

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

In the Matter of	)	
	)	
Anglers for Christ Ministries, Inc.	)	CGB-CC-0005
	)	
New Beginning Ministries	)	CGB-CC-0007
	)	
Video Programming Accessibility	)	Docket No. 06-181
	)	
Petition for Exemption from Closed Captioning Requirements	)	

To: The Commission

**APPLICATION FOR REVIEW OF BUREAU ORDER**

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## TABLE OF CONTENTS

	<u>Page</u>
I. QUESTIONS PRESENTED.....	5
II. DISCUSSION.....	6
A. Background.....	7
B. The Bureau’s Decision Violated Section 713(d)(1) of the Act and Section 553 of the APA .....	9
C. The Bureau Abused Process by Not Putting All Requests on Public Notice .....	12
D. The Bureau Failed to Analyze Each Petition Based on the Undue Burden Standard .....	14
E. Overruling The Wild Outdoors Order Was Arbitrary and Capricious .....	16
F. The Standard for the New Class of Exempted Programming is Unclear .....	17
III. CONCLUSION.....	20

## SUMMARY

The Parties are asking the Commission to rescind the *Anglers Exemption Order* issued by the Chief of the Consumer & Governmental Affairs Bureau and all grants of exemption based on the Bureau's order. The Parties also request that the Commission require the Bureau to individually review each undue burden exemption petition to determine if an undue burden will result before granting such petition and require the Bureau to place all current and future exemption petitions on public notice.

The Bureau improperly created a new class of programming that is categorically exempt from the closed captioning requirements. The Bureau did not conduct an appropriate rulemaking proceeding to adopt the new categorical exemption in violation of Section 713 of the Act and Section 553 of the APA.

In addition, the Bureau committed a number of procedural errors when it granted exemption petitions based on the *Anglers Exemption Order*. The Bureau failed to comply with the Commission's rules because it did not put petitions for exemption on public notice and did not justify each waiver of the public notice rule. The Bureau also failed to conduct an undue burden analysis on each petition before granting an exemption.

The *Anglers Exemption Order* overruled existing Commission precedent, which appropriately required programmers to seek assistance from distributors. Such action was unwarranted, arbitrary and capricious.

Finally, the standard adopted by the Bureau for the new class of exempted programming is unclear and unworkable. Thus, the "standard" threatens to allow a huge and totally unwarranted number of exemptions.

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Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”), Deaf and Hard of Hearing Consumer Advocacy Network, National Association of the Deaf, Hearing Loss Association of America, Association of Late Deafened Adults, Inc., American Association of People with Disabilities, and California Coalition of Agencies Serving the Deaf and Hard of Hearing (collectively, “Parties”), pursuant to Section 1.115 of the Commission’s Rules,<sup>1</sup> file this Application for Review of the *Anglers Exemption Order* issued by the Chief of the Consumer & Governmental Affairs Bureau (“Bureau”), which granted petitions for exemption from closed captioning requirements filed by Anglers for Christ Ministries, Inc. (“Anglers for Christ”) and New Beginning Ministries (“New Beginnings”).<sup>2</sup> The Parties qualify as aggrieved parties

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<sup>1</sup> 47 C.F.R. § 1.115.

<sup>2</sup> *In the Matter of Anglers for Christ Ministries, Inc.; New Beginning Ministries; Video Programming Accessibility; Petitions for Exemption from Closed Captioning Requirements*, Memorandum Opinion and Order, DA 06-1802 (CGB 2006) (“*Anglers Exemption Order*”).

pursuant to Section 1.115(a) of the Commission’s rules.<sup>3</sup> The Parties filed an opposition to the New Beginning petition for exemption that was granted in the *Anglers Exemption Order*,<sup>4</sup> and they filed oppositions to many other petitions for exemption from closed captioning requirements that were granted based on the precedent established in the *Anglers Exemption Order*.

The Parties seek review and rescission of the Bureau’s decision in the *Anglers Exemption Order* that a non-profit organization satisfies the statutory “undue burden” showing required by Section 713(e) of the Communications Act of 1934, as amended (the “Act”),<sup>5</sup> merely by asserting that it does not receive compensation for airing its programming and that it may terminate or substantially curtail its programming or other activities important to its mission if required to caption its programming. The Parties also seek review and rescission of the Bureau’s grant of 297 exemption petitions based on the new “standard” established in the *Anglers Exemption Order*. Simultaneously, the Parties are filing a Petition for Emergency Stay of the Bureau’s *Anglers Exemption Order* and all of the exemption petitions granted based on the precedent established in such order.

Through its adoption of the *Anglers Exemption Order*, the Bureau has improperly created a new class of programming that is categorically exempt from the Commission’s closed captioning requirements. Because it did so without an appropriate rulemaking proceeding using notice and comment, the Bureau’s action violates Section 713(d)(1) of the Act, which requires adoption of exemptions by regulation, and Section 553 of the Administrative Procedure Act

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<sup>3</sup> 47 C.F.R. § 1.115(a).

<sup>4</sup> See Opposition of TDI, NAD, DHHCAN, and HLAA to the Petition for Exemption from Closed Captioning Requirements Filed by New Beginning, Case No. CGB-CC-0007, filed Jan. 19, 2006. See also, Exhibit A attached hereto which lists the filed exemption petitions, public notices, oppositions, grants, and other information as applicable.

<sup>5</sup> 47 U.S.C. § 613(e).

(“APA”), which sets forth the procedures to be followed by federal agencies in rulemaking proceedings.<sup>6</sup> In so doing, the Bureau created an a class exemption based on an inappropriate and unworkable standard. Moreover, the membership of the exempted class of programmers is impermissibly broad because it covers programmers who may now or in the future be able to provide captioning. Further, the Bureau should have limited the relief granted to that requested by the petitioners rather than *sua sponte* establishing a new class of exempt programming, which then formed the improper basis for granting hundreds of additional exemptions.

In addition to failing to follow required rulemaking procedures before creating a new categorical exemption, the Bureau’s wholesale grant of exemptions – released throughout a two to three week period during the month of September 2006 to hundreds of petitioners – suffered from numerous and egregious procedural errors. Without any explanation, the Commission failed to put the petitions for exemption on public notice, in violation of its own rules requiring such notice and an opportunity to receive comment or oppositions from interested persons.<sup>7</sup> Although the Bureau waived this rule for hundreds of petitions “for good cause,” it never explained why the waivers and this deviation from its rules and established procedures served the public interest or how the petitioners had demonstrated that special circumstances warranted waivers of the public notice requirement.

In addition, the Bureau neglected to conduct an undue burden analysis before granting the exemptions, as required by the Commission’s rules.<sup>8</sup> Rather, since the *Anglers Exemption Order* was released, the Bureau has applied its new categorical exemption to 297 petitions (including

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<sup>6</sup> 47 U.S.C. § 613(d)(1); 5 U.S.C. § 553.

<sup>7</sup> 47 C.F.R. § 79.1(f)(5),(6).

<sup>8</sup> 47 C.F.R. § 79.1(f)(1), (2).

the two petitions directly addressed in the *Anglers Exemption Order*). In many cases, the petitions contained no evidence to support the petitioners' claims of undue burden and few of the petitions would have withstood analysis. The grants do not meet the undue burden showing as defined by Section 713(e) of the Act and Section 79.1(f)(2) of the Commission's rules, and all of the grants based on this new exemption were improper.

The arbitrary and capricious nature of the Bureau's actions is also revealed in its decision – as contained in a footnote in the *Anglers Exemption Order* – to overrule *The Wild Outdoors Order*.<sup>9</sup> Section 713 of the Act places ultimate responsibility to provide captions on distributors.<sup>10</sup> In accordance with this directive, the Media Bureau in *The Wild Outdoors Order* correctly required programmers to seek assistance from distributors before claiming that captioning would impose an undue burden on them. The *Anglers Exemption Order* improperly overturned that requirement. Not only is this ruling contrary to the intent of Congress as expressed in Section 713, it is procedurally impermissible. Specifically, because *The Wild Outdoors Order* became a final Commission order after it was not challenged within the permitted time, the Bureau does not have the authority to overrule the decision.<sup>11</sup>

Finally, the standard adopted by the Bureau for the new class of exempted programming is unclear and unworkable as a practical matter. The *Anglers Exemption Order* does not require either an “economically burdensome” or an “undue burden” standard as mandated by the statute. Instead, the Bureau adopted a new standard that would exempt programmers if requiring

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<sup>9</sup> *The Wild Outdoors, Video Programming Accessibility, Petition for Waiver of Closed Captioning Requirements*, Case No. CSR 5949, Memorandum Opinion and Order, 20 FCC Rcd 11873, 11874, fn. 25 (Med. Bur. 2005) (“*The Wild Outdoors Order*”).

<sup>10</sup> 47 C.F.R. § 613.

<sup>11</sup> 47 U.S.C. § 155(C)(3).

captioning “may terminate or substantially curtail programming” or with regard to the programmer itself “curtail other activities important to [the programmer’s] mission.” The *Anglers Exemption Order* makes no attempt to define these amorphous terms or to advise programmers what evidence they must provide in order to meet them. Rather, the Bureau seems willing to accept unsupported assertions from petitioners. In addition, the Bureau relied on two classes of exemption that apply only to distributors, not programmers, when it adopted the new class exemption, causing uncertainty as to its application.

For all of the above reasons, the *Anglers Exemption Order*, as well as all of the exemption petitions granted based on the precedent established in that Order, should be rescinded.

## **I. QUESTIONS PRESENTED**

Whether the *Anglers Exemption Order*, which held that the Bureau would be inclined to grant petitions for waivers of the closed captioning rules filed by non-profit organizations that do not receive compensation for airing their programming and represent that they may terminate or substantially curtail their programming or curtail other activities important to their mission, violated Section 713(d)(1) of the Act, which requires the categorical exemption of classes of programming to be achieved by regulation, and Section 553 of the APA, which sets forth the requirements for a rulemaking proceeding, including notice and comment.

Whether the Bureau committed a number of procedural errors of the closed captioning exemption process by not putting all petitions for exemption on public notice and not justifying each waiver of the public notice rule.

Whether the Bureau impermissibly overruled *The Wild Outdoors Order*, an order that took on the effect of a final Commission order.

Whether overruling *The Wild Outdoors Order* was arbitrary and capricious given that Section 713 of the Act places the burden of captioning on distributors and *The Wild Outdoors Order* required programmers to seek financial assistance from distributors.

Whether the standard for the new class of exempted programming adopted in the *Anglers Exemption Order* is unclear and relies on factors that Congress did not intend for consideration.

Whether the Bureau failed to properly analyze each petition for exemption based on the undue burden standard.

Whether the *Anglers Exemption Order* and all exemption petitions subsequently granted based on it should be rescinded.

## II. DISCUSSION

On September 12, 2006, the Bureau released the *Anglers Exemption Order* in which it granted two exemption petitions filed by Anglers for Christ and New Beginning. In granting these petitions, the Bureau overturned its long-standing approach to exemption petitions and declared that:

in the future, when considering an exemption petition filed by a non-profit organization that does not receive compensation from video programming distributors from the airing of its programming, and that, in the absence of an exemption, may terminate or substantially curtail its programming, and other activities important to its mission, we will be inclined favorably to grant such a petition because...this confluence of factors strongly suggests that mandated closed captioning would pose an undue burden on such a petitioner.<sup>12</sup>

This decision thus improperly established a new class of exempt programming without a rulemaking proceeding and resulted in the wrongful grant of 297 petitions for exemption. In addition to ignoring the Commission's rulemaking requirements, the Bureau's grant of these exemption petitions involved numerous egregious procedural errors, including granting relief

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<sup>12</sup> *Anglers Exemption Order* at ¶ 13.

beyond that requested by the petitioners, failing to place petitions on public notice or justifying a waiver of the public notice requirement, and developing an unclear standard for future grants of exemption petitions.

The *Anglers Exemption Order* also improperly overruled *The Wild Outdoors Order*. The Bureau stated that “a per se rule requiring all petitioners to make the specific representation that they solicited captioning assistance from the distributors of their video programming is unwarranted, and any suggestion to the contrary in *The Wild Outdoors* hereby is overruled.”<sup>13</sup>

As described in further detail below, the Commission must rescind the Bureau’s *Anglers Exemption Order* and all grants of exemption petitions that were based on it.

