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June 25, 2014

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

Re: *MB Docket No. 11-154*

Dear Ms. Dortch:

Microsoft Corp. (“Microsoft”), through counsel, writes to address the captioning of Internet Protocol-delivered video clips. Microsoft has long been committed to ensuring that people with disabilities can enjoy the same unfettered, meaningful access to communications technologies as other Americans. This February, Microsoft’s first-ever Super Bowl advertisement focused on the many ways Microsoft’s technology has been used to empower people of all abilities<sup>1</sup> and Microsoft’s next-generation Xbox One’s closed captioning functionality has been highly praised.<sup>2</sup>

As the Commission considers revising its IP closed captioning rules to cover video clips, Microsoft has one request: that the Commission maintain a workable scope and apportionment of responsibility in any online video clip closed captioning requirements. To that end, we urge the Commission to adopt for video clips the same exemption that exists in the television closed captioning rules for promotional material.<sup>3</sup> Such a targeted exemption is sensible since online advertisement clips that contain programming that has been captioned on television frequently are “trailers” or excerpts intended to promote the consumer to view a full-length program or film. These promotional “trailers” have a short shelf life and limited economic value and are of less utility to consumers. As the Commission recognized when it promulgated its television closed captioning rules, “[a]dvertising is generally regarded as ancillary to the main programming

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<sup>1</sup> <http://www.microsoft.com/en-us/news/stories/empoweringusall/index.html>

<sup>2</sup> Daniel Hubbell, *Marlee Matlin: Xbox One Opened a New Gateway to Closed Captioned Movies and TV* (Mar. 18, 2014), <http://blogs.msdn.com/b/accessibility/archive/2014/03/18/xbox-one-opened-a-new-gateway.aspx>.

<sup>3</sup> To be clear, we ask that this exemption be located in the online closed captioning rules and apply to clips of full-length video programming used as promotional material when the underlying video programming has been shown on television with captions.

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content.”<sup>4</sup> This is particularly true where, as here, the advertising promotes watching an underlying full-length program. Importantly, an exemption for promotional material would not affect the captioning requirements applicable to the underlying works being promoted.

Microsoft also wants to express agreement with the views of National Cable & Telecommunications Association (“NCTA”) and National Association of Broadcasters (“NAB”) that the Commission should not regulate video clips on third-party sites and applications.<sup>5</sup> As NCTA and NAB have documented, the widespread distribution of clips and lack of central control mitigates against regulating content on third-party distribution platforms. If the Commission views this question differently, we request the Commission retain the current allocation of responsibility between VPOs and video programming distributors (“VPDs”) established in the existing IP closed captioning rules.

\* \* \*

Please direct any questions to the undersigned.

Sincerely,



Gerard J. Waldron  
Daniel Kahn  
*Counsel for Microsoft Corp.*

cc: Mr. Steven Broeckaert  
Ms. Michelle Carey  
Ms. Rosaline Crawford  
Mr. Eliot Greenwald  
Mr. Gregory Hlibok  
Ms. Mary Beth Murphy  
Ms. Alison Neplokh  
Mr. Jeff Neumann  
Ms. Suzy Rosen Singleton  
Ms. Diana Sokolow  
Ms. Karen Peltz Strauss

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<sup>4</sup> *Closed Captioning and Video Description of Video Programming*, Report and Order, 13 FCC Rcd 3272, 3345 ¶ 152 (1997).

<sup>5</sup> See NCTA *Ex Parte* Submission, MB Docket No. 11-154 (June 3, 2014); NCTA & NAB *Ex Parte* Submission, MB Docket No. 11-154 (June 13, 2014).