

May 9, 2014

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: *Notice of Ex Parte Communication, MB Docket No. 11-154*

Dear Ms. Dortch:

On May 7, 2014, Stacy Fuller of DIRECTV had a telephone conversation with Diana Sokolow of the Commission's Media Bureau to discuss practical challenges involved in closed captioning of video clips delivered via Internet protocol ("IP"). In particular, Ms. Fuller provided additional detail on two products related to DIRECTV's NFL Sunday Ticket Max service that are designed to provide highlight clips within minutes or hours of the time the plays happen in the live games.

The first product provides highlight clips while games are in progress. These clips are created and distributed via IP nearly instantaneously, so that viewers can use them to see highlights of one NFL game that happen while they are watching another one. For example, a viewer watching the Redskins game would see an alert for a great play that just happened in the Giants game. The viewer can then opt to have that highlight play at that moment. When the highlight is over, he is automatically switched back to the game he was watching. Thus, these clips are viewed during the course of a game, with the viewer toggling from live action to highlight clip and back again. These highlight clips do not currently include closed captioning.

The second product, known as "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. DIRECTV offers this service both over traditional television and delivered via IP, but currently does not provide captioning in either format.¹

¹ The two versions of Short Cuts are not identical. For example, the version distributed via IP is simply a compilation of plays, and varies in length from game to game. By comparison, the television version may include more than just the plays (*e.g.*, a post-touchdown celebration), includes statistics after each quarter, and is always timed to last 30 minutes. The television version of Short Cuts is exempt from the captioning requirement due to the very limited gross revenues associated with this service. In addition, until the Commission's recent clarification, it was not at all clear that such a video-on-demand product was subject to the

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In the future, it may be possible for DIRECTV to include the same closed captioning data with these highlight clips that accompanied the video feed when it was originally transmitted over broadcast television. However, because captioning of live sports programming must be done in real time – involving transmission of the feed to a captioning firm, insertion of the captions, and return transmission of the captioning data feed – there is necessarily a delay between the spoken audio and the corresponding captioning. Thus, in a short highlight clip, most of the closed captioning data that accompanied the original television feed may have no relation to the action being displayed in the clip. In addition, when a viewer switches to a highlight clip, the decoder requires a few seconds to acquire and decode the closed captioning information, which could add incrementally to the delay.

If DIRECTV were required to recreate or resynchronize captioning on these clips, that process would introduce delays that would substantially render highlights no longer commercially viable. According to a recent *ex parte* filed by VITAC and members of the captioning industry, the process for re-captioning clips of programming originally captioned live takes “under one hour” to complete.² Add to this the time necessary for DIRECTV to process that captioning for hundreds of clips each week, and the delay would essentially render the highlights product useless.

DIRECTV is looking at how it may provide closed captioning for Short Cuts. To do so, though, would delay the availability of that product. Accordingly, DIRECTV requests that it be allowed to first distribute the product without the captioning so long as it replaces that content with a captioned version within a reasonable amount of time.

Respectfully submitted,

/s/

William M. Wiltshire
Counsel for DIRECTV

cc: Diana Sokolow

captioning rules. Nonetheless, DIRECTV is looking into the possibility of providing captioning on this service in the future.

² See Letter from Heather York to Marlene Dortch, MB Docket No. 11-154, at 3 (Apr. 3, 2014).