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March 16, 2015
via electronic filing

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

Re: Comment on Petition for Exemption from the Commission's Closed
Captioning Rules
CGB Dkt. No. 06-181

Crosswalk Chapel
CGB-CC-1165

Dear Ms. Dortch:

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), Cerebral Palsy and Deaf Organization (CPADO), National Association of the Deaf (NAD), Association of Late Deafened Adults (ALDA), Deaf Seniors of America (DSA), California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH), and American Association of the Deaf-Blind (AADB), collectively, "Consumer Groups," respectfully submit this comment on the petition of Crosswalk Chapel (Crosswalk or Petitioner) for exemption of its programming from the Federal Communications Commission's (Commission) closed captioning rules.

*Admitted to the Washington bar only;
DC bar membership pending. Practice supervised by members of the DC bar.

I. Background

Crosswalk filed a petition by letter in November 2011, seeking a waiver of the Commission's closed captioning rules for the 30-minute-long worship program, "Crosswalk."¹ "Crosswalk" is broadcast weekly on ETVO, WAOE, and WQAD3 in Illinois.² On three occasions between March 2012 and May 2014, the Consumer and Governmental Affairs Bureau (CGB or Bureau) sought additional information from Crosswalk.³ In response, Crosswalk submitted additional information in four separate letters, with the most recent letter sent in June 2014.⁴ The Bureau then placed the petition on Public Notice for comment on February 12, 2015.⁵

II. Legal Standard

Under Section 713(d)(3) of the Communications Act of 1934, as amended, a video programming provider may petition the Commission for a full or partial exemption from the Commission's closed captioning requirements if compliance would be "economically burdensome."⁶ The Commission considers several factors on a case-by-case basis when determining whether a petitioner has made the required showing under the economically burdensome standard.⁷ An economically burdensome waiver is appropriate when a petitioner has demonstrated that compliance with the closed captioning rules would likely result in the cancellation of its programming.⁸

¹ Letter from Mark Bassen, Pastor, Crosswalk Chapel, to Office of the Secretary, FCC (Nov. 5, 2011).

² Letter from Mark Bassen, to Office of the Secretary, FCC (Oct. 25, 2013) (October 2013 Supplement).

³ Letter from Roger Holberg, Disability Rights Office, CGB, to Mark Bassen (Mar. 14, 2012); Letter from Roger Holberg, to Mark Bassen (Sept. 26, 2013); Letter from E. Elaine Gardner, Disability Rights Office, CGB, to Mark Bassen (May 30, 2014).

⁴ Letter from Mark Bassen, to Roger Holberg (Apr. 9, 2012); Letter from Mark Bassen, to Office of the Secretary, FCC (Mar. 3, 2013) (March 2013 Supplement); October 2013 Supplement; Letter from Mark Bassen, to Office of the Secretary, FCC (June 13, 2014).

⁵ *Request for Comment, Request for Exemption from Commission's Closed Captioning Rules*, Public Notice, Dkt. No. 06-181, DA 15-200 (Feb. 12, 2015).

⁶ 47 U.S.C. § 613(d)(3). The Commission interpreted the term "economically burdensome" as being synonymous with the term "undue burden" as defined in Section 713(e) of the 1934 Act, and ordered the Bureau to continue to evaluate all exemption petitions using the "undue burden" standard pursuant to Rule 79.1(f)(2)-(3). *Interpretation of Economically Burdensome Standard*, 27 FCC Rcd 8831, 8834 ¶7 (2012).

⁷ *First Baptist Church, Jonesboro, Arkansas*, 29 FCC Rcd 12833, ¶3 (2014).

⁸ *See Anglers for Christ Ministries, Inc.*, 26 FCC Rcd 14941, 14952 ¶20 (2011) (*Anglers*).

III. Consumer Groups do not oppose Crosswalk's waiver petition.

In light of Crosswalk's overall financial health, Consumer Groups do not oppose Crosswalk's petition. Crosswalk obtained three quotes to caption its program, one for \$228.00 per week from Computer Prompting & Captioning,⁹ one for \$475.00 per week from VITAC,¹⁰ and one for \$175.00 per week from CaptionMax.¹¹ Based on the lowest quote from CaptionMax, Crosswalk's annual captioning costs would be \$9,100.00.

Even with those low captioning costs, providing closed captioning for Crosswalk's programming is likely to be economically burdensome. According to Petitioner's financial statements, it had a net loss of \$145.00 in 2012 and net profits of only \$5,678.00 in 2013.¹² Additionally, Crosswalk reports that it only had net current assets of approximately \$5,400.00 as of October 2013.¹³ Therefore, Crosswalk's net income and net current assets are insufficient to cover the cost of closed captioning.

Consumer Groups only ask that any waiver be limited, as it "is not designed to perpetually relieve a petitioner of its captioning obligation."¹⁴ Further, given the evolution of technology, potential drops in the cost of captioning over time, and the possibility that the financial status of a petitioner may change, the Commission should refrain from granting lengthy or open-ended exemptions.

Sincerely,

/s/

Aaron Mackey
Angela Campbell
Institute for Public Representation

Counsel to TDI

Christopher Dioguardi
Georgetown Law Student

⁹ March 2013 Supplement at 5.

¹⁰ *Id.* at 6.

¹¹ *Id.* at 7.

¹² October 2013 Supplement at 8-9.

¹³ Crosswalk provides documentation that illustrates that it had a Herget Bank account with \$5,069.80 as of October 2013 and a Busy Bank account with \$391.74 as of August 2013. *Id.* at 3, 21, 31.

¹⁴ *Anglers*, 26 FCC Rcd at 14953, ¶23.

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)

/s/

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CERTIFICATE OF SERVICE

I, Niko Perazich, Office Manager, Institute for Public Representation, do hereby certify that, on March 16, 2015, pursuant to the Commission's aforementioned Public Notice, a copy of the foregoing document was served by first class U.S. mail, postage prepaid, upon the Petitioner at the address listed below.

Mark Bassen, Pastor
Crosswalk Chapel
1805 Oakwood Drive
Pekin, IL 61554

/s/

Niko Pezarich
Institute for Public Representation

March 16, 2015