#### **A. Background**

Congress adopted Section 713 of the Act to ensure that video services are accessible to persons with hearing disabilities.<sup>14</sup> Similarly, the Commission adopted rules to implement Section 713 of the Act, including a transition schedule to phase in the new closed captioning requirements, because the Commission recognized that the goal of Section 713 is to make all new video programming fully accessible.<sup>15</sup> At the same time, the Commission recognized that certain programming should not be subject to mandatory captioning. Accordingly, through an extensive rulemaking process, the Commission exempted limited classes of programming from

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<sup>13</sup> *Id.* at fn. 25.

<sup>14</sup> H.R. Report 104-204, 104<sup>th</sup> Cong., 1<sup>st</sup> Sess., at 113-115 (1995) (“*House Report*”); H.R. Report 104-458, 104<sup>th</sup> Cong., 2d Sess., at 181-184 (1996) (“*Conference Report*”).

<sup>15</sup> *See In the Matter of Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility*, Report and Order, 13 FCC Rcd 3272, ¶ 41 (1997) (“*Report and Order*”). *See also*, Written Statement of the Honorable Kevin J. Martin, Chairman, Federal Communications Commission, Before the Committee on Commerce, Science & Transportation, U.S. Senate (Sept. 12, 2006) (“Accessing communication services is vital to the ability of the individuals with disabilities to participate fully in society.”).

the closed captioning obligations. These categorical exemptions are limited to those situations in which captioning poses an economic burden on the programmer or distributor.<sup>16</sup> The Commission also developed a petition process to consider undue burden exemption requests on a case-by-case basis.<sup>17</sup> These captioning rules have been substantially the same since adoption in 1997. Programmers that do not qualify for an existing class exemption under Section 79.1(d) of the Commission’s rules can petition for an exemption based on the undue burden standard.<sup>18</sup>

When considering undue burden exemption petitions, the Commission is required by the Act and its rules to consider the following factors in a case-by-case review of each individual petition: (1) the nature and cost of the closed captions for the programming; (2) the impact on the operation of the provider or program owner; (3) the financial resources of the provider or program owner; and (4) the type of operations of the provider or program owner.<sup>19</sup> Each petition must be supported by sufficient evidence to demonstrate that captioning would cause this undue burden on the distributor or programmer.<sup>20</sup> In addition, the Commission previously ruled in *The Wild Outdoors Order* that “implicit in the Section 79.1(f) requirement of a showing as to the financial resources of a petitioner...is the question of the extent to which the distributors of their programming can be called upon to contribute towards the captioning expense.”<sup>21</sup> The basis for this requirement is Section 713 of the Act and the Commission’s rules, which ultimately place

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<sup>16</sup> *Id.* at ¶ 143. *See also*, 47 C.F.R. § 79.1(d).

<sup>17</sup> *Id.* at ¶ 198. *See also*, 47 C.F.R. § 79.1(d)(2) and § 79.1(f).

<sup>18</sup> 47 C.F.R. § 79.1(d)(2) and § 79.1(f).

<sup>19</sup> 47 U.S.C. § 613(e). *See also*, 47 C.F.R. § 79.1(f)(2).

<sup>20</sup> 47 C.F.R. § 79.1(f)(2).

<sup>21</sup> *The Wild Outdoors Order* at ¶ 4.

captioning responsibility on programming distributors by requiring distributors to meet captioning thresholds.<sup>22</sup>

**B. The Bureau’s Decision Violated Section 713(d)(1) of the Act and Section 553 of the APA**

Section 713(d)(1) of the Act allows the Commission to adopt exemptions “by regulation [for] programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming.”<sup>23</sup> Section 553 of the APA sets forth the procedures, including notice and comment, that the Commission must follow in order to adopt such exemptions by regulation.<sup>24</sup> The Commission is well aware of these statutory requirements, and in fact issued a Notice of Proposed Rulemaking for this purpose in 1997.<sup>25</sup> At that time, after a comment period and lengthy review of the record, the Commission adopted exemptions for various classes of programming and providers.<sup>26</sup> However, under the Act and the Commission’s rules, any petitions for waiver of the closed captioning requirements that do *not* fall into one of these exempted classes must be reviewed pursuant to the Act’s “undue burden” standard, wherein the

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<sup>22</sup> 47 U.S.C. § 613; 47 C.F.R. § 79.1(b)(iv) (100% of new non-exempt programming is required to be captioned as of January 1, 2006). Although the Commission’s rules place the burden on the distributor to ensure that programming is captioned, programmers are also affected because distributors generally will not carry programming if it is not captioned. *See infra*, Section E for a detailed discussion of distributor captioning requirements.

<sup>23</sup> 47 U.S.C. § 613(d)(1). *See also*, *Report and Order* at ¶ 200; 47 C.F.R. § 79.1(f)(1).

<sup>24</sup> 5 U.S.C. § 553.

<sup>25</sup> *Implementation of Section 305 of the Telecommunications Act of 1996 – Video Programming Accessibility*, Notice of Proposed Rulemaking, 12 FCC Rcd 1044 (1997).

<sup>26</sup> *Report and Order* at ¶¶ 146-159. *See also*, 47 C.F.R. § 79.1(d).

petitioner is required to provide sufficient evidence to demonstrate that compliance with captioning would cause an undue burden under the factors enumerated above.<sup>27</sup>

In the *Anglers Exemption Order*, the Bureau went beyond its delegated authority, ignored the Commission's rules and the Act, disregarded the APA's notice and comment requirements for new rules, and improperly and unilaterally established a new class of exempt programming. Specifically, the Bureau improperly established a general classification of exempt programming in the *Anglers Exemption Order* for non-profit organizations that do not receive compensation from video programming distributors for airing its programming and represent that they may terminate or substantially curtail their programming or curtail other activities important to their mission if they are required to caption.<sup>28</sup> The Bureau did not issue notice to the public that it might adopt such a rule nor did it seek comment from the public. By this action, the Bureau violated both Section 713 of the Act and Section 553 of the APA.<sup>29</sup>

Nor can the Bureau claim that the public was given "implicit" notice of its intent to establish a new class of exempt programming. Petitioners Anglers for Christ and New Beginning requested time-limited waivers only for their programming; they did not request an exemption for any category or type of programming or programmer.<sup>30</sup> Nor are the Parties aware of any other petitioner making such a request. The Parties have been consistent advocates for the promotion of video programming accessibility for deaf, hard of hearing, late deafened, or deaf-

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<sup>27</sup> 47 C.F.R. § 79.1(f)(2).

<sup>28</sup> *Anglers Exemption Order* at ¶ 11.

<sup>29</sup> 47 U.S.C. § 613(d)(1); 5 U.S.C. § 553.

<sup>30</sup> Anglers submitted in its petition that "we hope to obtain closed caption sponsorship within the next fiscal year, which will enable us to provide this service beginning January 2007." See Petition, CGB-CC-0005. New Beginning submitted that "the added cost would be an undue burden on the ministry at this time." See Petition, CGB-CC-0007.

blind and have filed over 60 oppositions to exemption petitions that failed to demonstrate an undue burden.<sup>31</sup> Given the large volume of exemption petitions filed since 2005, the Parties have not opposed every exemption petition that failed to demonstrate an undue burden. Rather, the Parties notified the Commission that they would file oppositions to petitions that raised new or novel issues.<sup>32</sup> The Bureau erred by not limiting its relief to that requested by the Anglers for Christ and New Beginning and by taking action *sua sponte* to create a new class exemption without notice and comment.

As a result of the *Anglers Exemption Order*, at least 297 petitions for exemption have been granted based on the improperly adopted class exemption rather than upon individual consideration of each petition's merits.<sup>33</sup> Each of these grants violates requirements of the Act, the APA, and the Commission's rules. Accordingly, the Commission must rescind the *Anglers Exemption Order* and all exemption petitions grants based on it.

### **C. The Bureau Abused Process by Not Putting All Requests on Public Notice**

The Commission's rules expressly require that all closed captioning petitions for exemption based on the undue burden standard be placed on public notice and that any interested persons may file comments or oppositions to such petitions.<sup>34</sup> The Bureau ignored the clear requirements of its own rules by failing to put all petitions for exemption on public notice.<sup>35</sup>

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<sup>31</sup> See Exhibit A for oppositions filed by the Parties.

<sup>32</sup> See Ex Parte Letter to Marlene Dortch, Secretary, from Paul O. Gagnier and Troy F. Tanner regarding Opposition to Petitions for Exemption from Closed Captioning Rules, CG Docket No. 05-231 (May 2, 2006).

<sup>33</sup> See Exhibit A for granted petitions.

<sup>34</sup> 47 C.F.R. § 79.1(f)(5), (6).

<sup>35</sup> See Exhibit A for granted petitions not put on public notice.

The Commission's rules requiring public notice and the comment period are designed to give the entire public the opportunity to provide input on matters of public concern. By failing to put all petitions on public notice, the Bureau deprived the public of that opportunity. Members of the public, including the Parties, may have wanted the opportunity to comment on the petitions not put on public notice. As indicated above in Section II. B., the Parties have not individually commented or opposed every undue burden exemption petition filed with the Commission and put on public notice.<sup>36</sup> However, the Parties continued to review all petitions put on public notice in order to ascertain and have the opportunity to comment on any novel issues raised in those petitions. More egregiously, the Parties had no opportunity to review or comment on any of the 238 petitions that were not put on public notice but were nevertheless granted by the Bureau.

The Bureau unlawfully attempted to remedy its error of not putting all exemption petitions on public notice by including a form waiver of the notice and comment rules in the letters granting exemptions.<sup>37</sup> Specifically, each of the letters states, using exactly the same language, that "in light of the facts in your petition and the precedent discussed above [referring to the *Anglers Exemption Order*], we conclude that waiving these requirements in the instant case is consistent with the public interest."<sup>38</sup> This unsupported assertion, which appears in a footnote almost as an afterthought, fails to conform with the Commission's rules requiring explanation as to why deviation from the Commission's procedures serves the public interest.

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<sup>36</sup> *See supra*, fn. 32.

<sup>37</sup> *See* Exhibit B, which is a grant letter that includes the waiver in footnote 5. We note that at least two grant letters contained the waiver footnote, even though the petitions appeared on public notice. *See e.g.*, CGB-CC-0006 and CGG-CC-0042. In addition, many of the grant letters were undated but were subsequently date stamped.

<sup>38</sup> *Id.*

Nor does the Bureau's footnote state the special circumstances or evidence presented by petitioners to support waiver of the public notice requirement.<sup>39</sup> Federal courts and prior Commission orders have consistently ruled that a waiver of the Commission's rules is appropriate only if special circumstances warrant a deviation from the general rule.<sup>40</sup>

In addition, the grant of a waiver must not undermine the underlying policy of the rule.

The Commission has explained:

an agency's obligation to give meaningful consideration to waiver requests does not contemplate that the agency must or should tolerate evisceration of rule by waivers. A waiver must not undermine the underlying policy of the rule. The function of a waiver is not to change the general standard of the rule, since this is a matter for which the opportunity for general comment is a prerequisite under the Administrative Procedure Act, but instead to justify an *ad hoc* exception to that standard in a particular case. Further, a waiver must identify and articulate reasonable standards that are predictable, workable, and not susceptible to discriminatory application.<sup>41</sup>

The waivers of the public notice requirement granted by the Bureau following the *Anglers Exemption Order* neither identify nor articulate a workable standard for an *ad hoc* exception.

Indeed, the sheer number of waivers granted by the Bureau and the Bureau's tedious repetition of the same language in all 297 letters demonstrate that the Bureau failed to conduct any review of the merits of the requests. Rather, the Bureau eviscerated both the standard for granting a waiver and the underlying policy requiring captioning, except in limited cases.<sup>42</sup> Therefore, the waivers

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<sup>39</sup> See 47 C.F.R. § 1.3.

<sup>40</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

<sup>41</sup> *Communications Satellite Corporation, Request for Waiver of Section 25.131(j)(1) of the Commission's Rules As It Applies to Services Provided via the INTELSAT K Satellite*, Memorandum Opinion and Order, DA 92-955 (CCB 1992).

<sup>42</sup> *Report and Order* at ¶ 192.

should not have been granted, and the lack of public notice for 238 petitions was an egregious abuse of process.

