

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

COMMENTS OF DIRECTV, LLC

DIRECTV, LLC (“DIRECTV”) hereby responds to the Public Notice in which the Media Bureau called for updated information on closed captioning of video clips delivered via Internet protocol (“IP”).¹ In particular, DIRECTV focuses on the video clips distributed in connection with the NFL Sunday Ticket Max programming package. As discussed, the particular characteristics of these clips make captioning highly problematic as a technical matter. Attempting to provide captions for them would often result in a product that is garbled to a hearing-impaired viewer, and the delay required to re-caption this content could destroy the value of the service being offered. Accordingly – even assuming that the Commission has authority to require captioning of video clips – DIRECTV submits that the Commission should not extend its captioning requirements to such clips when delivered via IP.

It is worth noting at the outset that the Commission does not have the legal authority to require captioning of IP-delivered video clips. Although Congress enacted the Twenty-First

¹ See Public Notice, “Media Bureau Seeks Comment on Application of the IP Closed Captioning Rules to Video Clips,” DA 13-2392 (rel. Dec. 13, 2013) (“Public Notice”).

Century Communications and Video Accessibility Act of 2010 (“CVAA”) in order to provide people with disabilities greater access to video programming, it also recognized that it would not be appropriate to apply accessibility requirements to all types of content. Thus, for example, the CVAA specifically exempts consumer generated media from the scope of “video programming” subject to the IP closed captioning requirement.² Similarly, in the legislative history of the CVAA’s closed captioning requirements, Congress clearly stated its intention “for the regulations to apply to full-length programming and not to video clips or outtakes.”³

The wisdom of Congress’s approach is perhaps best demonstrated by video clips of live sporting events. Even full-length live sporting events present considerable challenges for closed captioning, given that the process must take place in real time and can be required to capture highly animated speech. Of necessity, the captioning of such events lags the audio commentary to some degree. As a result, when highlights are pulled from the full-length feed, the captioning does not match up with the action on screen. In addition, the process of breaking the feed into video clip highlights can cause the captioning to become garbled and unrecognizable. Recreating or restoring that captioning to a level acceptable to a hearing-impaired audience would require a new, separate captioning session for each clip. This would prove extraordinarily difficult from a business standpoint.

Moreover, engaging in this process may be of especially limited utility for video clips from live sporting events. Most fans seek out sports highlights for the action on the field, not the commentary from the booth. Indeed, the televised coverage of live sporting events today includes an increasingly rich set of on-screen graphics that already provide the most salient information to viewers in a non-audio format. During NFL telecasts, for example, the game

² See 47 U.S.C. § 613(h)(2) (definition of “video programming”).

³ S. Rep. No. 111-386, at 13-14 (2010); H.R. Rep. No. 111-563, at 30 (2010).

clock, play clock, down and distance, score, line of scrimmage, and first down marker all appear on the screen during every play. More particularized graphics throughout the game introduce players and provide in-game statistics for teams and individual players alike. Congress thus had every reason to exempt such clips from the CVAA's closed captioning requirement.

The two types of sports video clips provided by DIRECTV reflect both the difficulty of captioning IP clips, and the limited utility of doing so. DIRECTV provides such clips in connection with its NFL Sunday Ticket Max service, each of which would be difficult to caption. On any given Sunday during the professional football season, DIRECTV transmits the live feeds of up to 15 games. While those games are in progress, DIRECTV creates about 400 to 500 highlight clips for IP distribution (to mobile devices and through the DIRECTV.com web site) within minutes of the plays happening in the live games. The ability to distribute these clips so quickly is a major attraction for DIRECTV's existing and potential customer base. However, given the volume of these clips and the speed at which they are created, there is no practical way for DIRECTV to provide them in a format that includes intelligible captioning. Were the Commission to adopt new requirements for captioning of video clips, DIRECTV would no longer be able to provide this service in the timely manner expected by its subscribers. Such delay would essentially destroy the value of this service, which arises primarily from the promptness with which highlights are made available.

DIRECTV also offers another video clip service that is slightly different from the highlights described above, but is nonetheless impractical to caption. "Short Cuts" is a commercial-free replay compilation of highlights from every NFL game played in a given week, which allows subscribers to view every play from a game in thirty minutes or less. These highlight compilations are created by removing the time between plays and all other

