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December 16, 2011

EX PARTE

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

**Re: 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:

On December 14, 2011, Jill Luckett, Senior Vice President, Program Network Policy, Stephanie Podey, Associate General Counsel, and I, all of the National Cable & Telecommunications Association (“NCTA”), met with Erin McGrath, Acting Legal Advisor, Media, to Commissioner Robert McDowell, regarding the above-captioned proceeding.

At the meeting, we explained that the cable industry is committed to abiding by the schedule proposed in the VPAAC Report and Notice of Proposed Rulemaking, but that the VPAAC’s schedule was based on programmers’ ability to use the SMPTE-TT format for online captioning, which would allow television captions to be easily repurposed for captioned material distributed over the Internet. We also urged that the rules recognize that certain local programming might not be able to be provided online with captions as rapidly as contemplated by the proposed timetable.

We explained the legal and practical reasons why the Commission should only apply its online captioning rules prospectively. We detailed the difficulties that would arise if versions of programming already online without captions had to be taken down and replaced with captioned versions at a later time.¹ We also discussed the practical problems with providing captions for clips of programs that had aired on television with captions and urged the Commission to define a clip as something less than a full-length program.²

¹ See NCTA Comments at 18-20.

² See *id.* at 20.

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We also explained that need for the Commission to specifically incorporate the categorical exemptions in the existing television captioning rules into the online captioning rules.³ Finally, consistent with our comments and in light of rapidly changing technologies, we reiterated that the Commission should focus its initial implementation efforts on education and that it should not entertain complaints until a later date.

Respectfully submitted,

/s/ Diane B. Burstein

Diane B. Burstein

cc: Erin McGrath

³ *See id.* at 17-18.