

CGB-CC-0447

**Commissions Secretary**

**Office of the Secretary**

**Federal Communications Commissions**

**Attention: CGB Room 3-B431**

**Re; Petition for temporary exemption from Closed Captioning requirements.**

To whom it may concern,

Bighorn Outdoors, LLC respectfully submits this petition requesting temporary exemption from the closed captioning requirements under the Commissions Rules, 47 C.F.R. 79.1 based on the undue burden standard and regulations. We feel we should be granted this temporary exemption due to exception clause #11 stated in FCC § 79.1 **Closed captioning of video programming.**

**§ 79.1 Closed captioning of video programming.**

11) Captioning expense in excess of 2% of gross revenues. No video programming provider shall be required to expend any money to caption any video programming if such expenditure would exceed 2% of the gross revenues received from that channel during the previous calendar year.

**Introduction and Overview:**

Bighorn Outdoors, LLC is a sole proprietor company that was formed in July of 2003. As of now I am the only fulltime employee. I currently produce 26 original and 26 reruns a year that air on the Mens Channel. Commercials, logos and segments are changed in the reruns, causing them to be re mastered too. These 30 minute programs are filmed by myself and friends that volunteer their time to be a part of the program. I do all of the Editing, Sales and Marketing and Accounting. My goal has always been to create a company that friends and family could make a living doing what they love. This goal is in reach and I plan on having 2 full time employees by the end of 2007. The cost of Close Captioning 26 original shows and 26 reruns with small changes is \$15,600 per year. (See attached estimate, exhibit A1 and A2). This is equal to half of a future employees yearly salary and is 10.85 % of Bighorn Outdoors, LLC Gross Revenue for 2005. (See attached Tax Return for 2005, exhibit B). We are currently soliciting financial help from several companies for the cost of Closed Captioning. At this time the added work load and cost of Closed Captioning would truley cause Bighorn Outdoors, LLC an undue burden.

**Nature and Cost of Closed Captioning for the Programming:**

Bighorn Outdoors, LLC was informed on June 1st, 2006 that Closed Captioning would be mandatory for all programs airing on The Mens Channel starting June 26th, 2006. Bighorn Outdoors, LLC (BHO) programs have to be turned in for quality control check atleast 1 week prior to air date. This three week notice cannot be considered sufficient time to make preparation to Close Caption all of BHO programs. We have solicited vendors to perform close captioning on BHO programs, the best price I can find for each 30 minute program is \$300 each.(SEE attached estimate for Closed Captioning, exhibit A1 and A2.) In March 2006, the price of our airtime on The Mens Channel was increased by \$300 per week. Bighorn Outdoors, LLC had to ask each of it's sponsors to help with the cost of the price increase. About half of the \$15,000 dept has been raised. The other half will come out of 2006 profits. Bighorn Outdoors, LLC filed a loss of \$2,668.41 on 2005,s Tax Return. 2006 was looking better until the \$300 a week/\$15,000 a year airtime price increase. An additional \$15,600 cost for Closed Captioning at this time would with out a doubt be an undue burden.

#### **Impact of operation:**

The direct financial burden caused by having to close caption BHO programs is only half of the problem. Visual Data, a company that was solicited by BHO to close Caption the programs has a 4 to 5 day turn around time. The fact that BHO cannot yet afford to pay someone else to edit the programs and would have to edit them an additional 4 to 5 days earlier causes even more of an undue burden. Capturing these programs sometimes causes me to be out of my home office for 3 to 4 weeks at a time. When I return with the footage I usually only have 4 days to edit the show, pay \$50 to have it converted to a BCSP Master and overnight it to the network for broadcast. At this time Closed, Captioning would cause BHO to not be able to meet deadlines that we are contractually obligated to by Turner Media Group, (The Mens Channel).

#### **Alternatives to Closed Captioning:**

BHO programs incorporate the use of title overlays and on screen text allowing the viewer to visually read who we are, where we are, what we're doing, when we're there, and how to contact me for more information. 99% of communication between me and the viewers of BHO programs is accomplished by email. The BHO web site is displayed several times during each BHO episode. This allows any person with a hearing disability to contact me for any information they might need pertaining to the program.

#### **Summary:**

Bighorn Outdoors, LLC is not opposed to closed captioning our program. Infact I have contacted several companies to try and get them to sponsor the Closed Captioning during BHO programs. So far I have failed to find a company to pay the total or even to help with a portion of the cost of closed captioning. I am pretty sure that by the end of 2007 I will have had time build a relationship with a company and properly solicit the funds needed for closed captioning of BHO programs. I currently work 60 to 70 hours a week to produce Bighorn Outdoors programs. Due to financial burdens I cannot yet afford to hire staff to help lighten my workload. Our business plan incorporates two full time employees by the end of 2007. This will free up enough time to allow Bighorn Outdoors,

LLC to become a more efficient and proffitable company. I believe that by January 1st 2008 the closed captioning of Bighorn Outdoors programs will not be an undue burden. Please allow me this exemption till this future date.

Thank you for your consideration, I look forward to your response.

By: Tom King Date: 6/5/06

Tom King/Bighorn Outdoors  
8033 Hill RD.  
Canal Winchester, OHIO 43110  
614-565-8751  
email, tek@bighornoutdoors.com

**Affidavit:**

State of Ohio

County of, Fairfield

Before me, the undersigned authority, on this the 5<sup>th</sup> day of June, 2006, personally appeared Tom King in his capacity as President of Bighorn Outdoors, LLC, the petitioner in the forgoing Petition for temporary Closed Captioning exemption and being by me duly sworn on oath deposes and avers that all statements and representations made in this petition are true and accurate in substance and fact.

