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Ex Parte

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

**Re: In re Media Bureau and Consumer and Governmental Affairs Bureau Seek
Comment on Second VPAAC Report: User Interfaces, and Video
Programming Guides and Menus, MB Docket No. 12-108**

Dear Ms. Dortch:

On March 19, 2013, Rick Chessen, Senior Vice President, Law & Regulatory Policy; Stephanie Poday, Associate General Counsel; and I, of the National Cable & Telecommunications Association (“NCTA”), met with Steven Broeckaert, Michelle Carey, Adam Copeland, Mary Beth Murphy, Brendan Murray, Alison Neplokh, and Jeffrey Neumann of the Media Bureau; Rosaline Crawford, Eliot Greenwald, John Herzog, and Karen Peltz Strauss of the Consumer & Governmental Affairs Bureau; and Susan Aaron of the Office of General Counsel; regarding the Commission’s upcoming Notice of Proposed Rulemaking implementing Sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”).

At the meeting, we reiterated points raised in NCTA’s comments in response to the above-referenced Public Notice. NCTA explained that cable-operator supplied set-top boxes used by cable customers, which are a type of “navigation device,”¹ are subject only to Section 205 of the CVAA, and are expressly carved out from the requirements of Section 204.²

¹ See 47 C.F.R. § 76.1200 (defining “navigation device” to mean “devices such as converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems”).

² See 47 U.S.C. § 303(aa)(4) (“in applying this subsection the term ‘apparatus’ does not include a navigation device, as such term is defined in section 76.1200 of the Commission’s rules...”).

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We discussed the two discrete issues covered by Section 205: (1) if achievable, audible accessibility of text menus and guides provided by navigation devices for the display or selection of multichannel video programming and menus, and (2) access to built-in closed captioning features on “navigation devices.”³ We noted that Congress granted cable operators “maximum flexibility” to determine the manner of compliance with these obligations.⁴

With respect to the audible accessibility of text menus and guides, we described how the CVAA provides operators with a variety of options for satisfying this requirement for those blind or visually impaired customers who request such a feature or function, and how the Act does not mandate that all operator-supplied set-top boxes contain such features. We explained that, if a blind or visually impaired cable customer requests accessible guides or menus, cable operators must provide it free of charge but it need not be in the form of a set-top box or similar “navigation device.” The CVAA permits operators to make available software, a peripheral device, equipment, service or other solution that provides audible access.

As to the closed captioning features, we explained that Congress did not require cable operators to include closed captioning buttons on their remote controls. Rather, the CVAA speaks to accessing this feature through means “reasonably comparable” to a button, key, or icon. We discussed how the CVAA grants operators “maximum flexibility” to comply with the user control provisions of Section 205, and does not mandate that access be provided in any particular manner.⁵

Respectfully submitted,

/s/ Diane B. Burstein

Diane B. Burstein

cc: Steven Broeckaert
Michelle Carey
Adam Copeland
Mary Beth Murphy
Brendan Murray
Alison Neplokh
Jeffrey Neumann
Rosaline Crawford
Eliot Greenwald
John Herzog
Karen Peltz Strauss
Susan Aaron

³ See 47 U.S.C. § 303(bb)(1) & (2).

⁴ CVAA § 205(b)(4) & (b)(5).

⁵ See also S. Rep. No. 99-101 at 7 (2010) (explaining that “when navigation devices include built-in closed captioning capability, access to such capability be available through a button, key, icon, *or any other reasonably comparable mechanism*”) (emphasis supplied).