COMMENTS OF THE
NATIONAL ASSOCIATION OF THEATRE OWNERS

84 FR 48379, OMB Number 1190-0019

Agency Information Collection Activities; Proposed eCollection; eComments Requested; Extension Without Change of a Currently Approved Collection. Requirement That Movie Theaters Provide Notice as to the Availability of Closed Movie Captioning and Audio Description

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The National Association of Theatre Owners ("NATO") respectfully submits this comment letter in response to the Department of Justice's ("Department") information collection notice ("notice"), 84 FR 48379, OMB Number 1190-0019, regarding the requirement for digital movie theaters to provide notice of closed captioning and audio description availability, per Title III of the Americans with Disabilities Act, 28 CFR 36.303(g). This comment aims to evaluate the accuracy of the Department's estimate of the burden of the proposed collection of information.

In its notice, the Department estimates that individual movie theater companies will spend 10 minutes per week, or 8.7 hours per year, to comply with this requirement, and that the total number of hours spent by the industry collectively to provide this notice is 15,573 annually. The Department also suggests that the amount of time it will take a movie theater to comply with the notice provision is impacted by the number of movies showing at a theater at any given time, and that movie theaters update their showtime listings on a weekly basis.

In order to determine if these estimates and suggestions reflect current practices, NATO distributed a survey to domestic movie theater companies asking theaters how many times per week they make updates to their showtime listings and how long the updates take. We received responses from 111 exhibitors representing 2,177 movie theaters. The survey responses suggest that the Department's estimates are likely too low, even for theaters with relatively streamlined processes, and do not account for the complex variables that impact the amount of time theaters spend to comply with this requirement.

I.   Data Set

89 exhibitors representing 736 movie theaters responded with data points within the survey ranges.

At the lower limit of the responses, 44 theaters reported making updates once a week at an average of five minutes per update. At the upper limit of the responses, one theater reported updating its listings three times per week at an average of 38 minutes per update.

The chart in Figure 1 shows the number of responses received by range of time per update and the number of times per week that updates are made.

Figure 1.

Number of responses	Range of time per update	Number of times per week that updates are made			
		Once	Twice	Three	Four or more
52	1-10 minutes	44	7	1	0
19	11-20 minutes	12	7	0	0
15	21-30 minutes	9	4	1	1
3	31-45 minutes	1	1	1	0

In order to calculate the weighted average of time spent per week making updates, we calculated the total number of minutes spent per week making updates by multiplying the number of times per week that updates are made by the midpoint of the range (Figures 2A and 2B).

Figure 2A.

Number of responses	Range of time per update	Midpoint of range	Number of times per week that updates are made			
			Once	Twice	Three	Four or more
52	1-10 minutes	5 minutes	44	7	1	0
19	11-20 minutes	15 minutes	12	7	0	0
15	21-30 minutes	25 minutes	9	4	1	1
3	31-45 minutes	38 minutes	1	1	1	0

The blue boxes represent the exhibitors who reported spending more than 45 minutes per week making updates. When we looked at that group, we found that the shortest amount of time spent on weekly updates was 50 minutes (21-30 minutes per update, with a midpoint of 25 minutes, twice a week) and the longest amount of time spent on weekly updates was 114 minutes (31-45 minutes per update, with a midpoint of 38 minutes, three times a week). 82 minutes is the midpoint between 50 and 114.

Figure 2B.

Number of minutes spent per week making updates	Number of companies	Midpoint of range	TOTAL number of minutes spent per week making updates (number of companies x midpoint of range)
1-10 minutes	44	5 minutes	220
11-20 minutes	19	15 minutes	285
21-30 minutes	17	25 minutes	425
31-45 minutes	1	38 minutes	38
46+ minutes	8	82 minutes	656

The weighted average of time spent per week making updates across the 89 exhibitors who reported times within the survey ranges was **18 minutes** for an individual movie theater company, 80% more time per week than the Department's estimate of 10 minutes, for a total of **15.6 hours** per year per movie theater company. Employing the Census Bureau's 2016 estimate of 1,790 companies owning one or more movie theaters, the annual public burden for disclosing this information will total **27,924 hours**, 79% more time than the Department's estimate of 15,573 hours.

II.   Understanding How Showtimes are Updated

Our survey also received additional responses from 22 exhibitors representing 1,441 theaters that described a complex showtime listing process, with time per week spent well beyond the survey ranges described above. These survey responses demonstrated that for many exhibitors, in practice, the amount of time spent updating showtimes and how frequently they are updated is subject to many factors, including the size of the company, how many movies are playing in a given week, and how the film booking process is handled. When considering all the steps involved in providing notice to the public of closed captioning and audio description availability, the burden of this requirement likely adds up beyond 18 minutes per week to several hours per week for an individual movie theater company.

