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November 15, 1999

VIA COURIER

Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: *In the Matter of Closed Captioning Requirements for Digital
Television Receivers, ET Docket No. 99-254*

Dear Ms. Salas:

Enclosed please find an original and nine copies of the Consumer Electronics Association's Reply Comments in the above-captioned proceeding.

Please contact the undersigned if you should have any questions about this filing.

Very truly yours,

B. Bartolome

Benigno E. Bartolome

*Counsel for the
Consumer Electronics Association*

Enclosure

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Closed Captioning Requirements)
for Digital Television Receivers)

ET Docket No. 99-254

To: The Commission

**REPLY COMMENTS OF THE
CONSUMER ELECTRONICS ASSOCIATION**

The Consumer Electronics Association (“CEA”), formerly known as the “Consumer Electronics Manufacturers Association,” by its attorneys and pursuant to Section 1.415 of the Commission’s Rules, 47 C.F.R. § 1.415, hereby respectfully submits its reply comments in response to the Notice of Proposed Rulemaking (“NPRM”) issued by the Commission in the above-captioned proceeding.¹

I. INTRODUCTION

In its initial comments in this proceeding, CEA supported the promotion and standardization of closed captioning technology, recognizing that while closed captioning will continue to play a critical role in expanding the availability of programming to the hearing impaired, the potential benefits of closed captioning technology extend beyond the disabled community to virtually every television viewer. As such, CEA observed, as did other commenters, that there exist substantial market incentives for manufacturers to create DTV receivers with closed captioning capabilities and to enhance those capabilities as the market and

¹ *In the Matter of Closed Captioning Requirements for Digital Television Receivers*, ET Docket No. 99-254, Notice of Proposed Rule Making, FCC 99-180 (rel. July 15, 1999) (“NPRM”), 64 Fed. Reg. 41897 (Aug. 2, 1999).

technical conditions permit, mitigating the need for excessive regulations. While CEA generally supported the Commission's proposals, it strongly urged the Commission to adopt only those proposals that are necessary to ensure the availability of closed captioning on digital television ("DTV") receivers and to effect the statutory purpose of the Television Decoder Circuitry Act of 1990 ("TDCA").² In all other respects, CEA asked the Commission to refrain from mandating any further requirements and, instead, afford manufacturers and caption providers much needed flexibility to implement any additional standards. Below, CEA submits the following reply comments for the Commission's consideration.

I. AS MANY COMMENTERS URGE, THE COMMISSION SHOULD ADOPT SECTION 9 OF EIA-708-B AS THE STANDARD FOR IMPLEMENTING CLOSED CAPTIONING SERVICES FOR DIGITAL TELEVISIONS.

CEA urges the Commission to adopt its proposal to require DTV receivers to function pursuant to recommendations contained in Section 9 of EIA-708-B. The record reflects broad support for the Commission's tentative proposal to adopt the EIA-708 standard for the provision of closed captioning services. As CEA clarified in its initial comments, however, the Commission should adopt the more current version of that standard – *i.e.*, EIA-708-**B**, not EIA-708-**A**. The changes reflected in EIA-708-B include clarifications and corrections of some technical issues; the substantive recommendations contained in the previous EIA-708-A standard remain fully intact in EIA-708-B. CEA notes that the existence of the more current standard was pointed out and supported by other commenters such as Thomson, Toshiba, WGBH, and VITAC.³ CEA further notes that other comments (without consideration of General Instrument's

² See Comments of the Consumer Electronics Manufacturers Association in ET Docket No. 99-254 (filed Oct. 18, 1999) (hereinafter "CEA Comments").

³ See Thomson Comments at ii; Toshiba Comments at 1; WGBH Comments at 1; and VITAC Comments at 2-3.

comments) do not reflect any opposition to adoption of the more current standard.⁴ Below, CEA specifically addresses (1) General Instrument's and NCTA's resistance to adoption of the EIA-708-B standard and (2) the insistence of some organizations representing the hearing disabled that the Commission require DTV receivers to offer the full range of caption features contained in EIA-708-B, in addition to those contained in Section 9 as the Commission has proposed.

