Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of:	)	
Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010	)	CG Docket No. 11-154
	)	
Closed-captioning of Internet Protocol-Delivered Video Clips	)	

Comments of

The Maryland Governor's Office of the Deaf and Hard of Hearing (ODHH)

Summary:

The Maryland Governor's Office of the Deaf and Hard of Hearing (ODHH) applauds the Federal Communications Commission (FCC) for updating the captioning rules to further address the importance of captioning Internet Protocol-Delivered videos. We support certain proposals that the FCC has outlined in the Second Further Notice of Proposed Rule Making (Second FNPRM) but request that the Commission make specific changes in order to provide access to the deaf and hard of hearing community. Those changes relate to: the applicability of captioning videos posted by third-party distributors, "mash-ups" (although videos within the mash-up may not have been captioned when it was aired on television), "advance" video clips (clips that were posted to the distributor's online library and remain online); and whether or not grace periods for captioning videos that are live or near-live should apply. While many of the concerns that give rise to this proposed Order and policy are fiscally related, their the breadth and impact must be comprehensive in order to ensure equal access to all forms of internet programming by individuals who are deaf or hard of hearing.

I. While the Commission will not hold third-party distributors (i.e. news websites or Hulu) responsible for posting clips with captions to their websites and apps, full-length programming rules should apply and require captioning.

The Commission will not hold third-party distributors responsible for adding captions to clips that are posted to their websites and apps; however, it is working to ensure that videos are captioned by third-party distributors on a timely basis through current general closed captioning rules that apply to full-length programming. Full-length programming rules require that video programming owners send program files to distributors and providers with appropriate captions. In addition to this, the rules require video programming providers and distributors to enable the rendering or pass-through of all required captions to the end user.

ODHH appreciates the efforts made by the Commission on this matter. Not only does it bring awareness to the third-party distributors about each video posted to their site that may not have been captioned, but it also helps all parties to come to a consensus so the ultimate goal of captioning internet videos is achieved. Moreover, time sensitivity is now being taken into consideration when captioning videos that are posted to websites and apps. This is an essential element for ensuring that deaf and hard of hearing consumers do not experience a delay when videos are made available to the public.

II. The Commission, through its rulemaking, should decrease or eliminate delays for captioning live and near-live clips.

The parameters of the new policy should include phasing out the grace period allotted to captioning live and near-live clips, including news or sporting events. The Order states, "[F]or live clips, up to a 12 hour delay in posting a captioned clip after the programming has been shown on television is permitted. For near-live clips, an 8-hour delay in posting a captioned clip after the programming has been shown on television is permitted." This time period creates far too long of a delay as deaf and hard of hearing consumers do not have access to those instantaneous moments that others are allotted the opportunity to experience.

With the advent of Twitter and other immediate postings on social media, each time an internet-based television program is posted online, deaf or hard of hearing consumers are left in the dark. Again, deaf and hard of hearing consumers are not able to fully participate with their hearing peers who are able to access the information instantaneously. Over time, per technological advancements, this delay should be eliminated so that consumers who are deaf or hard of hearing will have the same access as other consumers to online video clips (i.e. viewing live internet video content as soon as it appears on the internet).

III. The Commission should require that "mash-up" clips (clips that combine captioned TV programming with some uncaptioned Internet programming) be subject to the Order.

Currently, the Commission requires that "straight lift" clips be captioned under the new policy. "Straight lift" clips are those that contain a single excerpt of a captioned television program with the same video and audio that was presented on television.

Another type of internet video that falls under the guidelines to be captioned is a "montage." A montage is a series of straight lift clips in addition to clips of live and near-live television programming (such as news or sporting events).

Conversely, a "mash-up" is a clip that combines both captioned television programming and uncaptioned Internet programming. Any video clip within the mash-up may not have been captioned when it was aired on television. Nonetheless, the Commission should require that these videos be captioned under the new Order because without guidelines for these types of videos, many deaf and hard of hearing consumers who are using audio-related technology are left behind.

The ongoing isolation of members of the deaf and hard of hearing community can be mainly attributed to the growing rate of so-called "viral internet videos." These viral internet videos often contain, and evolve into, mash-up clips as defined in the previous paragraph. Illustrative of this point is a piece in *The Washington Post* in which the author noted that "Viral videos may be good for sharing ideas and spreading funny foreign pop hits, but they are leaving millions out of the loop." (Tsukayama, 2012).

