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August 11, 2011

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th 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:

Jill Luckett, Senior Vice President, Program Network Policy; Stephanie Poday, Associate General Counsel; and I, of the National Cable & Telecommunications Association (“NCTA”), met separately on August 9, 2011 with Sherrese Smith, Senior Counsel and Legal Advisor to Chairman Julius Genachowski; on August 10, 2011 with Dave Grimaldi, Chief of Staff and Media Legal Advisor to Commissioner Mignon Clyburn; and on August 11, 2011 with Joshua Cinelli, Media Advisor to Commissioner Michael Copps and Erin McGrath, Acting Legal Advisor, Media, to Commissioner Robert McDowell, 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 meetings, 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.¹ 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.² Moreover, we noted that the

¹ See NCTA Comments at 9-13 (filed Apr. 28, 2011).

² 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.³

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.⁴ 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: Sherrese Smith
Dave Grimaldi
Joshua Cinelli
Erin McGrath

³ See *id.* at 17. In response to his request, we provided the attached email to Dave Grimaldi on August 10, 2011.

⁴ See NCTA Comments at 16-17; NCTA Reply Comments at 8.

From: Stephanie Poday
Sent: Wednesday, August 10, 2011 4:35 PM
To: 'Dave.Grimaldi@fcc.gov'
Cc: Diane Burstein; Jill Lockett
Subject: Clip of described video programming

Hi Dave,

Thank you for meeting with us earlier today. You asked if we could provide an example of programming with video description. You can find a clip of described video at: <http://main.wgbh.org/wgbh/pages/mag/description.html> (it is a movie preview for *Horton Hears a Who*).

Don't hesitate to contact us if we can be of further assistance.

Regards,
Stephanie

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