Typically, there are three steps to updating showtimes listings in order to provide notice of closed captioning and audio description availability to the public:

1. Determining if a feature is available with closed captioning and audio description.
2. Programming closed captioning and audio description information into the film booking system.
3. Creating and exporting the film schedule.

A. Determining if a title is available with closed captioning and audio description.

Determining if a title is equipped with closed captioning and audio description is the first step in updating showtime listings to indicate such availability. There is no standard practice for how a distributor provides such information to exhibitors, and not all distributors consistently provide accessibility features with their films. As exhibitors by necessity interact with a range of distributors, either by booking films directly or by using a film booking service, exhibitors must employ a variety of methods to determine whether a title is equipped with closed captioning and audio description, including but not limited to:

- Learning accessibility features from the file names contained in a digital cinema package once it is received, ingested into the cinema server, and decrypted (this is the most common method);
- Learning accessibility features from the file names on the "projectionist letter" (also known as an "ingest letter") supplied by the digital cinema key provider;
- Receiving feature film specifications directly from a film distributor;
- Asking distributors for this information directly;
- Receiving feature film specifications from a third-party film booker;
- Testing the film with closed captioning and audio description devices once a film is ingested into the projection system.

The research involved can take a company anywhere from a few minutes to an hour per week, depending on how many titles the company is opening that week and whether the information is readily available.

B. Programming closed captioning and audio description information into the film booking system.

Programming information about closed captioning and audio description availability into a company's film booking system is the next step in the notice process. Different companies employ different systems for tracking titles to be released and the attributes associated with those titles, including whether or not the title is available with closed captioning and audio description.

In general, when a title is being released, a company's film booker (this may be a team of people, an outside firm, or the owner/operator of the movie theater, depending on the size and structure of the movie theater company) creates a unique film identification number for the title in the film booking system. If the film comes in a variety of formats—3D, premium large format, open-captioned, IMAX, etc.—the booking system will assign additional unique film IDs to each different format. For each unique film ID, the film booker populates the film booking system with information such as the rating, the release date, the running time, the genre, and the accessibility features, including closed captioning and audio description.

Once a title and its associated formats and attributes are listed in the film booking system, and all the decisions are made about which films will play in a given week, theater companies can move to the next step of creating film schedules.

C. Creating and exporting the film schedule.

Film schedules are usually created on a weekly basis. Building a film schedule is a complex process akin to completing a 3D puzzle with many different elements that all need to fit together, and is subject to technical difficulties and human error. Theaters juggle multiple factors when creating film schedules in a given week, including but not limited to:

- How many different titles will play in the theater that week, including any special "event" cinema playing only a few times;
- The terms negotiated with the distributors regarding how many showtimes a specific title will have that week and how many screens it will play on;
- A title's box office performance in previous weeks;
- The variety of formats offered, such as 3D or premium large format screens, for example; and
- Whether schedules are created by a central film team or individually by theater managers.

The more screens a theater company operates and the more titles a theater company is playing in a given week, the longer and more complicated the process to build the film schedule.

While film schedules are typically built on a weekly basis, theaters may update showtime listings more than once a week for a variety of reasons, including but not limited to:

- Adding or eliminating showtimes;
- Moving a title from one auditorium to another; or

- Receiving updates about whether a title that is already scheduled is equipped with accessibility features.

Once a film schedule is created, it is uploaded to a theater's point of sale system, typically at the beginning of the week for showtimes beginning on Thursday or Friday, although schedules may be set earlier for movies that have pre-sales. Theaters may also add or eliminate showtimes on a rolling basis depending on a movie's performance and the demand for tickets.

As to how long it takes to update a film schedule to indicate closed captioning and audio description availability for the titles playing that week, that will depend on whether a company's point of sale system automatically pulls a title's attributes from the booking system, or if the person creating the film schedule needs to manually select the attributes as each title is scheduled. If the point of sale system automatically populates the attributes, there is no additional time involved; if the attributes are selected manually, this can be a time-consuming process that depends on the number of films and showtimes playing at an individual theater. The point of sale system then exports the film schedule to various places showtimes are listed, such as the theater's website, mobile application, box office signage, or ticketing kiosks.

### III.	Calculating the Total Public Burden

Our survey responses—both from the exhibitors who were able to provide data within the survey ranges and from those whose processes exceeded the survey ranges—strongly suggest that the total public burden exceeds the Department's estimate of 10 minutes per week, or 8.7 hours per year, for individual movie theater companies to comply with this requirement. While our survey showed that the average theater company spends 18 minutes per week (15.6 hours per year) making showtime updates to indicate closed captioning and audio description availability, when considering all the steps involved in providing notice to the public of closed captioning and audio description availability, the burden of this requirement likely adds up to tens or possibly hundreds of hours *per week* for an individual movie theater company and tens or hundreds of thousands of hours across the industry annually.

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