

## SUPPORTING STATEMENT

### A. *Justification*

Section 713 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 613, which was added pursuant to section 305 of the Telecommunications Act of 1996, requires the Commission to prescribe rules and implementation schedules for closed captioning of video programming. In enacting section 713, Congress generally required that video programming be closed captioned, regardless of distribution technology, to ensure access to persons who are deaf and hard of hearing. On February 20, 2014, the Commission adopted *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc. Petition for Rulemaking*, CG Docket No. 05-231, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 29 FCC Rcd 2221 (2014), published at 79 FR 17911 (March 31, 2014) (*Closed Captioning Quality Report and Order*). The purpose of this submission is to extend the collection for the closed captioning rules (found in 47 C.F.R. § 79.1), add the collections adopted in the *Closed Captioning Quality Report and Order*, and update the estimates of existing burdens that were included in the March 2014 Paperwork Reduction Act (PRA) submission to the Office of Management and Budget (OMB).

#### **History:**

On August 22, 1997, the Commission adopted rules and implementation schedules for the closed captioning of video programming. *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Video Programming Accessibility*, MM Docket No. 95-176, Report and Order, 13 FCC Rcd 3272 (1997), published at 62 FR 48487 (September 16, 1997) (*Closed Captioning Report and Order*). In the *Closed Captioning Report and Order*, the Commission took the following actions, among others:

- (a) Placed responsibility for compliance with the closed captioning rules on video programming distributors (VPDs);
- (b) After a phase-in period, required that 95% of non-exempt “new” English language programming (analog programming first published or exhibited on or after January 1, 1998) be closed captioned as of January 1, 2006;
- (c) After a phase-in period, required that 75% of non-exempt “pre-rule” English language programming (analog programming first published or exhibited before January 1, 1998) be closed captioned as of January 1, 2008;
- (d) Established exemptions from the closed captioning rules for several classes of programs or services;
- (e) Established procedures for seeking individual exemptions from the closed captioning rules if the requirements would impose an undue burden;<sup>1</sup>

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<sup>1</sup> In 2010, the standard for individual exemptions was changed from “undue burden” to “economically burdensome.” See Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), Pub. L. No. 111-260 § 202(c), 124 Stat. 2751 (2010). See also *Interpretation of Economically Burdensome Standard*;

- (f) Permitted the use of electronic newsroom technique (ENT) to create closed captions of live programming;
- (g) Established a complaint procedure, found in 47 C.F.R. § 79.1(g).

On October 2, 1998, the Commission adopted an Order on reconsideration. *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Video Programming Accessibility*, MM Docket No. 95-176, Order on Reconsideration, 13 FCC Rcd 19973 (1998), published at 63 FR 55959 (October 20, 1998) (*Reconsideration Order*). Among other things, the Commission:

- (a) Increased from 95% to 100% the amount of non-exempt new English language programming that must be captioned;
- (b) Imposed a closed captioning requirement on Spanish language programming, and established a 12-year transition period for new Spanish language programming to be 100% captioned as of January 1, 2010; and a 14-year transition period for pre-rule Spanish programming to be 75% captioned as of January 1, 2012; and
- (c) Granted, in part, petitions for reconsideration regarding the use of electronic newsroom technique, and limited the circumstances in which this method of captioning may be permitted to count toward the captioning requirement for live programming.

On July 31, 2000, the Commission adopted a Report and Order requiring an increasing amount of digital programming to be captioned in a format that can be recovered and displayed by decoders meeting the EIA-708 standard.<sup>2</sup> *Closed Captioning Requirements for Digital Television Receivers; Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility*, ET Docket No. 99-254, MM Docket No. 95-176, Report and Order, 15 FCC Rcd 16788 (2000), published at 65 FR 58467 (September 29, 2000) (*DTV Closed Captioning Order*). The *DTV Closed Captioning Order*:

- (a) Adopted the same benchmark transition period for new and pre-rule digital programming as exists for analog programming;
- (b) Established July 1, 2002, as the date for determining whether digital programming is new programming or pre-rule programming.

