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**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> 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 January 5, 2012, Jill Lockett, Senior Vice President, Program Network Policy, Stephanie Podey, Associate General Counsel, and I, all of the National Cable & Telecommunications Association (“NCTA”) met separately with the following Commission staff: (1) Sherrese Smith, Senior Counsel and Legal Advisor, and Jessica Almond, Legal Advisor, to Chairman Julius Genachowski; (2) Dave Grimaldi, Chief of Staff and Media Legal Advisor, to Commissioner Mignon Clyburn; and (3) Erin McGrath, Acting Legal Advisor, Media, to Commissioner Robert McDowell in connection with the above-captioned proceeding. That same day, Stephanie Podey and I had a follow-up telephone call with Jessica Almond.

NCTA urged the Commission to provide a phased-in approach to compliance with the new rules, and proposed that, consistent with the agency’s implementation of Title I of the CVAA, it adopt a two-year period prior to entertaining complaints regarding the new rules.<sup>1</sup> We also urged the Commission to exclude material already online without captions from coverage of its rules, based on the prospective nature of the CVAA. We explained that if the Commission were to nonetheless interpret the CVAA to cover such archival material, any requirement must provide both VPOs and VPDs sufficient time to replace uncaptioned material with video programming containing captions after it airs on television with captions. We also proposed that the Commission provide flexibility for VPOs and VPDs to establish a mutually-agreeable mechanism that ensures that appropriate material is provided with captions online without overburdening industry through any program-by-program certification approach.

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<sup>1</sup> See *Implementation of Sections 716 and 717 of the Communications Act of 1934 as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report & Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557 ¶¶ 107, 110 (2011) (providing a two year phase-in period prior to entertaining complaints).

We also discussed certain device-related issues that have been raised in this proceeding. We urged that the Commission not impose regulations on interconnection mechanisms that are or may be used to distribute video to devices in the home. The CVAA states in relevant part that “interconnection mechanisms and standards for digital video source devices are available to carry from the consumer equipment the information necessary to permit or render the display of closed captions . . .”<sup>2</sup> With respect to HDMI, we explained that where the set-top box is connected to the DTV receiver via HDMI, captions are rendered in the set-top box itself and then displayed on the receiver.<sup>3</sup> Mandating that operator-supplied devices include an output that can pass-through closed captioning to the receiver would conflict with Congress’s clear and unambiguous directives that rendering *or* pass-through be supported (not rendering *and* pass-through). We also explained that requiring HDMI pass-through captions would cause significant consumer confusion and would create substantial compatibility issues given the enormous number of legacy devices that do not support pass-through over HDMI.

Finally, in our meetings, we urged the Commission to not regulate online caption quality.<sup>4</sup> Content suppliers and distributors have been working to replicate the TV captioning experience on the Internet and are committed to the goal of ensuring a positive online captioning environment. Adopting specific requirements at this stage would be unnecessary and counter-productive. We discussed how the Commission has rejected proposals to impose non-technical quality standards in the past, and urged the Commission to take the same approach here.

Respectfully submitted,

**/s/ Diane B. Burstein**

Diane B. Burstein

cc: Sherrese Smith  
Jessica Almond  
Dave Grimaldi  
Erin McGrath

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<sup>2</sup> 47 U.S.C. § 303(z)(2).

<sup>3</sup> See NCTA Comments at 25 n.68.

<sup>4</sup> See NCTA Comments at 15-16.