



GEORGETOWN LAW  
INSTITUTE FOR PUBLIC REPRESENTATION

Directors  
Hope M. Babcock  
Angela J. Campbell  
Michael T. Kirkpatrick  
Benton Senior Counselor  
Andrew Jay Schwartzman  
Staff Attorneys  
Meghan M. Boone  
Justin Gundlach  
Daniel H. Lutz\*  
Aaron Mackey  
Eric Null

600 New Jersey Avenue, NW, Suite 312  
Washington, DC 20001-2075  
Telephone: 202-662-9535  
Fax: 202-662-9634

May 11, 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 Petitions for Exemption from the Commission's Closed  
Captioning Rules  
CGB Dkt. No. 06-181

**Nehemiah Christian Center/  
Nehemiah Christian Center Sermons  
CGB-CC-1337**

**House of Destiny Ministries/  
House of Destiny International  
Ministries with Dr. Larry Manley  
CGB-CC-1341**

Dear Ms. Dortch:

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), Deaf Seniors of America, (DSA), Association of Late Deafened Adults (ALDA), American Association of the Deaf-Blind (AADB), National Association of the Deaf (NAD), Cerebral Palsy and Deaf Organization (CPADO), and Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), collectively, "Consumer Groups," respectfully submit this comment on the petitions of Nehemiah Christian Center (Nehemiah) and House of

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

Destiny Ministries (House of Destiny) for exemption of its programming from the Federal Communications Commission's (Commission) closed captioning rules.

## **I. 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."<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

## **III. Consumer Groups do not oppose Nehemiah and House of Destiny's waiver petitions.**

In light of the limited financial resources of both Nehemiah and House of Destiny, Consumer Groups do not oppose the Commission granting short waivers of the closed captioning rules. In the case of Nehemiah, it broadcasts a 30-minute program highlighting its Sunday morning sermons on MyTV affiliate MyRDC 28 in Durham, North Carolina.<sup>4</sup> Nehemiah petitioned for a waiver of the caption rules in March 2014 and the Bureau requested additional information later that year before placing it on public notice in April.<sup>5</sup>

The lowest captioning quote Nehemiah received was for \$100 per episode, with a total annual cost of \$5,200.<sup>6</sup> Petitioner's finances, on the other hand, show that

---

<sup>1</sup> 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).

<sup>2</sup> *First Baptist Church, Jonesboro, Arkansas*, 29 FCC Rcd 12833, ¶3 (2014).

<sup>3</sup> *See Anglers for Christ Ministries, Inc.*, 26 FCC Rcd 14941, 14952 ¶20 (2011) (*Anglers*).

<sup>4</sup> *Nehemiah Christian Center Petition for Exemption from the Commission's Closed Captioning Rules*, Dkt. 06-181 (March 14, 2014) (*Nehemiah Petition*).

<sup>5</sup> *Request for Comment on Requests for Exemption from Commission's Closed Captioning Rules*, Public Notice, DA 15-445, Dkt. 06-181 (April 10, 2015) (*April Public Notice*).

<sup>6</sup> *Nehemiah Petition*.

Nehemiah had a net loss of \$842 in 2012 and another net loss of \$2,997 in 2013.<sup>7</sup> Additionally, Nehemiah reported net current assets of \$2,645 in 2012 and \$8,494 in 2013.<sup>8</sup> Nehemiah thus does not appear to have enough financial resources to cover both its losses and its additional captioning expenses.

House of Destiny similarly lacks the financial resources to cover its captioning expenses. House of Destiny produces a 30-minute show that airs on MyTV affiliate WMYA-TV in Asheville, North Carolina helping ex-offenders transition back to society.<sup>9</sup> House of Destiny sought a petition in July 2013 and requested additional information in 2013 and 2014 before placing it on public notice in April.<sup>10</sup>

The lowest captioning quote House of Destiny received was for \$235 per episode, with an annual cost of \$12,220.<sup>11</sup> Petitioner reported a net profit of \$505.55 in 2012 and a net loss of \$634.96 in 2013.<sup>12</sup> Additionally, Petitioner reported net current assets of \$1,918.65 in 2012 and \$1,720.68 in 2013.<sup>13</sup> Thus, it appears as though even if House of Destiny devoted all of its net current assets and net revenue from 2012 toward captioning, it would still not be able to afford the annual cost of \$12,220.

Consumer Groups therefore do not oppose the FCC granting temporary waivers to Nehemiah and House of Destiny. Any waivers, however, should be limited to six months or one year, as the economically burdensome waiver "is not designed to perpetually relieve a petitioner of its captioning obligation."<sup>14</sup> 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. A short waiver will give Nehemiah and

---

<sup>7</sup> *Id.* Nehemiah reported revenues of \$264,462 in 2012 with \$265,304 in expenses. It reported \$241,541 in revenues in 2013 with \$244,538 in expenses.

