

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Closed Captioning of Video Programming	)	CG Docket No. 05-231
	)	
Closed Captioning Requirements for Digital Television Receivers	)	ET Docket No. 99-254

**REPLY COMMENTS OF  
TELECOMMUNICATIONS FOR THE DEAF AND HARD OF HEARING, INC.;  
ASSOCIATION OF LATE-DEAFENED ADULTS, INC.;  
NATIONAL ASSOCIATION OF THE DEAF;  
DEAF AND HARD OF HEARING CONSUMER ADVOCACY NETWORK;  
CALIFORNIA COALITION OF AGENCIES SERVING  
THE DEAF AND HARD OF HEARING;  
HEARING LOSS ASSOCIATION OF AMERICA;  
COMMUNICATION SERVICE FOR THE DEAF; AND  
AMERICAN ASSOCIATION OF THE DEAF-BLIND**

Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”), through its undersigned counsel; Association of Late-Deafened Adults, Inc. (“ALDA”); National Association of the Deaf (“NAD”); Deaf and Hard of Hearing Consumer Advocacy Network (“DHHCAN”); California Coalition of Agencies Serving the Deaf and Hard of Hearing (“CCASDHH”); Hearing Loss Association of America (“HLAA”); Communication Service for the Deaf (“CSD”); and American Association of the Deaf-Blind (“AADB”) (collectively, the “Consumer Groups”), hereby respectfully submit these reply comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking (“NPRM”) in the above-referenced proceeding.<sup>1</sup>

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<sup>1</sup> *In the Matter of Closed Captioning of Video Programming, Closed Captioning Requirements for Digital Television Receiver, Declaratory Ruling, Order, and Notice of Proposed Rulemaking, FCC 08-255 (November 7, 2008) (“NPRM”).*

As explained in the Comments, the Commission's closed captioning rules must apply to digital video programming, and if a broadcaster chooses to multicast, the \$3 million annual gross revenue exemption should apply to the overall operations of a broadcaster's digital allocation.<sup>2</sup> Millions of deaf and hard of hearing individuals rely on closed captioning to access video programming, including many who use free over-the-air broadcasts. Steps must be taken to continue to maximize accessibility, ensure that no segment of the population is left behind as a result of the digital transition, and avoid reducing the relative amount of captioned programming available to the public. While the Consumer Groups believe it may be time to revisit the current closed captioning rules and move closer to 100% captioning of all broadcast programming, until such time that such revisions are made, the existing \$3 million annual gross revenue exemption should apply to a broadcaster's overall operations, rather than individual streams.

Should the Commission decline to apply the \$3 million annual gross revenue exemption to the overall operations of a broadcaster, it should not raise the revenue threshold as it applies to any single video programming channel, including individual multicast streams.<sup>3</sup> The Commission adopted the existing \$3 million revenue threshold after careful consideration of the hourly costs of captioning programming that were prevalent in the captioning provider industry at the time that it first developed its captioning rules.<sup>4</sup> Improvements in captioning technologies as well as expanded competition in the captioning provider industry over the past 10 years have

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<sup>2</sup> See Comments of Consumer Groups, CG Docket No. 05-231 and ET Docket No. 99-254 (filed Feb. 12, 2009). See also, 47 C.F.R. § 79.1(d)(12).

<sup>3</sup> See Comments of National Association of Broadcasters, CG Docket No. 05-231 and ET Docket No. 99-254 at pp. 8-9 (filed Feb. 12, 2009) (advocating a revenue measure but suggesting that the current amount be raised because of inflation).

<sup>4</sup> *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, ¶ 164 (1997) (finding captioning costs of \$500 per hour allows about 2 hours of programming per week with \$3 million annual gross revenues).

drastically driven down the costs of captioning.<sup>5</sup> For example, a public broadcaster and a captioning company indicate that both off-line and real-time captioning costs are **half** of what they were in 1998 and that real-time captioning costs range between \$200 and \$400 per hour and as low as \$100 per hour for large-volume contracts. Accordingly, a broadcaster with annual gross revenue of \$3 million or more should be able to caption more programming today than 10 years ago, a fact that argues in favor of reducing or eliminating, rather than raising, the \$3 million revenue exemption threshold.

Moreover, transmitting digital programming to third-party captioning providers for captioning should be easier, less expensive, and more timely than transmitting analog programming.<sup>6</sup> Digital programming may be electronically sent to captioning providers which results, and will continue to result, in fewer and fewer tapes of analog programming being sent for captioning. With fewer tapes being sent, the time and cost of captioning digital programming should be significantly less than captioning analog programming. The ease of transmitting digital programming also allows it to be sent anywhere in the world for captioning and increases the pool of competitive captioning providers. As the choice of captioning providers increases, the cost of captioning will continue to be driven down.

## V. CONCLUSION

For the reasons discussed above and in the initial Comments submitted in this proceeding, the Consumer Groups urge the Commission to apply the Section 79.1(d)(12) exemption to the overall operations of a broadcaster's digital allocation. Under no circumstances should the Commission raise the \$3 million revenue threshold for any channel, including

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<sup>5</sup> Comments of Consumer Groups at p. 7. *See also*, Comments of National Association of Broadcasters at fn.6 (acknowledging per hour captioning costs may be lower than \$500).

<sup>6</sup> *See* Comments of National Association of Broadcasters at fn. 6 (claiming that using third-party captioning services for off-line captioning adds time and expense).

individual multicast streams; if anything, given the maturity of the captioning industry and the increased reliance on captioning in our society, it is time for the FCC to consider eliminating this exemption in its entirety.

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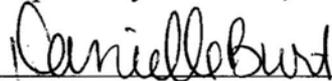
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Respectfully submitted,



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Dated: February 27, 2009