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**Ex Parte**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: In re Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, MB Docket No. 11-43**

Dear Ms. Dortch:

On July 19, 2011, Jill Lockett, Senior Vice President, Program Network Policy; Andy Scott, Vice President, Engineering; Stephanie Podey, Associate General Counsel; and I, of the National Cable & Telecommunications Association (“NCTA”), met with Lyle Elder, Mary Beth Murphy, Alison Neplokh, John Norton, and Sarah Whitesell, of the Media Bureau, and Rosaline Crawford and Karen Peltz Strauss of the Consumer & Governmental Affairs Bureau, regarding the Commission’s reinstatement of the video description rules pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”).

At the meeting, we discussed issues raised in NCTA’s written comments in the above-captioned proceeding. Because the roll-out of video description will take significant preparation and coordination, we urged the Commission to provide an appropriate implementation timeframe to ensure a smooth rollout of video description.<sup>1</sup> In addition, we emphasized that the Commission’s role pursuant to the CVAA is to reinstate the prior video description rules, with very limited modifications. Thus, we explained that the Commission must retain provisions of the prior rules, including the exemptions for program-related conflicts and the “technical capability” exception to the pass-through requirement.<sup>2</sup> Moreover, we noted that the

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<sup>1</sup> See NCTA Comments at 9-13 (filed Apr. 28, 2011). We explained that the House Committee Report suggests that the expected time period for the completion of the phase-in was around one year after reinstatement of the rules, or October 2012. See *id.* at n.29 (citing H.R. Rep. 111-563 at 29 (2010)).

<sup>2</sup> See *id.* at 4-9. The program-related conflict provisions allow some measure of flexibility to use the secondary audio stream to serve both the blind and Spanish-speaking audiences (albeit not at the same time).

Commission may not adopt requirements beyond reinstatement such as quality or information requirements, or mandates to provide described programming online.<sup>3</sup>

Finally, we urged the Commission to create a new categorical exemption that would relieve a covered network from the 50-hour requirement in a particular quarter if the network does not have the requisite hours of non-exempt, non-repeat programming in its prime-time or children's programming line-up to describe.<sup>4</sup> Such an exemption would provide additional flexibility that would preserve programmers' ability to schedule programming without requiring advanced governmental approval in the form of a waiver.

Respectfully submitted,

**/s/ Diane B. Burstein**

Diane B. Burstein

cc: Lyle Elder  
Mary Beth Murphy  
Alison Neplokh  
John Norton  
Sarah Whitesell  
Rosaline Crawford  
Karen Peltz Strauss

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<sup>3</sup> See *id.* at 17. We also noted that a "backsliding" rule that would require networks that fall out of the top 5-rated cable networks to continue to provide video description would exceed the authority granted to the Commission in the CVAA. See NCTA Reply Comments at 5 (filed May 27, 2011).

<sup>4</sup> See NCTA Comments at 16-17; NCTA Reply Comments at 8.