This proposed policy is particularly important with respect to online-content only videos. Representatives from YouTube stated that they expect "90 percent of online traffic to be video in the next few years;" and, "…by 2016, Cisco estimates, 1.2 million minutes of video will be streamed or downloaded every second," (*Id.,* Tsukayama, 2012). This recreates the dynamic that the deaf and hard of hearing community grappled with for years prior to finally achieving a requirement that captions be implemented on traditional television.

IV. The Commission should require that "advance" video clips fall under the new policy.

"Advance" video clips are clips that were posted to the distributor's online library (and remain online) after the compliance deadline but before videos were aired on television with captioning. Recently, the Commission has stated, "the requirements do not apply to video clips that are in the distributor's online library before the applicable compliance deadline because compliance for this category of video clips is considered to be economically burdensome." However, the difference between the non-applicable videos in this instance and advance video clips is that the advance clips air on television at a later date. The problem with this situation is that these videos remain in the distributors' online library even after the program airs on television whereby the content would be captioned.

An example of an advance video clip would be a program that is originally aired on the internet (i.e. a pilot program without captioning) and then, once the show is picked up by a network, subsequently aired on television. While the show on television would be captioned, the original internet video of that same program would remain uncaptioned. In the instance that these videos remain uncaptioned online, deaf and hard of hearing consumers would again be excluded from access to that material. These new proposed guidelines being set forth by the Commission are said to have a future impact on nearly 36 million Americans (Weber, 2014). For this reason, the policy should include advance video clips.

V. Corporate fiscal concerns are outweighed by cost of inaccessibility.

Corporate concerns about this proposed Order are primarily of a fiscal nature. Businesses are apprehensive about the cost of the new Order and the timeline the FCC will set to require captioning for internet videos. These businesses argue that complying with such a decision by the FCC is neither cost nor time-effective – and are therefore unreasonable. For example, the Digital Media Association -- which represents Amazon, Apple, Microsoft and YouTube – has warned that adding captions is not as simple as it may appear (Weber, Joseph. "FCC Eyes Changes to Online Video Clips, Businesses Say Don't Underestimate the Difficulty." *Fox News*. FOX News Network, (05 July 2014).).

Conversely, a group of employees from various technologically-based companies told their local newspaper, "the time and cost of enabling captions is not substantially less for a 2-minute clip than for a 2-hour full-length movie," (*Id.*, Weber, 2014). Currently, there are myriad video clips that consumers are free to view. Yet, again, a large portion of our nation is not allowed equivalent access and therefore is left behind solely due to the lack of captioning. Employees of the same technological corporations have also indicated that the length of time it takes to caption videos, whether long or short, is not significantly different. The consequence of inaccessibility outweighs any financial cost of captioning, especially for short news casting clips that could hold critical information for the general public.

VI. This policy, including the recommendations herein, will provide equal access for individuals who have a hearing loss.

Fiscal concerns aside, the proposed Order will provide equal access for a community of consumers who have are deaf or hard of hearing. In 2006, a grant was presented to National Public Radio (NPR) and WGBH's National Center for Accessible Media (NCAM) by the U.S. Department of Education to develop accessible radio technology for people who are deaf or hard of hearing (National Association of the Deaf (NAD). "When is Captioning Required?" (2008). Web.). In addition, NPR partnered with Harris Corporation, Towson University, and WGHB's Media Access Group during the presidential election of 2008 in an effort to provide captioning of its live radio coverage (NAD, 2008). According to NAD, there are efforts underway to include our citizens who are deaf, hard of hearing and deaf-blind in "this audio and audiovisual world of videos on the internet." (NAD, 2008). The emphasis placed on "audio" and "audiovisual" holds much meaning to those 36 million Americans who have been identified as having a hearing loss.

VII. It is also important to consider equal access for DeafBlind consumers.

Captioned videos by third-party distributors, "mash-ups," and "advance" video clips should be accessible for all including the DeafBlind population and those using screen readers/screen magnifier software. The FCC should open a channel of communication with screen reader and screen magnifier manufacturers (for example, Apple, Zoomtext, and Freedom Scientific) to investigate compatibility of the software and captioned videos. It is imperative to make sure that screen readers can provide captioning of videos on braille displays. If the software can read the captioning, then the braille display will produce the captioning for the consumer.

Conclusion:

ODHH thanks the FCC for its consideration and looks forward to further collaboration on this important topic.

Respectfully submitted,

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References

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