

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

REPLY COMMENTS OF TIME WARNER CABLE INC.

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Time Warner Cable Inc. (“TWC”) hereby submits the following reply comments in response to the Notice of Proposed Rulemaking issued in the above-captioned docket and the opening comments submitted on October 18, 2011.¹ TWC has sought to make disability access and inclusion key priorities in its provision of services and thus shares the Commission’s interest in setting policies that make video content widely available to consumers who are deaf or hard of hearing.

INTRODUCTION AND SUMMARY

This proceeding provides an important opportunity to ensure access to Internet-delivered video for persons with hearing impairments. TWC and other multichannel video programming distributors (“MVPDs”), together with video programming providers, have long been required to render and pass through closed captions in connection with MVPD programming, and a number of commenters agree that the Commission should adopt functionally equivalent requirements for providers and distributors of online, Internet-delivered video. TWC believes that the Commission should require “video programming owners” (“VPOs”) and “video programming

¹ *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Notice of Proposed Rulemaking, MB Docket No. 11-154, FCC 11-138 (rel. Sept. 19, 2011) (“NPRM”).

providers” (“VPPs”) to caption online video programming (as programming owners/providers do today with respect to traditional broadcast and MVPD programming), and “video programming distributors” (“VPDs”) to pass through such captions (as MVPDs do today). Contrary to the proposal in the NPRM, the Commission should adopt independent definitions for each of those statutory terms, as relying on a single definition to cover both VPPs and VPDs would ignore Congress’s decision to establish distinct categories with distinct responsibilities. The Commission also should refrain from altering existing obligations under Part 79 of its rules; rather, it should clarify that the new rules at issue will apply only to programming not already covered by Part 79, including in particular Internet-delivered programming (as opposed to video programming transmitted by a cable operator over a cable system using IP technology). By leaving existing obligations intact and focusing on extending equivalent requirements for Internet-delivered programming, the Commission will promote broad accessibility for consumers with disabilities and ensure a level playing field for industry participants.

Active participation and engagement by device manufacturers will be critical to the ability of VPDs, VPPs, and VPOs to implement the Commission’s proposed rules. Indeed, the efforts of video owners, providers, and distributors to create, render, and pass through closed captions will be frustrated if the IP-enabled devices on which consumers watch video programming do not display the captions. Accordingly, the Commission’s new rules should make clear that device makers have a responsibility to work with entities in the video programming supply chain to meet the requirements imposed by the Twenty-First Century Communications and Video Accessibility Act (“CVAA”). Further, TWC supports the proposal to require VPOs (and VPPs, to the extent they are responsible for inserting closed captions in the programming stream) to keep VPDs up to date by issuing certifications regarding which of their

video programming is subject to the Commission’s captioning rules. As part of their obligation to provide updated certifications, VPOs/VPPs should be required to provide updated MPEG files of the programming that include the new captions.

Finally, TWC agrees with commenters who emphasize that the Commission’s rules must reflect the rapid pace at which new technologies and devices are developing. Technical standards and protocols that currently exist or are under development may quickly become obsolete and end up replaced by more efficient and innovative techniques. TWC therefore supports the NPRM’s proposal to refrain from mandating any particular technical standard for the interchange format or delivery format of Internet-delivered video programming. Instead of mandating technical standards, the Commission should specify the features that must be supported, consistent with the philosophy of “inclusion by design,” while deferring to industry bodies to determine the optimal means of compliance. Although the Commission should not mandate the use of SMPTE-TT or any other standard, TWC agrees with commenters that propose creation of a safe harbor for entities that rely on an industry standard.

DISCUSSION

I. THE COMMISSION SHOULD ENSURE THAT VIDEO PROGRAMMING IS BROADLY ACCESSIBLE TO PERSONS WITH DISABILITIES

A. Commenters Agree That the Commission’s Rules under Section 202 of the CVAA Should Reflect the Distinct Roles and Responsibilities in Delivering Closed Captioned Video Programming to Consumers.

In the CVAA, Congress recognized that “the communications marketplace has undergone a fundamental transformation” since the last time it evaluated its accessibility laws.² In particular, Congress found that the growth of the Internet has dramatically changed and shaped the ways in which Americans now communicate with one another and that the benefits of such

² S. REP. NO. 111-386, at 1 (2010) (“CVAA REPORT”).

technologies and devices should be accessible to individuals with disabilities.³ Thus, a core purpose of the CVAA is to ensure that all video programming, including Internet-delivered video, is accessible to persons with disabilities.

