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June 7, 2013

via electronic filing

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

Re: **Notice of *Ex Parte* Presentation**
Closed Captioning of Internet Protocol-Delivered Video Programming,
MB Docket No. 11-154
Closed Captioning of Video Programming; Telecommunications for the
Deaf, Inc. Petition for Rulemaking, CG Docket No. 05-231

Dear Ms. Dortch:

On June 5, 2013, Claude Stout of Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), Andrew Phillips of the National Association of the Deaf (NAD), Cheryl Heppner of the Association of Late-Deafened Adults (ALDA), Lise Hamlin of the Hearing Loss Association of America (HLAA), Christian Vogler of the Technology Access Program at Gallaudet University (TAP), and I (collectively, the "Consumer Groups") met with Chairwoman Mignon Clyburn, Sarah Whitesell, Legal Advisor to Chairwoman Clyburn, Kris Monteith, Greg Hlibok, and Karen Peltz Strauss of the Consumer and Governmental Affairs Bureau, Royce Sherlock of the Office of General Counsel, and Keenan Adamchak, John Bilyeu, and Julie Thompson to discuss matters in the above-referenced dockets.

In particular, we discussed the Consumer Groups' recently-filed *Report on the State of Closed Internet-Protocol Delivered Video Programming*.¹ We noted that the vast majority of our observations of video clips and segments of full-length Internet-Protocol ("IP")-delivered programming found uncaptioned programming.² We also discussed the substantial practical difficulty in applying the *IP Captioning Order's* distinction between uncovered "video clips" and covered "segments" of full-length programming.³ As we detailed in our petition for reconsideration of the *Order*, the Twenty-First Century Communications and Video Accessibility Act

¹ MB Docket No. 11-154, CG Docket No. 05-231 (May 16, 2013), *available at* <http://apps.fcc.gov/ecfs/comment/view?id=6017341205> ("*Report*").

² *Id.* at 9-13.

³ *Id.* at 5-9; *see* 27 FCC Rcd. 787, 816-18, ¶¶ 44-48.

“CVAA”) unambiguously requires video clips and full-length programming to be covered alike, and references to “video clips” in the CVAA’s legislative history do not evince congressional intent to create a entirely new category of uncaptioned programming.⁴ As we predicted in the petition, the decision to exclude “video clips” from the IP captioning rules has led to the widespread denial of equal access to critical online video programming, including news programming.⁵

Accordingly, we urged the Commission to move quickly to grant our petition for reconsideration of the *IP Captioning Order* and cover video clips under the IP captioning rules.

We also emphasized the *Report’s* finding of pervasive quality problems in IP-delivered programming.⁶ Consumer Groups specifically urged the Commission to adopt quality standards for television captions in a 2004 petition, and the quality of captions has become untenably poor on both television and IP-delivered programming in the absence of specific quality standards for television captions.⁷ FCC staff members noted that consumer complaints about TV caption quality constitute a significant proportion of TV captioning complaints. Accordingly, we urged the Commission to take immediate action to implement caption quality standards pursuant to the detailed record developed over the past nine years in CG Docket No. 05-231.

In particular, the Commission should adopt specific standards for non-technical aspects of captions that affect the accessibility of programming, including transcription accuracy, spelling, grammar, punctuation, placement, timing, and identification of speakers, non-verbal sounds, and song lyrics. The Commission should also adopt standards for technical aspects of captions to ensure that captions are properly synchronized with video, delivered intact, and properly passed through and rendered by all entities and devices in the video distribution chain. We emphasized the need to ensure that quality standards are applied to both offline captions of pre-recorded programming and live captions of other programs.

Please let me know if you have any questions regarding this filing.

⁴ *Petition for Reconsideration of TDI, et al.*, MB Docket No. 11-154 (Apr. 27, 2012), available at <http://apps.fcc.gov/ecfs/comment/view?id=6017032686>.

⁵ *Id.*

⁶ *Report* at 14-17.

⁷ RM-11065 (July 23, 2004), available at <http://apps.fcc.gov/ecfs/comment/view?id=5511440137>. We noted that the implementation of television caption quality standards would permit the Commission to address issues with the quality of captions on IP-delivered programming under the requirement that IP captions be equivalent in quality to television captions of the same program. See 47 C.F.R. 79.4(c)(1)(i), (2)(i).

Respectfully submitted,

/s/

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