

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

In the Matter of:)
)
REELZCHANNEL, LLC) CSR No. _____
)
Petition for Partial Exemption Closed)
Captioning of the Closed Captioning Rules)

FILED/ACCEPTED

SEP 15 2010

Federal Communications Commission
Office of the Secretary

PETITION FOR CLOSED CAPTIONING EXEMPTION

ReelzChannel, LLC (“ReelzChannel”), by its attorneys, and pursuant to Section 79.1(f) of the Commission’s rules,¹ hereby submits its Petition for Closed Captioning Exemption (“Petition”) by which it requests a partial exemption of the Commission’s closed captioning requirements² for the video program *Movies & Music*. As demonstrated below, grant of this Petition would relieve ReelzChannel of an undue burden and would otherwise serve the public interest.³

ReelzChannel is a new video programming service which started its public operations in September 2006. Through great effort and investment, ReelzChannel now is available in more than 50 million homes nationwide through distribution on direct broadcast satellite and cable television systems. ReelzChannel is “TV about movies,” a channel devoted, 24/7, to programming about movies. ReelzChannel, including its innovative website, does not show movies. Rather, it focuses on topics and information about movies. ReelzChannel produces and distributes such popular original programs as *Hollywood Dailies*, *Spotlight*, *Hollywood’s Top Ten*, and *Maltin on Movies*.

¹ 47 C.F.R. §79.1(f).

² 47 C.F.R. §79.1(b).

³ This Petition is supported by the Declaration of Michael E. Smith, Attachment No. 1 hereto.

ReelzChannel's new Fall 2010 season will include a new, originally produced program entitled *Movies & Music*, which will include music videos featured on movie soundtracks. Every episode will feature a different theme about music from movies. Such movie themes will include, for example, romantic comedies, Julia Roberts movies, and movies based upon TV shows. Commentary about the themes and the movies will be provided, primarily by hostess Casey Messer.

By this Petition, ReelzChannel requests an exemption from any requirement to close caption lyrics which may be part of the musical portions of *Movies & Music*. ReelzChannel believes that the scope of this exemption will be very limited. ReelzChannel will close caption all commentary provided during *Movies & Music*, by Ms. Messer and anyone else who may appear during the program. In addition, ReelzChannel will pass through any captions already contained in the musical video clips featured during *Movies & Music*.⁴ Moreover, many of the featured musical scores are likely to fall under the automatic closed captioning exemption provided for "primarily non-vocal musical programming."⁵ In this regard, many movie scores are entirely instrumental, with no vocal accompaniment at all. Other movie scores have limited vocal tracks so that they should be considered to be "primarily" non-vocal.⁶ A reasonable understanding of this closed captioning exemption would be that it applies to music with more non-vocal content than vocal content.

Despite the very limited nature of the instant petition, ReelzChannel requests, out of an abundance of caution, that all of the musical scores featured in *Movies & Music* be exempt from closed captioning obligations – beyond passing through any existing captions – because it is

⁴ See 47 C.F.R. §79.1(c).

⁵ See 47 C.F.R. §79.1(d)(10) ("Primarily non-vocal musical programming. Programming that consists of primarily non-vocal music.").

⁶ "Primarily" means "for the most part: chiefly." www.merriam-webster.com.

likely that some scores may not be “primarily” non-vocal. Several factors warrant a grant of this request. First, it would be difficult, expensive and cumbersome for the producers of the programming to measure every piece of music and reach judgments about which scores should be captioned – *i.e.*, which clips do not contain “primarily non-vocal musical programming.” Second, to the extent that some pieces of music would normally be captioned (as noted above, likely a limited number), it would be disruptive to the audience and the artistic flow of the programming to have partial captioning of music appear at apparently random intervals. In all probability, such inconsistent captioning would have little or no value to the deaf or hearing impaired members of the viewing audience. Moreover, ReelzChannel also would caption the commentary of the hostess, and any others, during episodes of *Movies & Music*. Thus, all material original to the programming would be closed captioned. Interested deaf and hearing impaired viewers would have visual access to the commentary. Simultaneous captioning of both the commentary and all of the music videos would present technical and logistical difficulties, and likely lead to conflicting and confusing captioning.

Further, the costs and resources needed to caption limited amounts of vocal material would be unwarranted. ReelzChannel has thousands of music videos in its library, and this number will continue to increase. The cost to caption all of the music videos needed for *Movies & Music* likely would exceed the program’s total production costs. Moreover, the time necessary to prepare all of this programming for captioning would require substantial studio and personnel time, thereby causing undue pressure on and interference to ReelzChannel’s facilities and staff to complete the captioning work. ReelzChannel, a relatively new programmer, could better use its limited money, time, and resources to continue to expand and offer the public an ever-increasing amount and variety of original programming. The burden imposed upon

ReelzChannel would be especially unjustified because, as detailed above, the scope of the requested exemption will be quite limited, meaning that much of the *Movies & Music* program, including all original commentary, will be accessible to those who are deaf or hard of hearing or not require captioning.

Consequently, ReelzChannel requests that it be exempted, beyond its obligation to pass through any existing captions under §79.1(c) of the Commission's rules, from any captioning requirements related to vocal lyrics that may be presented during episodes of *Movies & Music*. The public interest would be advanced by granting this limited exemption because it would be an undue burden on ReelzChannel with little or no value to viewers.

Respectfully submitted,

REELZCHANNEL, LLC



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September 15, 2010

Attachment No. 1

DECLARATION OF MICHAEL E. SMITH

Michael E. Smith, subject to the penalty of perjury, declares the following:

I am a United States citizen, more than eighteen years of age, and competent to testify.

I am the Senior Vice President of Programming and Production of ReelzChannel, LLC ("ReelzChannel"), a position I have held since October 2009. I have participated in the preparation of ReelzChannel's Petition for Closed Captioning Exemption ("Petition") to be submitted to the Federal Communications Commission ("FCC"), including reviewing a materially complete final draft of it. With the exception of information about which the FCC may take judicial notice, the assertions of fact in the Petition are accurate.



Michael E. Smith

September 13, 2010