TWC agrees that “the same rules [should] apply to the new class of online video distributors as [those that currently apply] to the more traditional [MVPDs].”⁴ Although the Commission has not historically regulated online video providers, Section 202(b) of the CVAA makes clear that Congress intended to broaden the Commission’s jurisdiction to require such entities to make video content accessible to persons with disabilities.⁵ Moreover, the legislative history of the CVAA confirms that Congress wanted video programming delivered over the Internet to be closed captioned. For example, Congress explained that the CVAA was intended to make “online content, applications, and services more accessible to the more than 54 million Americans with disabilities” and expressly recognized that “online video distributors that are not [MVPDs]” are nevertheless subject to the CVAA’s closed captioning regime.⁶

As the opening comments point out, the CVAA appropriately acknowledges that a number of different entities, often serving distinct functions, have a role in the provision of captioned programming to consumers. TWC agrees with these comments. As Google notes, the systems of VPDs—and VPPs, to the extent they provide programming directly to consumers—“are configured to receive program files and render or pass through required captions to end

³ *Id.* at 1-2 (explaining that “the benefits of modern technology have profoundly altered [Americans’] everyday lives” and “have improved the communications capabilities of individuals with disabilities,” but that “the extraordinary benefits of these technological advances are sometimes not accessible to individuals with disabilities”).

⁴ Comments of DirecTV, Inc., MB Docket No. 11-154, at 7 (filed Oct. 18, 2011) (“DirecTV Comments”).

⁵ *See* 47 U.S.C. § 613(c)(2)(D)(iii).

⁶ CVAA REPORT at 5, 14.

users,” in contrast with VPOs, which “are ideally situated to create and distribute required closed captioned files.”⁷ Indeed, Congress recognized in Section 202(b) of the CVAA that VPOs, VPPs, and VPDs each play an important part in making content accessible to persons who are deaf or hard of hearing.⁸ Likewise, as discussed in more detail below, the participation of manufacturers of IP-enabled devices will be critical to ensuring that captioned programming is available on the devices consumers use most.

TWC submits that the Commission should allocate responsibilities to each type of entity in light of its actual role in providing video content to consumers. Most significantly, because VPOs (and/or VPPs) invariably insert captions into the programming stream and VPDs merely pass through such captioned programming to consumers, the Commission should define the relevant terms to reflect those contrasting roles.⁹ Although the NPRM appropriately proposes to define VPOs broadly to “include ... any person or entity to which the copyright owner licenses IP-delivered video programming” (to account for circumstances where the party providing programming captions is not the legal “owner” of the programming at issue),¹⁰ it suggests that VPPs and VPDs—notwithstanding the important distinctions between programming *owners/providers*, on the one hand, and programming *distributors*, on the other—be defined “as

⁷ Comments of Google Inc., MB Docket No. 11-154, at 7 (filed Oct. 18, 2011) (“Google Comments”).

⁸ See 47 U.S.C. § 613.

⁹ See Comments of Microsoft Corporation, MB Docket No. 11-154, at 6 (filed Oct. 18, 2011) (“Microsoft Comments”) (supporting separate definitions for “VPD” and “VPP” “to ensure that responsibility for receiving certification or rendering captioning from VPOs is properly allocated”). TWC does not necessarily endorse Microsoft’s proposed definitions, but agrees that the Commission should adopt separate definitions of the two statutory terms in question.

¹⁰ NPRM ¶ 15.

having the same meaning.”¹¹ Instead, the Commission should define VPPs in a manner that reflects their pivotal role (together with VPOs) in developing captions and inserting them in the programming stream. Such a regime would, as DirecTV notes, “appropriately allocate[] responsibility to the party most able to ensure compliance.”¹²

Distinguishing between VPPs and VPDs, while making clear that either type of entity may deliver programming directly to consumers, would be consistent with the realities of today’s captioning regime. Congress recognized in the CVAA that in the broadband marketplace, some VPPs are emerging to take on the role of *distributor* as well.¹³ For example, Comcast/NBCUniversal, Fox Entertainment Group, and Disney-ABC Television Group own part of Hulu, an online video service through which consumers may access video content over the Internet. As a result of Hulu and new services like it, Congress directed the Commission to clarify that either VPDs or VPPs may “include an entity that makes [video programming] available directly to the end user.”¹⁴ Thus, Hulu might well qualify as a VPP *and* VPD where it both supplies and distributes video content. But Congress did not intend to reassign or reshuffle *MVPDs*’ obligations under the CVAA when acting in a pure distribution capacity. Rather, it sought only to expand the scope of captioned programming to include new forms of video distribution not already covered under the Commission’s existing closed captioning rules.

