

Before the  
**Federal Communications Commission**  
Washington, DC

In the Matter of: )  
**Closed Captioning of Internet** )  
**Protocol-Delivered Video** )  
**Programming** ) MB Docket No. 11-154  
**Closed Captioning of Video** ) CG Docket No. 05-231  
**Programming;** )  
**Telecommunications for the** )  
**Deaf, Inc. Petition for** )  
**Rulemaking**

**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)**  
**Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN)**  
**Technology Access Program at Gallaudet University (TAP)**

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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), and the Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), collectively, “Consumer Groups,” joined by the Technology Access Program at Gallaudet University (TAP), respectfully submit this report on the closed captioning of Internet Protocol (“IP”)-delivered video clips.

This report provides data on the current state of IP-delivered video clips and segments in response to the Media Bureau’s request for comment on the application of the IP closed captioning rules to video clips. The report analyzes the percentage of captioned video clips and segments, as well as the quality of captions, from a substantial sample of IP-delivered programming.

We observed approximately 500 IP-delivered video clips and segments from different video program distributors (“VPDs”) and video programming owners (“VPOs”). We utilized different playback apparatuses and browsers, and recorded the observed frequency of captioning. In addition, we noted other issues present in the captions themselves that could interfere with the utility of the captions for viewers who are deaf or hard of hearing.

It was difficult to determine what content was a “segment” covered by the Commission’s rules or instead an uncovered “video clip.” It was also difficult to tell whether segments or clips taken together constituted a full-length program, especially for news content. Moreover, the process that VPDs used to categorize their videos often made it difficult to find all the clips that together comprised a full-length video.

Notwithstanding those difficulties, we found that the majority of excerpted videos were uncaptioned. Specifically, 54% of the 500 videos we sampled were uncaptioned. After categorizing the videos into segments and clips, we observed that:

- Only about half of all observed clips and segments were captioned, including 57% of news clips and 49% of news segments;
- There was a significant gap in captioning among different VPDs, with high levels of captioning for some and low for others; and
- Only 18% of non-news clips were captioned.

Our observations led us to three conclusions. First, the high rates of captioning we observed among *some* VPDs suggest that it is technically feasible for VPDs to caption all or nearly all of their news content. Second, the near-total lack of clip captioning from other VPDs nevertheless indicates that a substantial proportion of IP-delivered content will not be captioned in the absence of rules requiring clips to be captioned. Third, the alarmingly high percentage of uncaptioned non-news clips that we observed demonstrates the need for the Commission's rules to apply to *all* content types.

Finally, the report analyzes the quality of the available captions. We found that the majority of sampled captioned programming contained pervasive quality issues. Problems with synchronization, caption mistakes, display, and closed caption buttons were rampant in tested content. Further, most VPDs did not have a means for filtering or clearly identifying captioned content.

In light of these observations, Consumer Groups urge the Commission to apply its IP closed captioning rules to video clips. Further, we strongly encourage the Commission to take action to improve the quality of closed captions on IP-delivered programming. Finally, we urge the Commission to explore solutions that ensure that IP-delivered programming includes high-quality captions and labeling.

## Discussion

### I. Background

In 2010, Congress enacted the Twenty-First Century Communications and Video Accessibility Act (“CVAA”), which required the Commission to promulgate rules ensuring equal access to IP-delivered video programming for consumers who are deaf or hard of hearing.<sup>1</sup> In January 2012, the Commission required all “full-length” video programming to be captioned but impermissibly declined to cover “video clips” under its rules.<sup>2</sup>

In its June 13, 2013 *Order on Reconsideration*, the Commission revisited its decision not to cover video clips in response to the Consumer Groups’ petition for reconsideration.<sup>3</sup> The Commission deferred making a final decision on whether to expand captioning rules to include video clips and instead directed the Media Bureau to inquire whether entities required to caption full-length programming and segments are voluntarily captioning video clips.<sup>4</sup>

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<sup>1</sup> Pub. L. 111-260, 124 Stat. 2751 § 202(b), 203 (Oct. 8, 2010) (“CVAA”).

<sup>2</sup> See *Closed Captioning of Internet Protocol-Delivered Video Programming*, Report and Order, MB

<sup>2</sup> See *Closed Captioning of Internet Protocol-Delivered Video Programming*, Report and Order, MB Docket No. 11-154, 27 FCC Rcd. 787, 816-17, ¶¶ 44-45 (2012) (“*IP Captioning Order*”).

The Commission’s rules define full-length programming as “[v]ideo programming that appears on television and is distributed to end users, substantially in its entirety, via Internet protocol, excluding video clips or outtakes.” 47 C.F.R. § 79.4(a)(2). Video clips are “[e]xcerpts of full-length video programming.” 47 C.F.R. § 79.4(a)(12).