**D. The Bureau Failed to Analyze Each Petition Based on the Undue Burden Standard**

The Commission's rules are clear in requiring an individual review of each and every exemption petition that is filed, in order to determine the merits of each undue burden claim.<sup>43</sup> Notwithstanding this clear directive, the Bureau applied its new class exemption *en masse* to hundreds of exemption petitions based on the undue burden standard. In so doing, the Bureau did not even attempt to analyze the extent to which an undue burden would result for each petitioner. For example, the Diocese of Lake Charles, Louisiana received an exemption even though its 2004 cash and equivalents were \$4,255,338 and total assets were \$14,475,542, while its estimated costs of captioning per program ranged from \$120 to \$780.<sup>44</sup> The letter granting an exemption to the Diocese, like all of the others granted in September 2006, neither analyzes the four factors for an undue burden exemption nor offers any substantive explanation whatsoever as to why requiring captioning in this instance would unduly burden the Diocese. There are numerous other examples of petitioners who could clearly meet their captioning obligations. To further exemplify the lack of individual analyses, the Bureau granted at least one captioning exemption even after the exemption petition had been withdrawn.<sup>45</sup> Consequently, the Bureau failed to ensure that each of the granted petitions for exemption adequately demonstrated or met

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<sup>43</sup> *Id.* at ¶ 200. *See also*, House Report at 115 and Conference Report at 183 (both referring to a case-by-case basis review).

<sup>44</sup> *See* Diocese of Lake Charles, Lake Charles, Louisiana Request for Exemption from Commission's Closed Captioning Rules, Case No. CGB-CC-0275, filed February 17, 2006.

<sup>45</sup> *See* Exhibit A which identifies this withdrawn petition.

the required showing as defined by Section 713(e) of the Act and Section 79.1(f)(2) of the Commission's rules.

As demonstrated in the oppositions filed by the Parties in response to various exemption petitions, many of the petitions granted based on the *Anglers Exemption Order* clearly failed to meet the undue burden requirements and should not have been granted.<sup>46</sup> By its wholesale grant of exemptions, the Bureau used its adoption of a new class of programming to improperly eviscerate the undue burden exemption petition process that requires each petitioner to make an adequate showing of its inability to actually provide captions. Congress intended for the Commission to only adopt categorical captioning exemptions for classes of programming in accordance with rulemaking proceedings conducted in compliance with the APA. Insofar as there was no categorical exemption that applied to all of the petitioners' requests, the Bureau had an obligation to individually analyze each of the exemption petitions using the undue burden standard.

**E. Overruling *The Wild Outdoors Order* Was Arbitrary and Capricious**

The Bureau's *Anglers Exemption Order* arbitrarily overruled *The Wild Outdoors Order*, which appropriately required programmers to seek assistance from distributors. *The Wild Outdoors Order* stated that "implicit in the Section 79.1(f) requirement of a showing as to the financial resources of a petitioner...is the question of the extent to which the distributors of their programming can be called upon to contribute towards the captioning expense."<sup>47</sup> The basis for this requirement is that Section 713 of the Act and the Commission's rules, which ultimately

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<sup>46</sup> See also, CGB-CC-0018, CGB-CC-0020, CGC-CC-0023, CGB-CC-0030, CGB-CC-0031, petitions that were not put on public notice and lack any documentation supporting the undue burden claim.

<sup>47</sup> *The Wild Outdoors Order* at ¶ 4.

place captioning responsibility on programming distributors by requiring distributors to meet captioning thresholds.<sup>48</sup> In addition, distributors are required to spend up to two percent of gross revenues received from a *channel* grossing \$3,000,000 or more during the previous calendar year.<sup>49</sup> Accordingly, a programmer should, when necessary, seek assistance from a distributor for captioning in order to fulfill the goal of Section 713 to make all new video programming accessible. The Bureau failed to articulate any rationale for overturning *The Wild Outdoors Order*, and thus its action was unwarranted, arbitrary and capricious.

Moreover, *The Wild Outdoors Order*, although issued by the Media Bureau, became a final Commission order when it was not challenged, and the Bureau cannot overrule this decision.<sup>50</sup> In fact, the Bureau's authority to administer and enforce the rules and policies regarding the accessibility of video programming to persons with disabilities is also questionable because the Commission's rules explicitly grant such authority only to the Media Bureau.<sup>51</sup> However, even if the Bureau has been delegated authority to act on petitions for exemptions of the closed captioning rules, it does not have delegated authority to create new rules or categories of exemptions, but only to administer and enforce rules and policies established by the Commission. The Bureau thus does not have the proper authority to overrule the Commission's past precedent as established in *The Wild Outdoors Order*.

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<sup>48</sup> 47 U.S.C. § 613; 47 C.F.R. § 79.1(b)(iv).

<sup>49</sup> 47 C.F.R. § 79.1(d)(11).

<sup>50</sup> See 47 U.S.C. Section 155(c)(3).

<sup>51</sup> Compare 47 C.F.R. § 0.61(f)(6) with 47 C.F.R. §§ 0.141(f) and 0.361, which only grant the Bureau general authority to act for the Commission in matters pertaining to persons with disabilities.

## **F. The Standard for the New Class of Exempted Programming is Unclear**

The Bureau adopted an unclear and unworkable standard for a new class of exempted programming in the *Anglers Exemption Order*. The Bureau's standard is for "a non-profit organization that does not receive compensation from video programming distributors from the airing of its programming, and that, in the absence of an exemption, may terminate or substantially curtail its programming, or curtail other activities important to its mission."<sup>52</sup> This standard neither incorporates an "economically burdensome" or an "undue burden" standard as mandated by the Act nor requires programmers seeking an exemption to demonstrate the four factors set forth in the Act and the Commission's rules.<sup>53</sup> As stated by Representative Markey of the U.S. House of Representatives, it remains unclear how "the Commission can gauge whether closed captioning requirements will cause a particular licensee to 'curtail other activities important to its mission.'"<sup>54</sup> Thus, the Bureau's unclear standard has created "a test so lax that conceivably any non-commercial educational licensee could qualify,"<sup>55</sup> and threatens to allow a huge and totally unwarranted number of exemptions. Moreover, application of the new standard appears to be inconsistent even with the goals expressed by many of the petitioners themselves: to reach audiences unable to access services inside their facilities and/or to reach new audiences. Captioning promotes, rather than hinders these goals.

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<sup>52</sup> *Anglers Exemption Order* at ¶ 11.

<sup>53</sup> 47 U.S.C. § 613(d), 47 C.F.R. § 79.1(f)(2).

<sup>54</sup> See Letter to Honorable Kevin J. Martin from Representative Edward J. Markey, Ranking Democrat, House Subcommittee on Telecommunications and the Internet (September 21, 2006) attached hereto as Exhibit C.

<sup>55</sup> *Id.*

The Bureau also committed error in using as precedent two class exemptions that apply to distributors, *not* programmers, when it adopted the new exemption class.<sup>56</sup> In the cases cited for support of the Bureau's actions, the Commission had gone through an extensive rulemaking process where it specifically rejected applying the cited exemptions to programmers. For instance, in the case of the exemption for locally produced and distributed non-news programming, the Commission specifically stated that this exemption only applies to video programming distributors. Yet somehow the Bureau concluded in the *Anglers Exemption Order* that the same criteria which the Commission used to grant an exemption to distributors should likewise now apply to programmers, even though the Commission had previously rejected such an exemption for the programmers and no new facts were presented to justify such a turnabout. Based on our review of the recently granted exemption petitions, only programmers (producers of individual programs provided to distributors for broadcast) have been granted an exemption to date.

Thus, this unclear standard is likely to result in the filing and granting of hundreds if not thousands of additional petitioners seeking to receive exemptions from the closed captioning rules. Aberdeen Captioning, Inc., which specializes in providing closed captioning to religious video programmers and distributors, has notified the Commission of its concern that many of its customers will stop captioning their programming using the excuse that captioning curtails other important activities to their mission.<sup>57</sup> It is unclear how the Commission will determine what

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<sup>56</sup> *Anglers Exemption Order* at ¶ 11. *See also*, 47 C.F.R. § 79.1(d)(7), (8).

<sup>57</sup> *See* Letter to Kevin J. Martin, Chairman from Matthew Cook and Becky Issacs, Aberdeen Captioning, Inc. (September 20, 2006) attached hereto as Exhibit D. As demonstrated by this letter, many religious and non-profit programs are already captioned in compliance with Section 713 of the Act and the Commission's rules.

activities are “important” to a petitioner’s mission. The Commission’s new “standard” thus is unclear and unworkable as a practical matter.<sup>58</sup>

Even more perplexing is the Bureau’s grant of permanent exemptions where petitioners (including Anglers for Christ) merely sought temporary exemptions.<sup>59</sup> In addition to revealing the arbitrary nature of the Bureau’s decisions, this practice shows that the newly created vague categorical exemption is designed to ensure permanent exemptions only, and that the Bureau never contemplated temporary waivers that might have been more appropriate to the scenarios presented to it. Thus, the Commission should not be concerned that this type of programming will not be televised if it continues to be subject to the captioning requirements that apply to new video programming.

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<sup>58</sup> The Parties also are concerned that the true purpose of the Bureau’s action is to exempt religious programming from the captioning rules. Of the 297 exemptions granted, 296 were to religious programmers. This suggests that the new class exemption, while neutral on its face, is intended to benefit religious programmers. If so, the Bureau’s action violates the First and Fourteenth Amendments to the U.S. Constitution. Section 731 does not contemplate that religious programming or programmers are to be exempted from the closed captioning requirements. However, Congress has been clear when it has intended to create exemption for religious entities. *See e.g.*, 47 U.S.C. § 12187 (exempting religious organizations or entities controlled by religious organizations from the prohibition against disability discrimination by places of public accommodation under Title III of the Americans with Disabilities Act). The fact that Congress did not create a blanket exemption for all religious programmers when it adopted the captioning mandates means that the Commission lacks the authority to do so now. Moreover, as noted above, even if the Commission had the authority to adopt such a permanent exemption, it would be required to do so pursuant to the APA’s notice and comment procedures, not through the grant of undue burden exemptions.

<sup>59</sup> *See e.g.*, CGB-CC-0059 (requesting a one year exemption), CGB-CC-0028 (requesting an exemption until July 31, 2006), CGB-CC-0032 (requesting an exemption until January 2007), CGB-CC-0144 (requesting an exemption for two years), and CGB-CC-0160 (requesting an exemption until January 1, 2007). Petitioners also note that, between 1999 and 2005, 50 petitions for exemption were denied and only three were granted for periods of one to three years each; no permanent exemptions were granted. In stark contrast to past practice, in September 2006, the Bureau granted 297 permanent exemptions while failing to deny even a single petition.

### III. CONCLUSION

For the reasons described herein, the Commission must (1) rescind the *Anglers Exemption Order* and all grants of exemption based on the Bureau's decision, (2) require the Bureau to individually review each undue burden exemption petition to determine if an undue burden will result before granting such petition, and (3) require the Bureau to place all current and future exemption petitions on public notice.

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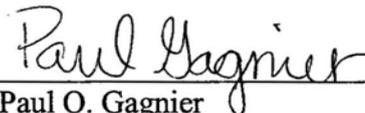
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**EXHIBIT A**

**EXHIBIT A**

**A1: Petitions for Exemption from Closed Captioning Rules – 47 C.F.R. § 79.1 Placed on Public Notice<sup>1</sup>**

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
5443	Outland Sports	10/27/99		7/9/01	Granted for 1 year to 7/9/02	DA 01-1610	
5444	Wild Outdoors	10/27/99		7/9/01	Granted for 1 year to 7/9/02	DA 01-1611	
5459	Home Shopping Club	12/08/99		6/19/00	Denied	DA 00-1339	
5808	Outdoors with Joey Mines	12/20/01	6/28/02	4/28/04	Denied	DA 04-1140	
5809	Bob Dillow Promotions	12/20/01	6/28/02	4/23/04	Denied	DA 04-1069	
5810	Geurink Outdoor Adventures	12/20/01	6/28/02	3/16/05	Denied	DA 05-682	
5536	USA Broadcasting	1/9/02		1/24/02	Withdrawn	DA 02-193	
5827	ABS-CBN	2/14/02		8/11/05	Denied	DA 05-2262	
5832	Adventure Bound Outdoors	1/9/02		6/3/05	Denied	DA 05-1578	
5861	Northeast Outdoors	3/19/02		6/3/05	Denied	DA 05-1574	
5867	Xtreme Productions	6/27/02	7/29/02	5/7/04	Denied	DA 04-1294	
5881	Sportsmans Showcase	6/27/02	11/27/02	6/14/05	Denied	DA 05-1658	
5882	Engel's Outdoor Experience	6/27/02	7/29/02	4/14/04	Denied	DA 04-1006	
5916	America's Collectible Network	6/27/02	7/29/02	8/13/04	Withdrawn	DA-04-2524	
5923	Hunting & Fishing	8/14/02	9/13/02	4/15/04	Denied	DA 04-928	
5950	Avery Outdoor Enterprises	8/14/02	9/13/02	6/17/05	Denied	DA 05-1690	
5917	CrossTalk TV Ministry	9/12/02	10/15/02	6/3/05	Denied	DA 05-1573	
5949	Wild Outdoors	9/18/02	10/18/02	7/1/05	Denied	DA 05-1913	

<sup>1</sup> Last Updated October 8, 2006.