¹¹ *Id.*

¹² DirecTV Comments at 7.

¹³ See CVAA REPORT at 14 (acknowledging that “online video distributors” may not be traditional MVPDs).

¹⁴ 47 U.S.C. § 613(c)(2)(D)(iii).

TWC thus believes that the Commission should not “go beyond the statutory mandate and create additional requirements” for MVPDs.¹⁵ Indeed, the legislative history of the CVAA is clear that a VPD “will be deemed in compliance with [its closed captioning responsibilities] if the ... distributor facilitates the rendering or pass through of closed captions.”¹⁶ Accordingly, the Commission should limit MVPDs’ responsibilities (and potential liability) in light of their passive role in receiving and passing through such captions.¹⁷

By the same token, the Commission should reject the suggestion by some commenters that distributors should bear *all* responsibility for ensuring the delivery of captioned programming. Although the Commission’s existing Part 79 closed captioning rules impose obligations solely on MVPDs,¹⁸ the CVAA appropriately rejected such an approach, as it often assigns responsibility to the wrong party.¹⁹ Moreover, those parties that support requiring VPDs to ensure that compliant captions are inserted (because they “interact directly” with consumers)

¹⁵ Comments of Verizon and Verizon Wireless, MB Docket No. 11-154, at 3 (filed Oct. 18, 2011); *see also, e.g.*, Comments of Starz Entertainment, LLC in Response to Notice of Proposed Rulemaking, MB Docket No. 11-154, at 3-4 (filed Oct. 18, 2011) (“Starz Comments”) (explaining that while “[t]he VPO should be solely responsible for creating, or arranging for the creation of, closed captioning[,] ... all other participants in the [c]ontent delivery chain ... should be solely responsible for receiving and passing through closed captioning”); Comments of the American Cable Association, MB Docket No. 11-154, at 14 (filed Oct. 18, 2011) (urging the Commission to “refrain from imposing” additional obligations on MVPDs); Google Comments at 7; Comments of AT&T, MB Docket No. 11-154, at 5-6 (filed Oct. 18, 2011) (“AT&T Comments”).

¹⁶ CVAA REPORT at 13.

¹⁷ *See* 47 U.S.C. § 613(c)(2)(D)(vi).

¹⁸ *See* 47 C.F.R. § 79.1(b)-(c).

¹⁹ *See* 47 U.S.C. § 613(c)(2)(D)(iv) (requiring the Commission to “describe the responsibilities of video programming providers or distributors and video programming owners”).

miss the point;²⁰ VPDs—and VPPs to the extent they do not have a role in creating, editing, or producing the underlying video content—lack the technical ability or legal authority to insert captions into the programming stream (or, for that matter, display captions on devices that do not support such functionality). Thus, contrary to MPAA’s complaints that requiring VPOs to caption their programming “ignores the reality of the current marketplace,”²¹ such a requirement does reflect marketplace realities. Indeed, Congress allocated responsibilities among device manufacturers, VPOs, VPPs, and VPDs precisely because multiple parties are involved in the delivery of video programming to consumers.

TWC also agrees that the CVAA should be implemented in a manner that does not supplant parties’ existing arrangements for complying with the Commission’s Part 79 closed captioning rules.²² Accordingly, the Commission should clarify that traditional video programming covered under Title VI of the Act will continue to be captioned pursuant to arrangements that comply with those rules, while all other types of video services (*e.g.*, online video) will be subject to the Commission’s new rules under the CVAA. Further, the Commission should make clear that these separate captioning regimes are consistent with one

²⁰ Comments of Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), National Association of the Deaf (NAD), Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), Association of Late-Deafened Adults (ALDA), Hearing Loss Association of America (HLAA), Communication Services for the Deaf (CSD), Cerebral Palsy and Deaf Organization (CPADO), Technology Access Program at Gallaudet University (TAP), and IT-RERC at Trace Center, University of Wisconsin-Madison in response to the Commission’s Notice of Proposed Rulemaking, MB Docket No. 11-154, at 7 (filed Oct. 18, 2011) (“Consumer Groups Comments”).