On November 7, 2008, the Commission amended its rules to provide for more efficient complaint processes and methods for consumers to contact VPDs with concerns about closed captioning. *Closed Captioning of Video Programming; Closed Captioning Requirements for Digital Television Receivers*, CG Docket No. 05-231, ET Docket No. 99-254, Declaratory Ruling, Order, and Notice of Proposed Rulemaking, 23 FCC Rcd 16674 (2008), published at 74 FR 1594 (January 13, 2009) (*2008 Closed Captioning Declaratory Ruling and Order*). The Commission took the following actions, among others:

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*Amendment of Section 79.1(f) of the Commission's Rules; Video Programming Accessibility*, CG Docket No. 11-175, Report and Order, 27 FCC Rcd 8831, 8834-35, ¶¶ 7-9 (2012) (*Economically Burdensome Order*) (amending 47 C.F.R. 79.1 § 79.1(f) to implement the change from "undue burden" to "economically burdensome").

<sup>2</sup> EIA-708-B is the standard adopted by the Electronics Industries Alliance for digital closed captioning.

- (a) Amended rules regarding the filing of complaints concerning alleged violations of the closed captioning requirements; the forwarding of complaints filed with the Commission; and the required time for response by the responsible VPD.
- (b) Required VPDs to provide contact information to viewers and subscribers for the receipt and handling of immediate closed captioning concerns and to file complaints, to place this information in on their Web sites, in directories, and in billing statements, to file this information with the Commission for posting on the Commission's Web site, and to notify the Commission within 10 business days each time there is a change in any of the required contact information.

On December 4, 2009, the Commission adopted an Order amending 47 C.F.R. § 79.1(i)(3) to permit VPDs to submit the required contact information through an electronic webform as an alternative to the email and paper filing options already provided for under the rule. *Closed Captioning of Video Programming*, CG Docket No. 05-231, Order, 24 FCC Rcd 14837 (2009).

On October 20, 2011, the Commission adopted a Memorandum Opinion and Order reversing a prior Commission order granting individual petitions for exemption. The reversal order described the information and documentation that a petitioner must provide to satisfy the four factors that the Commission must consider when determining whether to grant or deny a petition for exemption. *Anglers for Christ Ministries, Inc.; New Beginning Ministries; Petitioners Identified in Appendix A; Interpretation of Economically Burdensome Standard; Amendment of Section 79.1 of the Commission's Rules; Video Program Accessibility*, CG Docket No. 06-181, CG Docket No. 11-175, Memorandum Opinion and Order, Order, and Notice of Proposed Rulemaking, 26 FCC Rcd 14941 (2011), published at 76 FR 67376 (November 1, 2011), 76 FR 67377 (November 1, 2011), 76 FR 67397 (November 1, 2011) (*Anglers Reversal Order*).

On February 20, 2014, the Commission adopted rules governing the quality of closed captioning on television. *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc. Petition for Rulemaking*, CG Docket No. 05-231, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 29 FCC Rcd 2221 (2014), published at 79 FR 17911 (March 31, 2014) (*Closed Captioning Quality Report and Order*). The Commission took the following actions, among others:

- (a) Required VPDs to make best efforts to obtain certification from video programmers that their programming (i) complies with the captioning quality standards established in the Report and Order; (ii) adheres to the Best Practices for video programmers set out in the Report and Order; or (iii) is exempt from the closed captioning rules under one or more properly attained and specified exemptions.
- (b) Adopted additional requirements and a "compliance ladder" for broadcasters that use ENT.
- (c) Required VPDs to keep records of their activities related to the maintenance, monitoring, and technical checks of their captioning equipment.
- (d) Required that petitions requesting an exemption based on the economically burdensome standard and all subsequent pleadings, as well as comments, oppositions, or replies to comments, be filed electronically in accordance with 47 C.F.R. § 0.401(a)(1)(iii) instead of as a paper filing. Comments, oppositions, or replies to comments must be served on the

other party, by delivering or mailing a copy to the last known address in accordance with 47 C.F.R. § 1.47 or by sending a copy to the e-mail address last provided by the party, its attorney, or other duly constituted agent, and must include a certification that the other party was served with a copy..