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
5957	Yellow House Entertainment	9/12/02	10/15/02	6/24/04	Denied	DA 04-1819	
5979	Complete Video Productions	9/12/02	10/15/02	6/3/05	Denied	DA 05-1572	Reply filed 11/13/02 See reference below to CSR 5979 for refiling
5991	Ozark Mountain	10/11/02	11/12/02	6/22/04	Denied	DA 04-1754	
5992	Commonwealth Productions	10/11/02	11/12/02	3/26/04	Denied	DA 04-797	
6052	Coastal Sportsman	12/24/02	1/23/03	6/3/05	Denied	DA 05-1577	
6107	PJ Productions	2/14/03	3/17/03	6/3/05	Denied	DA 05-1576	
6213	Newsom Productions	7/30/03	8/29/03	11/10/04	Denied	DA 04-3578	
6214	A-Way-Outdoors	7/30/03	8/29/03	6/14/05	Denied	DA 05-1657	
6257	Gaudino Family Fitness	12/9/03	1/9/04	8/2/04	Denied	DA 04-2442	
6263	Ankerberg	12/22/03	1/21/04	2/6/04	Withdrawn	DA 04-316	
6280	Outreach Ministries	1/15/04	2/17/04	3/26/04	Withdrawn	DA 04-794	
6281	Lamb & Lion	1/15/04	2/17/04	9/15/04	Withdrawn	DA-04-2978	
6282	Lincoln Wood	1/15/04	2/17/04	6/3/05	Denied	DA 05-1575	
6283	Lewis Memorial	2/11/04	3/9/04	8/9/04	Denied	DA 04-2514	See reference below to CSR 6283 for refiling
6284	Abundant Life	2/24/04	3/25/04	10/21/04	Denied	DA 04-3330	
6285	Bethel Harvest Church	2/24/04	2/24/04	9/15/04	Denied	DA 04-2977	
6287	Awakening Ministries	2/24/04	2/24/04	6/15/05	Denied	DA 05-1668	
6288	Love A Child	3/15/04	4/14/04	1/25/05	Denied	DA 05-167	

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
6289	Brown Trail Church	3/15/04	4/14/04	6/15/05	Denied	DA 05-1669	
6290	Call to Excellence	3/15/04	4/14/04	12/21/04	Denied	DA 04-3987	
6291	Covenant International Church	3/26/04	4/26/04	2/1/05	Denied	DA 05-272	
6292	LifePoints Ministries	3/26/04	4/26/04	6/22/05	Denied	DA 05-1707	
6293	Dr. Jack Ditty	4/5/04	5/4/04	2/16/05	Denied	DA 05-443	
6294	New Life Team	4/5/04	5/4/04	2/18/05	Denied	DA 05-442	
6295	Quail Valley Church	4/6/04	5/4/04	2/18/05	Denied	DA 05-445	
6297	Healing Miracles Ministries	4/6/04	5/4/04	2/22/05	Denied	DA 05-453	Refiled Petition; See reference below to CSR 6897
6308	Maranatha Fellowship	4/6/04	5/4/04	6/22/05	Denied	DA 05-1706	
6309	VCG Communications	4/6/04	5/4/04	5/23/05	Denied	DA 05-1483	
6296	WDLP Broadcasting Co.	6/4/04	7/6/04	8/10/05	Granted in part for 3 years to 08/10/08	DA 05-2257	
6298	PowerPoint Ministries	6/4/04	7/6/04	3/17/05	Denied	DA 05-683	
6310	Prophetic Miracle Ministries	6/4/04	7/6/04	3/17/05	Denied	DA 05-684	
6314	Cathedral of Praise	6/28/04	7/28/04	5/24/05	Denied	DA 05-1489	
6315	Living Word Bible Church	6/28/04	7/28/04	5/24/05	Denied	DA 05-1488	
6316	Highland Park Baptist Church	7/2/04	7/28/04	5/23/05	Denied	DA 05-1482	
6358	Survivors of Assault Recovery Ministries	9/3/04	10/4/04	6/3/05	Denied	DA 05-1579	
6373	Victory Videos Ministries	9/3/04	10/4/04	6/17/05	Denied	DA 05-1689	

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
6392	Gulf Meadows Church	10/19/04	11/18/04	6/22/05	Denied	DA 05-1705	
6448	Televiscentro of Puerto Rico	11/30/04	12/30/04		<b>PENDING</b>		
6283	Lewis Memorial	12/21/04	1/21/05	7/21/05	Denied	DA 05-2045	Refiled Petition; See reference above to CSR 6283
6547	On Stage	3/16/05	4/15/05	6/30/05	Denied	DA 05-1838	
6571	Little Heart Entertainment	6/30/05	8/1/05	9/8/05	Denied	DA 05-2422	
6897	Healing Miracles Ministries	7/22/05	8/22/05		<b>PENDING</b>		Refiled Petition; See reference above to CSR 6297
6898	Mt. Zion Temple	7/22/05	8/22/05	06/14/06	Withdrawn	DA 06-1270	
6929	Don Reed Ministries, Crossing Paths	10/27/05	11/28/05	01/27/06	Withdrawn	DA 06-175	
5979	Complete Video Productions	10/27/05	11/28/05		<b>PENDING</b>		Refiled Petition; See reference above to CSR 5979
6930	Rural Heritage	12/7/05	1/6/06		<b>PENDING</b>		
CGB-CC-0007	New Beginning Ministries	12/20/05	1/19/06	09/12/06	Granted -- Permanent	DA 06-1802	
CGB-CC-0009	Niagara Ministries "Digging in with Joanne Bunce"	12/20/05	1/19/06	Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0051	First United Methodist Church of Colorado Springs "Sunday Celebration"	12/22/05	1/23/06	Date-stamped 09/15/06	Granted -- Permanent		
CGB-CC-0042	United Methodist Hour of MS, Inc. "Time That Makes The Difference"	1/10/06	2/9/06	06/14/06 -- Withdrawn		DA 06-1269	

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
				09/22/06	Granted -- Permanent		
CGB-CC-0001	Curtis Baptist Church	1/11/06	2/10/06	Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0002	Paul Ott Carruth and Carla Carruth Tigner "Listen to the Eagle"	1/20/06	2/21/06		<b>PENDING</b>		
CGB-CC-0068	Unitarian Universalist Church of Rockford, IL "FUSION"	1/20/06	2/21/06	Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0039	First Baptist Lavaca	1/20/06	2/21/06	Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0067	First Baptist Church of Columbus, GA	1/20/06	2/21/06	Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0089	World Changes Tabernacle	1/26/06	2/27/06	Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0090	Springfield Community Church "The Living Word of Faith Telecast"	1/27/06	2/27/06	06/07/06	Withdrawn	DA 06-1217	
CGB-CC-0037	Ultimate Combat Experience	1/31/06	3/2/06		<b>PENDING</b>		
CGB-CC-0104	Community Christian Church "Door of Faith"	2/3/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0103	Christian Fellowship Church "The Bridge"	2/3/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0005	Anglers for Christ Ministries	2/3/06		09/12/06	Granted -- Permanent	DA 06-1802	Request until 2007
CGB-	Joy Ministries	2/7/06			<b>PENDING</b>		Temporary Waiver

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
CC-0044							Request
CGB-CC-0119	Bon Air Baptist Church "NorthStar Community"	2/7/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0004	Main Street Living, Inc.	2/8/06		09/22/06	Granted -- Permanent		
CGB-CC-0029	Bob Asbury "Columbia Country"	2/8/06			<b>PENDING</b>		Temporary Waiver Request
CGB-CC-0118	Mt. Carmel Baptist Church "Leaning on the Everlasting Arms"	2/8/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0157	Real Estate TV	2/9/06			<b>PENDING</b>		
CGB-CC-0170	Straightway Ministries, Inc. "Church of the Living God"	2/9/06		09/22/06	Granted -- Permanent		
CGB-CC-0172	First Baptist Church of Tyler, TX "Spreading the Light"	2/9/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0420	R.C. Boyd Enterprises, LLC "Honey Hole All Outdoors"	2/9/06			<b>PENDING</b>		
CGB-CC-0201	Edgewood Baptist Church	2/14/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0012	S&B Productions "Reno's Backstage Pass"	2/14/06			<b>PENDING</b>		
CGB-CC-0109	Cliffdweller Productions, LLP	2/14/06			<b>PENDING</b>		

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
CGB-CC-0035	Caribou Show	2/16/06			<i>PENDING</i>		
CGB-CC-0154	W Productions "Good Business with Charlie Whisner"	2/16/06			<i>PENDING</i>		
CGB-Cc-0156	Fearless Music, Inc.	2/16/06			<i>PENDING</i>		
CGB-CC-0160	The Christian Worship Hour of Aberdeen, SD	2/16/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0416	DK Productions Inc.	2/16/06			<i>PENDING</i>		
CGB-CC-0426	Lush Productions, LLC "This Week in Real Estate"	2/16/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0162	Outdoor Adventures Productions	2/17/06			<i>PENDING</i>		
CGB-CC-0269	The Los Angeles Unified School District	2/17/06 & 3/28/06			<i>PENDING</i>		
CGB-CC-0275	The Diocese of Lake Charles, Louisiana "Glad Tidings"	2/17/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0369	The Television Center of the Archdiocese of Miami "Sunday Mass"	2/22/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0211	New Life Church International "Impacting Your Life"	2/23/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-	The Caleb Crump Show	2/23/06			<i>PENDING</i>		

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
CC-0190							
CGB-CC-0077	Alonzo A. Webb, Sr. Ministries	2/24/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0186	Kent Hrbek Outdoors, Inc.	2/24/06			<i>PENDING</i>		
CGB-CC-0058	Coastal Cathedral Church of God	2/24/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0055	First Assembly of God of Springfield, Illinois "Living with Power"	2/24/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0168	Word of God Ministries "Ministering the Word"	03/03/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0086	Believers Tabernacle "Believe TV"	03/03/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0084	TDS Management Group, Inc. "Focus on Diversity with Troy Shaw"	03/03/06			<i>PENDING</i>		
CGB-CC-0100	First Baptist Church, Shreveport	03/13/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0448	Ray Slone and Bruce Clarke "Cruise'n with E-Rider"	03/14/06			<i>PENDING</i>		
CGB-CC-0021	V Labar Productions "Live Action Wrestling"	03/16/06			<i>PENDING</i>		
CGB-CC-0174	First Baptist Church of Nacogdoches, Texas "Living in the Light"	03/16/06		Date-stamped 09/11/06	Granted -- Permanent		

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
CGB-CC-0024	Gerald Bryant "JBTV"	03/17/06			<i>PENDING</i>		
CGB-CC-0466	Captive View Advertising "Latin Late Night"	03/20/06			<i>PENDING</i>		
CGB-CC-0212	The Covenant Church of Jesus Christ	03/20/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0469	Harmony Hill Baptist Church	03/20/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0080	New Testament Church "Glory to Glory"	03/27/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0293	Lighthouse Full Life Center Church "Walk in the Light"	03/27/06			<i>PENDING</i>		
CGB-CC-0006	New Life Worship Center "Life in Christ"	03/28/06		09/22/06	Granted -- Permanent		
CGB-CC-0088	The Leadership Group, Newsmakers Productions, Inc. "Pennsylvania Newsmakers"	03/30/06			<i>PENDING</i>		
CGB-CC-0133	Cornerstone Christian Church	03/30/06		Date-stamped 09/21/06	Granted -- Permanent		
CGB-CC-0135	First United Methodist Church of Jefferson City, Missouri "Celebration of Worship"	03/30/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0440	George Newman "Bloomin' in the Garden"	03/30/06			<i>PENDING</i>		