<sup>3</sup> See *Closed Captioning of Internet Protocol-Delivered Video Programming*, Order on Reconsideration and Further Notice of Proposed Rule Making, MB Docket No. 11-154, 28 FCC Rcd 8785, 8803-04, ¶ 30 (2013) (“*IP Captioning Recon Order*”); *Petition for Reconsideration of TDI, et al.*, MB Docket No. 11-154 (Apr. 27, 2012) (“*Consumer Groups PFR*”), available at <http://apps.fcc.gov/ecfs/comment/view?id=6017032686>.

<sup>4</sup> *Id.*

On December 13, 2013, the Commission issued a *Public Notice* seeking comment on the industry's progress in captioning IP-delivered video clips.<sup>5</sup> In the *Notice*, the Commission acknowledged the Consumer Groups' May 2013 report on the state of IP closed captioning ("*May Report*"), which noted that a significant majority of IP-delivered video clips did not include captions.<sup>6</sup> In the *May Report*, we found after testing a diverse sample of video clips on different apparatus combinations that a staggering amount of video clips were uncaptioned.<sup>7</sup>

We first noted that it was very difficult to differentiate between what content constituted a segment and what content constituted a clip.<sup>8</sup> Regardless of categorization, the vast majority of content in both groups was uncaptioned.<sup>9</sup> Specifically, 76% of segment observations and 87% of video clip observations were uncaptioned.<sup>10</sup> Further, observations of critical news programming were uncaptioned 70% of the time for segments and 77% of the time for video clips.<sup>11</sup> Observations of non-news programming were also uncaptioned at significant rates: 93% of the time for segments and 90% of the time for video clips.<sup>12</sup>

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<sup>5</sup> See *Media Bureau Seeks Comment On Application of the IP Closed Captioning Rules to Video Clips*, Public Notice, MB Docket No. 11-154, 28 FCC Rcd. 16,699 ("*Public Notice*"), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-13-2392A1\\_Rcd.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-13-2392A1_Rcd.pdf).

<sup>6</sup> *Report of TDI, et al.*, MB Docket No. 11-154, CG Docket No. 05-231 (May 16, 2013), available at <http://apps.fcc.gov/ecfs/comment/view?id=6017341205>.

<sup>7</sup> *Id.* at ii-iii.

<sup>8</sup> *Id.* at iii.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at iii.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

We also noted other systemic problems in the state of IP-delivered content.<sup>13</sup> These problems included the widespread use of poor-quality captions and failures by video programming distributors (“VPDs”) to identify captioned programming.<sup>14</sup>

Based on these findings, we urged the Commission to take action in implementing rules that ensure that consumers who are deaf or hard of hearing have access to critical IP-delivered news and other programming delivered as segments or video clips.<sup>15</sup> We also urged the Commission to adopt quality standards for television programs to ensure high-quality captions when those programs are delivered via IP.<sup>16</sup>

In the *Public Notice*, the Commission requested information on the portion of IP-delivered video clips that are captioned, the availability of captions, and the quality of captioning for IP-delivered clips.<sup>17</sup> This report provides data and analyses in response to those requests.

## II. Methodology

This report provides data on the volume of captioned IP-delivered video clips and segments and is meant to supplement and update the *May Report*. Although the *May Report* broadly observed closed captioning of many types of IP-delivered content—including full-length programming, segments, and video clips—this report focuses on excerpted content of IP-delivered programming, including video clips of news programming.

To complete this report, we tested 500 samples of IP-delivered videos from different VPDs, and recorded the observed frequency of captioning. Apart from whether programming was captioned, we also noted many other issues present in the captions

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<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Public Notice*, 28 FCC Rcd. at 16,700.

themselves as well as in the platforms used to view the content. We began testing on October 29, 2013 and concluded on November 30, 2013. We tested programming on a number of different platforms using different web browsers to eliminate any potential biases caused by specific devices or software. The platforms used in the report were a MacBook Air (OS X), a MacBook Pro (OS X), a Dell Inspiron (Windows XP), a Dell Optiplex (Windows 7 Enterprise) and an HP Pavilion (Windows 7). Web browsers used in the report were Google Chrome, Mozilla Firefox, Microsoft Internet Explorer 8 and Internet Explorer 10, and Apple Safari.

To create a diverse sample of content, we selected from a variety of news, sports, weather, cultural programs, education, and entertainment programming. More specifically, we observed:

- News clips and segments featured prominently on the national news websites of the largest broadcast networks (ABC, CBS, and NBC);
- News clips and segments of top rated programming from the three cable news outlets with the highest Nielson ratings (Fox News, CNN, and MSNBC);<sup>18</sup>
- News and sports clips and segments featured prominently on ESPN;
- News clips and segments featured prominently on PBS;
- News clips and segments featured prominently on the websites of three major broadcast network affiliates (ABC, CBS, and NBC) in the Washington, D.C. and Denver television markets; and
- Popular non-news clips and segments from top-performing major broadcast networks (ABC, CBS, Fox, NBC), PBS, and Hulu.<sup>19</sup>

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<sup>18</sup> See Katherine Fung, *Cable News Ratings: Top 30 Shows During Q3 2013*, Huffington Post (Oct. 3, 2013), [http://www.huffingtonpost.com/2013/10/03/top-cable-news-show-q3-2013\\_n\\_4038745.html](http://www.huffingtonpost.com/2013/10/03/top-cable-news-show-q3-2013_n_4038745.html).

