



June 26, 2014

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

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

Dear Ms. Dortch:

On June 24, 2014, Lonna Thompson, Executive Vice President, Chief Operating Officer, and General Counsel of the Association of Public Television Stations (APTS); Thomas Anderson, Legal Intern, APTS; and Thomas Rosen, Senior Counsel of the Public Broadcasting Service (PBS) met telephonically with Michelle Carey, Mary Beth Murphy, Steven Broeckaert, and Diana Sokolow of the Federal Communications Commission Media Bureau.

The purpose of the meeting was to discuss the consideration being given by the FCC to eliminating the exemption for video clips from the Commission's captioning rules for programming delivered via Internet protocol (IP). Public television shares the concern of the Commission that all Americans, including those who are deaf or hard of hearing, have access to broadcast television programming on all platforms. Built on the principle of universal service, the nation's public television system has led the industry in ensuring that persons with disabilities have access to a diverse range of high-quality video programming services. Public television has long been committed to expanding the captioning of IP-delivered video programming.

At the same time, this experience has taught us that captioning IP-delivered video programming presents a number of technical and operational challenges that are unique to the online environment. These challenges can be particularly acute for local public television stations with limited financial resources. Therefore, public television urges the Commission to carefully balance any new online closed captioning regulations in the following three ways.

First, the implementation timeframe for any requirement to caption IP-delivered video clips needs to be sufficient to account for the significant challenges that such a requirement would present. The Commission should allow at least 18 months from adoption of the rules to comply with such a requirement for straight lift clips, and additional time for edited clips. The technology used for

captioning video clips is still developing. At this time, captioning clips is a time-consuming and labor-intensive process, so the timetable for implementation should be scheduled to allow for the necessary software to develop. Furthermore, production contracts for video programming and the budgets for such contracts are often finalized over a year in advance, and sufficient lead time for compliance is necessary to build captioning for IP-delivered clips into those agreements.

Second, any requirement to caption IP-delivered video clips should not apply to archival clips, including any clips that are on a video programming distributor's website prior to the compliance deadline. While PBS designed its online video distribution system to support closed captioning long before required to do so and the PBS KIDS online video portal has voluntarily captioned clips to the greatest extent feasible for years, PBS has over 60,000 video clips on its websites and it would be unduly economically burdensome to require captioning of all existing online clips. Applying a captioning requirement to archival clips would impose an enormous financial cost on local public television stations and would require significant personnel resources, which would risk impeding many ongoing initiatives to serve local communities. Any requirement to caption IP-delivered video clips should be prospective in nature only.

Third, if the Commission decides to expand the online captioning rules to include video clips, then it should clarify that any excerpts from a full-length program need not be captioned online when the full-length version is also available online with closed captions. As APTS and PBS noted in reply comments filed on March 5, 2014, the Commission is appropriately concerned that all American citizens have access to news and public affairs programming, which "plays the vital role of ensuring an informed citizenry."<sup>1</sup> The Commission indicated when the Report and Order was adopted that it would consider expanding the online closed captioning rules to include video clips if "consumers who are deaf or hard of hearing are not getting access to critical areas of programming, such as news, because of the way the programming is posted (e.g., through selected segments *rather than* full-length programs)."<sup>2</sup> Public television posts news and public affairs programming online in both a full-length format with closed captions and with excerpts that are not currently captioned due to resource limitations. This critical programming is available to consumers who are deaf or hard of hearing because the selected segments are being posted *in addition to* the online captioned full-length version, not instead of that version. If the Commission requires video clips to be captioned, then it should make sure to clarify that captioning clips is not necessary in instances where those clips are excerpts from a full-length program that is also available online in full with captions.

While public television continues to assert that the Commission's authority over captioning of IP-delivered content is limited under the Twenty-First Century Communications and Video Accessibility

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<sup>1</sup> Reply Comments of the Association of Public Television Stations and the Public Broadcasting Service, *Public Notice*, Media Bureau Seeks Comment on Application of the IP Closed Captioning Rules to Video Clips, MB Docket No. 11-154 (rel. Dec. 13, 2013); In the Matter of Closed Captioning of Internet Protocol-Delivered Video Programming, *Report and Order*, at ¶ 48 (rel. Jan. 13, 2012).

<sup>2</sup> *Report and Order*, at ¶ 48 (emphasis added).

Act of 2010 to full-length programming,<sup>3</sup> the above facets of potential clip captioning regulations would improve any such rules being contemplated by the Commission.

Respectfully submitted,

/s/ \_\_\_\_\_

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/s/ \_\_\_\_\_

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cc: Chairman Tom Wheeler  
Commissioner Mignon Clyburn  
Commissioner Jessica Rosenworcel  
Commissioner Ajit Pai  
Commissioner Michael O’Rielly  
Michelle Carey  
Mary Beth Murphy  
Steven Broecker  
Diana Sokolow

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<sup>3</sup> Reply Comments, *supra*, at 3-5.