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
CGB-CC-0482	John Baer "Coastal Empire Exteriors' Home Improvement Time"	03/31/06			<i>PENDING</i>		
CGB-CC-0470	Cumberland Christian Center Church "The Proceeding Word"	03/31/06		Date-stamped 09/20/06	Granted -- Permanent		
CGB-CC-0467	A. D. Burns Ministries "Reaching the World Through Faith"	03/31/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0452	A Hybrid Moon Video Productions, LLC "Weddings Portland Style"	03/31/06			<i>PENDING</i>		
CGB-CC-0478	Off Beat Productions, Inc. "Off Beat Cinema"	03/31/06			<i>PENDING</i>		
CGB-CC-0034	Word of Life Church, El Paso, Texas "The Bondage Breaker"	04/06/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0439	WOUB Public Television	04/06/06			<i>PENDING</i>		
CGB-CC-0493	River of Life Christian Center "Chosen Generation"	04/06/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0492	Heritage Christian University "Real World Ministry"	04/06/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0495	Doug Houston & Associates "Doug Houston Outdoors"	04/07/06			<i>PENDING</i>		
CGB-CC-0144	Dawson Memorial Baptist Church	04/07/06		Date-stamped 09/11/06	Granted -- Permanent		

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
CGB-CC-0098	Life Matters, Inc. "Life Matters"	04/11/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0063	McAlmont Church of Christ "Answering Voice Ministries"	04/14/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0489	Wisconsin's Waters & Woods LLC	04/14/06			<i>PENDING</i>		
CGB-CC-0182	Broadway Baptist Church	04/28/06		Date-stamped 09/20/06	Granted -- Permanent		
CGB-CC-0513	Ralph Sexton Ministries "Restore the Landmarks"	04/28/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0152	Guerilla Productions "Carolina Cooking"	04/28/06			<i>PENDING</i>		
CGB-CC-0145	Tom Lavin "New Skills for Living"	05/02/06			<i>PENDING</i>		
CGB-CC-0253	True Church of God in Christ, Inc.	05/02/06		Date-stamped 09/20/06	Granted -- Permanent		
CGB-CC-0083	Diocese of Lincoln, Nebraska "The Catholic Mass"	05/05/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0062	A&S Media, LLC "The Remax Showcase of Homes"	05/05/06			<i>PENDING</i>		
CGB-CC-0108	Calvary Community Church of Phoenix, Arizona "Grace Upon Grace"	05/11/06		Date-stamped 09/11/06	Granted -- Permanent		

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
CGB-CC-0149	First United Methodist Church of Shreveport, Louisiana	05/15/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0203	First Baptist Church of Fort Smith, Arkansas, "Hope from Above"	05/15/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0524	First Assembly of God, Binghamton, NY	05/22/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0525	Hillcrest Baptist Church - El Paso, TX	05/22/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0526	Channel of Love Ministries "Now is the Time for Miracles"	05/22/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0155	Vickie Roberson Productions Corporation "The Vickie Roberson Entertainment Show"	05/22/06			<i>PENDING</i>		
CGB-CC-0017	Crisp and Cole Productions "The Crisp & Cole Connection"	05/22/06			<i>PENDING</i>		
CGB-CC-0175	Hunter Productions Inc. "The Home Hunter"	05/22/06			<i>PENDING</i>		
CGB-CC-0142	Wildfire Global Church	06/05/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0074	Global Media Marketing, Inc.	06/05/06			<i>PENDING</i>		
CGB-CC-0003	Annabelle Productions, Inc.	06/05/06			<i>PENDING</i>		

CSR	Petitioner/Video Program Description	FCC Public Notice Date	Opposition Filing Date	Date of FCC Action	Status/ Disposition	FCC Public Notice DA Number for Action	Other Information
CGB-CC-0022	National Television Education Foundation, Inc. "We Are Tomorrow...R-U?"	06/14/06			<i>PENDING</i>		Temporary Waiver Request
CGB-CC-0544	CityScene Television "NW Style"	06/30/06			<i>PENDING</i>		
CGB-CC-0421	Cornerstone Church (Assemblies of God), Inc. "In Focus"	06/30/06		09/22/06	Granted -- Permanent		
CGB-CC-0545	North Highland Assembly of God "Bread of Life"	07/07/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0137	Abundant Faith Christian Center "Faith For Today"	07/20/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0150	Keeler Productions, Inc. "The Keeler Show", "Star Chef", "Health Smart", and "CNY Open House"	07/20/06			<i>PENDING</i>		
CGB-CC-0555	Outpouring Worship Center aka Ravenna Assembly of God "Outpouring" and "Cutting Edge Video"	07/20/06		Date-stamped 09/11/06	Granted -- Permanent		
CGB-CC-0061	Sam Shad Productions "Nevada Newsmakers"	08/04/06			<i>PENDING</i>		

**A2: Petitions for Exemption from Closed Captioning Rules – 47 C.F.R. § 79.1 NOT Placed on Public Notice and Granted<sup>2</sup>**

<b>CGB-CC</b>	<b>Petitioner/Video Program Description</b>	<b>Filing Date</b>	<b>Date of FCC Action</b>	<b>Status/ Disposition</b>
0008	Thy Kingdom Come, Inc. "Prophecy Watch"	11/10/05	Date-stamped 09/11/06	Granted -- Permanent
0010	Living Faith Apostolic Church "The Uncompromised Word"	11/11/05	Date-stamped 09/11/06	Granted -- Permanent
0015	University Park Baptist Church "Producing Kingdom Citizens"	11/09/05	Date-stamped 09/20/06	Granted -- Permanent
0018	Power in the Word Outreach Ministries "Power in the Word"	11/28/05	Date-stamped 09/11/06	Granted -- Permanent
0020	Catholic Diocese of Reno	11/18/05	Date-stamped 09/11/06	Granted -- Permanent
0023	Christ Chapel, Inc.	11/22/05	Date-stamped 09/11/06	Granted -- Permanent
0025	Christ Temple Church	11/23/05	Date-stamped 09/11/06	Granted -- Permanent
0028	Immanuel Baptist Church	12/05/05	Date-stamped 09/11/06	Granted -- Permanent
0030	Evangelistic Ministries "Motivated About Jesus Broadcast"	12/05/05	Date-stamped 09/20/06	Granted -- Permanent
0031	Calvary Chapel of Bangor "Godsword"	12/07/05	Date-stamped 09/11/06	Granted -- Permanent
0033	Faith Christian Church "Word of Faith"	12/06/05	09/22/06	Granted -- Permanent
0036	Greater Refuge Temple	12/11/05	Date-stamped 09/11/06	Granted -- Permanent
0038	Roman Catholic Diocese of Burlington "TV Mass"	01/11/06	Date-stamped 09/11/06	Granted -- Permanent
0041	St. Mark Baptist Church "Reaching People Where They Are"	12/27/05	Date-stamped 09/11/06	Granted -- Permanent
0045	Van Buren First Assembly of God	12/15/05	Date-stamped 09/11/06	Granted -- Permanent
0046	Dilworth Church of Christ "Seeking the Lost"	12/13/05	Date-stamped 09/11/06	Granted -- Permanent
0052	Heartland Academy Community Church "Straight from the Heart"	12/18/05	Date-stamped 09/11/06	Granted -- Permanent
0057	St. John Missionary Baptist Church "The Voice of Triumph"	12/13/05	Date-stamped 09/11/06	Granted -- Permanent
0059	Whitesburg Baptist Church	12/12/05	Date-stamped 09/11/06	Granted -- Permanent
0060	Geyer Springs First Baptist Church	12/15/05	Date-stamped 09/11/06	Granted -- Permanent
0065	Mayfair Church of Christ "Abundant Living"	12/22/05	Date-stamped 09/11/06	Granted -- Permanent
0066	First United Methodist Church [Longview, TX]	12/22/05	Date-stamped 09/11/06	Granted -- Permanent
0069	Cornerstone Baptist Church "God's Good Word"	12/20/06	Date-stamped 09/11/06	Granted -- Permanent
0070	Mt. Bethel United Methodist Church	12/21/06	Date-stamped 09/11/06	Granted -- Permanent
0072	First United Methodist Church [Baton Rouge, LA] "To make disciples of Jesus Christ"	12/23/05	Date-stamped 09/11/06	Granted -- Permanent
0075	The Wellness Hour	12/20/05	Date-stamped 09/11/06	Granted -- Permanent

<sup>2</sup> Last Updated October 8, 2006.

CGB-CC	Petitioner/Video Program Description	Filing Date	Date of FCC Action	Status/ Disposition
0076	David May Ministries, Inc.	12/27/05	Date-stamped 09/11/06	Granted -- Permanent
0078	Evangelical Faith Vision Ministries, Inc.	12/27/05	Date-stamped 09/12/06	Granted -- Permanent
0081	Elizabethton Church of Christ "Biblical Viewpoints"	12/22/05	Date-stamped 09/11/06	Granted -- Permanent
0082	Southcrest Baptist Church "Southcrest Baptist Church . . . Encounter the Truth."	12/30/05	Date-stamped 09/11/06	Granted -- Permanent
0085	Living Word Fellowship	12/21/05	Date-stamped 09/11/06	Granted -- Permanent
0092	Bethel Deliverance International Church "Climbing Higher"	12/20/05	Date-stamped 09/11/06	Granted -- Permanent
0093	New Life Christian Fellowship	12/21/05	Date-stamped 09/11/06	Granted -- Permanent
0094	First Baptist Rogers	12/15/05	Date-stamped 09/11/06	Granted -- Permanent
0096	Israel, The Church of Jesus "Thy Kingdom Come Ministries"	12/20/05	Date-stamped 09/11/06	Granted -- Permanent
0097	Sheffield Family Life Center "Living Answers for Today"	12/27/05	Date-stamped 09/11/06	Granted -- Permanent
0099	Macon Road Baptist Church "Let's Talk About Jesus"	12/28/05	09/22/06	Granted -- Permanent
0105	Kansas City Baptist Temple "Live The Great"	12/15/05	Date-stamped 09/11/06	Granted -- Permanent
0107	First United Methodist Church [Lubbock, TX]	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0111	The Mountain of Praise Church "Mountain of Praise Church Television Broadcast"	12/27/05	Date-stamped 09/11/06	Granted -- Permanent
0112	Broadmoor Baptist Church	12/21/05	Date-stamped 09/11/06	Granted -- Permanent
0114	First Word Ministries	12/27/05	Date-stamped 09/11/06	Granted -- Permanent
0121	Classic Southern Singing	12/28/05	Date-stamped 09/20/06	Granted -- Permanent
0125	Main Street Baptist Church	12/20/05	Date-stamped 09/11/06	Granted -- Permanent
0126	First United Methodist Church [Montgomery, AL] "A Caring Community of Believers"	12/29/05	Date-stamped 09/12/06	Granted -- Permanent
0130	Goodnews Broadcast Ministries "Goodnews"	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0131	Faith Builders International Ministries	12/29/05	Date-stamped 09/11/06	Granted -- Permanent
0132	Kingdom Life Fellowship Ministries "Word of Truth"	12/26/05	Date-stamped 09/11/06	Granted -- Permanent
0134	The Catholic Diocese of Grand Rapids	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0138	Word of Faith Christian Center "Revelation Knowledge Broadcast"	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0139	Global Christian Network	12/30/05	Date-stamped 09/11/06	Granted -- Permanent
0140	Greenwood Acres Full Gospel Baptist Church "Know Your Bible"	12/22/05	Date-stamped 09/11/06	Granted -- Permanent
0141	First Baptist Church of Abilene	12/29/05	Date-stamped 09/11/06	Granted -- Permanent
0143	First Lutheran Church "Peace and Power"	12/06/05	Date-stamped 09/12/06	Granted -- Permanent