²¹ Comments of the Motion Picture Association of America, Inc., MB Docket No. 11-154, at 5-6 (filed Oct. 18, 2011) (arguing that multiple entities in addition to or in place of the copyright owner may be involved in the production and distribution of video programming and the insertion of captions).

²² NPRM ¶ 15 n.63 (explaining that the NPRM “does not propose any modifications to [the Commission’s existing] closed captioning rules”).

another. Such consistency is particularly important for MVPDs that may deliver video content using a number of different methods (such as via an IP-based cable service and via the public Internet, which are not one and the same) and devices (including set-top boxes, Smart TVs, and tablets, or a combination thereof). Subjecting MVPDs to overlapping yet inconsistent obligations under the existing rules and soon-to-be-adopted CVAA rules would only foster confusion and uncertainty.

B. The Commission Should Ensure That Captions Are Viewable on IP-Enabled Devices Pursuant to Section 203 of the CVAA.

Congress understood when it enacted the CVAA that the ability of hearing-impaired consumers to access video content necessarily depends on manufacturers' making "devices consumers use to view video programming ... able to display closed captions."²³ Indeed, Congress expressly recognized that expanding the availability of closed captioning to Internet-delivered programming would require the cooperation of parties outside the programming supply chain.²⁴ The statutory language thus makes clear that an "apparatus designed to receive or play back video programming transmitted simultaneously with sound ... [must] be equipped with built-in closed caption decoder circuitry or capability designed to display closed captioned video programming."²⁵

The Commission's rules accordingly should ensure that equipment manufacturers meet their obligations under the CVAA, rather than focusing compliance efforts solely on VPOs, VPPs, and VPDs. As TWC has explained in other contexts, requiring service providers to offer particular capabilities risks being ineffective if other parties involved in the delivery of video

²³ CVAA REPORT at 14.

²⁴ *Id.* at 3 (explaining requirements "[t]o ensure that devices used to view video programming are able to display closed captions").

²⁵ 47 U.S.C. § 303(u)(1)(A).

programming to consumers—such as equipment manufacturers—are not held accountable for their roles in facilitating such delivery.²⁶ Such an inclusive approach is particularly critical to ensure that persons with hearing impairments can access closed captioned programming as new and/or improved IP-enabled devices are introduced into the marketplace.

Moreover, focusing on those entities that supply video programming to consumers alone—without recognizing the vital role played by device makers—would thwart the accessibility improvements intended by Congress. Simply put, the efforts of MVPDs like TWC to pass through captions will be rendered meaningless if the IP-enabled devices on which video programming is viewed cannot also display closed captions. Consistent with congressional intent,²⁷ companies that manufacture devices used by consumers to access online video programming must work with programming providers and distributors to ensure that the new generation of products can decode and display captioning information or pass through such information in keeping with the requirements imposed on VPPs, VPOs, and VPDs.

TWC therefore agrees that the Commission should apply the exemption provisions under Section 203(a) of the CVAA narrowly to ensure that consumers can access captions wherever

²⁶ See, e.g., Comments of Time Warner Cable Inc., CG Docket Nos. 10-213, 10-145, WT Docket No. 96-198, MB Docket No. 11-93, at 7-8 (filed Apr. 25, 2011); Comments of Time Warner Cable Inc., CS Docket No. 97-80, PP Docket No. 00-67, at 18-21 (filed Aug. 24, 2007) (explaining that in order to promote the commercial availability of navigation devices, equipment manufacturers should be obligated to produce the equipment at issue); Petition for Reconsideration of Time Warner Entertainment Company, L.P., CS Docket No. 97-80, at 11 (filed Aug. 14, 1998) (“Based on its extensive experience in this area, Time Warner can unequivocally state that the goals underlying Section 629 cannot be accomplished without the cooperation of all affected industries.”). See also Reply Comments of Time Warner Cable Inc., MB Docket No. 11-93, at 7 (filed Aug. 1, 2011) (urging the Commission to consider ways to require upstream providers of commercial advertisements to comply with the CALM Act).