### ***FINAL INFORMATION COLLECTION REQUIREMENTS***

- (a) Petitions for individual exemption. Pursuant to 47 C.F.R. § 79.1(f), a video programming provider, video programming producer, or video programming owner may petition the Commission for a full or partial exemption from the closed captioning requirements based upon a showing that the closed captioning requirements will be economically burdensome.<sup>3</sup> Petitions and all subsequent pleadings must be filed electronically in accordance with 47 C.F.R. § 0.401(a)(1)(iii). Comments or oppositions to the petition and replies to comments or oppositions must be filed electronically, served on the other party, and must include a certification that the other party was served with a copy.
- (b) Complaints alleging violations of the closed captioning rules. In response to a complaint, a VPD must provide the Commission with sufficient records and documentation to demonstrate that it is in compliance with the Commission's rules. The Commission will review the complaint, including all supporting evidence, and determine whether a violation has occurred, and the Commission shall, as needed, request additional information from the video programming provider.
- (c) Provision of contact information to viewers, subscribers, and FCC. Pursuant to 47 C.F.R. § 79.1(i), VPDs must make available to consumers and provide to the FCC for posting on the FCC's website: (1) contact information for the receipt and handling of immediate closed captioning concerns; and (2) contact information for the receipt and handling of written closed captioning complaints.
- (d) Records of monitoring and maintenance activities. Pursuant to 47 C.F.R. § 79.1(c)(3), VPDs must maintain, for a minimum of two years, records of their monitoring and maintenance activities to ensure that captioning equipment and other related equipment are maintained in good working order and that captions are passed through to viewers.
- (e) ENT compliance. If the Commission identifies a pattern or trend of possible noncompliance with 47 C.F.R. § 79.1(e)(11) by a broadcast station, the station must respond within 30 days by describing corrective measures taken. If the Commission identifies a further pattern or trend of possible noncompliance with 47 C.F.R. § 79.1(e)(11), within 30 days, the station must submit a corrective action plan and must also conduct spot checks of its ENT performance and report the results 180 days after the submission of the action plan.
- (f) ENT progress report. Pursuant to 47 C.F.R. § 79.1(e)(11)(v), broadcast stations that use the enhanced ENT procedures must prepare and submit to the Commission a one-time report on their experiences with such procedures.

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<sup>3</sup> See also <http://www.fcc.gov/encyclopedia/economically-burdensome-exemption-closed-captioning-requirements> (providing instructions for filing individual petitions, including a description of the information and documentation that a petitioner must include to support an individual petition based on economic burden).

(g) Caption quality certification.

(1) Pursuant to 47 C.F.R. § 79.1(j)(1), VPDs must exercise best efforts to obtain a certification from each video programmer from which the distributor obtains programming stating (i) that the video programmer's programming satisfies the caption quality standards of 47 C.F.R. § 79.1(j)(2); (ii) that the video programmer has adopted and follows the Best Practices set forth in 47 C.F.R. § 79.1(k)(1); or (iii) that the video programmer is exempt from the closed captioning rules under one or more properly attained exemptions. VPDs must report non-certifying video programmers to the Commission.

(2) Pursuant to 47 C.F.R. § 79.1(k)(1)(iv), video programmers adopting Best Practices must certify to VPDs that they adhere to Best Practices for video programmers and must make such certifications widely available to VPDs.

(h) Video programmer agreements with captioning vendors. Pursuant to 47 C.F.R. § 79.1(k)(1)(i), video programmers adopting Best Practices must include specified performance and other requirements in new or renewed agreements with captioning vendors; provide to captioning vendors and make available in a centralized location appropriate staff contacts for the resolution of captioning issues; maintain a log of reported captioning issues from the current and prior years; and develop procedures for troubleshooting consumer captioning complaints within the distribution chain.

(i) Real-Time (Live) Captioning Vendors Best Practices. Pursuant to 47 C.F.R. § 79.1(k)(2)(i), (ii), (iii), and (xiii), real-time captioning vendors must perform frequent and regular evaluations and audits to ensure that minimum acceptable standards established by the vendor are maintained and must regularly review discrepancy reports in order to correct issues and avoid future issues.

(j) Real-Time Captioners Best Practices. Pursuant to 47 C.F.R. § 79.1(k)(3)(vi), real-time captioners must file thorough discrepancy reports with the captioning vendor in a timely manner.

(k) Offline (Prerecorded) Captioning Vendors Best Practices. Pursuant to 47 C.F.R. § 79.1(k)(4)(viii), offline captioning vendors must create or designate a manual of style to be applied in an effort to achieve uniformity in presentation and must employ frequent and regular evaluations to ensure standards are maintained.