Tom King Bighorn Outdoors, LLC

Tom King, Bighorn Outdoors, LLC

Sworn to and Subscribed before me by the said Tom King, Bighorn Outdoors, LLC this the 5<sup>th</sup> day of June, 2006, to certify and witness my hand and seal of office.

Patricia A Perry

\_\_\_\_\_  
\_\_\_\_\_



**Patricia A. Perry**  
**Notary Public**  
**In and for the State of Ohio**  
**My Commission Expires**  
**July 01, 2007**

**Tom King / Bighorn Outdoors**

**From:** "Alexandria Briare" <abriare@visualdatainc.com>  
**To:** <tek@bighornoutdoors.com>  
**Sent:** Thursday, June 01, 2006 11:35 AM  
**Subject:** CC - 28:30 Weekly Hunting & Fishing Show

exhibit  
 (A1 + A2)

Good afternoon Tom,

It was a pleasure speaking with you earlier. In speaking with you I could hear that you were somewhat blown away with the new FCC ruling as of January 1st...so I do understand your frustration. This is not an add'l cost that most people budgeted for...it's a bear! lol

I have \$50 cost per 30 minute show for original BCSP.

In regards to your Closed Captioning (CC) needs, you would send me a BCSP, we'll then create you an new CC BCSP. We would send the new CC submaster to "The Men's Channel" and would vault your original master, along with the back up CC BCSP you were thinking of making...Once we had about 10, 12 or more, we could then do a bulk shipment to you, which would then save you money.

The cost to create a CC BCSP Roll-Up Submaster:

**30:00 Roll-Up Closed-Captioning  
 Encoding onto BCSP  
 BCSP NTSC CC master**

**Total for all the above - \$250.00 per 30:00 episode (all inclusive - no hidden charges)**

**Also, to make a BCSP CC dub, for you to vault, I will extend the cost of \$34.00 per show. I will also extend our discounted Fed X rates as well.**

Tom, I hope this covers everything. Let me know if you need anything else. Our turnaround time is 3-4 days.

Again, I look forward to hearing back from you ... we really would love to work with you!

Kindly,

Alexandria

Alexandria Briare  
 VP of Sales  
**Visual Data Media Services, Inc.**  
 145 West Magnolia Blvd.  
 Burbank, CA 91502  
 818-558-3363 (office)  
 818-845-2550 (fax)  
 www.visualdatainc.com

**visualdata**

6/5/2006

(Exhibit B)

Form **1065**  
Department of the Treasury  
Internal Revenue Service

**U.S. Return of Partnership Income**

OMB No. 1545-0099

**2005**

For calendar year 2005, or tax year beginning ..... 2005, ending ..... 20.....  
▶ See separate instructions.

A Principal business activity <i>Video Production</i>	Use the IRS label, Other-wise, print or type.	Name of partnership <i>Beighorn Outdoor LLC</i>	D Employer identification number <i>[REDACTED]</i>
		Number, street and room or suite no. If a P.O. box, see the instructions. <i>9033 Hill Rd.</i>	E Date business started
		City or town, state, and ZIP code <i>Canal Winchester, OH 43110</i>	F Total assets (see the instructions) \$
B Principal product or service <i>Photo/Recording</i>			
C Business code number <i>572100</i>			

- G Check applicable boxes: (1)  Initial return (2)  Final return (3)  Name change (4)  Address change (5)  Amended return
- H Check accounting method: (1)  Cash (2)  Accrual (3)  Other (specify) ▶
- I Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year ▶

Caution. Include only trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.

Income	1a Gross receipts or sales	1a	<i>169,281.00</i>	1c	<i>169,281.00</i>
	b Less returns and allowances	1b			
Deductions (see the instructions for limitations)	2 Cost of goods sold (Schedule A, line 8)	2	<i>12,338.00</i>		<i>12,338.00</i>
	3 Gross profit. Subtract line 2 from line 1c	3			<i>156,943.00</i>
	4 Ordinary income (loss) from other partnerships, estates, and trusts (attach statement)	4			
	5 Net farm profit (loss) (attach Schedule F (Form 1040))	5			
	6 Net gain (loss) from Form 4797, Part II, line 17 (attach Form 4797)	6			
	7 Other income (loss) (attach statement)	7			
	8 Total income (loss). Combine lines 3 through 7	8			<i>156,943.00</i>
	9 Salaries and wages (other than to partners) (less employment credits)	9			
	10 Guaranteed payments to partners	10			
	11 Repairs and maintenance	11			
12 Bad debts	12				
13 Rent	13				
14 Taxes and licenses	14			<i>4437.00</i>	
15 Interest	15				
16a Depreciation (if required, attach Form 4562)	16a	<i>925.86</i>			
b Less depreciation reported on Schedule A and elsewhere on return	16b			<i>925.86</i>	
17 Depletion (Do not deduct oil and gas depletion.)	17				
18 Retirement plans, etc.	18				
19 Employee benefit programs	19				
20 Other deductions (attach statement)	20			<i>148,911.73</i>	
21 Total deductions. Add the amounts shown in the far right column for lines 9 through 20	21			<i>157,274.59</i>	
22 Ordinary business income (loss). Subtract line 21 from line 8	22			<i>2668.41</i>	

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than general partner or limited liability company member) is based on all information of which preparer has any knowledge.

Sign Here: *[Signature]* Date: *4/13/05*

Paid Preparer's Use Only: Preparer's signature: *[Signature]* Date: *4/13/05* Check if self-employed:  Preparer's SSN or PTIN: \_\_\_\_\_

Firm's name (or yours if self-employed), address, and ZIP code: \_\_\_\_\_ EIN: \_\_\_\_\_ Phone no.: \_\_\_\_\_