During each test we choose content featured prominently on each program’s home page. Where available, we also navigated to each site’s “Video” page and selected clips from categories such as “Latest,” “Most Popular,” “Most Viewed,” etc., which ensured that programming that meant the most to consumers would be accounted for. We took special care to ascertain that content had also been available on television and was not web-exclusive or “online-only.”

During each test we took the following steps:

1. We loaded the browser and located the subject clip or segment;
2. We began playback of the clip or segment;
3. We verified if closed captions were available for the clip or segment;
4. If captions were available, we focused on caption quality and noted if there were any issues that could negatively impact viewer access to the content. (At the conclusion of the testing, we compiled these comments and split them into five broad categories: Synchronization Issues, Caption Mistakes, Caption Display Issues, Closed Captioning Button Issues, and Other Issues.) We also noted if the captions were user configurable;
5. If captions were unavailable or did not load, we changed the platform and/or web browser and repeated steps 1–5 for the same subject clip or segment;
6. If captions were still unavailable after the retest, we moved on to a new subject clip or segment and repeated the above steps.

The collected data is attached to this report as an appendix.<sup>20</sup>

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<sup>19</sup> *Cory Barker*, TV.com’s Network Power Rankings, Early March 2013 (Mar. 7, 2013), <http://www.tv.com/news/tvcoms-network-power-rankings-early-march-2013-whos-on-top-post-sweeps-136261293101/>.

<sup>20</sup> Appendix C.

### III. Analysis and Results

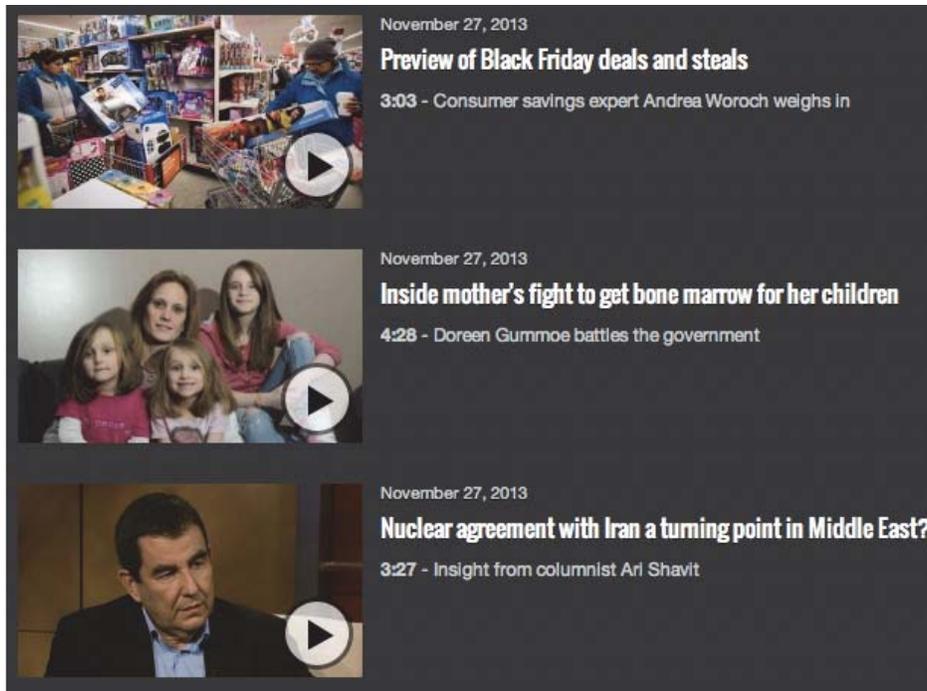
Throughout the collection process it became apparent that the distinction between segments, which are covered by the rules, and video clips, which are exempt, was generally unclear. Nevertheless, a majority of the video content we observed was uncaptioned. The programming that we tentatively categorized as “video clips” yielded a substantial amount of uncaptioned videos. Moreover, the majority of the captions on excerpted content contained quality issues made captions effectively inaccessible. Finally, it was rarely possible to identify captioned programming without first beginning video playback.

#### **A. The distinction between covered “segments” and uncovered “video clips” was frequently unclear.**

As we noted in the *May Report*, the distinction between “segments” of full-length programming covered by the Commission’s rules and “video clips” not covered by the rules is frequently unclear.<sup>21</sup> The difficulty in making this determination persisted in this report; it was often difficult to tell whether the segments or clips taken together constituted a full-length program, especially for news programming. It was also difficult—if not impossible—to locate the full-length program from which a clip or segment was excerpted to determine its status as a “clip” or “segment.” Although we occasionally determined that excerpts were from the same program, their total running time would often run from 12-16 minutes, making unclear whether the excerpts together constituted a substantial amount of the full-length program.