The statutory authority for this information collection is section 713 of the Act, 47 U.S.C. § 613, and implemented at 47 C.F.R. § 79.1.

2. The parties who are involved in these information collections, why they are involved, and how the information that they provide is to be collected and used, is as follows:
  - (a) Consumers submit complaints to the FCC about potential violations of the FCC's closed captioning requirements, and broadcasters and MVPDs may respond to these complaints. The FCC uses the consumer complaints and responses to consumer complaints to inform its judgment about how the rules are working and whether consumers and VPDs understand

- their respective obligations under the rules; these complaints and responses also are used for enforcement purposes.
- (b) The contact information that VPDs provide to consumers through bills and in published directories, as well as the information on the VPDs' Web sites and information VPDs submit to the FCC's website or send to the FCC for placement on the FCC's Web site, is used by consumers to contact the VPDs with captioning-related questions, concerns or complaints.
  - (c) The information submitted as part of, or in response to, a petition for individual exemption pursuant to 47 C.F.R. § 79.1(f) is used by the FCC to determine whether an individual exemption is warranted.
  - (d) The records maintained by VPDs of the VPDs' monitoring and maintenance activities and submitted to the FCC upon request are used by the FCC to determine whether VPDs have monitored their equipment and signal transmissions, performed technical equipment checks, and promptly undertaken repairs as needed to ensure that equipment is operational and in good working order and that captions are passed through to consumers.
  - (e) The information submitted in response to notification of a pattern or trend of noncompliance with 47 C.F.R. § 79.1(e)(11) by a broadcast station using ENT is used by the FCC to ensure compliance with the ENT requirements; this information also could be used for enforcement purposes.
  - (f) The information submitted as part of the ENT Progress Report is used by the FCC to inform its judgment about how the ENT rules are working and the extent to which they are successful in providing full and equal access to live programming for individuals who rely on captions to watch television.
  - (g) The certifications from captioning vendors that video programmers following Best Practices must obtain pursuant to 47 C.F.R. § 79.1(k)(1)(iv) are used to promote the creation of high quality closed captions for video programming.
  - (h) The information submitted by VPDs to the FCC regarding video programmers who do not make the certifications required by 47 C.F.R. § 79.1(j)(1) widely available upon request is used by the FCC to inform its judgment about how the closed captioning rules are working and to inform the public as to the identity and number of video programmers that are not providing the certification.
  - (i) The provisions required for video programmers adopting Best Practices pursuant to 47 C.F.R. § 79.1(k)(1)(i) regarding agreements with captioning vendors, 47 C.F.R. § 79.1(k)(1)(iii)(C) regarding provision of contact information, 47 C.F.R. § 79.1(k)(1)(iii)(D) regarding maintaining a log of reported captioning issues, and 47 C.F.R. § 79.1(k)(1)(iii)(E) regarding development of procedures for troubleshooting captioning complaints, will help ensure the creation of high quality closed captions for video programming, make it possible to resolve captioning issues on a timely basis, and help prevent captioning issues from recurring.
  - (j) The Best Practices requirements for real-time (live) captioning vendors to perform frequent and regular evaluations and audits based upon metrics created by the vendors to assess caption quality and to regularly review discrepancy reports pursuant to 47 C.F.R. § 79.1(k)

- (2)(i), (ii), (iii) and (xiii) will help ensure the creation of high quality closed captions for video programming.
- (k) The Best Practices requirements for real-time captioners to file discrepancy reports with the captioning vendor pursuant to 47 C.F.R. § 79.1(k)(3)(vi) will help prevent captioning issues from recurring.
- (l) The Best Practices requirement for offline (prerecorded) captioning vendors to create or designate a manual of style and to employ frequent and regular evaluations pursuant to 47 C.F.R. § 79.1(k)(4)(viii) and (ix) will help ensure the creation of high quality closed captions for video programmers.

The collection of information may contain personally identifiable information on individuals (PII).