CGB-CC	Petitioner/Video Program Description	Filing Date	Date of FCC Action	Status/ Disposition
0146	Faith Clinic Christian Center Church	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0147	Mount Zion AME Zion Church	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0151	Upper Room Church "Outreach Ministry"	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0153	Porterfield United Methodist Church	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0163	First Baptist Church of Biloxi, MS	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0165	Macon Road Baptist Church "Let's Talk About Jesus"	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0167	Grace Community United Methodist Church	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0169	Victory Life Baptist Church, Inc. "The Truth Be Told"	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0173	Temple Baptist Church "The Temple Baptist Hour"	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0176	Calvary Tucson "Practical Christian Living"	12/15/06	09/22/06	Granted -- Permanent
0179	Nettleton Church of Christ "Speaking the Truth in Love"	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0180	Legacy Church "Life Solutions"	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0184	Antioch Missionary Baptist Church	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0185	Galena Assembly of God "In His Presence"	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0188	United Faith of Deliverance Ministries	12/29/05	Date-stamped 09/20/06	Granted -- Permanent
0193	Everlasting Covenant "Seeking the Lost"	12/31/05	Date-stamped 09/11/06	Granted -- Permanent
0194	The Tzemach Institute for Biblical Studies	12/30/05	Date-stamped 09/11/06	Granted -- Permanent
0195	Summer Grove Baptist Church "It Feels Like Home"	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0197	Unionville Missionary Baptist Church	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0198	Calvary in Savannah "Calvary in Savannah, Pillars of Strength, Transforming Lives"	12/29/05	Date-stamped 09/11/06	Granted -- Permanent
0205	South Plains Church	12/19/05	Date-stamped 09/11/06	Granted -- Permanent
0206	Divine Faith Ministries "Soaring with Eagles"	12/30/05	Date-stamped 09/11/06	Granted -- Permanent
0208	Walking By Faith	12/29/05	Date-stamped 09/11/06	Granted -- Permanent
0214	Dayspring Ministries of Gloster Street Church of Christ	01/04/06	Date-stamped 09/12/06	Granted -- Permanent
0215	Covenant World Outreach Church	12/24/05	Date-stamped 09/11/06	Granted -- Permanent
0216	Greater King David Baptist Church "The Movement of Christ"	12/30/05	Date-stamped 09/11/06	Granted -- Permanent
0217	Anthony Strawder Ministries "Hear and Be Healed"	01/04/06	Date-stamped 09/12/06	Granted -- Permanent
0218	Lima Baptist Temple	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0219	First Centenary United Methodist Church	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0222	World Outreach Revival Deliverance Ministry, Inc.	01/03/06	Date-stamped 09/12/06	Granted -- Permanent

CGB-CC	Petitioner/Video Program Description	Filing Date	Date of FCC Action	Status/ Disposition
0225	First Baptist Church [Montgomery, AL]	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0226	Walnut Street Baptist Church "Walnut Street Live"	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0227	Jesse Rich Ministries "Word of Faith"	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0228	Starkville Church of God "Voice of Hope"	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0230	United Church of the Lord Jesus Christ	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0231	Zion Baptist Church	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0232	Cherokee Church of Christ "TV Sunday School"	01/04/06	Date-stamped 09/12/06	Granted -- Permanent
0233	Corpus Christi Christian Fellowship	01/04/06	Date-stamped 09/12/06	Granted -- Permanent
0235	Christian Video Ministries, Inc.	01/04/06	Date-stamped 09/12/06	Granted -- Permanent
0238	Central Baptist Church	01/05/06	Date-stamped 09/12/06	Granted -- Permanent
0239	First United Methodist [Panama City, FL]	01/04/06	Date-stamped 09/12/06	Granted -- Permanent
0242	Peaceful Lion Missionary Baptist Church	01/05/06	Date-stamped 09/12/06	Granted -- Permanent
0243	Southland Christian Church	01/04/06	Date-stamped 09/12/06	Granted -- Permanent
0244	First Presbyterian Church	01/04/06	Date-stamped 09/12/06	Granted -- Permanent
0248	Forth Worth Bible Studies "The Devine Plan Program"	01/04/06	Date-stamped 09/12/06	Granted -- Permanent
0249	First Baptist Church [Carriere, MS]	01/06/06	Date-stamped 09/12/06	Granted -- Permanent
0251	Redemption Church International "The Power of the Word"	01/06/06	Date-stamped 09/12/06	Granted -- Permanent
0255	True Church of God in Christ	01/06/06	Date-stamped 09/12/06	Granted -- Permanent
0257	Bull Street Baptist Church	01/06/06	Date-stamped 09/12/06	Granted -- Permanent
0258	Christ for the Crisis	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0259	First United Methodist Church [Wichita Falls, TX]	12/29/05	Date-stamped 09/11/06	Granted -- Permanent
0260	Revival Tabernacle Church	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0261	Kicks Ministries	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0264	First Assembly of God	01/10/06	Date-stamped 09/12/06	Granted -- Permanent
0266	Terry Colwell Ministries	12/30/05	Date-stamped 09/12/06	Granted -- Permanent
0267	Grace Street Church of Christ	01/03/06	Date-stamped 09/12/06	Granted -- Permanent
0268	Canaan Baptist Church	12/29/05	Date-stamped 09/11/06	Granted -- Permanent
0270	Diocese of Gaylord	12/26/05	Date-stamped 09/11/06	Granted -- Permanent
0271	CrossTV "Word Pictures"	12/30/05	09/22/06	Granted -- Permanent
0272	New Covenant Fellowship Ministries, Inc. d/b/a Life Church	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0273	Cathedral A.M.E. [Zion Church] "Say What the Lord Said"	01/03/06	Date-stamped 09/11/06	Granted -- Permanent

CGB-CC	Petitioner/Video Program Description	Filing Date	Date of FCC Action	Status/ Disposition
0274	Christian Faith Fellowship "Principles for Successful Living"	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0278	Abundant Life Outreach Ministries, Inc.	01/05/06	Date-stamped 09/11/06	Granted -- Permanent
0282	Ellwood Community Church "Circle of Love Outreach"	01/05/06	Date-stamped 09/12/06	Granted -- Permanent
0283	East Main Church of Christ "Give Me the Bible"	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0284	Word of Faith Christian Center "Sword of the Spirit"	12/29/05	Date-stamped 09/11/06	Granted -- Permanent
0286	Christ Chapel	01/09/06	Date-stamped 09/12/06	Granted -- Permanent
0289	The Beulahland Bible Church	12/30/05	Date-stamped 09/11/06	Granted -- Permanent
0290	Odessa Christian Faith Center "Voice of Faith"	12/16/05	Date-stamped 09/11/06	Granted -- Permanent
0291	God and Country Revival	12/05/05	Date-stamped 09/11/06	Granted -- Permanent
0292	Ebenezer Baptist Church	12/20/05	Date-stamped 09/11/06	Granted -- Permanent
0294	First Apostolic Church "The Voice of Pentecost"	12/31/05	Date-stamped 09/11/06	Granted -- Permanent
0297	Church of Christ on Lewis Street	01/05/06	Date-stamped 09/11/06	Granted -- Permanent
0300	America Come Back To God Evangelistic Church, Inc.	01/09/06	Date-stamped 09/11/06	Granted -- Permanent
0301	First Baptist North Mobile "The Great Adventure Outdoor Show"	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0302	Voice for Jesus Church	12/30/05	Date-stamped 09/11/06	Granted -- Permanent
0303	First Baptist Church [Jonesboro, AR]	12/23/05	Date-stamped 09/11/06	Granted -- Permanent
0304	Erie First Assembly of God "Fully Alive"	01/10/06	Date-stamped 09/12/06	Granted -- Permanent
0306	Power of Deliverance T.V. Ministries	12/26/05	Date-stamped 09/11/06	Granted -- Permanent
0307	Christian Assembly	01/03/06	Date-stamped 09/11/06	Granted -- Permanent
0311	Sevier Heights Baptist Church "Upon this Rock"	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0312	Clinton McFarland Ministries "The Wonderful Day"	01/11/06	Date-stamped 09/12/06	Granted -- Permanent
0313	Citychurch Outreach Ministries	01/11/06	Date-stamped 09/12/06	Granted -- Permanent
0314	First Assembly of God "The Gospel of Jesus Christ"	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0315	Apostolic Fellowship Holiness Church	01/10/06	Date-stamped 09/12/06	Granted -- Permanent
0316	Catholic Diocese of Lafayette "Tell The People"	12/29/05	09/22/06	Granted -- Permanent
0318	First United Methodist Church - Lufkin [TX]	12/30/05	Date-stamped 09/11/06	Granted -- Permanent
0319	God's House of Prayer	01/10/06	Date-stamped 09/12/06	Granted -- Permanent
0321	The Lower Lighthouse	12/31/05	09/22/06	Granted -- Permanent
0322	True Deliverance Holiness Church	01/10/06	Date-stamped 09/12/06	Granted -- Permanent
0324	Loveliflife Ministries	01/10/06	Date-stamped 09/12/06	Granted -- Permanent
0327	Cathedral of the Palms	12/27/05	Date-stamped 09/20/06	Granted -- Permanent

CGB-CC	Petitioner/Video Program Description	Filing Date	Date of FCC Action	Status/ Disposition
0333	Christian Love Fellowship Ministries "Welcome Home"	12/30/05	Date-stamped 09/11/06	Granted -- Permanent
0337	Abundant Life Fellowship	01/09/06	Date-stamped 09/11/06	Granted -- Permanent
0339	First United Methodist Church [Ocala, FL]	01/05/06	Date-stamped 09/11/06	Granted -- Permanent
0341	Huntington Park Church of Christ Video Inspirations	01/11/06	Date-stamped 09/12/06	Granted -- Permanent
0342	Peachtree Presbyterian Church	12/30/05	Date-stamped 09/11/06	Granted -- Permanent
0350	Willette Duvall "Gospel Experience with Willette Duvall"	12/19/05	Date-stamped 09/11/06	Granted -- Permanent
0352	Embassies of Christ Kingdom Ministries "You Have a Destiny"	01/09/06	Date-stamped 09/11/06	Granted -- Permanent
0353	Word of God Tabernacle	01/12/06	Date-stamped 09/11/06	Granted -- Permanent
0355	First Assembly of God "Sunday Night Ceebration"	12/29/05	Date-stamped 09/11/06	Granted -- Permanent
0371	Westside Church Media Ministry "God's Guide for Living Right"	12/29/05	Date-stamped 09/20/06	Granted -- Permanent
0373	Robert C. Blakes, Sr. Ministries / New Home Ministries "The Taking The Kingdom Broadcast"	01/18/06	Date-stamped 09/12/06	Granted -- Permanent
0375	Faith and Deliverance Outreach Mission Ministries "Walking by Faith"	12/16/05	Date-stamped 09/11/06	Granted -- Permanent
0376	New St. Paul Tabernacle Church of God in Christ "March of Faith"	12/22/05	Date-stamped 09/11/06	Granted -- Permanent
0377	Bible Enrichment Fellowship International Church "Turn It Around"	01/17/06	Date-stamped 09/11/06	Granted -- Permanent
0379	The Sound of Light	01/18/06	Date-stamped 09/12/06	Granted -- Permanent
0382	Hoffmantown Baptist Church, Inc.	01/10/06	Date-stamped 09/11/06	Granted -- Permanent
0386	Emmanuel Christian Center	01/05/06	Date-stamped 09/11/06	Granted -- Permanent
0387	Time of Refreshing Christian Worship Center	12/23/06	Date-stamped 09/11/06	Granted -- Permanent
0388	Lutheran Church of the Redeemer	01/01/06	Date-stamped 09/11/06	Granted -- Permanent
0389	Christ Church of Oak Brook "The Pulpit of Christ Church"	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0394	Christ Love Ministries International	01/15/06	Date-stamped 09/11/06	Granted -- Permanent
0397	South Tulsa Adventist Fellowship "for your sixty minute weekly church service"	01/05/06	09/22/06	Granted -- Permanent
0399	Todds Road Grace Church	12/28/05	Date-stamped 09/11/06	Granted -- Permanent
0400	Dr. Tab Smith "The Bible Says"	01/27/06	Date-stamped 09/20/06	Granted -- Permanent
0401	Oak Ridge Baptist Church "Good Sunday Mornin"	01/18/06	Date-stamped 09/11/06	Granted -- Permanent
0404	Taylor Rad Baptist Church	01/31/06	Date-stamped 09/12/06	Granted -- Permanent
0406	Victory Temple "The World We Live In"	01/30/06	Date-stamped 09/12/06	Granted -- Permanent
0408	Abundant Life Church "Sharing His Life"	02/02/06	Date-stamped 09/12/06	Granted -- Permanent
0410	All Faith Self Help Center	01/25/06	Date-stamped 09/12/06	Granted -- Permanent