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<sup>21</sup> *May Report* at 5-9.



**Screenshot showing segments from the same episode of *Fox & Friends*.**

To categorize each video, we instead looked to certain indicia of segmentation, including the division of shows into labeled “parts” (e.g., *Dateline*’s “Miracle on Sunset Dive Part 1” and “The Wrong Man Part 2”), and the grouping of videos from the same episode that, when taken together, appeared likely to comprise substantially all of the episode as originally aired on television.

However, most VPDs placed all video content on the same interface without regard to the show that the content came from, and instead used different categories and topics to place certain videos with each other based on popularity, broadcast date (e.g., “Most Recent”), or picks by editors. Because it was often not feasible to view the assorted excerpts from an episode to determine if they would constitute a substantial amount of the broadcasted program, we classified excerpts in these cases as video clips rather than segments.

The screenshot shows the CBS News website interface. At the top, the CBS News logo is on the left, and navigation links for Video, US, World, Politics, Entertainment, Health, MoneyWatch, SciTech, Crime, Sports, and More are on the right. Below the logo is a search bar labeled 'Search Video'. A sidebar on the left lists various video categories: Featured, Popular, COLLECTIONS (including JFK Assassination and More News), SHOWS (including CBS This Morning, Evening News, 60 Minutes, 48 Hours, Sunday Morning, and Face The Nation), and a 'NOW PLAYING' section. The main content area features a video player for the headline 'Colorado road worker recalls making disturbing discovery'. The video player shows a construction site with a yellow excavator. Below the video player are social media sharing options (Comment, Shares, Tweets, Stumble, Email) and a 'More +' button. The video player also displays a message: 'Sorry, closed captions are not available for this video.'

Screenshot from *48 Hours* showing videos from other episodes alongside the clip.

**B. A majority of observations found uncaptioned programming.**

Only 46% of the 500 videos we observed were captioned. More specifically:

- Only about half (54%) of all observed news clips and segments were captioned—including 57% of news clips and 49% of news segments;
- The divide among captions in news clips and segments was spread unevenly among VPDs, with some VPDs captioning most or all of their clips and segments and others captioning few or none;
- Only 18% of non-news video clips were captioned.

<b>Captioned Programming in Observations of Segments and Video Clips</b>		
	<i>Video Clips</i>	<i>Segments</i>
<i>News</i>	57%	49%
<i>Non-News</i>	18%	N/A <sup>22</sup>

We included news segments because the Commission expressed the expectation that an increased amount of live or near-live programming would be captioned in the months following the implementation of captioning rules that apply to live and near-live programming.<sup>23</sup> As we discuss below, this expectation has not proven true.

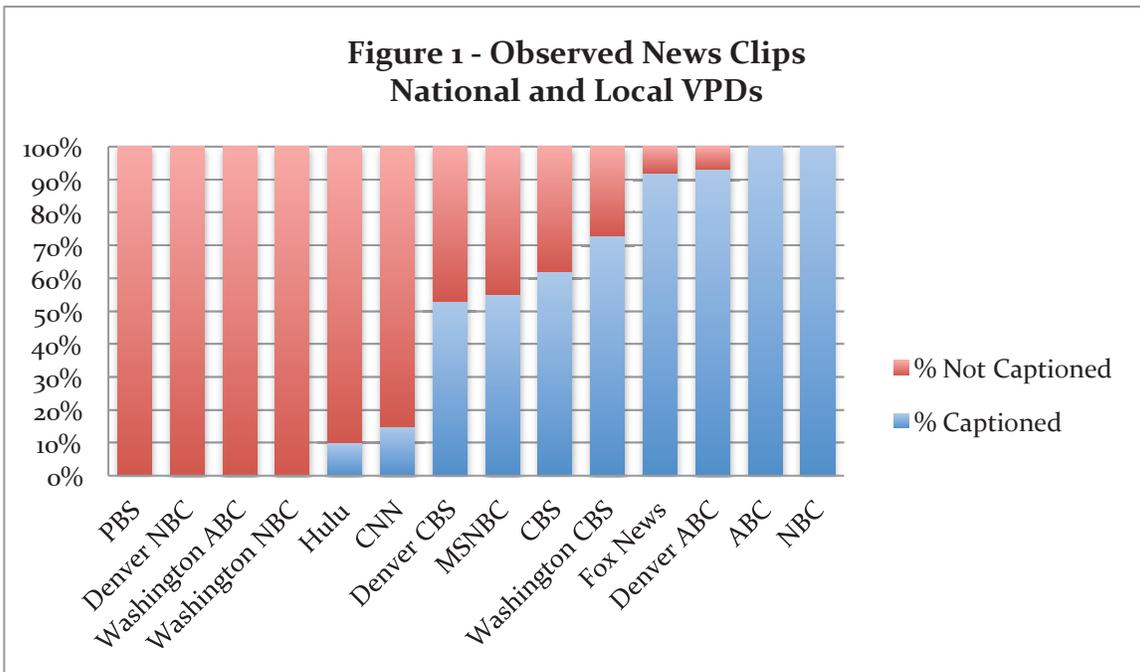
Finally, we did not encounter problems with certain platforms, operating systems, or software causing captions not to display. We found that the presence and omission of captions were consistent for both videos and VPDs regardless of the platforms used in testing. Because of these results, we are confident that the high rates of noncompliance we observed among certain VPDs cannot be attributed to hardware or software incompatibilities, but are simply the result of programs being delivered without captions.

