Before the
Federal Communications Commission
Washington, DC

In the Matter of:	)	
Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010	)))))))	MB Docket No. 11-154

Reply Comments of

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)
National Association of the Deaf (NAD)
Hearing Loss Association of America (HLAA)
Association of Late-Deafened Adults (ALDA)
Cerebral Palsy and Deaf Organization (CPADO)
American Association of the Deaf-Blind (AADB)
Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN)
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Summary

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), the National Association of the Deaf (NAD), Hearing Loss Association of America (HLAA), the Association of Late-Deafened Adults (ALDA), the Cerebral Palsy and Deaf Organization (CPADO), the American Association of the Deaf-Blind (AADB), and the Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), collectively, "Consumer Groups," joined by the Technology Access Program at Gallaudet University (TAP), submit these reply comments in response to the Commission's Further Notice of Proposed Rulemaking ("*FNPRM*") in the above-referenced matter.[1]

We agree with industry representatives that the Commission should establish a "do no harm" timing standard for apparatuses. We do not believe that placing a synchronization requirement on apparatuses would inappropriately place blame on device manufacturers or disrupt the current standards for Internet Protocol ("IP") closed captioning. Finally, we note that Subtitles for the Deaf and Hard of Hearing ("SDH") do not meet the captioning requirements of the Twenty-First Century Communications and Video Accessibility Act ("CVAA") and should not be considered an "alternate means" of compliance.

[1] The FNPRM was part of a multipart Commission document, *In the Matter of Closed Captioning of Internet Protocol-Delivered Video Programming*, Order on Reconsideration and Further Notice of Proposed Rulemaking, MB Docket No. 11-154, 28 FCC Rcd. 8785 (rel. June 14, 2013) ("*FNPRM*").

Discussion

I. The Commission should impose a "do no harm" synchronization requirement on apparatuses.

We agree with the Consumer Electronics Association ("CEA") that apparatuses should not be expected to correct timing errors, and welcome CEA's proposed "do no harm" standard that would require that apparatuses are only responsible for rendering captions according to the timing data included with the video programming.[2] CEA acknowledges that current industry captioning standards "all have mechanisms with implicit or explicit timing information to ensure that decoders 'know' when to display captions."[3] We agree with CEA that existing captioning standards provide the timing data necessary to synchronize captions with video and merely ask that the Commission require apparatuses to render captions according to this provided timing information.[4]

We do not agree, however, with CEA's argument that video programming distributors and video programming owners are better suited to address synchronization issues than apparatus manufacturers.[5] As we noted in our initial comments, there are several steps in the process of delivering closed captions synchronized with video to a viewer via IP, and problems with caption synchronization can occur at any point in this delivery chain.[6] We do not claim that apparatuses are the sole source of synchronization problems, but rather that apparatuses are one of three sources of potential synchronization problems. In asking the Commission to require apparatus manufacturers to ensure that apparatuses render captions according to included timing data, we are not suggesting that apparatus manufacturers bear sole responsibility for synchronization, but

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[2] *See Comments of CEA*, MB Docket No. 11-154, at 4 (Nov. 4, 2013) ("*CEA Comments*"). However, video programming distributors ("VPDs") responsible for both delivering captions and rendering them in a VPD-supplied application, plug-in, or device should be held responsible for the timing of captions at both delivery and apparatus levels.
[3] *Id* at 3.
[4] *See id*.
[5] *See id.* at 2.
[6] *Comments of TDI, et al.*, MB Docket No. 11-154 at 2 (Nov. 4, 2013) ("*Consumer Groups Comments*").

merely asking the Commission to complete the chain of accountability by ensuring that every link is covered by an appropriate synchronization requirement.

Finally, CEA alleges that synchronization problems do not occur at the apparatus level and contends that placing a synchronization requirement on apparatuses would "disrupt the current standards for IP closed captioning."[7] We have shown that caption synchronization problems can occur at the apparatus level.[8] Moreover, there is no reason to expect that a synchronization requirement would "disrupt" any acceptable captioning standard or impose an additional obligation on an apparatus complying with such a standard. Rather, a synchronization requirement would simply hold manufacturers accountable for faithfully implementing a caption rendering engine that conforms to the standard. In short, a synchronization requirement would merely enforce the standards by which manufacturers *should* already abide and serve the public interest by ensuring that consumers have remedies if manufacturers do not follow those standards.

