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DEC 23 2013

FCC Mail Room

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington DC 20554

CG-06-181  
CAB-CC-1321

In the matter of )  
Centroamerica TV, LLC )  
 )  
Petition for Exemption of )  
Closed Captioning Requirement )

CG-06-181

To: The Commission

**PETITION FOR EXEMPTION FROM  
CLOSED CAPTIONING REQUIREMENT**

Centroamerica TV, LLC ("CATV"), owner and operator of Centroamerica TV, a Spanish-language television channel that is dedicated to providing Central American Programming exclusively ("The Channel"), by its counsel, submits this Petition for Exemption from Closed Captioning Requirement (the "Petition") pursuant to Section 79.1(f) of the Commission's rules. This Petition should be granted because it clearly demonstrates the significant difficulty and expense of compliance with the closed captioning rules would be economically burdensome<sup>1</sup> to CATV.

**I. Background**

The Channel is a digital that was launched in September 2004, and is currently available to subscribers through various multi-video platform distributors. It is the

<sup>1</sup> See 47 C.F.R. § 79.1(f). Upon enactment of the Twenty-First Century Communications and Video Accessibility Act, Pub. L. No. 111-260, 124 Stat. 2751 (2010), ("CVAA"), the terminology used for individual exemptions from closed captioning was changed from "undue burden" to "economically burdensome." (47 U.S.C. §613(d) as amended by Sec. 202 of the CVAA). However, the Commission continues to evaluate captioning waiver petitions using the undue burden factors in Section 713(e) of the Act. See *Interpretation of the Economically Burdensome Standard, Report and Order*, 27 FCC Rcd 8831, 8834 (2012) ("Economically Burdensome Order"); see also *Anglers for Christ Ministries, Inc.*, Memorandum Opinion and Order, Order, and Notice of Proposed Rulemaking, 26 FCC Rcd 14941, 14960 (2011). ("*Anglers M&O*")

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first to feature one hundred percent (100%) Central American programming from a multitude of countries, including Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, and Panama. CATV airs a wide variety of content, ranging from sports and news programs to talk shows and travel shows. It allows U.S. viewers to celebrate their Central American roots, culture, and passions. Additionally, it provides an outlet for people of all backgrounds to participate in and witness the experiences and concerns of Central American communities in the U.S. and abroad.

**II. CATV Should be Granted an Exemption because it Satisfies the Economically Burdensome Standard**

The information provided in the corresponding sections that follow is sufficient to show that each of the relevant factors constituting the "economically burdensome" standard has been satisfied, namely: (a) the nature and cost of closed captioning for the programming; (b) the impact on the operation of the provider; (c) the financial resources of the provider; and (d) the type of operations of the provider.<sup>2</sup> Therefore, CATV respectfully urges the Commission to grant it an exemption from the closed captioning requirement.

**(a) Nature and Cost of Closed Captioning**

In order to comply with current Commission rules, CATV would need to caption all of its current content, which amounts to sixty (60) hours of programming per week, without taking into account any repeat showings. At the moment, CATV does not produce its own original content, and must air transmissions of all its programming from third parties. Accordingly, though CATV can utilize live

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<sup>2</sup> See 47 C.F.R. §79.1(f)(2); See also *Anglers M&O*, 26 FCC Rcd 14941, at 14960.

captioning services for a portion of its programming, which is typically less expensive than offline captioning, the captioning of live content airing abroad creates other technical and financial concerns. For example, facilitating cooperation with caption service providers and program providers located outside the U.S. would be extremely difficult, if not impossible in most circumstances. Such obstacles are beyond CATV's control and would likely result in errors and delays significant enough to render futile the efforts and expenses of captioning.

The channel has solicited and received numerous quotes from closed captioning providers, including those documented in Exhibit A attached hereto. Without taking into account the respective providers' quality of services or ability to perform under time constraints, the least expensive closed captioning quotes that CATV received estimated total costs of \$277,680.<sup>3</sup> However, the same vendor that provided the quote, disclosed that costs could amount to as much as \$527,280.<sup>4</sup> These estimates assume that all of the programming would support "real time" captioning and that such captioning could be preserved for repeat broadcasts of the programming. Therefore, the actual expense of captioning The Channel's programming will likely be far greater.