- (a) As required by OMB Memorandum M-03-22 (September 26, 2003), the FCC completed a Privacy Impact Assessment (PIA) on June 28, 2007, that gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys the PII covered by these information collection requirements. The PIA may be viewed at: [http://www.fcc.gov/omd/privacyact/Privacy\\_Impact\\_Assessment.html](http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html).
- (b) Furthermore, as required by the Privacy Act, 5 U.S.C. § 552a, the FCC also published a system of records notice (SORN), FCC/CGB-1, "Informal Complaints and Inquiries," in the *Federal Register* on August 15, 2014 (79 FR 48152), which became effective on September 24, 2014.<sup>4</sup>
3. In the *Closed Captioning Quality Report and Order*, the Commission requires petitions requesting an exemption to the Commission's closed captioning rules based on the economically burdensome standard, and all subsequent pleadings, to be filed electronically instead of being filed on paper. Comments or oppositions to the petition must be filed electronically and served on the petitioner and must include a certification that the petitioner was served with a copy. Replies to comments or oppositions must be filed electronically and served on the commenting or opposing party and must include a certification that the commenting or opposing party was served with a copy.
4. There are no comparable information collection requirements regarding compliance with the closed captioning rules.
5. The Commission's closed captioning requirements are assumed to have a significant impact on small entities, including the specific information collection requirements associated with 47 C.F.R. §§ 79.1(c)(3), 79.1(e)(11)(iv), 79.1(e)(11)(v), 79.1(j)(1), and 79.1(k). The Commission has minimized the burden imposed on small entities by, in most instances, by providing the entities with flexibility in determining how to comply with the requirements and by not specifying the precise actions entities must take to achieve compliance. In addition, for many rules, the Commission has minimized the burden on small entities by giving them multiple options to choose from in complying with the Commission's rules or multiple opportunities to come into compliance. Finally, for some rules, the Commission has minimized the burden on

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<sup>4</sup> The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions made to the SORN.

small entities by allowing them to achieve compliance through joint efforts with larger entities or using information obtained or provided by larger entities and made widely available.

6. If the Commission did not sponsor these information collections, the Commission would not be in compliance with section 713 of the Act and would be presented with significantly greater difficulty in any enforcement efforts under section 713.
7. Under 47 C.F.R. § 79.1(c)(3), VPDs are obligated to provide the Commission with records of their monitoring and maintenance activities upon request by the Commission. This may require a VPD to report information to the FCC more often than quarterly, depending upon how often technical compliance issues regarding the VPD come to the attention of the Commission. Under 47 C.F.R. § 79.1(g)(5), a respondent is obligated to provide the Commission with sufficient records and documentation to demonstrate that it is in compliance with the Commission's rules in response to closed captioning complaints. This may require a VPD to report information to the FCC more often than quarterly, depending on how often the VPD must respond to such complaints. Under 47 C.F.R. § 79.1(j)(1), VPDs must submit a report to the Commission identifying video programmers that do not provide certifications as required by 47 C.F.R. § 79.1(j)(1). This may require a VPD to report information to the FCC more often than quarterly, depending upon how often the VPD encounters video programmers that do not provide such certifications. Otherwise, the collection is not conducted in any manner that is inconsistent with the guidelines in 5 C.F.R. § 1320.6.
8. The Commission published a notice in the *Federal Register* pursuant to 5 CFR §1320.8(d) on September 3, 2014 (79 FR 52334 seeking comments from the public on the information collection requirements contained in this supporting statement. On November 6, 2014, Telecommunications for the Deaf and Hard of Hearing, Inc., filed comments in support of the information collection requirements.
9. There are no payments or gifts to respondents.
10. Assurances of confidentiality are being provided to the respondents.

The Commission requests that petitioners (*i.e.*, video programming providers, producers, or owners) seeking individual exemptions from the closed captioning rules redact sensitive information contained in their petitions. In addition, to the extent that petitioners desire to withhold from public review information that serves as the basis of their exemption petitions, such requests should be made in writing to the Commission, pursuant to the Commission's existing rules for requesting confidential treatment, 47 C.F.R. § 0.459.

With respect to the complaint procedures in the closed captioning rules, the Commission is not requesting that respondents submit confidential information, *e.g.*, credit card numbers, social security numbers, and personal financial data, to the Commission.

- (a) A privacy statement is included on all FCC forms accessed through the Commission's Internet Web site.
- (b) In addition, respondents are made aware of the fact that their complaint information may be released to law enforcement officials and other parties as mandated by law. PII is contained in the Commission's operations support for complaint analysis and resolution (OSCAR), consumer information management system (CIMS), and consumer case management system



(CCMS) databases, which are covered under the Commission's SORN, FCC/CGB-1, "Informal Complaints and Inquiries." The PII covered by this SORN is used by Commission personnel to handle and to process informal complaints from individuals and groups. The Commission will not share this information with other federal agencies except under the routine uses listed in the SORN.