CGB-CC	Petitioner/Video Program Description	Filing Date	Date of FCC Action	Status/ Disposition
0415	Gloryland Harvest	02/02/06	Date-stamped 09/12/06	Granted -- Permanent
0417	The Archdiocese of San Francisco "The Mass"	12/28/05	Date-stamped 09/12/06	Granted -- Permanent
0423	World Harvest Church International "World Harvest Today"	01/27/06	Date-stamped 09/12/06	Granted -- Permanent
0427	First United Methodist Church [Myrtle Beach, SC] "for your worship service."	02/09/06	09/22/06	Granted -- Permanent
0432	First Baptist Church – Albany	02/13/06	Date-stamped 09/12/06	Granted -- Permanent
0436	University Family Fellowship	02/17/06	Date-stamped 09/12/06	Granted -- Permanent
0437	Victory Chapel	02/21/06	Date-stamped 09/12/06	Granted -- Permanent
0441	First United Methodist Church, Albany [GA]	02/21/06	Date-stamped 09/12/06	Granted -- Permanent
0442	Saint Paul AME Church	02/21/06	Date-stamped 09/12/06	Granted -- Permanent
0444	Hartford Highway Church of Christ "Let the Bible Speak"	02/21/06	Date-stamped 09/12/06	Granted -- Permanent
0446	Trenholm Road United Methodist Church	02/24/06	Date-stamped 09/12/06	Granted -- Permanent
0449	J.U.M.P. Ministries International Church	02/27/06	Date-stamped 09/12/06	Granted -- Permanent
0450	Village of Faith Ministries "Celebrate Life Broadcast"	02/27/06	Date-stamped 09/12/06	Granted -- Permanent
0453	Calvary Chapel of Salt Lake City	03/01/06	Date-stamped 09/12/06	Granted -- Permanent
0454	Thirteenth Street Baptist Church	02/23/06	Date-stamped 09/12/06	Granted -- Permanent
0456	Life in Christ Ministries, Inc. "Life in Christ"	02/22/06	Date-stamped 09/12/06	Granted -- Permanent
0458	Family Praise Center "Getting Equipped with Family Praise Center"	02/24/06	Date-stamped 09/12/06	Granted -- Permanent
0459	Transformation Ministries First Baptist Church	03/06/06	Date-stamped 09/12/06	Granted -- Permanent
0461	Fellowship Baptist Church	03/06/06	Date-stamped 09/12/06	Granted -- Permanent
0462	Faith Christian Center Church	03/07/06	Date-stamped 09/12/06	Granted -- Permanent
0463	Praise Temple Inc. "The Abiding Word"	03/07/06	Date-stamped 09/12/06	Granted -- Permanent
0465	Soul Food For The Soul	03/08/06	Date-stamped 09/12/06	Granted -- Permanent
0474	The Church That Christ Built	03/17/06	Date-stamped 09/12/06	Granted -- Permanent
0475	Trinity Lutheran Church	03/20/06	Date-stamped 09/12/06	Granted -- Permanent
0476	Berean Bible Study Association Inc. "Grace Believer's Bible Study"	05/30/06	09/22/06	Granted -- Permanent
0477	University City Church	03/20/06	Date-stamped 09/12/06	Granted -- Permanent
0480	The Lord's Sentinel Fellowship Church, Inc.	03/27/06	Date-stamped 09/12/06	Granted -- Permanent
0481	Move of God Ministries "Unity"	03/28/06	Date-stamped 09/12/06	Granted -- Permanent
0483	Full Gospel Word & Worship Center	03/27/06	Date-stamped 09/12/06	Granted -- Permanent
0484	Fullers' Deliverance Outreach Ministry	03/27/06	Date-stamped 09/12/06	Granted -- Permanent

CGB-CC	Petitioner/Video Program Description	Filing Date	Date of FCC Action	Status/ Disposition
0487	Christian Fellowship Church "Faith In Action"	03/29/06	09/22/06	Granted -- Permanent
0494	Mt. Calvary Church of Christ Written in Heaven	04/05/06	Date-stamped 09/12/06	Granted -- Permanent
0496	Crossfire World Outreach Ministries "Crossfire Television"	04/05/06	09/22/06	Granted -- Permanent
0497	Family Worship Center "Revival Time"	04/05/06	09/22/06	Granted -- Permanent
0501	Living Faith Cathedral "for Wordpower Broadcast."	04/07/06	09/22/06	Granted -- Permanent
0502	House of Prayer	04/10/06	09/22/06	Granted -- Permanent
0505	The Lighthouse "for The Lighthouse Broadcast."	04/14/06	09/22/06	Granted -- Permanent
0507	Woman of Substance Inc. "Woman of Substance"	04/17/06	09/22/06	Granted -- Permanent
0510	Victory Tabernacle Bible Training Center "for your thirty-minute sermons and music."	02/01/06	09/22/06	Granted -- Permanent
0512	Union Baptist Church "Sunday Service"	04/26/06	09/22/06	Granted -- Permanent
0516	First Church on the Hill "Catch the Vision"	05/01/06	09/22/06	Granted -- Permanent
0519	Christ Word of Truth Church "Word of Truth"	04/18/06	Date-stamped 09/11/06	Granted -- Permanent
0520	Riverbend Church "for thirty-minute religious service"	05/09/06	09/22/06	Granted -- Permanent
0521	Victory Ministries International "for your two-minute and thirty-minute religious program"	04/19/06	09/22/06	Granted -- Permanent
0522	Heartbeat Ministries "for your thirty-minute religious program"	05/08/06	09/22/06	Granted -- Permanent
0527	The Gravediggers Ministries, Inc. "The Gravediggers Show"	05/15/06	Date-stamped 09/11/06	Granted -- Permanent
0529	Catholic Diocese of Youngstown County "The Mass for Shut-Ins"	05/01/06	Date-stamped 09/11/06	Granted -- Permanent
0533	River of Life Church of Central Florida "River Life Media"	04/12/06	Date-stamped 09/11/06	Granted -- Permanent
0536	Divine Deliverance Christian Center "Today's Living"	05/26/06	Date-stamped 09/11/06	Granted -- Permanent
0537	New Testament Church	05/22/06	Date-stamped 09/11/06	Granted -- Permanent
0543	Family of Faith Christian Church "Works of Faith Broadcast"	06/08/06	Date-stamped 09/11/06	Granted -- Permanent
0549	Messiah Outreach Christian Family Church "Messiah Outreach Broadcast"	06/24/06	Date-stamped 09/11/06	Granted -- Permanent
0552	North Asheville Baptist Church "Eternal Truths"	07/11/06	Date-stamped 09/11/06	Granted -- Permanent
0553	Unity Church of Christianity "Yes, You Can!"	06/30/06	Date-stamped 09/20/06	Granted -- Permanent
0557	By His Word Christian Center "Living By His Word"	07/18/06	Date-stamped 09/11/06	Granted -- Permanent
0561	First Baptist Church of Leesburg	07/17/06	Date-stamped 09/11/06	Granted -- Permanent
0562	Beloved St. John Evangelistic Church "Time of Decision"	07/27/06	Date-stamped 09/11/06	Granted -- Permanent
0566	Stay Focused Ministries	07/27/06	Date-stamped 09/11/06	Granted -- Permanent
0567	Faith Temple of Lincoln, Inc. "Possessing Your Promises"	07/29/06	Date-stamped 09/11/06	Granted -- Permanent

<b>CGB-CC</b>	<b>Petitioner/Video Program Description</b>	<b>Filing Date</b>	<b>Date of FCC Action</b>	<b>Status/ Disposition</b>
0571	Bay Shore Community Church	08/14/06	Date-stamped 09/11/06	Granted -- Permanent
0572	The Justice Foundation "Faces of Abortion"	08/04/06	09/22/06	Granted -- Permanent
0574	Siloam Church International	08/10/06	Date-stamped 09/11/06	Granted -- Permanent
0581	Living Waters Foursquare Gospel Church "Hands Reaching Out To You With Love"	08/26/06	Date-stamped 09/11/06	Granted -- Permanent

**EXHIBIT B**



Federal Communications Commission  
Washington, D.C. 20554

2006 SEP 11 P 3: 51

Reference: CGB-CC-0059

Whitesburg Baptist Church  
Carlton Berry  
600 Whitesburg Dr.  
Huntsville, AL 35802

Re: Petition for exemption from the closed captioning rules under the "undue burden" standard, 47 C.F.R. § 79.1(f)

Dear Mr. Berry,

As you were previously notified, the Federal Communications Commission received the petition you filed on behalf of Whitesburg Baptist Church on December 12, 2005 seeking an exemption from the closed captioning requirements set forth in section 79.1 of the Commission's rules.<sup>1</sup> The exemption sought was based on the undue burden standard set forth in section 79.1(f). As explained below, after careful consideration we grant your petition for exemption from the closed captioning requirements for Whitesburg Baptist Church.

Pursuant to section 79.1(f) of the Commission's rules, an exemption from closed-captioning requirements may be granted for a channel of video programming, a category or type of video programming, an individual video service, a specific video program or a video programming provider upon a finding that the closed captioning requirements will result in an undue burden upon the petitioner. Furthermore, the statute and the Commission's rules define the term "undue burden" to mean "significant difficulty or expense."<sup>2</sup> Applying this standard, the Consumer and Governmental Affairs Bureau recently issued an Order granting exemptions from the closed captioning requirements under the undue burden standard to two entities that are similarly situated to the petitioner in the instant case.<sup>3</sup> In that Order, the Bureau noted that in addressing undue burden petitions:

[W]e must "balance the need for closed captioned programming against the potential for hindering the production and distribution of

<sup>1</sup> 47 C.F.R. § 79.1, implementing section 713 of the Communications Act of 1934, as amended, 47 U.S.C. § 613, which was added to the Communications Act by section 305 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. § 151 *et seq.*).

<sup>2</sup> 47 U.S.C. § 613(e); 47 C.F.R. § 79.1(f)(2).

<sup>3</sup> *In the Matter of Anglers for Christ Ministries, Inc., New Beginning Ministries, Video Programming Accessibility Petitions for Exemption from Closed Captioning Requirements*, Case Nos. CGB-CC-0005 and CGB-CC-0007, Memorandum Opinion and Order, DA 06-1802, (CGB rel. Sept 11, 2006).

programming.” For these reasons, we note that, in the future, when considering an exemption petition filed by a non-profit organization that does not receive compensation from video programming distributors from the airing of its programming, and that, in the absence of an exemption, may terminate or substantially curtail its programming, or curtail other activities important to its mission, we will be inclined favorably to grant such a petition because . . . this confluence of factors strongly suggests that mandated closed captioning would pose an undue burden on such a petitioner.<sup>4</sup>

After careful review of the circumstances set forth in your petition, and in light of the relevant precedent discussed above, we conclude that application of the closed captioning requirements in this case would cause an undue burden. We therefore grant your petition pursuant to section 79.1(f).<sup>5</sup>

Any inquiries regarding this matter should be directed to the undersigned at (202) 418-1475 (voice), (202) 418-0597 (TTY), or [Thomas.Chandler@fcc.gov](mailto:Thomas.Chandler@fcc.gov). Please refer to the case identifier number noted above in any email correspondence or telephone conversations with Commission staff.

Sincerely,



Thomas E. Chandler  
Chief, Disability Rights Office  
Consumer and Governmental Affairs Bureau

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<sup>4</sup> *Id.* at para 11 (citation omitted).

<sup>5</sup> Section 79.1(f) sets forth certain procedures to guide the Commission’s consideration of undue burden petitions, including that the petition be placed on Public Notice and that the petition contain detailed facts supported by affidavit. 47 C.F.R. § 79.1(f)(5)-(9). The Commission, however, may waive its rules for good cause, and, in light of the facts set forth in your petition and the precedent discussed above, we conclude that waiving these requirements in the instant case is consistent with the public interest.