However, even if CATV could provide an acceptable viewing experience with "real time" captioning alone and at the least expensive rate provided, the annual cost would still be a significant expense rising to the level of "economically burdensome".

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<sup>3</sup> See Exhibit A [Calculation based on \$89 per hour of programming to provide "real time" captioning.]

<sup>4</sup> See *Id.* [Calculation based on \$169 per hour of programming to provide "real time" captioning.]

CATV has discussed sponsorship and closed captioning assistance opportunities with its' distributors, but to date has not received any indication that such support is feasible. Additionally, CATV has enlisted the services of its commercial sales representative to seek sponsorship for closed captioning, but efforts have been unsuccessful.<sup>5</sup>

**(b) The Impact of Compliance on CATV**

If required to incur the additional cost of captioning, CATV would be forced to reduce the amount and variety of programming it currently airs on the Channel. As a result, CATV would deprive U.S. based Central Americans a fulfilling and multifaceted connection to their country and culture. As the preeminent source of Central American television content, programming cuts to the Channel would deprive many U.S. viewers of their sole opportunity to receive an accurate and comprehensive portrayal of Central American people, their passions, and concerns.

Programming cuts would not only likely lead to a drop in individual subscribers to the Channel, but would put CATV at risk of being denied renewal of its distribution contracts, creating severe impediments to reaching Latino communities and those interested in learning about Central America.

As a small company, CATV is only able to operate because its family of employees goes above and beyond their duties to ensure U.S. viewers have meaningful access to Central American programming. However, if required to bear the cost of closed captioning, CATV may be forced to terminate valuable team

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<sup>5</sup> See Exhibit B attached hereto.

members and struggle to operate without the support of an adequately staffed infrastructure.

**(c) CATV's Financial Resources**

As demonstrated by the Profit and Loss Statement for 2013, attached hereto as Exhibit C, CATV's financial position is not amenable to incurring the additional cost of closed captioning services. Even using the lowest estimated quote, the cost of closed captioning would constitute over [REDACTED] of CATV's net revenue for 2013, and could exceed [REDACTED] of its annual net revenue.

Furthermore, while currently operating at a profit, CATV has allocated the majority of the surplus to secure new programming for The Channel to ensure it can honor ongoing commitments to its distributors. Additionally, existing obligations to investors and lenders restrict the use of other available funds that may be used for closed captioning.

As a result, incurring an additional expense of several hundred thousand dollars would make it impossible for CATV to comply with its' existing contractual and legal obligations. CATV understands the importance of providing equal access to traditionally underserved communities, but incurring such an unreasonable cost to close caption would effectively deny access to its programming for everyone.

**(d) CATV Operations**

CATV offers exclusive and unique programming to Spanish-speaking audiences in the United States. The Channel is the first and only of its kind to limit content to serve the needs of those seeking Central American programming exclusively.

The Channel has gained a substantial number of subscribers because it is one of the only networks that offer viewers a realistic and in-depth interaction with the many facets of Central American culture, including the diverse array of values, histories, and contemporary developments. Through its focus on Central American programming, CATV provides comfort and connectivity for immigrants and helps increase awareness of and appreciation for the Central American populace residing in the United States.

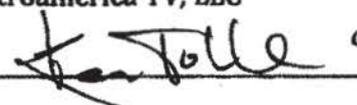
Thus far, CATV has been fortunate to exercise the requisite financial freedom to pursue these goals. It is imperative that CATV maintains current operations without the encumbrance of new and significant financial obligations so it can continue to serve as one of the pre-eminent sources of Central American representation in the United States.

### **III. Conclusion**

Based on the information provided above and as supported by the exhibits attached hereto, CATV respectfully urges the Commission to grant CATV an exemption from the closed captioning requirement as compliance would be "economically burdensome".