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<sup>22</sup> We did not test non-news segments as part of this report.

<sup>23</sup> See *IP Captioning Recon Order*, 28 FCC Rcd. at 8804, ¶ 30. The compliance deadline for the captioning of live and near-live IP-delivered content was March 30, 2013. 47 C.F.R. § 79.4(b)(2). News programming is almost entirely live or near-live, and the Commission seemed to partially attribute the low rate of live or near-live captioning found in the *May Report* to its proximity to the compliance deadline. See *IP Captioning Recon Order*, 28 FCC Rcd. at 8804, ¶ 30.

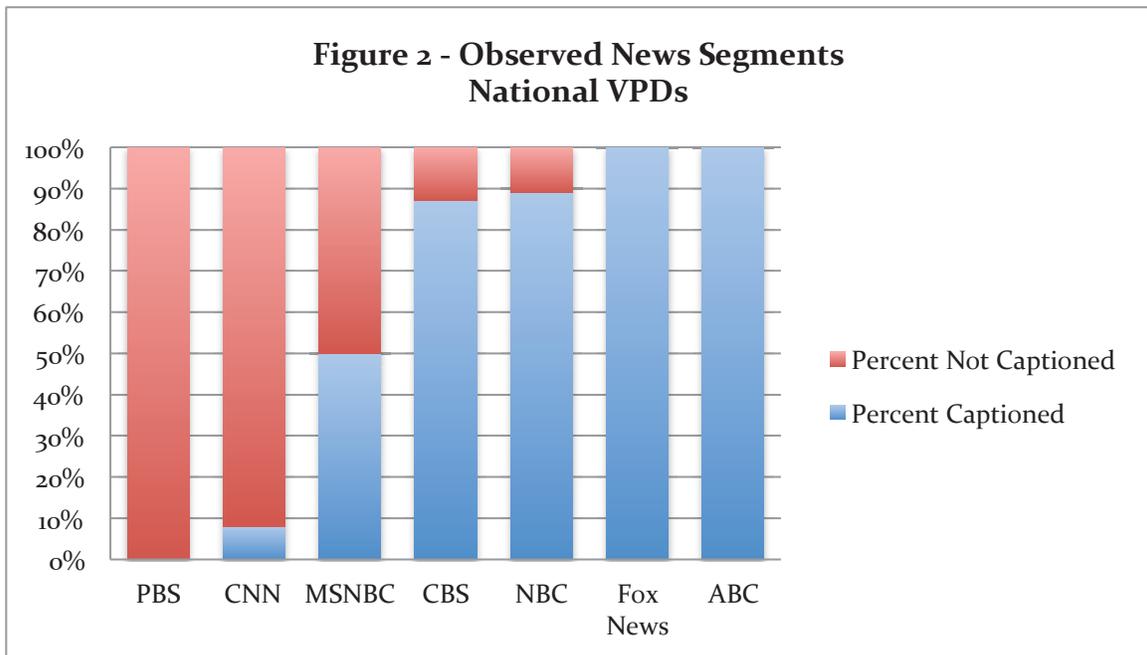
**Only 57 percent of observed news clips were captioned.** We sampled news clips from a variety of VPDs, from national cable and broadcast news providers, to local broadcast affiliates. Our testing found that out the 228 observed news clips, only 57% were captioned. As Figure 1 shows, there were national and local VPDs with extremely high percentages of observed captioned news clips, as well as national and local VPDs with very low percentages of observed captioned news clips.



The high compliance rates of ABC, NBC, Fox News, and Denver ABC demonstrate that thorough captioning of live or near-live content is an attainable goal for both national and local VPDs. Conversely, the very low compliance rates of PBS, Denver NBC, Washington ABC, Washington NBC, Hulu, and CNN show that these VPDs are not engaging in voluntary compliance in the absence of the Commission’s rules.

