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Ex Parte

June 9, 2014

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Application of the IP Closed Captioning Rules to Video Clips; MB Docket
No. 11-154**

Dear Ms. Dortch:

On June 5, 2014, Jill Luckett, Senior Vice President, Program Network Policy, Stephanie Poday, Vice President and Associate General Counsel, and I, of the National Cable & Telecommunications Association, along with Susan Fox (The Walt Disney Company), Anne Lucey (CBS Corporation), Jared Sher (21st Century Fox), and Margaret Tobey (NBCUniversal), met with Maria Kirby, Legal Advisor to Chairman Wheeler, and Regina Black, Intern, Office of Chairman Wheeler. Meeting participants discussed the potential application of the IP captioning rules to video clips.

At the meeting we explained that program networks have made significant strides in voluntarily making online video clips available with captions, especially clipped news material.¹ We noted NCTA's belief that the Commission lacks authority to mandate the captioning of clips online under the CVAA;² and that, even if it had such authority, there are many reasons for the Commission to refrain from adopting such mandates.³

¹ See NCTA Comments at 3-5; NCTA Reply Comments at 3-5.

² See Letter from Diane B. Burstein, Vice President and Deputy General Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, filed in MB Dkt. No. 11-154 at 2 (June 3, 2014) ("*NCTA June 3 Letter*"); NCTA Comments at 7; NCTA Reply Comments at 2-3.

³ See NCTA Comments at 7-8; NCTA Reply Comments at 3-8.

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We explained that if the Commission nonetheless were to regulate online clips, any rules must be limited and tailored to avoid imposing significant burdens on programmers that might lead to fewer clips being posted online. Specifically, as described in detail in NCTA's previously-filed *ex parte*,⁴ any rules should apply only to "straight lift clips" longer than 15 seconds aired by a programmer and posted by that same programmer on its own website or made available through its own app after it airs the program on television with captions. We also discussed the technological challenges currently faced in repurposing television captions for use with clips online. Finally, we explained the rationale for adopting exemptions for certain online clips, including "advance" clips and time sensitive clips.

Respectfully submitted,

/s/ Diane B. Burstein

Diane B. Burstein

cc: M. Kirby
R. Black

⁴ See *NCTA June 3 Letter* at 3.