**EXHIBIT C**

EDWARD J. MARKEY  
7TH DISTRICT, MASSACHUSETTS

ENERGY AND COMMERCE COMMITTEE

RANKING MEMBER  
SUBCOMMITTEE ON  
TELECOMMUNICATIONS AND  
THE INTERNET

HOMELAND SECURITY COMMITTEE

RESOURCES COMMITTEE

Congress of the United States  
House of Representatives  
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September 21, 2006

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The Honorable Kevin J. Martin  
Chairman, Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Chairman Martin:

I am writing with respect to a recent order granting two requests for exemptions for closed captioning requirements (Re: In the Matter of New Beginning Ministries and Anglers for Christ Ministries, Inc.; CGB-CC-0005, CGB-CC-0007; adopted September 12, 2006.) As you may know, I have a long history of fighting for closed captioning, including provisions added as part of the Telecommunications Act of 1996, and as prime House sponsor of successful legislation to include built-in decoder circuitry to provide closed captioning of aurally-delivered program material in 1991.

I write with concern about several aspects of this order as well as the process by which such matters are being addressed currently by the Commission. I want to emphasize that I address here neither the merits nor any demerits of the two particular exemptions referenced above. Rather, I wish to draw your attention to several process issues and implications of this order.

First, the order appears to open the door to many more exemptions. It states that the Commission will be "inclined favorably" to grant new exemption requests to organizations that do –

**"not receive compensation from video programming distributors from the airing of [their] programs, and that in the absence of an exemption, may terminate or substantially curtail its programming, or curtail other activities important to its mission...."** [emphasis added.]

Taken as a whole, the Commission's action in this matter appears to have the effect of promulgating a change in its rules, specifically the creation of a new category of presumptive exemptions from closed captioning rules.

Moreover, I am unaware upon what evidence or basis the Commission can gauge whether closed captioning requirements will cause a particular licensee to "curtail other

activities important to its mission,” as the importance of the mission to the licensee can only be attested to by the licensee, and not the Commission. Secondly, there appears to be no qualifier to the second appearance of the word “curtail” for “other activities,” as contrasted with “*substantially* curtail its programming” in the previous clause. I am not sure if this is what the Commission intended, but this obviously would create a test so lax that conceivably any non-commercial educational licensee could qualify by stipulating that any curtailment of “other activities” warrants an exemption.

In addition, there are reports that in the last week the Commission has sent out dozens, and perhaps *hundreds*, of letters granting waivers to closed captioning obligations. I understand that these exemption requests were filed and considered without public notice and therefore interested parties did not have an adequate mechanism for addressing potential problems or any deficiencies in the requests. The Commission also apparently failed to provide any public notice about the reportedly large volume of approval letters that were granted and mailed out in the last week.

I also understand that several entities seeking exemptions were ultimately willing to comply with the closed captioning obligations and only sought temporary waivers. Nevertheless, the Commission apparently granted such entities permanent waivers. Historic efforts to reach the disabled community with new services and technologies often encounter situations where individual entities or market sectors face hurdles or burdens that may be temporary in nature and are therefore granted additional time to comply. To simply eliminate the obligation to serve the disabled community permanently in such situations, by administrative fiat, when a petitioner was only seeking a temporary waiver flies in the face of this history and national effort.

Mr. Chairman, the march of technology is inexorable, but the equitable distribution of that technology throughout society is not. Many of us have struggled for several years to extend the benefits of technology to the deaf and hard-of-hearing community. The closed captioning statute contains congressionally-approved waivers as well as a mechanism, the “undue burden” standard, by which the Commission may grant individual waivers to petitioners who provide evidence that they meet that standard.

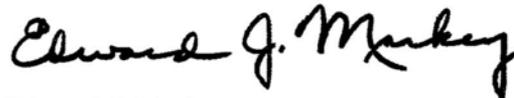
If the Commission is inclined to change its interpretation of the “undue burden” standard and effectively create a new rule or a new class of presumptive waiver recipients, or if the Commission receives exemption requests and grants them, I trust you agree that, at the very least, such matters ought to be addressed in a fully transparent process. A more adequate administrative process would provide ample opportunity for those who have waited a decade for the benefits of provisions of the closed captioning statute to become effective to be informed of each exemption request, as well as to comment upon such requests so that the Commission may make informed decisions.

The Honorable Kevin J. Martin  
September 21, 2006  
Page Three

I would be interested in any thoughts you may have about the recent decisions made by the Consumer and Governmental Affairs Bureau and any remedial actions you intend to take. In addition, please provide me with the number of exemption requests to closed captioning obligations that have been filed with the Commission and how many requests the Commission has granted thus far. Finally, please promptly post each waiver approval letter on the Commission's website so that the public may be informed about actions the Commission has taken.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Edward J. Markey". The signature is written in a cursive, flowing style.

Edward J. Markey  
Ranking Democrat  
House Subcommittee on  
Telecommunications and the Internet

**EXHIBIT D**

September 20, 2006

Kevin J. Martin, Chairman  
Michael J. Copps, Commissioner  
Jonathan S. Adelstein, Commissioner  
Deborah Taylor Tate, Commissioner  
Robert M. McDowell, Commissioner

Dear Commissioners,

We are extremely concerned about the decisions taken by the Federal Communications Commission (FCC) on September 12, 2006 and particularly the following comment: *"in the future, when considering an exemption petition filed by a non-profit organization that does not receive compensation from video programming distributors from the airing of its programming, and that, in the absence of an exemption, may terminate or substantially curtail its programming, or curtail other activities important to its mission, we will be inclined favorably to grant such a petition"* This statement appears to open the door to eliminate closed captions from nearly all religious and non-profit programming. This action appears to reverse the FCC position and not comply with the Americans with Disabilities Act which has established closed captioning access to all. We respectfully ask that the FCC reverse its September 12, 2006 decisions and position regarding television captioning waivers.

Our company, Aberdeen Captioning Inc., has specialized in providing closed captioning services to religious video producers and television stations since June 2001. We've built our business (25 employees and contract employees) based on the laws and position established by the FCC requiring captions and have seen great success serving both small and large ministries. We are able to provide captioning for as little as \$60 per 30 min show for live and \$150 for 30 min show for post production – 50% less than most other companies. This reduced pricing has allowed ministries to provide closed captioning while still carrying on business and maintaining their mission. We can show, without question, that non-profit and ministry organizations can and should be required to provide closed captioning services on their video programming. Aberdeen has over 100 clients captioning weekly or daily programs ranging from KTVB, Daystar, Cornerstone Television to smaller churches. We would be glad to provide our entire customer list and books to show that these companies are actually captioning and paying Aberdeen to perform this service. Nearly all these programmers receive donations/offerings from their viewers.

The larger concern is the precedence that will be set if exemptions are granted just because a non-profit states captioning costs will affect their mission. Every one of the companies we caption for could justify that they could provide additional services (mission essential) with the money that they could save from not captioning. It is our position that this reasoning should not be used solely as a reason to grant an exemption because this would most likely lead to all non-profit religious organizations filing for an exemption. In speaking with Thomas Chandler of the FCC, I was made aware of several hundred exemption requests that are not posted on the website. Since previous requests have been posted on the FCC website, how are advocates of closed captioning able to provide feedback to the FCC if we are not made aware of the enormous number of exemption requests prior to the decision being implemented? More importantly, will the non-profit/religious programmers that are currently captioning be granted an exemption? In your due-diligence process of an exemption request, are you asking if they are currently captioning? It surely would be a major disservice to the hearing-impaired community if programs that are currently captioned were allowed to become exempt.

Over the past 5 years the video/television industry has seen incredible growth with additions of channels beyond our imagination 10-20 yrs ago. The United States of America has grown because we are a capitalistic society which invites ingenuity and creativity. Rules/regulations are

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established and businesses/consumers find ways to meet these rules. This has been the case thus far with captioning. There has been no decline in programming because captioning is necessary. By granting an exemption to video program producers, you are effectively taking airtime away from programmers that would provide captions. By doing so, you are going against the very standards and goals you uphold – closed captioning access to all!

The following are comments by yourselves, the FCC Commissioners, supporting captioning and meeting the needs of the hearing-impaired:

Statements by commissioners in regards to 07-20-05  
FCC Launches Review of Closed Captioning Rules.  
Notice of Proposed Rulemaking (CG Docket No. 05-231, FCC 05-142)

**Quotes from the STATEMENT OF  
CHAIRMAN KEVIN J. MARTIN**

*Those consumers that rely on Telecommunications Relay Services and Closed Captioning Services must not be left out of the telecommunications revolution.*

*The Commission is more committed than ever to ensuring that the goals of the ADA are achieved. The actions we take today join the many others that the Commission has taken over the years to eradicate the barriers that stand in the way of functional equivalency. Functional equivalency means individuals with disabilities having access to the same services as everyone else. This equal access is vital to accessing jobs, education, public safety, and simple communications with family, friends, and neighbors.*

**Quotes from the STATEMENT OF  
COMMISSIONER KATHLEEN Q. ABERNATHY**

*One of our most important responsibilities is to make sure that there are no telecom "have-nots," and that the wealth of services provided by today's new technologies are available to all consumers."*

*"Lou Ann Walker, a noted advocate for the hearing-impaired, once said that the inability to hear is a nuisance, but the inability to communicate is a tragedy. ...we are helping to turn tragedies into nuisances."*

**Quotes from the STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

*"Functional equivalency" may sound like Washington jargon, but for 54 million Americans it translates into equal opportunity, equal rights and fuller participation in society.*

*By granting the petition for rulemaking filed by Telecommunications for the Deaf, the National Association of the Deaf, Self Help for Hard of Hearing People, the Association for Late Deafened Adults and the Deaf and Hard of Hearing Consumer Advocacy Network, we make an effort to keep our rules current and ensure that video programming is accessible to everyone.*

**Quotes from the STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN**

*I fully support this Notice to seek comment on the adequacy of our current closed captioning rules and on how the rules can be made more effective and efficient.*

*Both Congress and the Commission have recognized how important it is that all people have access to video programming, which is increasingly affecting how we operate in the home, at the office, and at school.*

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*we must remain committed to ensuring that video programming is not only accessible, but also high quality.*

*Today's rulemaking takes another step forward toward ensuring that the hearing-impaired community receives functionally equivalent video programming services. I commend my colleagues for their dedication to confronting these issues that are so important for the deaf and hard of hearing community*

Our country, the United States of America, was founded on the pursuit of religious freedom. If the FCC begins to grant exemptions in mass numbers to non-profit/religious organizations, entire segments of many television station's air day will be without captions. This goes against every comment made above by the commissioners that video programming be accessible to everyone. Those hearing-impaired individuals that watch religious programming will be left behind and that would be a tragedy!

Churches make up a very important part of every community. It is within their mission to support the basic needs of all people within their reach. Nearly all religious programming asks for donations or offerings at some point in the show or season. By providing captions to meet the needs of a significant population group, the churches will find themselves with an expanded TV viewership, which will lead to an increase in their membership and other support from the community. When children and adults are able to read captions on religious programs, they are influenced to live up to high moral standards and contribute their part to the community. Hearing loss is the number one growing disability among senior citizens - they are finding themselves depending on captioning to listen to the message.

All video programmers have had ten years to prepare for the captioning regulations now in place, and temporary waivers when appropriate. When you give permanent exemptions to the two programmers, it reverses all the access we have worked on for years. We ask that the FCC reconsider that a cost of as little as \$60 per program is truly an undue burden and worth the risk of tragically eliminating captions from religious programming.

Thank you for your consideration,

Sincerely,

Matthew Cook  
President/Owner  
Aberdeen Captioning, Inc.  
22362 Gilberto, Suite 230  
Rancho Santa Margarita, CA 92688  
Cell Phone – 949-412-7335  
Email: [mbcook@cox.net](mailto:mbcook@cox.net)

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Office Phone – 949-858-4415  
Email: [becky@abercap.com](mailto:becky@abercap.com)

cc:

Monica Desai, Chief, Consumer & Governmental Affairs Bureau; Jay Keithley, Deputy Chief (Policy), Consumer & Governmental Affairs Bureau; Tom Chandler, Chief, Disability Rights Office  
Cheryl King, Deputy Chief, Disability Rights Office

US Congressman, Gary G. Miller  
US Senators, Dianne Feinstein and Barbara Boxer

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