

December 11, 2014

via electronic filing

Marlene H. Dortch
Secretary, Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: Closed Caption Quality • CG Docket No. 05-231 • PRM11CG

Dear Ms. Dortch,

On December 9, Andrew Phillips of the National Association of the Deaf (NAD), Lise Hamlin of the Hearing Loss Association of America (HLAA), Christian Vogler of the Technology Access Program at Gallaudet University (TAP), and I—serving as counsel to Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)—met with Karen Peltz Strauss of the Consumer and Governmental Affairs Bureau, Greg Hlibok, Eliot Greenwald, Suzy Rosen Singleton, and Caitlin Vogus of the Disability Rights Office, Diana Sokolow of the Media Bureau, Adam Finkel of the National Court Reporters Association (NCRA), Jill Toschi of the National Captioning Institute (NCI), Heather York and Amy Bowlen of VITAC, Alison Godburn of WGBH’s Media Access Group, Quang Pho of WGBH’s Described and Captioned Media Program (DCMP), and Gerald Freda of CaptionMax to discuss the November 14 *ex parte* filing of VITAC and several other caption providers in the above-referenced docket.¹

We generally reiterated the positions outlined in our responsive November 26 *ex parte* filing.² We commended the efforts of the captioners in attendance to achieve high levels of quality for both realtime and offline captioning. However, we again noted our general concern about their position that the Commission should adopt a “grade inflation” metric that assesses accuracy by reference the number of words *captioned* rather than the verbatim transcript of the program.³

We agreed with the captioners that using current technology, it is not possible to caption programs in real-time with 100% accuracy and made clear our agreement that the Commission should not hold real-time captions to such a standard at this time.

¹ See *Ex Parte of VITAC, et al.* (corrected version), <http://apps.fcc.gov/ecfs/document/view?id=60000984347> (“*Captioner Letter*”); <http://apps.fcc.gov/ecfs/document/view?id=60000984271> (“*Captioner Slides*”).

² See *Ex Parte of TDI, et al.* (“*Consumer Groups Ex Parte*”), <http://apps.fcc.gov/ecfs/document/view?id=60000988629>.

³ See *id.* at 1-2.

However, we noted the substantial importance of and need for a scientifically-determined accuracy rating in a variety of contexts, including:

- Caption agencies' need for repeatable metrics that yields consistent results for the same level of work that are not dependent on subjective determinations by a captioner;
- The Commission's need for accurate data to make sound captioning policy decisions about the permissible use of live captioning in place of more accurate offline captioning;
- Consumers' need for accurate data to assess their ability to rely on captions to fully understand critical information in video programming;
- Video programmers' need for accurate data to inform their decisions about the quality of caption vendors;
- Researchers' need for accurate data to inform their study of the interaction between captioning, linguistics, media literacy, and other topics; and
- Technologists' and entrepreneurs' need for accurate data to provide incentives to develop improved captioning technology—an incentive that disappears when existing methods are erroneously labeled as nearly 100% accurate.

We agreed with captioners that some errors, such as omitted or substituted proper names, may more severely impede the ability of viewers who are deaf or hard or hearing to fully understand the content of video programming than other errors, such as omissions of stuttering. However, we reiterated that all errors impede understanding to some degree, and objected to the captioners' notion that some errors do not “affect meaning” or should otherwise not be counted as errors.⁴ While we noted that we would be amenable to a practice of providing dual metrics that reflected accuracy both in absolute terms *and* in terms of severity, we believe that captioners' notions of severity are subjective and unclear and cannot form a meaningful substitute for a scientific accuracy calculation. We also agreed with the request of Commission staff that captioners provide more detailed information about their heuristics for determining severity.

Responding to the captioners' concerns over the potential burden of applying the Commission's formula, we reiterated that we would be comfortable with captioning agencies performing spot-checks on a representative sample of the verbatim captions in a representative sample of programs rather than checking every caption in every program for errors.⁵ We also reiterated that video programmers demanding impossible levels of accuracy using the Commission's scientific metric would find themselves without willing

⁴ See *Captioner Letter* at 2.

⁵ See *Consumer Groups Ex Parte* at 6.

caption vendors.⁶ We also discussed how the practices of video programmers, such as providing prep materials, impact the ability of captioners to provide high-quality captions, and the mixed movement of programmers toward offline captions in place of real-time captions in contexts where offline captions are practicable.

Finally, we reiterated our position that the “grade inflation” metric is legally incompatible with the best practices adopted by the Commission and adopting it in the present context would be procedurally improper.⁷ In particular, the Commission’s rules specifically require real-time captioning vendors following best practices to “[c]reate and use metrics to assess accuracy,” and in those metrics to “[c]onsider ‘accuracy’ of captions to be a measurement of the percentage of correct words out of total words in the program, calculated by subtracting number of errors from total number of words in the program, dividing that number by total number of words in the program and converting that number to a percentage.”⁸

The rules plainly do not permit captioners to “consider ‘accuracy’” to be any other measurement than the one specified Commission’s formula, including measurements like the “grade inflation” metric that ignore a program’s actual words. The Commission’s rules also define “errors” to include “at a minimum, mistranslated words, incorrect words, misspelled words, missing words, and incorrect punctuation”—a definition that plainly obviates the possibility of subjectively treating certain substitutions and omissions as something other than what they are: errors.⁹

* * *

We stand ready to continue discussing these issues with captioners and the Commission. Please don’t hesitate to contact me if you have any questions regarding this filing.

Respectfully submitted,

/s/

Blake E. Reid

Counsel to TDI

blake.reid@colorado.edu

303.492.0548

⁶ *Id.* at 5.

⁷ *See id.* at 6-7.

⁸ 47 C.F.R. § 79.1(k)(2)(i), (iv).

⁹ *See* 47 C.F.R. § 79.1(k)(2)(v).

CC: Meeting attendees