<sup>8</sup> *Id.*

<sup>9</sup> *House of Destiny Petition for Exemption from the Commission's Closed Captioning Rules*, Dkt. 06-181 (July 15, 2013).

<sup>10</sup> April Public Notice.

<sup>11</sup> *Supplement to House of Destiny Petition for Exemption from the Commission's Closed Captioning Rules*, Dkt. 06-181 (June 13, 2013).

<sup>12</sup> *Id.* In 2012, House of Destiny reported revenues of \$16,224.04 and expenses of \$15,718.49. House of Destiny reported revenues of \$23,597.79 in 2013 with expenses of \$24,232.75.

<sup>13</sup> *Supplement to House of Destiny Petition for Exemption from the Commission's Closed Captioning Rules*, Dkt. 06-181 (Oct. 14, 2014).

<sup>14</sup> *Anglers*, 26 FCC Rcd at 14953, ¶23.

House of Destiny time to identify financial resources to bring their programming into compliance with the Commission's closed captioning rules.

Sincerely,

/s/

---

Aaron Mackey  
Angela Campbell  
Institute for Public Representation

*Counsel to TDI*

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

/s/

---

Claude Stout, Executive Director • [cstout@TDIforAccess.org](mailto:cstout@TDIforAccess.org)  
8630 Fenton Street, Suite 121, Silver Spring, MD 20910  
[www.TDIforAccess.org](http://www.TDIforAccess.org)

**Deaf Seniors of America (DSA)**

Nancy B. Rarus, President • [dsaprez@verizon.net](mailto:dsaprez@verizon.net)  
Contact: Tom Dowling • [dowlingt@cox.net](mailto:dowlingt@cox.net)  
5619 Ainsley Court, Boynton Beach, FL 33437  
[www.deafseniorsofamerica.org](http://www.deafseniorsofamerica.org)

**Association of Late Deafened Adults (ALDA)**

Steve Larew, President • [president@alda.org](mailto:president@alda.org)  
8038 Macintosh Lane, Suite 2, Rockford, Illinois 61107  
[www.alda.org](http://www.alda.org)

**American Association of the Deaf-Blind (AADB)**

Mark Gasaway, President • [mark.gasaway@comcast.net](mailto:mark.gasaway@comcast.net)  
PO Box 8064, Silver Spring, MD 20907  
[www.aadb.org](http://www.aadb.org)

**National Association of the Deaf (NAD)**

Howard Rosenblum, Chief Executive Officer • [howard.rosenblum@nad.org](mailto:howard.rosenblum@nad.org)  
Contact: Andrew Phillips, Policy Counsel • [Andrew.phillips@nad.org](mailto:Andrew.phillips@nad.org)  
8630 Fenton Street, Suite 820, Silver Spring, MD 20910  
[www.nad.org](http://www.nad.org)

Consumer Groups' Comment on Closed  
Captioning Waiver Petitions CC-1337, CC-1341  
May 11, 2015  
Page 5 of 5

**Cerebral Palsy and Deaf Organization (CPADO)**

Mark Hill, President • [president@cpado.org](mailto:president@cpado.org)  
12025 SE Pine Street #302, Portland, OR 97216  
[www.cpado.org](http://www.cpado.org)

**Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN)**

Cheryl Heppner, Vice Chair • [CHEppner@nvrc.org](mailto:CHEppner@nvrc.org)  
3951 Pender Drive, Suite 130, Fairfax, VA 22030

## CERTIFICATION

Pursuant to 47 C.F.R. §§ 1.16 and 79.1(f)(9), I, Claude Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), hereby certify under penalty of perjury that to the extent there are any facts or considerations not already in the public domain which have been relied on in the foregoing document, these facts and considerations are true and correct to the best of my knowledge.



---

Claude Stout  
May 11, 2015

**CERTIFICATE OF SERVICE**

I, Niko Perazich, Office Manager, Institute for Public Representation, do hereby certify that, on May 11, 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 Petitioners at the address listed below.

Dr. Herbert R. Davis, Senior Pastor  
Attn: Cornell J. Harris  
Nehemiah Christian Center  
Church of God in Christ  
514 N. Mangum Street  
Durham, NC 27701

Pastor Brenda Manley  
House of Destiny Ministries  
P.O. Box 160033  
Boiling Springs, SC 29316

/s/

---

Niko Perazich  
Institute for Public Representation

May 11, 2015