General Instrument and NCTA are alone in expressing reservations about adoption of the EIA-708-B standard.⁵ General Instrument claims that adoption of the EIA-708-B standard would present unnecessary complexities to manufacturers, is inefficient, and "would render obsolete the substantial deployed base of closed captioning encoding and decoding equipment used in the cable industry."⁶ NCTA, in its comments, appears to share General Instrument's concern that the proposed standard might render obsolete existing cable boxes.⁷ While CEA appreciates General Instrument's and NCTA's concerns, CEA believes that those concerns are not appropriately introduced in a proceeding involving off-air receivers; furthermore, they are not shared by the majority of commenters. Should the Commission wish to consider them, those concerns should be raised in a separate proceeding involving cable television systems. As the Commission knows, the cable and consumer electronics industries are engaged in wide-ranging

⁴ In further referencing the EIA-708 standard, CEA will refer only to EIA-708-B in order to alleviate any discrepancies.

⁵ Although General Instrument specifically references EIA-708-A, CEA substitutes the more current version of that standard (*i.e.*, EIA -708-B) for consistency, as explained in note 4, *supra*.

⁶ See General Instrument Comments at 1-12.

⁷ See National Cable Television Association ("NCTA") Comments at 5-6 ("To the extent that the Notice proposes to adopt a decoding standard for digital television sets that differs from the method used by the cable industry today for digital transmissions, it raises serious issues of backward compatibility. . . . The standard proposed by the Notice for digital television sets would not be compatible with the DVS-157 standard used by the cable industry today.").

discussions to ensure technical compatibility of cable systems and digital receivers. Those discussions have been productive, and CEA remains hopeful that issues involving cable carriage of closed captioning information can be resolved in that context.

Although commenters are virtually unanimous in supporting adoption of the EIA-708-B standard, several commenters (in particular, organizations representing the interests of the hearing disabled)⁸ ask the Commission to go beyond its tentative proposal in the NPRM by mandating compliance not only with recommendations contained in Section 9, but the full range of caption features contained in EIA-708-B.⁹ While CEA understands the desire of the hearing disabled community for enhanced closed captioning features, CEA must respectfully disagree with the need to mandate the provision of these enhanced features. Section 9 provides what is essential to comply with the fundamental objectives of the TDCA and ensures the successful implementation of closed captioning technology in DTV receivers. It is irrefutable that neither the language of the relevant provisions of the TDCA nor accompanying legislative history requires that DTV receivers be able to provide enhanced closed captioning features.

Furthermore, CEA firmly believes that requiring receiver manufacturers to implement closed caption features beyond those contained in Section 9 will create uncertainties for receiver manufacturers and caption providers, and serve to delay the availability of this technology to the hearing disabled community and consumers at large. As CEA stated in its initial comments, and reasserts in its reply comments here, receiver manufacturers will require at least three years after adoption of DTV closed captioning rules to ensure the availability of a product satisfactory

⁸ See, e.g., Telecommunications for the Deaf Comments at 2-7; National Association of the Deaf Comments at 3-7.

⁹ For example, closed caption decoders functioning pursuant to EIA-708-B may permit viewers to change various attributes of caption text such as font, spacing, color, or screen position.

to consumers. The request for three years is based on manufacturers' assumption that the Commission will require compliance only with Section 9 recommendations, and not the full range of closed captioning options contained in EIA-708-B. CEA believes that, if the Commission were to require receiver manufacturers to implement the full range of features defined in the standard, the availability of this technology, most certainly, will be further delayed beyond three years after adoption of closed captioning rules. CEA will encourage receiver manufacturers to voluntarily respond to additional closed captioning features urged by the hearing disabled community and consumers at large through the development of voluntary industry-wide recommended practices.

II. MANY OF THE COMMENTERS THAT ADDRESS THE ISSUE OF SCREEN SIZE CONCUR THAT DTV CLOSED CAPTIONING RULES SHOULD BE APPLIED TO DTV RECEIVERS BASED ON HEIGHT, NOT SCREEN AREA OR DIAGONAL MEASUREMENT AS APPLIED TO ANALOG RECEIVERS.