II. Subtitles for the Deaf or Hard of Hearing (SDH) do not satisfy the captioning requirements of the CVAA.

CEA argues that removable media players that support SDH meet the "baseline captioning requirements of the CVAA."[9] This assertion ignores the clear language of the CVAA, the intent of Congress, and the Commission's prior Orders. SDH does not meet the CVAA's functionality requirements—"for example, the ability to change text font and size" of captions—and therefore does *not* meet the captioning requirements of the CVAA.[10] As we noted in our initial comments, SDH is not a viable alternative to closed captions.[11]

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[7] *CEA Comments* at 3.
[8] *See Consumer Groups Comments* at 4-6.
[9] *CEA Comments* at 5.
[10] *See FNPRM* at 8808, ¶ 37 & n.152 (citing 47 C.F.R. § 79.103(c)); *see also Closed Captioning of Internet Protocol-Delivered Video Programming*, Report and Order, MB Docket No. 11-154, 27 FCC Rcd. 787, 846, ¶ 100 (Jan. 13, 2012) ("*IP Captioning Order*").
[11] *See Consumer Groups Comments* at 12-13.

In Section 203 of the CVAA, Congress required apparatuses to be equipped with closed captioning circuitry.[12] The Commission recognized that DVD and Blu-ray players are "apparatuses" for the purposes of the CVAA and rejected CEA's arguments to the contrary in both the *FNPRM* and the *IP Captioning Order*.[13] The Commission also ruled that apparatuses must be capable of rendering captions in a way that allows consumers to control the font, size, color, and other features of the captions.[14] DVD and Blu-ray players, as apparatuses, therefore must be capable of rendering captions and meeting those functional requirements.[15] SDH does not "meet the functional requirements necessary to accomplish the goals of the [CVAA]."[16]

By asking the FCC to consider SDH capability as an exception to the closed captioning apparatus requirements, CEA is simply rehashing arguments that the Commission has expressly repudiated on two separate occasions. Moreover, CEA sets forth no policy justification for classifying SDH as an "alternative means" of compliance with the Commission's regulations. We agree with the Commission's straightforward and well-reasoned conclusion that SDH, in its existing form, does not comply with the CVAA.[17]

Our view on this matter is simple: the CVAA requires functionality that SDH does not include. Without that functionality, viewers who need to adjust the appearance of captions cannot do so, effectively making SDH inaccessible. Accordingly, the Commission should not allow SDH as an alternate means of closed captioning compliance.

Because HDMI does not presently pass through caption data, DVD and Blu-ray players will remain inaccessible to consumers who are deaf or hard of hearing without a caption rendering

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[12] Pub. L. 111-260, 124 Stat. 2751 § 203(a) (Oct. 8, 2010) ("CVAA") (codified at 47 U.S.C. § 303(u)).
[13] *See FNPRM* at 8793-98, ¶¶ 16-22; *IP Captioning Order* at 845-46, ¶¶ 99-100 & n.396.
[14] *See* 47 C.F.R. § 79.103(c); *IP Captioning Order* at 850-54, ¶¶ 109-113.
[15] *See IP Captioning Order* at 846, ¶ 100 ("We agree that . . . user control features for manipulating closed captions must be supported in all devices, including those that use removable media.").
[16] *See id*.
[17] As our initial comments noted, if subtitles or SDH were modified to meet the CVAA's functionality standards, they would effectively *be* closed captions, not an alternative. *Consumer Groups Comments* at 13.

requirement.[18] While CEA speculates that regulations will "simply raise costs for consumers and hasten the decline of removable media technology," CEA provides no concrete basis for its conclusion.[19] If apparatuses are required to render captions, all apparatuses, including high-definition removable media players, will become accessible to consumers.[20] A rendering requirement will also remain technologically relevant with further advances in removable media technology, while any alternative to the full rendering requirement will quickly become outdated.

III. Conclusion

The Commission should require apparatuses to render captions according to the timing data included with video programming—a "do no harm" standard. The Commission should also require removable media players to render captions within the player, ensuring that captions will be delivered with high-definition video over HDMI cables. These regulations will open media for Americans who are deaf or hard of hearing, fulfilling the purpose of the CVAA to make modern media accessible to all.

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[18] *Consumer Groups Comments* at 10-12.

[19] *See CEA Comments* at 6.

[20] *See Comments of Dana Mulvany,* MB Docket No. 11-154, at 2 (Nov. 4, 2013); *see also Comments of the Advanced Access Content System Licensing Administrator, LLC,* MB Docket No. 11-154, at 3 (Nov. 4, 2013) ("[H]igh definition prerecorded motion pictures distributed on Blu-ray Discs is considered, by the companies that produce and provide that content and by the consumers who enjoy it, to be "high value," indeed often considered the highest value content distributed to consumers for enjoyment in their homes due to its high resolution video, high fidelity multi-channel audio, and its typically early release window.").

Respectfully submitted,

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