



Federal Communications Commission
Washington, D.C. 20554

August 8, 2012

Case Identifier: CGB-CC-1056

Holland & Knight LLP
Attn: Charles R. Naftalin, Esq.
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, DC 20006

Re: *Movies & Music*

Dear Mr. Naftalin,

This is in reference to the petition (Petition) you filed September 15, 2010, which you updated June 26, 2012, on behalf of your client, ReelzChannel, LLC. That petition seeks an exemption from the FCC's closed captioning requirements for musical portions of the program *Movies & Music*. According to the Petition, that program aired in the Fall 2010 season on the ReelzChannel and may return with either new episodes or reruns of prior episodes.

In support of the Petition you state that the program *Movies & Music* consists of commentary and music from motion pictures with each episode featuring a different theme. ReelzChannel, you continue, will close caption all commentary provided by the hosts and guests and will pass through any captions contained in the musical video clips featured. Additionally, you contend that many musical selections will fall within the "primarily non-vocal musical programming" exception to the captioning rules found in Section 79.1(d)(10) of the FCC's Rules, 47 C.F.R. § 79.1(d)(10), because they are completely instrumental or primarily non-vocal in nature. However, you request an exemption from closed captioning obligations, beyond passing through existing captions, for all of the musical scores featured in *Movies & Music*.

The thirteen exemptions contained in Section 79.1(d) of the FCC's Rules are considered to be "self-implementing" exemptions. As a result, unlike exemptions pursuant to Section 79.1(f) of the FCC's Rules, 47 C.F.R. § 79.1(f), where parties contending that captioning would be economically burdensome for them must file a petition seeking exemption from the captioning requirements, these exemptions do not require prior FCC approval if the specific criteria are met. Accordingly, ReelzChannel does not require any FCC action to avail itself of the exemption contained in Section 79.1(d)(10) of the FCC's Rules, and is exempt from captioning any of its programming that falls within the exemption. If its programming does not fit within one of the thirteen exemptions it must be captioned unless the video programming provider obtains an "economically burdensome" exemption through the FCC's petition process. Otherwise, the programming must be captioned to the extent provided for in Section 79.1(b) of the FCC's Rules, 47 C.F.R. § 79.1(b). In Section 713(d)(1) of the Communications Act of 1934, as amended, Congress provided for captioning exemptions where the FCC has established through the rulemaking process a categorical self-implementing

exemption or, pursuant to Section 713(d)(3), where the FCC has determined through the petition process that captioning the programming would be economically burdensome.

Because there is no petition process with regard to the self-implementing exemptions contained in Section 79.1(d), and you have not filed a petition pursuant to Section 79.1(f), alleging that it would be economically burdensome for you to caption *Movies & Music*, or provided the information and documentation necessary to support such a petition, we must dismiss your request for a closed captioning exemption. If you have additional questions pertaining to the filing of an exemption request, please contact the FCC's Disability Rights Office at captioningexemption@fcc.gov.

Roger Holberg
Attorney, Disability Rights Office
Consumer and Governmental Affairs Bureau