²⁷ See CVAA REPORT at 14-15 (explaining the scope of obligations imposed by the CVAA on device manufacturers).

feasible.²⁸ And where the Commission considers whether a particular device is exempt from closed captioning requirements, or if a waiver is appropriate, the Commission should not consider device manufacturers' claims regarding the "technical[] feasib[ility]" or "achievability" of captioning or the "primar[y] design[]" or "essential utility" of devices in a vacuum.²⁹ Rather, the Commission should find exemptions or grant waivers only when a manufacturer demonstrates that it made reasonable efforts to implement a closed captioning solution that would enable VPOs and VPPs to render, and VPDs to pass through, captions. Such "reasonable efforts" should include, at a minimum, direct communication and coordination with such VPOs, VPPs, and VPDs.

C. The Commission Should Adopt the NPRM's Proposal To Require VPOs To Provide Up-To-Date Information Regarding Programming Subject to Section 202 of the CVAA.

Section 202(b) directs the Commission to develop a "mechanism" to provide VPDs with information on video programming subject to the CVAA.³⁰ The legislative history of the CVAA provides that Congress intended the Commission to "work to encourage the development of technology to accurately identify [covered] video programming."³¹ Consistent with congressional intent, the Commission should adopt its proposal to require VPOs to issue certifications to VPDs regarding whether the VPO's programming is subject to the Commission's rules.

²⁸ See Consumer Groups Comments at 47 (urging the Commission to "exempt devices from section 203 on achievability grounds only in rare cases"); *id.* at 42-43 (opposing "blanket waiver[s]" from the Commission's new closed captioning rules and urging the Commission to grant waivers "only on a temporary basis" and only "when reasonably necessary to do so").

²⁹ NPRM ¶¶ 49, 53.

³⁰ 47 U.S.C. § 613(c)(2)(D)(v).

³¹ CVAA REPORT at 14.

TWC agrees with the Commission and a number of commenters that “VPOs are in the best position to know if captions are required for a particular program.”³² As the NPRM suggests, VPOs should be required to certify that particular programming is or is not subject to captioning requirements (*e.g.*, because a program is not “full-length” or has not been “published or exhibited on television with captions after the effective date of the new rules”).³³ In addition, the Commission also should adopt the proposal to require VPOs to keep certifications current and to deliver within seven days an updated programming file that includes the caption file, if not previously delivered, to VPDs. In such circumstances, VPDs would be able to make the captioned programming available within five business days of the updated certification, so long as the file is provided in the appropriate MPEG format and without corruption.

The Commission should not hold VPDs liable for erroneous certifications,³⁴ as downstream entities cannot reasonably be expected to second guess the VPO’s basis for claiming an exemption.³⁵ Likewise, the obligation to deliver caption files that are accurate and meet the proper technical specifications for use with the programming stream should rest with VPOs (and/or VPPs to the extent that VPOs contract with VPPs to require the insertion of captions), in keeping with longstanding practices developed to comply with the Commission’s existing closed captioning rules.

³² NPRM ¶ 35; *see also, e.g.*, Comments of Digital Media Association, MB Docket No. 11-154, at 5 (filed Oct. 18, 2011); AT&T Comments at 6-7.

³³ NPRM ¶ 35 (internal citations and quotation marks omitted).

³⁴ *See id.* ¶ 36.

³⁵ *See* AT&T Comments at 7 (explaining that obligations that would force VPDs “to ensur[e] other parties’ compliance with the rules or [to] monitor[] the substantive content of the captions are outside the scope of the role of the [distributor] as contemplated by the CVAA.”).

The Commission likewise should not require VPDs “to ensure that video programming has the required captions before they pass it through to viewers,” as it could have the unintended effect of delaying VPDs’ ability to quickly incorporate and display newly captioned programming.³⁶ As explained above, video distributors play a passive role in receiving and passing through captioned programming, and it therefore would be unreasonable to hold distributors liable for a third party’s decision to refrain from captioning programming (or to include noncompliant captions), particularly because video distributors have no ability to correct such noncompliance unilaterally. To the contrary, as several commenters point out, altering the programming stream transmitted by the VPO/VPP would be inconsistent with copyright law.³⁷

For similar reasons, the Commission should not interfere with VPDs’ private contractual provisions to hold VPOs responsible for providing closed captioning as part of the programming stream and/or updating such streams when captions are added.³⁸ MVPDs and upstream content providers often include such provisions in their contracts (along with the reciprocal obligation that MVPDs pass through the captions without alteration) to ensure the delivery of closed captioning to consumers under the existing rules. Indeed, these contractual provisions are a critical part of the existing regulatory regime, and there is no evidence that Congress intended to supplant such arrangements in the context of Internet-delivered video.

