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April 25, 2011

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Closed Captioning of Video Programming, Telecommunications for the Deaf, Inc., Petition for Rulemaking*, CG Docket No. 05-231

Anglers for Christ Ministries, Inc., New Beginning Ministries, Video Programming Accessibility, Petitions for Exemption from Closed Captioning Requirement, CG Docket No. 06-181

Dear Ms. Dortch:

On April 25, 2011, Jim House of TDI, Inc., Cheryl Heppner of the Northern Virginia Resource Center for Deaf and Hard of Hearing Persons, Andrew Phillips of the National Association of the Deaf, (collectively "TDI, et al."), and Angela Campbell, Adrienne Biddings and Chris Bolyai of the Institute for Public Representation at Georgetown Law, met with Jennifer Tatel of Commissioner Meredith Attwell Baker's office, to discuss issues related to the above-referenced proceedings.

TDI, et al., asked the Commission to complete the 2005 rulemaking establishing quality standards for closed captioning of video programming on television. Six years have passed since the Commission first promulgated a Notice of Proposed Rulemaking. While the docket has languished, captioning quality has diminished. In an effort to reduce costs, distributors have turned to captioning methods that result in incomplete, garbled, delayed or absent captions. As a result, television programming is not accessible to the deaf and hard of hearing as is required by the Telecommunications Act of 1996. During the meeting, TDI, et al., noted that distributors routinely use live captioners for pre-recorded programming despite knowing that off-line captioning methods result superior captioning quality. TDI, et al., also reminded Ms. Tatel of the serious safety hazard poor captioning creates by denying the deaf and hard of hearing access to emergency weather information. Without Commission action on standards, quality will continue to fall.

Closed Captioning Issues before the FCC

TDI, along with several national and state organizations representing the interests of 36 million deaf and hard of hearing members of the public, seeks Commission action to improve closed captioning requirements and ensure true accessibility to television programming. The Telecommunications Act of 1996 mandated full accessibility of video programming for the deaf and hard of hearing. Yet, the Commission's 1997 and 1998 regulations implementing closed captioning requirements lacked quality standards and created exemptions allowing large amounts of programming to go uncaptioned. In addition, changed circumstances, including the dramatic decrease in the cost of closed captioning, requires the reevaluation of several of the exemptions. TDI requests the Commission take the following actions:

(1) Complete Rulemaking in CG Docket No. 05-231

In 2004, TDI filed a Petition for Rulemaking seeking several changes to the closed captioning rules. The Commission issued a NPRM in 2005 and a FNPRM in 2008. In 2010, the Commission issued a Public Notice seeking to refresh the record on the pending Proposed Rulemakings. The Commission should:

Establish Quality Standards

- ❖ Current rules have failed to ensure high-quality captioning; the Commission should adopt standards for accuracy of transcription, spelling, grammar, punctuation and placement of captions as well as acceptable error rates and display rates for pre-recorded and real-time captioning

Disallow the Electronic Newsroom Technique as a Compliant Form of Captioning

- ❖ By not captioning critical programming like breaking news, weather updates, live reports and other emergency information, the exemption risks the public safety of deaf and hard of individuals

Remove or Modify the \$3 Million Revenue Exemption

- ❖ The dramatic reduction in the cost of captioning necessitates the removal or lowering of the revenue threshold; if continued, each TV broadcast station's digital allotment should be considered one channel

(2) Grant Application for Review of the Anglers for Christ Ministries Order

In 2006, The Chief of the Consumer and Government Affairs Bureau effectively created a new exemption for non-profit organizations. The Commission should:

- ❖ Grant TDI's pending 2006 application for review, which made clear that the order violated the Administrative Procedure Act

(3) Seek Comment on TDI's 2011 Petition for Rulemaking

In January 2011, TDI filed a Petition for Rulemaking asking the Commission to address several closed captioning exemptions, which continue to exempt large swaths of programming from captioning requirements. The Commission should:

Remove the Late Night Programming Exemption

- ❖ Current viewing patterns and expanded programming, including early morning newscasts, have resulted in larger audiences than anticipated; the exemption undermines incentives to caption by creating an outlet for non-captioned programming

Remove the Commercials and Promotionals Exemptions

- ❖ Market incentives have not encouraged voluntary captioning resulting in diminished access to political and commercial expression