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May 15, 2018

**VIA ECFS**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Video Description: Implementation of the Twenty-First Century  
Communications and Video Accessibility Act of 2010, MB Docket No. 11-43**

Dear Ms. Dortch:

On May 11, 2018, Margaret Tobey and Angela Ball of NBCUniversal, and Jill Luckett, Stephanie (Podey) Kuhl, and I, of NCTA – The Internet & Television Association, met with Martha Heller, Mary Beth Murphy, Lyle Elder, Diana Sokolow, and Maria Mullarkey (by telephone) of the Media Bureau regarding the above-captioned proceeding.

We noted NCTA’s support for an increase in the number of video-described hours per quarter that each of the covered networks must air beginning in July 2018. However, for the reasons stated in NCTA’s pending petition for partial reconsideration (“*Petition*”), we proposed that the Commission amend its rules to provide more flexibility for non-broadcast programmers to achieve compliance with the quarterly benchmark without the need to file for a waiver.<sup>1</sup> In particular, we discussed how the unduly restrictive treatment of counting repeat airings of programming towards meeting the benchmark causes significant difficulties for non-broadcast program networks.

We explained why the rules should include a “safe harbor” that would enable a non-broadcast network to achieve compliance in cases where it provides a significant amount of video-described programming overall, including a high percentage of video-described newly-produced content. We noted the difficulty that non-broadcast networks such as USA Network otherwise would face complying with the rules, even though it provides many more times the hourly amount of video-described content than the rules require each quarter. We also discussed

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<sup>1</sup> See NCTA Petition for Partial Reconsideration at 2-3 & n.4 (filed Sept. 11, 2017) (“*Petition*”). In addition, cable programmers subject to the rules may provide a significant block of live or near live programming that is not appropriate for video description.

on-going outreach to advocates for the blind and visually impaired community in support of such a proposal.

In addition, as explained in the *Petition*, we urged the Commission to “allow the cycle for counting repeats to start over after a period of years, given the lasting appeal of many of these programs, the lengthy contract terms governing their exhibition, and children ‘aging up’ into the audience demographic for certain repeat programming.”<sup>2</sup>

Respectfully submitted,

**/s/ Diane B. Burstein**

Diane B. Burstein

cc: Martha Heller  
Mary Beth Murphy  
Lyle Elder  
Diana Sokolow  
Maria Mullarkey

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<sup>2</sup> *Petition* at 8. We noted that the National Federation of the Blind has supported this proposal in the record, explaining that “[w]e agree that after a period of time the networks should be able to re-air video-described programming and have it count toward the minimum hour requirement.” Letter from Mark A. Riccobono, President, Nat’l Federation of the Blind, to Marlene H. Dortch, Secretary, FCC, filed in MB Dkt No. 11-43 (Oct. 17, 2017).