Respectfully Submitted,

Centroamerica TV, LLC

By:  \_\_\_\_\_

Ken Tolle  
Launch Pad Media Advisors, PC  
1127 Auraria Pkwy, Suite 103(b)  
Denver, Colorado 80204

December 20, 2013

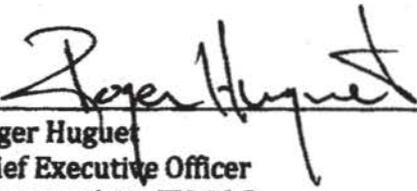
Its Attorneys

**DECLARATION**

I, Roger Huguet, declare the following:

1. I am Chief Executive Officer of Centroamérica TV, LLC ("CATV").
2. I have reviewed the foregoing Petition for Closed Captioning Exemption of CATV and all attached exhibits, including the Profit and Loss Statement for 2013 ("The Petition"). All information and statements contained in The Petition are true and correct to the best of my knowledge and belief.

I declare under penalty and perjury of the laws of the United States of America that the foregoing is true and correct. Executed on December 20, 2013.

  
\_\_\_\_\_  
Roger Huguet  
Chief Executive Officer  
Centroamérica TV, LLC

**EXHIBIT A**

**From:** Steve Holmes [mailto:Steve@abercan.com]  
**Sent:** Sunday, September 29, 2013 11:52 PM  
**To:** Carlos Padron  
**Subject:** RE: Real-time & Off-line Spanish Captioning w/ Aberdeen Broadcast Services

Hi Carlos,

Nice to connect with you on the phone Friday. I am looking forward to continuing to assess what our service would look like with your goals for the upcoming year. I would eventually like to get you, and your supervisor speaking with our head of multi-language services Joanna Scavo, as well as head of sales, Ed Gallagher, and perhaps even the owner of the company Matt Cook. I think they will be able to help me pin down the exact pricing we should be offering your operation. This, especially considering the fact this is a new endeavor for you, and also do the volume of work you would have for us to tackle. The scope of the project is large, but I am confident we are more than ready to provide a stellar service for you on the live and off-lines sides. Please be thinking of a meeting time that might work for you and your supervisor this week or next.

In the meantime, to help you for your Monday morning meeting, and until we can get our teams together, please see the following pricing ranges that could be expected.

- Live (real-time) Spanish closed captioning typically between \$89.00 to \$169.00 per hour
- Post-production (off-line) Spanish closed captioning typically between \$129.00 to \$269.00 per 30 minutes

Please realize these are simply broad stroke numbers. We could start you off in more affordable products, although still high quality, that could be something that is working towards getting your channels into FCC compliance. We could always modify the workflows moving forward. We have resources around the globe making it possible for us to deliver captioning that is geared towards the regions you've identified. We also have a technology minded team that can help you streamline your internal workflows, evidenced by our digital distribution division.

So, whether delivering a broadcast ready, closed captioned file that would require no downloading, transcoding ("flipping"), and would yield better looking picture quality, or simply furnishing the requested stand alone caption (.scc) file, we will have a solution for you.

Thank you for finding us and for the stellar opportunity to come alongside your Imagina USI  
Looking forward to hearing your thoughts.

Best regards,

*Steve Holmes*

Sales Engineer  
.....

from edit to air...we'll get you there

**Aberdeen Broadcast Services**

22362 Gilberto, Suite 120 | Rancho Santa Margarita, CA 92688

[direct] 949.216.1050 | [tfx] 800.688.6621 x207 | [cell] 949.235.1941

[24-hour emergency line] 949.902.0004



TO: Carlos Padron, Operations Manager, Imagina US

DATE: September 13, 2013

RE: Quote for Closed Captions

Thank you for the opportunity to provide you with a quote for your 4 Spanish language networks.

