



live programming, SHHH members and others who cannot hear well are denied equal access to much of the most significant information content of video programming. ENR captioning has been among the most frequent sources of complaints of SHHH members concerned about captioning quality.

The clear intent of Congress in Section 305 of the Telecommunications Act of 1996 was to facilitate enhanced access by individuals with disabilities to video programming. The closed captioning rules ordered by the Commission accomplish this over time, recognizing limitations currently existing in resources required to produce closed captioning and working within those limitations.

The Commission also recognized the deficiencies of ENR and decided to restrict the use of ENR as a substitute for real-time captioning. The Commission determined that, beginning January 1, 2000, the four major national broadcast networks (ABC, CBS, Fox and NBC) and television stations in the top 25 television markets that are affiliated with these networks will not be permitted to count ENR captioned programming toward compliance with their captioning requirements.

CBS seeks to have certain past users of ENR effectively grandfathered and permitted to continue using the ENR method in the year 2000 and beyond. In support of their request, CBS cites a "scarcity" of real-time captioning services, and claims that it would be "difficult and time consuming" to find and retain the captioning resources needed.

SHHH believes that the Commission effectively recognized present limits of available

real-time captioning resources by restricting its order prohibiting use of ENR to the top 25 television markets. In order to verify that sufficient resources are in fact available to satisfy requirements of the Commission's order with respect to ENR, SHHH contacted some principal suppliers of real-time captioning services.

One of the suppliers advised us as follows:

"The scarcity of real-time captioners is not a significant factor that needs to be considered at this time, though the longer a station waits to make arrangements, and the closer we get to January 1, 2000, the more of a problem it could become. The main reason is that few stations would be affected if the no-backsliding rule were applied to local news captioned by ENR as of January 1, 1998. If every TV station in the country, not just a few in the top 25 markets, were required to begin real-time captioning next year, yes, it would be a problem. But that is not the case, and we do not anticipate any major problems for those who begin planning now."

Based on this, SHHH believes that real-time captioning resources, though limited, are entirely adequate to fully support the Commission's order restricting use of ENR in the top 25 television markets. The CBS request cannot be justified by scarcity of real-time captioning services.

In addition to scarcity, CBS expresses concern about the cost of real-time captioning services. SHHH believes that the Commission's rules provide adequate procedures for exemption from captioning requirements for video programming providers that find the cost of closed captions an undue burden. Providers so burdened should be advised to seek relief under the procedures established.

To estimate the extent of additional burden imposed on CBS affiliates by the Commission's rule, we reviewed the programming schedule of one CBS affiliate (KDKA-TV, Channel 2, Pittsburgh) for the week May 22-28, 1999. Based on schedules listed in "TV-Guide", KDKA-TV plans to offer approximately 105 hours of captioned programming during the week, plus an additional 10 captioned "early morning" hours when captioning is not required. Approximately 75% of programming during required hours will be captioned. SHHH commends CBS and KDKA-TV for this commitment to captioning, which appears to satisfy most of the Commission's rules until January 1, 2006.

For the next six years, little additional burden would be imposed on a major network affiliate in the top 25 television markets, currently providing the same level of captioned programming as CBS affiliate KDKA. Only the replacement of ENR with real-time captioning (or some alternative means of graphically displaying all of the verbal audio content of programming currently captioned by ENR) would be required. Surely this is not an undue burden.

SHHH respectfully submits that it would be clearly contrary to the will of Congress as expressed in Section 305 of the Telecommunications Act of 1996, and contrary to Part 79 of the Commission's rules, to "grandfather" ENR captioning as has been requested. Doing so would deny equal access to significant numbers of persons in major metropolitan areas, when resources are readily available to provide such access. Prior use cannot justify continued use of inferior captioning methods when superior technology is readily available.

## CONCLUSION

If clarification is required, the Commission should reaffirm that, effective January 1, 2000 and thereafter, the major national broadcast television networks and their affiliates in the top 25 television markets shall, in addition to meeting the applicable benchmarks, continue to provide captioning at a level substantially the same as the average level of captioning that they provided during the first six months of 1997, and shall not count new programming captioned by ENR towards compliance with these rules.

Respectfully submitted,

Self Help for Hard of Hearing People, Inc.  
7910 Woodmont Avenue, Suite 1200  
Bethesda, MD 20814

By \_\_\_\_\_  
Brenda Battat  
Acting Executive Director  
May 26, 1999

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<ADDRESS2>Suite 1200  
<CITY>Bethesda  
<STATE>MD  
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<DESCRIPTION>Response to CBS Corporation request for clarification  
<NOTIFY>Battat@shhh.org  
<TEXT>



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SHHH believes that the Commission effectively recognized present limits of available

real-time captioning resources by restricting its order proscribing use of ENR to the top 25 television markets. In order to verify that sufficient resources are in fact available to satisfy requirements of the Commission's order with respect to ENR, SHHH contacted some principal suppliers of real-time captioning services.

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