**Only 49 percent of observed news segments were captioned.** The captioning rates were similar for observed news segments, only 49% of which were captioned. This figure is especially troubling, as videos in this category are required to include captions. VPDs with high rates of captioning for news video clips also had the

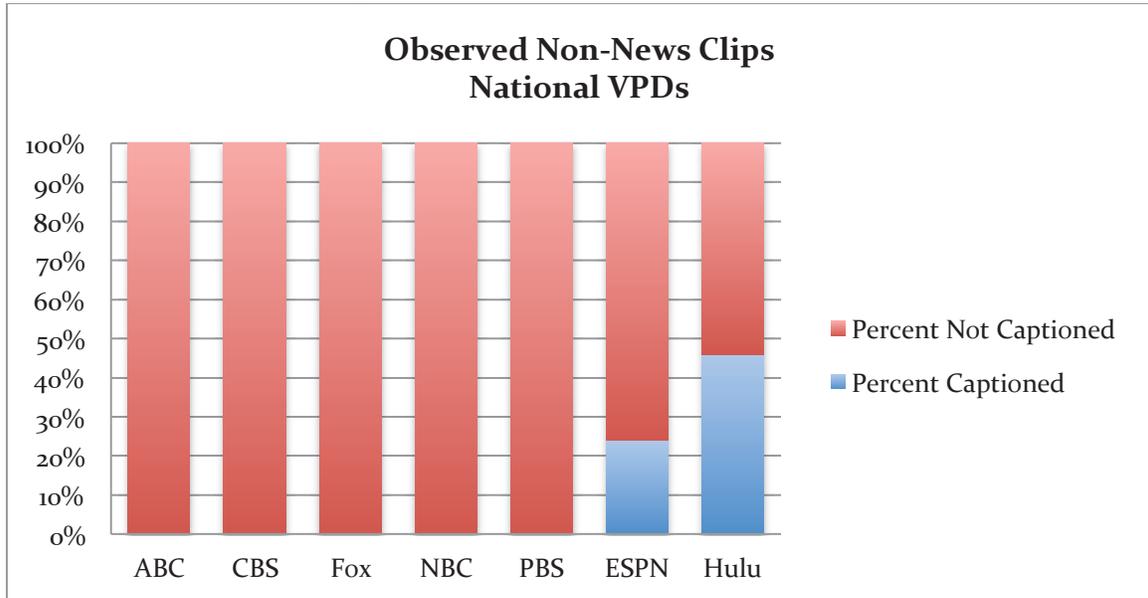
highest rates of captioning for news segments. Likewise, the VPDs with the lowest rates of captioning for news video clips were among the VPDs with the lowest rates of captioning for news video clips.<sup>24</sup> Although the observed high percentages of captioned news clips and news segments from *some* VPDs indicate that captioning of IP-delivered programming can be conducted on a large and consistent scale, the overall picture is still a frustrating one for consumers who are deaf or hard of hearing, especially if they reside in a media market in which few local VPDs provide IP-delivered captioned news clips.



**Only 18 percent of observed non-news clips were captioned.** In addition to live or near-live news programming, we included in our observations non-news, non-archival clips. Out of the 108 observed samples, only 19 were captioned—a mere 18%—as detailed in Figure 3. All of the captioned videos were live/near-live clips from Hulu

<sup>24</sup> As Figure 2 indicates, local VPDs are not represented in our data for observed news segments, as our testing did not uncover local VPD news programming delivered in segmented form.

and ESPN. The rest of the live/near live clips and all 52 of the tested non-news clips we observed did not include captions.



**C. The majority of observed captioned programming contained pervasive quality issues.**

Although this report primarily focuses on IP-delivered clip and segment programming, we also recorded other issues and observations about the quality of the captions that were available. The *May Report* noted that a significant amount of captioned programming contained serious quality problems that in effect rendered their utility to consumers who are deaf or hard of hearing useless.<sup>25</sup> Likewise, we observe in this report that 71% of captioned segments and clips had captions with quality problems sufficient to impede access to viewers who are deaf or hard of hearing.

More specifically, we found that across the board a substantial amount of IP-delivered content—49%— had synchronization issues. There were times, for example, when during video playback captions would substantially skip ahead or trail behind the

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<sup>25</sup> *May Report* at 14-15.

audio of the clip. It was nearly impossible to tell where in the video the captions should be placed when watching the content without volume, and at times the video would end before all the captions had been displayed, which essentially cut off the end of the story and negatively impacted the viewing experience.

We also found that 28% of captions contained blatant misspellings or omissions. This made the captions very difficult to understand and, at times, illegible.<sup>26</sup> Further, in some cases captions would scroll very quickly across the screen—often faster than what a reasonable viewer could read. This often happened in conjunction with synchronization issues in which the captions would fall behind the dialogue, and then quickly scroll across the screen to catch up.

On a positive note, we found that many VPDs have begun to implement user configurability for closed captions.<sup>27</sup> The menu through which captions were configured could be accessed through a simple-to-find settings button on most VPDs' video players and included many options that consumers could choose from to optimize their viewing experience, including font and size of captions, color of text, color and transparency of captions, and in some cases, the ability to automatically turn on captions. The number of VPDs that have implemented user configurability demonstrates that the rollout of the technology is well within the industry's grasp—even local VPDs such as CBS Washington 9 and Denver ABC 7 have included this technology in their video players.

