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**Barbara S. Esbin**  
Admitted in the District of Columbia

January 10, 2012

**Via ECFS**

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room TW-A325  
Washington, DC 20554

**Re: American Cable Association (“ACA”) Notice of Ex Parte Presentation; *In the Matter of 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 10, 2012, Ross Lieberman, Vice President of Government Affairs, American Cable Association, and the undersigned, met via teleconference respectively, with Jessica Almond, Special Counsel Chairman Genachowski, and David Grimaldi, Chief of Staff and Media Legal Advisor, Office of Commissioner Clyburn. Participants discussed ACA’s positions, reflected in its comments and reply comments, filed in response to the Notice of Proposed Rulemaking in the above captioned rulemaking.<sup>1</sup>

During the meetings, ACA urged the Commission to follow the statutory directive to impose Internet protocol (“IP”) closed captioning responsibility on both video programming providers and distributors (“VPPs/VPDs”) and video programming owners (“VPOs”).<sup>2</sup> That is, consistent with the statutory language, VPPs/VPDs should be deemed in compliance with the IP closed captioning

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<sup>1</sup> *In the Matter of 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).

<sup>2</sup> *In the Matter of 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; Comments of the American Cable Association, MB Docket No. 11-154, at 6-12 (filed Oct. 18, 2011) (“ACA Comments”); Reply Comments of the American Cable Association, MB Docket No. 11-154, at 2-15 (filed Nov. 1, 2011) (“ACA Reply Comments”). See also *Ex Parte* Letter from Barbara S. Esbin, Counsel for American Cable Association, to Marlene Dortch, Secretary, Federal Communications Commission, 2-3 (Nov. 17, 2011) (available in MB Doc. No. 11-154) (reiterating ACA’s call for clarity in the definition of video programming providers and distributors subject to IP closed captioning requirements so that requirements apply solely to VPPs/VPDs distributing programming using Internet protocol over the Internet).

requirements if they enable the “rendering” or “pass through” of captions, whereas VPOs must bear responsibility for including closed captions in all covered programming.<sup>3</sup>

Participants also discussed the mechanism to be established by the Commission to make information about video programming that is subject to the rules available to VPPs/VPDs on an ongoing basis so that VPPs/VPDs can demonstrate good faith compliance efforts.<sup>4</sup> Finally, participants discussed the need for the Commission to avoid imposing burdensome complaint procedures in an area that is “new terrain for the Commission” and the industry.<sup>5</sup> ACA reiterated the need to minimize compliance obligations that would disproportionately burden small entities in order to ensure that both large and small entities are able to participate in the new world of online video distribution.

Please contact me if you should have questions or concerns about these matters.

In accordance with Section 1.1206 of the Commission’s rules, one copy of this letter is being filed electronically via ECFS, and one delivered via email to each of the meeting participants listed below.

Sincerely,



Barbara S. Esbin

cc (*via email*): Jessica Almond  
David Grimaldi

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<sup>3</sup> ACA Comments at 6-7, 13-15; ACA Reply Comments at 16-19.

<sup>4</sup> ACA Comments at 15-17 (The Commission should not require program-by-program certification, or require keeping voluminous records for an indefinite period of time, to avoid placing severe and disproportionately burdensome document retention obligations on small providers).

<sup>5</sup> ACA Comments at 17-19.