

July 26, 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 Video Programming,
CG Docket Nos. 05-231 and 06-181 and ET Docket No. 99-254
TDI, et al. Petition for Rulemaking, PRM11CG
TDI, et al. Petition for Rulemaking, RM-11065**

Dear Ms. Dortch,

On July 24, 2013, Claude Stout and Jim House of Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), Andrew Phillips of the National Association of the Deaf (NAD), Lise Hamlin of the Hearing Loss Association of America (HLAA), and Blake Reid of the Samuelson-Glushko Technology Law & Policy Clinic at Colorado Law (TLPC) (collectively, “Consumer Groups”) spoke with the following representatives from the Commission and industry groups about the above-referenced matters:

- Sarah Whitesell, FCC-OCH
- Kris Monteith, FCC-CGB
- Karen Peltz Strauss, FCC-CGB
- Greg Hlibok, FCC-CGB
- Eliot Greenwald, FCC-CGB
- Suzanne Rosen Singleton, FCC-CGB
- Elaine Gardner, FCC-CGB
- Cynthia Bryant, FCC-CGB
- Brendan Murray, FCC-MB
- Andy Scott, National Cable and Telecommunications Association (NCTA)
- Jill Luckett, NCTA
- Diane Burstein, NCTA
- Jill Toschi, National Captioning Institute (NCI)
- Ann Bobeck, National Association of Broadcasters (NAB)
- Kelly Williams, NAB
- Michael Nilsson, DIRECTV
- Stacy Fuller, DIRECTV
- Hadass Kogan, DISH Networks
- Larry Goldberg, WGBH National Center for Accessible Media (NCAM)

The Consumer Groups reiterated our call for the Commission to adopt quality standards for closed captioning like those proposed nearly a decade ago in a 2004 petition for rulemaking by TDI, NAD, and others and supported by the extensive record in CG

Docket No. 05-231.¹ We believe that the provision of high-quality captions is critical to reach the goal of video programming accessibility embedded in the Telecommunications Act of 1996 and the Twenty-First Century Communications and Video Accessibility Act, and that quality standards remain necessary to remedy the pervasive quality problems with captions of video programming. Thus, we urge the Commission to set minimum technical and non-technical standards for captions that include completeness, accuracy, readability, and synchronicity with the audio portion of the captioned program—areas where problems remain widespread.

We acknowledged that consumers have a role to play in notifying the Commission and their video programming distributors of isolated, unexpected problems with captions. We noted, however, addressing the pervasive quality problems that plague captioning today requires a more holistic approach by video programmers, distributors, and captioners to treat the creation and delivery of high quality captions as a priority equal to the creation and delivery of high-quality audible and visual components of programming.

With respect to the creation of high quality captions, we noted that the absence of non-technical quality standards incentivizes video programmers to seek out the cheapest possible captioning services without regard to quality. This perverse incentive has not only resulted in poor quality captions, but harmed the market for well-trained captioners, many of whom can no longer sustain their practices at the low rates demanded by programmers. This reality has in turn harmed the market for educating and training captioners. One participant in the meeting noted that the rates commanded by captioners has dropped by an order of magnitude, and another observed that programmers often use inexpensive, poor-quality live captioning techniques even for prerecorded programs, rely on inaccurate automated systems, or fail to provide captioners access to complete audiovisual feeds of their programming.

With respect to technical standards for captioning, one participant noted that advanced monitoring equipment now exists to permit video distributors to analyze the state of captions on video they distribute and quickly identify problems.

We also reiterated that the Commission should reexamine the numerous exemptions adopted as part of early closed captioning rulemakings in light of significant changes to the economic underpinnings of the video marketplace since the 1996 Act was signed into law. In particular, we urged the Commission to reexamine allowing the continued use of the Electronic Newsroom Technique (ENT), which often denies viewers who are deaf or hard of hearing access to critical information from unscripted breaking news, weather, and emergency reporting. We believe that the Commission, consumers, and video programmers can determine creative solutions to ensure that viewers who are deaf or

¹ RM-11065 (July 23, 2004), available at <http://apps.fcc.gov/ecfs/comment/view?id=551144013>

hard of hearing in smaller markets where ENT is permissible can access video programming on equal terms while minimizing the economic impact on smaller programmers. We further urge the Commission to reexamine the continued need to exempt new stations, late night programming, locally produced non-news programming with no repeat value, advertisements, interstitials, public service announcements, and promotional announcements. Moreover, we believe that the Commission should reexamine and recalibrate the \$3 million dollar exemption and clarify that revenue from all of a broadcaster's digital allotment, including multicast channels, should be considered from the same "channel" for the purpose of determining whether a broadcaster qualifies for the exemption.

Finally, we encouraged the Commission to take steps to ease the burden of the captioning complaint process for consumers, investigate requiring video programmers to notify consumers of extended captioning outages, consider the need for captioning for 3D television and movies, and allow e-filing of undue burden exemption petitions, comments, oppositions, and related filings.

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

Respectfully submitted,

/s/

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