

September 26, 2011

VIA ELECTRONIC FILING

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

RE: Notice of *Ex Parte* Meeting
Closed Captioning of Internet Protocol-Delivered
Video Programming: Implementation of the
Twenty-First Century Communications and Video
Accessibility Act of 2010
MB Docket No. 11-154

Dear Ms. Dortch:

Thursday September 22, 2011, Claude Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI); Jim House, Outreach Coordinator for CEPIN at TDI; Cheryl Heppner, Executive Director, Northern Virginia Resource Center for Deaf and Hard of Hearing Persons; Lise Hamlin, Director of Public Policy, Hearing Loss Association of America; Shane Feldman, Chief Operating Officer, National Association of the Deaf (NAD); and Andrew Phillips, Policy Attorney, NAD (collectively, the "Consumer Groups"), met with Michelle Carey, Deputy Chief, Media Bureau (MB); Steven Broeckaert, Senior Deputy Division Chief, Policy Division, MB; Alison Neplokh, Chief Engineer, MB; Jeffrey Neumann, MB; Diana Sokolow, MB; Karen Peltz Strauss, Deputy Chief, Consumer & Governmental Affairs Bureau (CGB); Roger Holberg, CGB; Alan Stillwell, Deputy Chief, Office of Engineering and Technology (OET); and Traci Randolph, Disability Rights Office (DRO) to discuss the above referenced matter.

The Consumer Groups expressed concerns about the legal responsibilities of video programming distributors, video programming providers, and video programming owners and the ability of consumers to be able to file complaints against the appropriate violator as well as the need for quick action. We also discussed the need for performance objectives under Section 202(b) of the 21st Century Communications and Video Accessibility Act (CVAA) as well as issues related to the quality of closed captioning on the Internet.

Points were made about the need to allow distributors of closed captioned programming to be able to improve the quality of the closed captions when shown on the Internet. The groups discussed copyright laws that get in the way of improved quality or positioning of captions once it reaches the Internet. We are alarmed that copyright laws are being interpreted to include not

only content of captioned programming, but positioning of the captions on the video screen. We understand that in some cases, positioning may have been considered as intrinsic to the programming, e.g. a movie. However, in many other cases, e.g., live programming, the position of captions may not have been considered at all. We suggest that copy right laws be looked at closely to see if they do indeed prevent re-positioning of captions. Alternately, if copyright laws do preclude correcting clear captioning errors such as misspellings, or prevent re-positioning so that captions are moved out of the way of other text on the screen, that video programming owners should be encouraged to provide contracts with video programming providers and video programming distributors to allow for improved caption quality when it reaches the Internet.

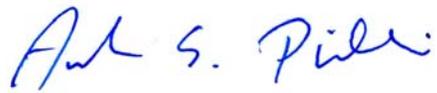
The Consumer Groups were encouraged to submit comments as to which devices should be covered under Section 203 and the current limitations of these devices. There were discussions about the differences between closed captioning provided by televisions and set-top boxes, and what we can learn from this as we address closed captioning on the Internet.

Further, the Consumer Groups expressed concerns about how “clips” will be defined in the exemption and the need to make sure there is no gap between “clips” and “full-length programming.” The groups also asked what “consumer generated media” was and were given an example of a home video of a tornado. The groups responded saying that if a home video was shown on television as part of a television program with closed captioning and then later the television program is shown on the Internet, then the television program with the home video should include closed captioning.

Finally, the Consumer Groups raised concerns about the decision not to include “substantially” in the proposed definition of “near-live programming.” The groups also stressed the need to make it clear that this definition is only for the schedule and must not take a life of its own outside of schedule purposes in this rulemaking or in any future FCC decisions or rulemakings.

The Consumer Groups commended the Media Bureau and others at the FCC for their hard work on this rulemaking, especially with the time constraints.

Respectfully submitted,

A handwritten signature in blue ink that reads "Andrew S. Phillips". The signature is written in a cursive style.

Andrew S. Phillips, Esq.
Policy Attorney
National Association of the Deaf

cc: Michelle Carey, MB
Steven Broeckaert, MB
Alison Neplokh, MB
Jeffrey Neumann, MB
Diana Sokolow, MB
Karen Peltz Strauss, CGB
Roger Holberg, CGB
Alan Stillwell, OET
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