VITAC has been in the closed captioning business for 27 years. We have over 45 exclusive network contracts with broadcast and cable networks. In the past 7 months, VITAC has closed captioned over 10,000 hours of programming for the following Spanish language clients:

- 593 Ecuador Inc.
- KSTS - Telemundo
- WNJU - Telemundo
- WSCV - Telemundo
- Alabama Public Television
- Alma Media LLC
- Ana Perez Productions Inc.
- Caravana de La Bahia
- Cipar Esoteric
- CNN
- Discovery en Espanol
- ESPN, Inc.
- Euro Auto Imports
- Finnmax, LLC
- FOX Sports International
- Fox Sports Net - West 1
- FOX Sports San Diego
- KVDA - Telemundo San Antonio
- KVEA
- KXTX - Telemundo
- Mark Burnett Productions, Inc.
- Mojo Brands Media
- Mun2
- NBC
- PrimeTicket
- Second Church of Christ, Scientist

101 Hillpointe Drive | Canonsburg, PA 15317 | Phone 724.514.4000 | Fax 724.514.4111  
 4605 Lankershim Boulevard, Suite 250 | North Hollywood, CA 91602 | Phone 818.755.0410 | Fax 818.755.0411  
 1501 Wilson Boulevard, Suite 1003 | Arlington, VA 22209 | Phone 703.807.2766 | Fax 703.807.2761

WWW.VITAC.COM



- Stoneridge CJD/Stevens Creek CJD
- Strong, LLC
- Sunnyvale Ford Lincoln
- Telemundo
- The Universal Church - New York
- Trade Mark Advertising
- TuTV, LLC
- World Wrestling Entertainment [WWE]
- WSNS TV

Spanish > Spanish Offline		Cost/Hour	Hours/Week	Cost/Week	Cost/Year
Option #1	Roll-Up	\$265	40	\$10,600	\$551,200
Option #2	Pop-On	\$530	40	\$21,200	\$1,102,400
Spanish > Spanish Realtime		Cost/Hour	Hours/Week	Cost/Week	Cost/Year
		\$99	120	\$11,880	\$617,760
Realtime Schedule: 12 hours/day x 2 networks x 5 days week = 120 hours					

We look forward to your feedback.

Best Regards,

Maggie McDermott

**EXHIBIT B**

**From:** Kurt Pflucker <kurt@hispanicgroup.net>  
**Subject:** Re: Closed Captioning - Advertisers  
**Date:** December 18, 2013 at 3:49:22 PM EST  
**To:** Francisco Gimenez <francisco.gimenez@imaginaus.com>  
**Cc:** Kurt Pflucker <kurt@laetv.tv>

Mr Gimenez:

We have inquired but there are no advertisers interested in sponsoring closed captioning for Hispanic networks as Pasioness, TVD and CATV.

Regards

Sent from my iPhone

On Dec 18, 2013, at 1:20 PM, Francisco Gimenez <francisco.gimenez@imaginaus.com> wrote:

Dear Mr. Pflucker,

I wanted to confirm our previous discussions that there are no advertisers willing to sponsor closed captioning.

Please advise at your earliest convenience.

Thanks and best regards

**EXHIBIT C**

**Centroamerica TV Profit & Loss Statement  
2013**

<b>Profit Center</b>	<b>CATV Performance 2013</b>
	USD 000s
Affiliate Sales	\$ [REDACTED]
Advertising	\$ [REDACTED]
Other Income	
Total Sales	\$ [REDACTED]
Commission & Carriage/Distribution	
Programming/Production	\$ [REDACTED]
Tech/Duplication & Mastering	\$ [REDACTED]
Contributors	
Amortisation	
Total Staff Costs	
Marketing & Research	\$ [REDACTED]
Administrative/Office Expenses	\$ [REDACTED]
Consultancy- Legal & Professional	
Accommodation & Maintenance	\$ [REDACTED]
Miscellaneous	\$ [REDACTED]
Depreciation	
Total Costs	\$ [REDACTED]
Profit Before Interest & Tax	\$ [REDACTED]

members and struggle to operate without the support of an adequately staffed infrastructure.

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