Finally, we found that in some situations there were problems with the actual closed captioning “CC” button on the video player, as well as other issues that rendered captions inaccessible. For example:

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<sup>26</sup> ABC, CBS, and NBC were among VPDs with the most captioning mistakes.



#### **D. Video playback was required in most cases to identify captioned programming.**

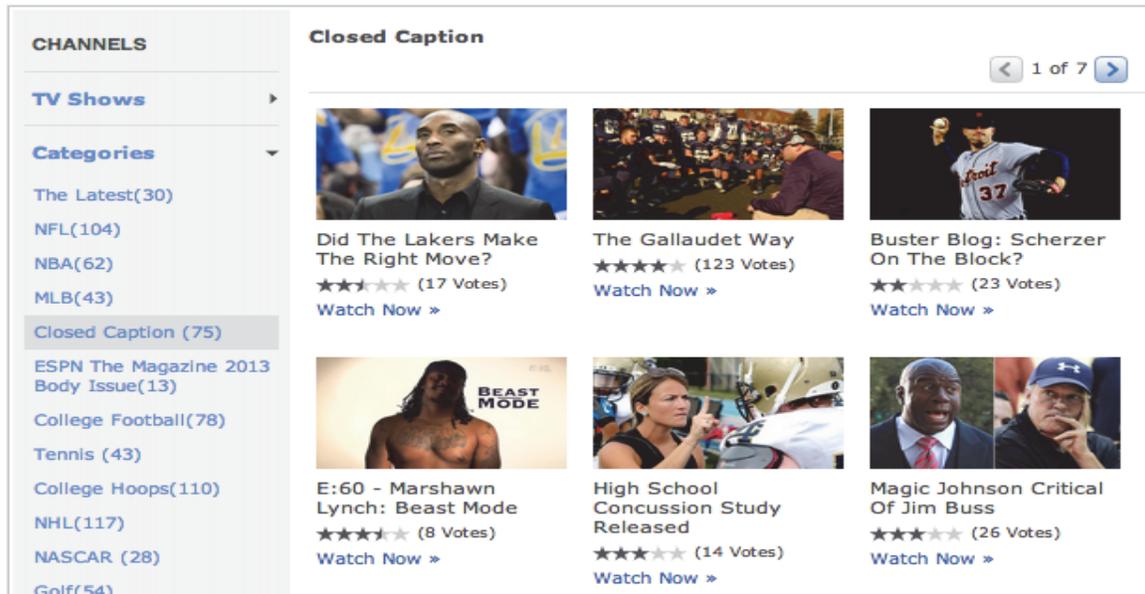
During testing, we observed that many VPDs provided no advanced indication of whether a video would be captioned, requiring a viewer to click through and play the video to determine whether it was captioned. Moreover, many video players would not display the closed captioning “CC” button until advertisements preceding the video were finished, requiring a viewer to sit through as much as 60 seconds of uncaptioned content before being able to determine whether the program itself was captioned.

However, we observed that some VPDs provide a “Closed Caption” filter and associated metadata about videos, thus eliminating the uncertainty of whether captions will be present in the video. For example, on ESPN’s video webpage a drop-bar is provided that allows viewers to select clips based on filters like show, sport, and date of posting. One option is “Closed Caption,” which allowed us to filter out uncaptioned content.

Although this solution is convenient and effective, it is incomplete because once the selection is made there is additional need for an indication of whether the video is captioned:

- First, VPD pages that feature filtered content sometimes can only be distinguished from other content by the heading at the top of the page, which often scrolls off the screen as the viewer browses through videos.
- Second, clearly identified captioned videos will make it easier for consumers to navigate to the content they are most interested in. For example, if a viewer wants to locate a captioned soccer clip, she must scroll through the selection of captioned videos until she finds one that features soccer. However, if each captioned video was clearly marked, she could filter the content by soccer instead, and quickly locate a captioned video for that sport.

- Third, if captioned content is not readily distinguishable from uncaptioned content, potential noncompliance can be masked because it is difficult for both the consumer and the Commission to compare a VPD’s captioned clips against its uncaptioned ones.



Screenshot of ESPN’s “Video” page. The Closed Caption filter is highlighted on the left.

## IV. Observations and Recommendations

### A. The Commission should extend the IP captioning rules to cover video clips.

The Commission seeks comment in the *Public Notice* on whether, as a legal or policy matter, it should require captioning of IP delivered video clips.<sup>28</sup> As we explained in the *May Report*, the Commission has acknowledged Congressional concern over whether exempting video clips from the IP captioning rules would deprive the deaf and hard of hearing community of equal access to critical areas of IP-delivered content.<sup>29</sup> Senator Mark Pryor and Senator Edward J. Markey recently underscored this concern to the Commission, noting the critical need for the Commission to cover video clips in its rules to “ensure that millions of people who are deaf and hard of hearing are not shut out from important online programming.”<sup>30</sup>

We also expressed our concern that the Commission’s reliance upon VPDs’ voluntary efforts to caption video clips would result in a low rate of captioning.<sup>31</sup> The results of this report underscore that concern. While some VPDs have greatly increased their use of captions for video clips, many others captioned few or none of their clips.<sup>32</sup> In short, it is clear that the Commission’s expectations that voluntary captioning would rise to make video clips accessible has not come to fruition.