Many of the commenters that address the issue of screen size agree that the Commission's tentative proposal to require all DTV receivers with picture screens "13 inches or greater in size" to include closed caption decoder circuitry is inappropriate for DTV receivers. CEA urges the Commission to follow the recommendation of CEA, Thomson, and Toshiba that the Commission adopt a standard based on a DTV receiver's vertical screen height, and to require, more specifically, that devices with a vertical height of 7.8 inches or greater include closed captioning capability pursuant to EIA-708-B.

The Commission should defer to the recommendation of receiver manufacturers on this issue. As CEA pointed out in its comments, consistent with the view of other parties, if the 13 inches or greater standard applied to analog receivers is applied to DTV receivers, the shorter relative vertical size on the DTV receiver will cause the display of closed captioned text to take up significant vertical space on the screen, interfering with the picture, or to be significantly

smaller than was intended in the original 13 inches diagonal requirements. The recommendation provided by CEA, Thomson, and Toshiba serves to balance the technical limitations of DTV receivers and the receiver manufacturers' desire to provide closed captioning services on as many receivers as possible.

CEA, however, is troubled by the recommendation of commenters, such as the Telecommunications for the Deaf, that urge the Commission to "require picture screens of all sizes to support closed captioning."¹⁰ Not only is this recommendation impractical, but it also violates the exemption carved out by Congress in the TDCA. The closed captioning requirements applied to NTSC receivers, as the Commission noted in the NPRM, establishes a minimum receiver size – *i.e.*, "television receivers with picture screens 33 cm (13 inches) or larger."¹¹ CEA strongly urges the Commission to reject any proposal to require that all DTV receivers, regardless of size, provide closed captioning capability.

III. CEA AGREES WITH OTHER COMMENTERS THAT DTV RECEIVERS SHOULD NOT BE REQUIRED TO RESPOND TO DIGITAL CLOSED CAPTIONING DATA FORMATTED TO ANY STANDARD OTHER THAN EIA-708-B.

Commenters generally agree with the Commission's proposal to require dual mode receivers operating in the analog mode provide closed captioning functionality pursuant to the Commission's existing rules for analog receivers; and receivers operating in the digital mode function in the digital mode function in accordance with proposed EIA standard. CEA and other commenters, however, strongly urge the Commission to reconsider its tentative proposal to require that "the decoder circuitry in digital tuners respond primarily to any digitally formatted

¹⁰ See Telecommunications for the Deaf Comments at 8.

¹¹ NPRM at ¶ 2.

caption information.”¹² As CEA sought to clarify in its initial comments, CEA does not interpret this proposal as one that would require manufacturers to produce DTV receivers that must display any and all enhancements made possible through digital technologies. Thus, if the Commission takes a contrary view, then CEA would oppose any such proposal as unwarranted.

As Thomson also points out, such an open-ended requirement “appears to be in direct conflict with the Commission’s proposal to incorporate only Section 9 of the EIA standard into the Commission’s rules.”¹³ As CEA and other commenters urge, manufacturers must have the flexibility to phase in such enhancements based on technical, marketing and cost considerations, without being constrained by regulatory mandates that do not take such factors into account.¹⁴ CEA believes that this flexibility is necessary until an all-digital environment is achieved. In the meantime, CEA will continue involvement in ongoing activities with several technical committees to determine what recommended practices should be followed by receiver manufacturers. Given that manufacturers are already engaged in developing recommendations on this issue, CEA believes that the Commission should not, at this time, require that DTV receivers respond to digital closed captioning data formatted to any standard other than EIA-708-B.

¹² *Id.* at ¶ 11 (emphasis added). *See, e.g.*, CEA Comments at 7-9; Thomson Comments at 12-13; Toshiba Comments at 2.

¹³ Thomson Comments at 12.

¹⁴ CEA Comments at 8; Thomson Comments at 12-13;

IV. CEA AND OTHER COMMENTERS CONCUR IN URGING THE COMMISSION TO EXERCISE RESTRAINT IN APPLYING THE REQUIREMENTS OF THE TDCA TO SET-TOP BOXES, DTV TUNERS, AND OTHER SUCH DEVICES.

