

January 10, 2011

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, N.W.  
Washington, D.C. 20554

Re: **Erratum**  
*Ex Parte Notice*  
*Closed Captioning of Video Programming*  
*CG Docket 05-231, ET Docket 99-254*

Dear Ms. Dortch:

It has just been brought to the attention of the undersigned counsel for Caption Colorado that the attached *ex parte* notice filed in these dockets on December 10, 2010 did not include, as intended, the outlines of Caption Colorado's comments in the refresh proceeding in these dockets. In order to correct this inadvertent oversight, this erratum is hereby filed, resubmitting the original December 10, 2010 *ex parte* notice together with the attachments thereto. We apologize for any inconvenience this oversight might have caused.

Please direct any questions regarding this matter to the undersigned.

Sincerely yours,



Stefan M. Lopatkiewicz  
Counsel for Caption Colorado, LLC

Attachments, as indicated

cc: Karen Peltz Strauss  
Traci Randolph

December 10, 2010

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, N.W.  
Washington, D.C. 20554

Re: *Ex Parte Notice*  
*Closed Captioning of Video Programming*  
*CG Docket 05-231, ET Docket 99-254*

Dear Ms. Dortch:

On December 9, 2010, Tad Polumbus, CEO, and John Irwin, Senior Vice-President, Sales and Marketing, of Caption Colorado, LLC, and the undersigned, met with Karen Peltz Strauss, Deputy Chief, Consumer & Governmental Affairs Bureau, and Traci Randolph, Disability Rights Office. The Caption Colorado representatives submitted the attached outlines which summarized and highlighted Caption Colorado's comments in the refresh proceeding in the above-referenced dockets (DA 10-2050), discussed certain of those positions, and answered questions from the Commission representatives. In addition, the Caption Colorado representatives described a technology that the company has developed to track its compliance with certain technical standards for closed captioning. They also provided a visual presentation of how Caption Colorado is able to monitor and document compliance with certain non-technical quality standards for closed captioning.

Pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, this letter is being filed electronically with the Office of the Secretary. Please direct any questions regarding this matter to the undersigned.

Sincerely yours,

  
Stefan M. Lopatkiewicz  
Counsel for Caption Colorado, LLC

cc: Karen Peltz Strauss  
Traci Randolph

**Caption Colorado's Perspective on Adoption of Quality Standards**  
**December 9, 2010**

- I. Are Quality Standards for real time television captioning needed? If so, for what purpose and how would they be enforced?
  - A. Caption Colorado believes quality standards for real time captioning are needed ... and should be adopted;
    1. so long as the standards are fair and reasonably easy and practical to administer and use,
    2. so long as they are based, not on individual programs or files, but on representative averages for appropriate periods of time or number of programs, allowing for normal industry variations in individual file quality
    3. so long as they are accompanied by reasonable and affordable accountability requirements and no reporting requirements, and
    4. so long as they are not used as a basis for enforcement through fines or other financial penalties.
  - B. Why adopt standards without fines and penalties to enforce them?
    1. The value of standards is in providing "reliable quality guidelines and standards" for the television and captioning industries and to provide assurance to the deaf and hard of hearing community of good quality captioning and clear expectations.
    2. Can require TV industry to be able to respond to complaints with proof of performance. The documentation could be the actual real time transcripts and quality evaluations of the transcripts, sufficient to respond to the complaint.
    3. TV industry would "demand" in its contracts with caption vendors;
      - a. compliance with the FCC Guidelines
      - b. retention and storage of real time transcripts for all programs
      - c. production of quality evaluations of actual real time transcripts sufficient to respond to legitimate viewer, FCC or customer complaints
      - d. reasonable periodic reporting showing consistent average compliance with quality guidelines
      - e. right to terminate contract for non-compliance with quality guidelines by caption vendor, after a reasonable curative period for vendor
    4. **Plenty of motivation for caption vendors to meet standards without threat of FCC fines or penalties. MEET THE GUIDELINES OR LOSE YOUR CUSTOMER!**
- II. Why might Non-technical Quality Standards be extremely difficult to determine, administer and enforce?
  - A. Absence of historical industry accepted quality standards
  - B. Lack of an "authority" within industry to establish quality standards

- C. Lack of consensus on standards within captioning Industry
- D. Complex, varying nature and challenging conditions of television captioning
  - 1. Wide variety of live programming, broadcasting styles and degrees of difficulty in real time television captioning
  - 2. Challenging Conditions and Mitigating Circumstances:  
... 30-60 minute programs with speeds from 30 wpm bursting to over 300 wpm in every program, poor enunciation by broadcasters, incomplete and poor sentences from broadcasters, overlapping speakers, street interviews with foreigners speaking in English, background noise, sirens, fuzzy audio, challenging technical environment, challenging content, speech faster than certification standard or abilities of captioners, etc. – ... Lots of “Mitigating Circumstances,” some of which exist in every program!
- E. Varying ability and experience of real time captioners – must have quality standards that most existing captioners in market can meet
- F. Practical limitations of using “Verbatim Quality Standard”
  - 1. Need “audio recording” – not available; impractical & expensive to secure; expensive capital investment in servers for audio storage; difficult and expensive to save, store and distribute from station, to captioner, to grader.
  - 2. Need verbatim transcript - difficult, time consuming & expensive
  - 3. Verbatim transcript must be “perfect” – extremely difficult & expensive
  - 4. Mitigating Circumstances (which are present in nearly every real time television captioning file) force expensive and time consuming investigation to determine their existence and the extent of their existence. In addition, it is nearly impossible for a grader to gauge or measure the impact that those circumstances have on the quality of a real time file and involves a significant degree of subjective judgment.
  - 5. Due to the foregoing and other factors a verbatim quality standard would be unreliable and impractical to use.

**Caption Colorado's Suggestion for Quality Standards and Formula for Non-technical Quality of Real Time Television Captioning**  
**December 9, 2010**

- I. Fair and appropriate non-technical quality standards for real time television captioning should:
  - A. assure good quality captioning in industry
  - B. be reasonably objective and easy to administer
  - C. be affordable at scale for accountability and reporting, and
  - D. should stay within the reasonable human and technical resources and abilities of television or captioning industry.
- II. A look at Caption Colorado's solution for its own internal quality control
  - A. Three most important factors in evaluating non-technical quality:
    1. Readability of the text of the captioning itself is the most important factor in providing a high quality and enjoyable experience for caption users.
    2. Completeness, in the sense of assuring full coverage of the content, meaning and messages in the program, is essential to high quality captioning
    3. Latency, or the time between the time a word is spoken on TV and the time it appears in the captioning, must also be short in order to assure captioning does not lag too far behind the video content with which it is associated.
  - B. Important factors in being able to monitor quality, at scale, and be affordable:
    1. Able to evaluate Readability and Completeness quality from the real time captioning transcript
    2. Good operating/management systems and technology aids to automate and efficiently retrieve, store, index, manage, evaluate quality of real time transcripts, sort and present quality reports to customers and to respond to customer, viewer and FCC complaints
    3. Editing software designed to aid graders in efficiently and effectively grading and evaluating the non-technical quality of real time television captioning files at scale
    4. Internal staff or contract staff of professional or highly trained and qualified captioning quality graders trained to administer the specific quality standards and formula adopted by FCC