As a legal matter, the low rate of observed captioning for news segments from these VPDs—49%—speaks to a particularly troubling trend because the segments already fall under the Commission’s IP captioning rules. For this reason, we not only urge

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<sup>28</sup> *Public Notice*, 28 FCC Rcd. at 16,700.

<sup>29</sup> *May Report* at 18 (citing *IP Captioning Report*, 27 FCC Rcd. at 817-18, ¶ 48).

<sup>30</sup> Letter from Senator Pryor and Senator Markey to Chairman Tom Wheeler, MB Docket No. 11-154, at 2 (Dec. 6, 2013), <http://apps.fcc.gov/ecfs/comment/view?id=6017479334>.

<sup>31</sup> *May Report* at 18-20.

<sup>32</sup> See discussion *supra*, Part III.B.

the Commission to include video clips in the IP captioning rules, but also request that the Commission monitor VPD compliance to ensure that VPDs and VPOs adhere to their responsibilities under the existing rules. Also troubling were the figures from the non-news clips observed during the survey. Only 18% of the observed clips in this category were captioned. The industry’s overall unwillingness to caption video clips without rules to require it suggests that the regulatory “see-saw” must swing in the direction of comprehensive rules to satisfy Congress’s intent in enacting the CVAA.

Finally, the extremely high rates of captioning displayed by some national and local VPDs indicate that widespread captioning of news content is an attainable goal for VPDs and VPOs. If some VPDs and VPOs can deliver all of their content with captions, then there is little reason to expect that other VPDs and VPOs will face technical barriers to doing so. In light of these observations, we strongly recommend that the Commission extend its IP captioning rules to include all video clips

**B. The Commission should consider the poor quality of closed captions for IP-delivered programming in promulgating quality standards for television programming.**

The Commission’s rules already require VPOs to provide captions for IP-delivered programming “with at least the same quality as the television captions provided for the same programming” and VPDs to “maintain[n] the quality of the captions provided by the [VPO] and transmi[t] captions in a format reasonably designed to reach the end user in that quality.”<sup>33</sup> If either party fails to meet these standards, the Commission may pursue enforcement actions against them.<sup>34</sup>

However, consumers who are deaf or hard of hearing have effectively no redress when IP-delivered programs contain poor quality captions if the captioning of the

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<sup>33</sup> 47 C.F.R. §§ 79.4(c)(1)(i), 2(i).

<sup>34</sup> See 47 C.F.R. § 79.4(c)

underlying television program was also of poor quality. Accordingly, the Commission should take note in its ongoing proceeding to implement television caption quality standards that those standards may also be determinative of caption quality for IP-delivered programming.<sup>35</sup>

**C. The Commission should explore solutions to ensure that IP-delivered programming with closed captions is identified clearly.**

Finally, we urge the Commission and stakeholders in the industry to develop solutions that allow for consumers to easily identify captioned content without first activating video playback. When the availability of captions is not clearly communicated it becomes increasingly difficult for these consumers to identify accessible programming. Worse, they must go through the arduous and time-consuming task of waiting through advertisements before it is even possible to verify whether programming is captioned. If programming is not captioned, the user might waste additional time rechecking content on different browsers to gauge whether captions are actually available on the video. VPDs can solve this frustrating issue easily in the short term by implementing a filtering option for captioned content. In addition, captioned content should be clearly labeled as such to allow consumers to compare easily a VPD's captioned content against its uncaptioned content.

**V. Conclusion**

We commend the Commission's continuing recognition of the importance of ensuring equal access to IP-delivered video for all Americans, including those who are deaf or hard of hearing, through the ubiquitous provision of closed captions. While the voluntary captioning of video clips by some VPDs and VPOs demonstrates that clip

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<sup>35</sup> See, e.g., *Ex Parte of TDI, et al.*, CG Docket No. 05-231 (Jan. 15, 2014), available at <http://apps.fcc.gov/ecfs/document/view?id=7521065991>

captioning is feasible, the failure to caption by many others demonstrates that the time for the Commission to act is now. The Commission should extend the IP captioning rules to video clips, implement caption quality standards for broadcast television to ensure that consumers enjoy the full benefit of both television and IP-delivered programming, and work with industry members on solutions to clearly mark captioned programming. By taking these steps, all Americans will enjoy the equal access to video programming that Congress in enacting the CVAA.

Respectfully submitted,

/s/

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