

**Institute for Public Representation**  
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October 9, 2012

*via hand delivery*

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

FILED/ACCEPTED

OCT - 9 2012

Federal Communications Commission  
Office of the Secretary

**Attn: CGB Room 3-B431**

**Re: Off Beat Productions Petition for Exemption from the  
Commission's Closed Captioning Rules  
Case No. CGB-CC-0478  
CG Docket No. 06-181**

Dear Ms. Dortch:

Pursuant to the Commission's Request for Comment, Telecommunications for the Deaf and Hard of Hearing Inc. (TDI), the National Association of the Deaf (NAD), the Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), the Association of Late-Deafened Adults (ALDA), California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH), and the Cerebral Palsy and Deaf Organization (CPADO), collectively, "Consumer Groups," respectfully submit this opposition to the petition of Off Beat Productions ("Off Beat") to exempt its program *Off Beat Cinema* from the Commission's closed captioning rules, 47 C.F.R. § 79.1.<sup>1</sup> Consumer Groups

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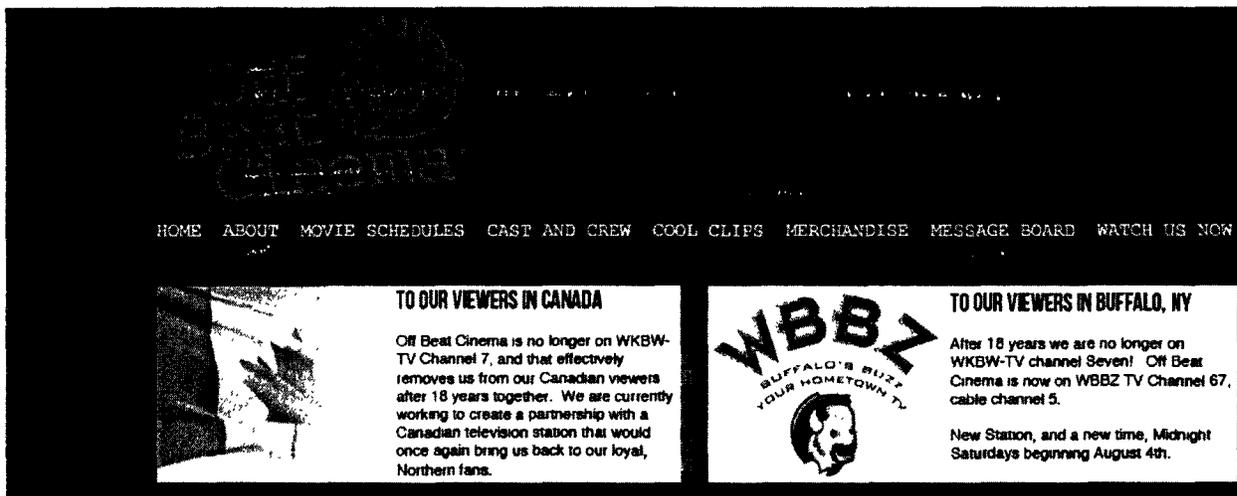
<sup>1</sup> *Public Notice, Request for Comment: Request for Exemption from Commission's Closed Captioning Rules*, CG Docket No. 06-181 (September 6, 2012), [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2012/db0906/DA-12-1447A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0906/DA-12-1447A1.pdf); *Off Beat Petition for Exemption*, Case No. CGB-CC-0478, CG Docket No. 06-181 (June 29, 2012), <http://apps.fcc.gov/ecfs/document/view?id=7021991121> ("*Off Beat Petition*").

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oppose the petition because it appears to lack pertinent information about Off Beat's recently-changed circumstances.

More specifically, Off Beat states that its program airs "on Channel Seven WKBW-TV-DT ABC in Buffalo, New York on Friday nights from 2:00 am to 4:00 am" and that "WKBW . . . has formally denied their request for assistance, stating that they do not cover the costs of any outside productions, and that the cost to caption the program would exceed the revenue generated at that time slot."<sup>2</sup> Off Beat's website, however, states that it is "no longer on WKBW-TV channel Seven" and that it "is now on WBBZ TV Channel 67, cable channel 5" at "a new time, Midnight Saturdays beginning August 4th":<sup>3</sup>

[www.offbeatcinema.com](http://www.offbeatcinema.com)



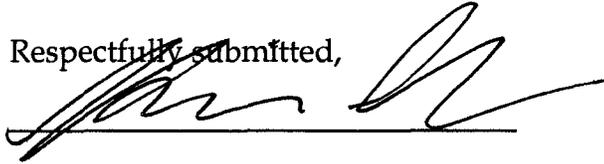
Off Beat's petition offers no information about whether its financial circumstances, such as production costs or broadcasting expenses, have changed as a result of its move to WBBZ, or whether Off Beat has requested captioning assistance from WBBZ. Without this information, it is impossible to assess whether complying with the Commission's captioning rules would impose an undue economic burden. Accordingly, we

<sup>2</sup> *Off Beat Petition* at 2.

<sup>3</sup> Off Beat Cinema, <http://offbeatcinema.com> (last visited Oct. 3, 2012).

recommend that the Commission dismiss the petition and give Off Beat leave to refile if it believes that its changed circumstances still warrant an exemption.

Respectfully submitted,



Blake E. Reid†  
October 9, 2012

*Counsel for Telecommunications for the  
Deaf and Hard of Hearing, Inc.*

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cc: Roger Holberg, Consumer &  
Governmental Affairs Bureau  
Traci Randolph, Consumer &  
Governmental Affairs Bureau

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† Counsel thanks Georgetown Law student Jessica Lee for her assistance in preparing these comments.



## CERTIFICATION

Pursuant to 47 C.F.R. §§ 1.16 and 79.1(f)(9), I, Claude Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), hereby certify under penalty of perjury that to the extent there are any facts or considerations not already in the public domain which have been relied on in the foregoing document, these facts and considerations are true and correct to the best of my knowledge.

*Claude L. Stout*

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Claude Stout  
October 9, 2012

**CERTIFICATE OF SERVICE**

I, Niko Perazich, Office Manager, Institute for Public Representation, do hereby certify that, on October 9, 2012, pursuant to the Commission's aforementioned Request for Comment, a copy of the foregoing document was served by first class U.S. mail, postage prepaid, upon the petitioner:

Off Beat Productions  
Lipsitz Green Scime Cambria, LLP  
Attn: Barry Nelson Covert, Esq.  
42 Delaware Avenue, Suite 120  
Buffalo, NY 14202-3924

  
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Niko Perazich  
October 9, 2012