Congress of the United States
Washington, DC 20515

January 10, 2012

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Genachowski:

As authors of the 21st Century Communications and Video Accessibility Act of 2010 (CVAA), we are writing to express our view on the congressional intent of Section 202(b) of the CVAA, which requires captioning of video programming delivered using Internet Protocol (IP). It is our hope that our comments will help to inform and guide the Commission as it promulgates the rule implementing this important CVAA mandate.

As you know, Section 202(b) requires video programming to be captioned online after it has been broadcast on television following the effective date of the rule. The Senate and House Reports relating to this provision state that Congress "intends, at this time, for the regulations to apply to full-length programming and not to video clips or outtakes." This statement was intended to mean that televised programs of short duration – such as advertisements and interstitials, promotional announcements and public service announcements – are not required to be captioned online. This interpretation is consistent with the Commission's current closed captioning rules for televised programming and also could be construed to exclude televised trailers and program teasers from the new IP captioning obligations, as these also are types of promotional content.

In crafting this section, it was our intent that full-length programming that has been broadcast on television with captions after the effective date of the Commission's rule be shown with captions when the programming is delivered using IP even if such programming is shown on the Internet in segments and even when some but not all segments are posted online. Americans increasingly are accessing online news, information and entertainment in such segments, which are excerpted from full-length television programming, rather than watching programs in their entirety. It is therefore critical that individuals with disabilities also are able to access such segments of full-length television programming via IP captions when the programming is posted online. Failure to apply Sec. 202(b)'s IP captioning requirements to such segments of full-length television programming would deny significant civic, educational and entertainment opportunities to millions of Americans with disabilities. Accordingly, exclusion of such video program segments from Sec. 202(b) captioning obligations would be inconsistent with the CVAA's purpose, namely to "help ensure that individuals with disabilities are able to fully utilize communications services and equipment and better access video programming."

We appreciate the Commission's diligence and sustained efforts to implement this sweeping new statute.

Sincerely,

Edward J. Markey

Edward Markey
U.S. Representative

Mark Pryor

Mark Pryor
U.S. Senator

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