While CEA supports the Commission's objective of ensuring broad availability of closed captioning services, CEA does not believe a rule requiring set-top boxes, DTV tuners, and other such devices include closed captioning capabilities, as tentatively proposed by the Commission, is necessary or appropriate. In its initial comments, CEA questioned whether the Commission even has the wide-ranging authority it asserts it has to require closed captioning capability in all devices capable of receiving DTV transmissions. CEA pointed out that neither the language of the applicable TDCA provisions nor accompanying legislative history appear to support the Commission's view in this regard. CEA is not alone in questioning the Commission's authority here. Thomson, for example, states: "the Commission's tentative conclusion, that it has authority to apply the provisions of the TDCA to any device not expressly identified by Congress therein, is questionable."¹⁵ CEA agrees with Thomson that market forces mitigate against the Commission's need to regulate heavily in the area of non-display devices.¹⁶

CEA believes, nonetheless, that the statutory purpose of the TDCA should not be defeated simply because DTV tuner and display functionalities are provided to viewers in separate components and therefore, as a practical matter, CEA would not oppose limited requirements. Specifically, as also stated in its comments, CEA would not object to a rule that would require manufacturers to include DTV closed captioning capability in non-display-capable tuners designed to operate with monitors with a display screen that is 7.8 inches in height or larger. Further, with respect to set-top devices designed to convert DTV transmissions for

¹⁵ Thomson Comments at 8.

¹⁶ *See id.* at 9.

display by analog receivers, CEA would also not object to a rule that requires that such devices receive and decode digital transmission in EIA-708-B format containing embedded EIA-608 closed captioning for purposes of compatibility with an analog closed captioning decoder. CEA urges the Commission, however, not to establish closed captioning requirements for other non-display equipment capable of receiving DTV transmissions, such as VCRs.¹⁷

V. THE MAJORITY OF COMMENTERS AGREE THAT THE COMMISSION'S TENTATIVE PROPOSAL TO MAKE DIGITAL TELEVISION CLOSED CAPTIONING RULES EFFECTIVE ONE YEAR AFTER ADOPTION IS UNREALISTIC.

Receiver manufacturers will make every effort to make closed captioning technology in DTV receivers available to the public as soon as possible, but contend that complying with the Commission's tentative proposal to make DTV closed captioning rules effective only after one year after adoption is impossible to meet. The majority of commenters agree with this view. Commenters such as NAB, HBO, Thomson, and Toshiba, for example, concur that the proposed one-year period is simply unrealistic.¹⁸ Toshiba, like CEA, urge the Commission to provide a minimum of three years after adoption to begin implementing DTV closed captioning requirements.¹⁹ CEA contends that three years is a more realistic and reasonable time period in which to complete testing and evaluation to ensure that DTV receivers perform captioning functions reliably. Furthermore, as pointed out earlier, this recommendation for a three year

¹⁷ See *id* at 11. CEA notes that NAB points out that, along with video and audio, one of the data streams carried in the ATSC DTV broadcast signal is the Program and System Information Protocol ("PSIP"). See National Association of Broadcasters ("NAB") Comments at 6. CEA believes that DTV receivers will be able to receive and process the data contained in PSIP. The Commission, therefore, need not require as a rule that DTV receivers be able to process PSIP in accordance with ATSC standards as urged by NAB.

¹⁸ See NAB Comments at 9-10.

¹⁹ See Toshiba Comments at 3.

period is based on the assumption that the Commission will maintain its tentative proposal to require DTV receivers to comply only with Section 9 captioning requirements. CEA believes, as other commenters do also, that it would be detrimental to consumer confidence if manufacturers were forced to prematurely release a product in order to comply with the Commission's one-year implementation requirement.

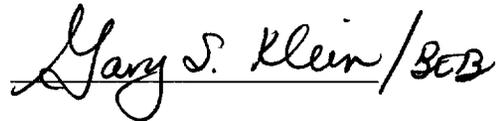
VI. CONCLUSION

For the reasons stated, CEA urges the Commission to adopt rules for the provision of closed captioning on DTV receivers consistent with the comments expressed by CEA herein and in its initial comments in this proceeding.

Respectfully submitted,

Consumer Electronics Association

By:

Handwritten signature of Gary S. Klein in black ink, with the initials 'BEB' written to the right of the signature.

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