Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Closed Captioning of Internet Protocol-	)	MB Docket No. 11-154
Delivered Video Programming:	)	
Implementation of the Twenty-First	)	
Century Communications and Video	)	
Accessibility Act of 2010	)	

Alabama Broadcasters Association, Alaska Broadcasters Association, Arizona Broadcasters Association, Arkansas Broadcasters Association, California Broadcasters Association, Colorado Broadcasters Association, Connecticut Broadcasters Association, Florida Association of Broadcasters, Hawaii Association of Broadcasters, Idaho State Broadcasters Association, Illinois Broadcasters Association, Indiana Broadcasters Association, Iowa Broadcasters Association, Kansas Association of Broadcasters, Kentucky Broadcasters Association, Louisiana Association of Broadcasters, Maine Association of Broadcasters, Massachusetts Broadcasters Association, Michigan Association of Broadcasters, Minnesota Broadcasters Association, Mississippi Association of Broadcasters, Missouri Broadcasters Association, Montana Broadcasters Association, Nebraska Broadcasters Association, Nevada Broadcasters Association, New Hampshire Association of Broadcasters, New Mexico Broadcasters Association, The New York State Broadcasters Association, Inc., North Dakota Broadcasters Association, Ohio Association of Broadcasters, Oklahoma Association of Broadcasters, Oregon Association of Broadcasters, Pennsylvania Association of Broadcasters, Rhode Island Broadcasters Association, South Carolina Broadcasters Association, South Dakota Broadcasters Association, Tennessee Association of Broadcasters, Texas Association of Broadcasters, Utah Broadcasters Association, Vermont Association of Broadcasters, Virginia

Association of Broadcasters, Washington State Association of Broadcasters, West Virginia Broadcasters Association, Wisconsin Broadcasters Association, and Wyoming Association of Broadcasters (collectively, the "State Associations"), by their attorneys in this matter, hereby file their Joint Reply Comments in connection with the FCC's above-captioned Notice of Proposed Rulemaking.[1]

Introduction

At the outset, the State Associations and the broadcast industries that they represent wish to express their full support for the goals of the 21st Century Communications and Video Accessibility Act of 2010 (the "CVAA" or "the Act").[2] They are strongly committed to serving the important goal of providing programming enhancements for those who are deaf or hard of hearing. All commenters in this proceeding agree that that the deaf and hard of hearing are important audiences and that technologies, as they develop, should be used to benefit them to ensure that they too can enjoy the great content diversity offered by today's television programming. This includes making sure that they are able to enjoy the same captioned programming shown on television when such programming is made available on the Internet as contemplated by the CVAA and the Commission's *NPRM*.

As the National Association of Broadcasters ("NAB") correctly points out in their opening comments in this proceeding, the Commission should, however, recognize that the captioning of television programming carried over the Internet involves a number of significant business, technical and other challenges for local television broadcasters.[3] The *NPRM* in this proceeding raises the possibility of imposing a wide range of new regulations on television

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1 *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, Notice of Proposed Rulemaking, FCC 11-138 (rel. Sept. 19, 2011) ("*NPRM*").

2 Pub. L. No. 111-260, § 202(b), 124 Stat. 2751 (2010).

3 *See* Comments of NAB, at 7-11.

broadcasters even though Congress in the CVAA specifically stated it did not intend for the FCC to adopt an overly regulatory approach. In fact, in the CVAA Congress noted that "an entity may meet the requirements of this section through alternate means than those prescribed by regulations…."[4]

The State Associations wholeheartedly support the NAB's comments and strongly urge the Commission to take a measured approach when adopting new Internet captioning regulations. As the NAB discussed in its comments, and the State Associations discuss in further detail below, among the specific things the Commission can do to assist television broadcasters in ensuring greater availability of captioning for their programming on the Internet is to (1) adopt a standard interchange format; (2) apply the rules only to full-length programming; and (3) extend the compliance deadlines that are currently proposed in the *NPRM*. By adopting these approaches, the Commission can best achieve the CVAA's goal of ensuring a more robust availability of captioned television content distributed over the Internet.

Discussion

I. The Commission Should Adopt the Society of Motion Picture and Television Engineers Timed Text (SMPTE-TT) Standard as the Standard for Internet Captioning of Television Programming.

As the Commission recognized in the *NPRM*, the Video Programming Accessibility Advisory Committee ("VPAAC") working group for online captioning issues concluded that a standard format should be specified for content providers to encode closed captions into programming prior to the programming being distributed. Moreover, the VPACC specifically recommended the SMPTE-TT standard for this purpose.[5] In citing the VPAAC Report, the *NPRM* correctly states that the VPAAC recommended SMPTE-TT because it is best suited to

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[4] CVAA § 202(b)(3).

[5] *See NPRM*, ¶ 39 (citing VPAAC Report at 17).

meet Internet captioning requirements and because it is already being used routinely to repurpose television content for Internet use.[6] The Commission should adopt the VPAAC recommendation.

The State Associations agree with the comments of the NAB, the National Cable & Telecommunications Association, and the MPAA among others, that the FCC should adopt the SMPTE-TT as the industry standard for the interchange format for receiving and passing through closed captioning. By adopting that standard, the Commission will establish predictable relationships between participants in the programming and closed captioning content delivery chains. The State Associations submit that the adoption of SMPTE-TT as the industry standard will provide television broadcasters and all other parties in the distribution chain with the certainty they need to caption Internet programming, and will allow them to save time and money during the online captioning process. Without an industry standard, the implementation of closed captioning will be more costly and complex, reducing the speed and breadth of closed captioned video programming disseminated on the Internet.

