioning; this will help during an emergency. (<http://www.fcc.gov/guides/captioning-internet-video-programming>)
4. Live captioning of information being given off camera while the camera focuses on a graph, picture or other object- unscripted information is just as important and should be provided.
5. More frequently updated scrolling information.
6. Slower scrolling so that information can actually be read.
7. When interpreters are used one camera stays focused on the interpreter. A split screen should be used to convey interpreting (we are advocating for local government, as a policy, to make

interpreters available at official briefings) AND visuals such as captioning and charts, pictures- whatever else is on the screen.

These actions will make it much more possible for Video Program Distributors to actually achieve the “effective communication” standard set by the FCC and allow our Deaf/Hard of Hearing community to be informed during an emergency.

However, there is one group for whom captioning will not be effective communication- those deaf individuals who do not read. We are willing to work with the TV Stations, E-911, and local governments to meet this particular challenge.

Meeting Invitation: Date, Time and Place

Representatives from the Deaf and Hard of Hearing community and I look forward to meeting with you here at The Independence Center to discuss our expectations for accessible, effective communication during an emergency. My assistant Jill Reugg will coordinate through the use of a web-based Calendar Doodle to see if we can get a date prior to the end of April.

Thank you for your willingness to work with the Deaf and Hard of Hearing community on this critical part of emergency preparations.

Sincerely,



Patricia Yeager, CEO

CC: Jim Reed, Director, El Paso County Emergency Services Division
David Rose, Public Information Officer, El Paso County
Bret Waters, Director City of Colorado Springs, Emergency Management
Cindy Aubrey, Director of Communications, City of Colorado Springs
Chief Joe Ribeiro, City of Manitou Springs

Attachments:

- Video Programming Distributors’ Obligation to Make Emergency Information Accessible to Persons with Hearing or Vision Disabilities (FCC.gov)
- Captioning of Internet Video Programming (FCC.gov)