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June 24, 2014

via electronic filing

Marlene H. Dortch
Secretary, Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation
Closed Captioning of IP-Delivered Video Clips · MB Docket No. 11-154

Dear Ms. Dortch,

On June 20, 2014, I spoke separately via telephone with Maria Kirby of Chairman Wheeler's Office and Karen Peltz Strauss of the Consumer and Governmental Affairs Bureau about the above-referenced docket. I commended the Commission's pending action to require closed captioning for Internet Protocol ("IP")-delivered video clips and Chairman Wheeler's commitment to ensure that "[t]hose who hear with their eyes [are not] disadvantaged in their ability to access video information on the Internet."[1] More specifically, we discussed:

- *Time-Sensitive Video Clips*. I noted that industry commenters had yet to provide a definition for "time-sensitive" video clips that might warrant a grace period for posting captions. Deaf and hard of hearing consumer groups have acknowledged the industry's concerns about the need to quickly post without captions a small subset of videos that have the potential to "go viral" and garner substantial advertising revenue, leaving a short grace period thereafter to post captions for the video.[2] However, I reiterated the groups' strong objections to any broad categorization of "time-sensitive" clips and noted that the industry should bear the onus of articulating a workable definition that encompasses only *truly* "time-sensitive" clips and not, for example, all live programming—an untenable result that would continue to deny viewers who are deaf or hard of hearing access to breaking news clips and other critical programming. I also reiterated the need for the Commission to limit the length of any grace period, and to ensure that the period becomes smaller over time and eventually sunsets.[3]

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[1] Chairman Tom Wheeler, *Access to the Underserved: Keeping Up with the Times* (June 20,2014), http://www.fcc.gov/blog/access-underserved-keeping-times.

[2] *Ex Parte of Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)*, at 3 (June 13, 2014), *available at* http://apps.fcc.gov/ecfs/document/view?id=7521314266.

[3] *Id.*

- *Small-Market Broadcasters.* I reiterated that the consumer groups are sensitive to the potential impact of a clip-captioning requirement on small broadcasters, but that no commenter had offered a specific proposal for possible relief or any evidence to support it.[4] I also reiterated the groups' inability to evaluate or support such a proposal without substantially more information.
- *Clip Caption Quality.* I encouraged the Commission to apply its existing quality rules for IP-delivered full-length programming, which requires captions to be provided and delivered "with at least the same quality as the television captions for the same programming," to the provision of captions for clips.[5] I noted that this strong baseline is critical not to establish a predicate for aggressive enforcement action by the Commission, but simply to ensure that programmers have appropriate incentives to incorporate quality considerations as they develop workflows to provide captioned clips.

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Please don't hesitate to contact me if you have any questions regarding this filing.

Respectfully submitted,

/s/

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Cc:
Maria Kirby, Office of Chairman Wheeler
Clint Odom, Office of Commissioner Rosenworcel
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Karen Peltz Strauss, Consumer and Governmental Affairs Bureau
Senator Edward Markey
Senator Mark Pryor

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[4] *Id.* at 2.

[5] *See* 47 C.F.R. § 79.4(c)(1)(i), (c)(2)(i).