In the same vein, the VPAAC itself concluded that SMPTE-TT would, among other things, "facilitate the migration of television content to the Internet quickly and without the need to re-author captions."[7] The State Associations agree and strongly urge the Commission to adopt the SMPTE-TT standard. As the NAB correctly pointed out in its comments, "a standard interchange format—a specification for the purely technical aspects of providing captions for

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[6] *See id.*, at ¶ 39. The Motion Picture Association of American ("MPAA") correctly states in its comments, SMPTE-TT is the "only existing industry-wide technical standard for these purposes that has been adopted through an open process." *See* Comments of MPAA at 10.

[7] *See First Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010: Closed Captioning of Video Programming Delivered Using Internet Protocol* (July 12, 2011), at 26.

video delivered via IP—would be an extremely helpful component of the new rules."[8] Further, the FCC should adopt the NAB's suggestion of allowing SMPTE-TT to serve as a safe harbor for the Commission's Internet captioning requirements.[9] By adopting these SMPTE-TT-related recommendations, the FCC will have reduced costs and burdens on all parties in the captioning production chain, with the very positive effect of speeding the availability of television programming over the Internet.

II. The Internet Captioning Rules Should Only Apply to Full-Length Television Programming.

As the Commission recognizes in the *NPRM*, any proposed regulations are intended "to apply to full-length programming and not to video clips or outtakes."[10] The State Associations submit that "full-length programming" should be limited to programming that is created for viewing *in its entirety* on television. In this way, the State Associations fully agree with the suggestion in NAB's comments that the FCC should define "full-length programming" in a "common sense way that is consistent with the general understanding of the term."[11] Using this approach, examples of full-length programming would include television sitcoms and half-hour and one hour-long programs, sporting events broadcast from beginning to end, entire news programs, and movies that are subsequently posted online.

In contrast, excerpts or clips of full-length programs, such as a individual segments of a local news program streamed online should be exempted because they do not constitute "full-length programming" for purposes of the Internet captioning requirement. In short, as required

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8 *See* Comments of NAB, at 30.

9 *See id.*, at i.

10 *NPRM*, at ¶ 21.

11 *See* Comments of NAB, at 12.

by the Act, "full-length programming" should mean "full-length programming" and all other forms of programming should be exempt from the Commission's new rules.[12]

III. In Light of the Complexities and Cost Burdens Associated with Internet Captioning, the FCC Should Extend its Proposed Deadlines for Television Stations to Come Into Compliance With the New Rules.

The *NPRM* proposes a staggered schedule of deadlines for captioning of Internet video published or exhibited on television. Specifically, for programming that is "prerecorded" and *not* "edited for Internet distribution," captioning would be required no later than six months after the adopted rules are published in the Federal Register For "live" and "near live" programming, such compliance would be required no later than 12 months after the rules have been published in the Federal Register. Lastly, for programming that is "prerecorded" and "edited for Internet distribution," captioning would be required by the end of 18 months of such publication.[13] The State Associations submit that these transition periods are too short. Thus, the Commission should extend the respective deadlines by a reasonable amount of time in order to provide local television stations with an adequate opportunity to coordinate their program source relationships and to upgrade their facilities so they may be in a position to properly caption their television programming offered online.

The State Associations agree with the NAB's position in its opening comments that the timelines, as proposed by the Commission in the *NPRM*, will not give local television stations the time they need to come into compliance with the new Internet captioning rules.[14] As the NAB argues, an extension is needed because local television stations must coordinate with a

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[12] Additionally, the NAB is correct in its conclusion that any "attempt to define the percentage or duration of programming constituting a clip is both impractical and inconsistent with the statute. Congress thus did not intend for anything less than 100 percent of a full-length program to be covered as full-length programming." *Id.*

[13] *NPRM*, at ¶ 23-29.

[14] *See* Comments of NAB, at 18-21.

number of parties involved "in the complex IP ecosystem of broadcast websites, including third party website hosts, software manufacturers, and content delivery networks, to ensure that the consumer is able to fully access IP captions."[15] This effort to caption online is made even more difficult by the sheer volume of local news and other programming local television stations make available on their websites.[16]

A decision declining to grant an across the board extension would be counterproductive. Without an extension, stations may be forced to reduce or eliminate the amount of online posting of pre-produced, live or near-simultaneous streaming of content until their captioning resources and other capabilities are fully developed. Local broadcasters need additional time to ensure that the marketplace can develop and deliver products and services that support robust Internet captioning on a national scale. The NAB is specifically proposing that the Commission provide an additional six months for all stations to comply with the captioning requirements for live, near live, and pre-recorded, unedited programming.[17] As the NAB correctly demonstrates in its comments, in 1998 the FCC provided an *eight-year* transition period for parties to comply with the original closed captioning requirements of the Telecommunications Act of 1996. Under these circumstances, it is entirely reasonable for the FCC to adopt the extended deadlines proposed by the NAB in place of the *NPRM*'s proposed "rushed" deadlines for the similarly complicated task of captioning video programming online.

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[15] *Id.* at ii.

[16] *Id*. at 18, *citing* Deborah Potter, Katerina-Eva Matasa, and Amy Mitchell, *Local TV: GoodNews After the Fall*, THE STATE OF THE NEWS MEDIA 2011 (2011) ("[L]ocal television stations produced the top local media sites in 14 markets in November 2010….").

[17] *See* NAB Comments, at 20.

Conclusion

The television broadcast industry is fully committed to working to advance the availability of captioned television programming online. The State Associations respectfully urge the Commission to adopt the proposals set forth herein as well as in the opening comments of the NAB in order to lessen the captioning costs and burdens on television broadcasters and to ensure a more efficient and robust rollout of the captioned television programming content online.

Respectfully submitted,

By: /s/

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