³⁶ NPRM ¶ 16.

³⁷ *See, e.g.*, Starz Comments at 3-4 (“Any Commission requirement for an entity other [than] the VPO to monitor and edit the copyrighted aspects of closed captioning would undermine the VPO’s right to control derivative works under copyright law and unnecessarily shift a creative burden to an entity that may not share the creative interests of the VPO.”); AT&T Comments at 8-9 (explaining that VPDs “do not typically have legal authority to edit or improve the content of closed captions as the captions are a copyright-protected part of the programming content provided by the VPO”).

³⁸ *See* NPRM ¶ 36 (inquiring as to “how the inclusion of indemnification clauses in contracts between VPDs/VPPs and VPOs may affect the effectiveness” of the Commission’s rules).

II. THE COMMISSION SHOULD REFRAIN FROM IMPOSING TECHNICAL MANDATES UNDER SECTION 202 OF THE CVAA AND INSTEAD SHOULD DEFER TO INDUSTRY BODIES TO DEVELOP STANDARDS THAT ARE COMPATIBLE WITH DIFFERENT PLATFORMS AND SCALABLE TO NEW TECHNOLOGIES

Finally, TWC agrees with the Commission and various commenters that it would be premature and potentially counterproductive for the Commission to prescribe technical standards for the interchange or delivery format of Internet-delivered video programming.³⁹ Although some VPOs are successfully employing SMPTE-TT for online video, it would present needless risks to mandate use of that or any other technical standard in the rapidly changing video marketplace.⁴⁰ Rather, “the industry will settle on that format without Commission intervention and, if it is not [the optimal approach], [industry] will come to a different agreed-upon format.”⁴¹

Instead of mandating adoption of technical standards, the Commission should specify the functions to be supported and defer to VPOs and VPPs to determine how best to comply. That approach is consistent with promoting the principle of “inclusion by design” and will help to ensure that the Commission’s rules promote, rather than stifle, innovation. As long as programming providers and device manufacturers are committed to supporting the requisite functionalities, video distributors like TWC will faithfully pass through closed captions to whatever devices can display them. Assuming that the Commission adopts the NPRM’s proposal and declines to impose specific technical standards, TWC supports the scheduled

³⁹ See *id.* ¶ 40. See, e.g., DirecTV Comments at 12 (agreeing with “the Commission’s conclusion that allowing the market to continue to develop one or more appropriate formats will foster the maximum amount of technology innovation and ultimately lead to the most robust solution”); Google Comments at 3-4 (advocating an open source technical standard as a way to “provide software developers the continued ability to innovate and create new applications for closed captioning as technology evolves”).

⁴⁰ Google Comments at 3-4 (noting the risks of adopting “any single technical standard,” which include “harm[ing] the growth and development of other technologies”).

⁴¹ NPRM ¶ 40.

deadlines for providing closed captions for online video programming.⁴² TWC also supports commenters' proposals to establish a safe harbor for entities that rely on SMPTE-TT or a comparable industry standard.⁴³

CONCLUSION

The NPRM represents a laudable step toward ensuring that the broadband marketplace meets the needs of all consumers, including those with disabilities. TWC therefore supports the Commission's efforts to adopt rules that apply to all parties involved in the provision of video programming over the Internet—including owners, providers, and distributors of programming content, as well as device manufacturers. In addition, TWC urges the Commission to adopt rules that are consistent with existing closed captioning requirements so that the new rules will not unnecessarily delay or discourage the provision of video content on the Internet. Relatedly, the Commission should avoid imposing technical standards on closed captioning of online video but instead should promote greater accessibility through unfettered innovation.

⁴² *Id.* ¶ 28 (proposing a schedule of deadlines for compliance with the Commission's new closed captioning rules for (1) "programming that is prerecorded and not edited for Internet distribution;" (2) "live or near-live" programming; and (3) "programming that is prerecorded and edited for Internet distribution").

⁴³ *See, e.g.*, Comments of the Consumer Electronics Association, MB Docket No. 11-154, at 7 (filed Oct. 18, 2011) (urging the Commission to adopt SMPTE-TT as a safe harbor to "promote efficiency and certainty, thereby helping content providers, distributors, and manufacturers of covered apparatus to ensure reliable consumer access to IP captioning"); Microsoft Comments at 16-17.

Respectfully submitted,

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