The PIA that the FCC completed on June 28, 2007 gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys the PII, as required by OMB regulations contained in Memorandum M-03-22 (September 22, 2003) and the Privacy Act, 5 U.S.C. § 552a. The PIA may be viewed at: [http://www.fcc.gov/omd/privacyact/Privacy\\_Impact\\_Assessment.html](http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html).

11. The Commission believes that this information collection will not raise any questions or issues of a sensitive nature for respondents. Additionally, consumers are cautioned not to provide on complaints personal information such as social security numbers, credit card numbers, *etc.*

12. Estimates of the burden hours for the collection of information are as follows:

Video Programming Distributors (VPDs)	Number of Distributors per Technology
Cable Television Systems <sup>5</sup>	4,945
Commercial and Non-commercial Television Stations <sup>6</sup>	4,247
Open Video Systems (OVS) operators <sup>7</sup>	119
Direct Broadcast Satellite (DBS) operators <sup>8</sup>	2
Satellite Master Antenna Television (SMATV) systems <sup>9</sup>	44
Local exchange carriers <sup>10</sup>	447
<b>Total VPDs<sup>11</sup></b>	<b>9,804</b>

The Commission also notes that the supporting statement includes burdens placed on video programming owners (VPOs), video programmers, captioning vendors, and individual captioners.

The Commission anticipates that only approximately 1,000 respondents may, in any given year, file closed captioning complaints, and not all of those will be filed with the Commission. They may, instead, be filed with the VPD.

### Final Information Collection Requirements

#### (1) *Petitions for individual exemption:*

- (a) Filing of Petitions: The Commission estimates that, for present and future purposes, approximately 100 video programming providers, producers, and owners (petitioners) will file petitions requesting exemption from the closed captioning requirements annually.

<sup>5</sup> See *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc. Petition for Rulemaking*, CG Docket No. 05-231, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 29 FCC Rcd 2221, App. C, Final Regulatory Flexibility Analysis at ¶ 12 (2014) (*Closed Captioning Quality FRFA*) (citing *Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act*, MB Docket No. 11093, Order and Further Notice of Proposed Rulemaking, App. B, 28 FCC Rcd 15258, 15268, ¶ 8 (2013) (*CALM Act FNPRM IRFA*)).

<sup>6</sup> See *FCC News Release*, “Broadcast Station Totals as of March 31, 2014,” dated April 9, 2014. This total includes UHF and VHF Commercial TV, UHF and VHF Educational TV, UHF and VHF Class A Stations, and UHF and VHF Low Power TV.

<sup>7</sup> See <http://www.fcc.gov/encyclopedia/archived-filings-certification-open-video-systems>; <http://www.fcc.gov/encyclopedia/current-filings-certification-open-video-systems> (last visited March 12, 2014).

<sup>8</sup> See *Closed Captioning Quality FRFA* at ¶ 14 (citing *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Fifteenth Annual Report, 28 FCC Rcd 10496, 10507, ¶ 27 (2013) (*15th Annual Report*)).

<sup>9</sup> The Independent Multi-Family Communications Council (IMCC) lists 44 members on its website. See <http://www.imcc-online.org/imcc/?cat=10> (last visited March 12, 2014).

<sup>10</sup> *15th Annual Report*, 28 FCC Rcd at 10653, ¶ 132.

<sup>11</sup> The Commission notes that the July 2012 supporting statement also included 5 Wireless Cable Systems and 100 Public Power Entities. The Commission is no longer aware of any Wireless Cable Systems or Public Power Entities providing MVPD services. Accordingly, the Commission is no longer including them in the above table.

**Total Number of Petitioners: 100 Respondents**

**Total Number of Responses:**

100 petitioners x 1 petition/petitioner = **100 petitions annually**

The Commission estimates that the average burden to complete all aspects of each petition process, including filing any possible reply comments and associated certifications, may require 10 hours.

(i) The Commission estimates that 70 percent of the petitions that petitioners file will be prepared “in-house” using the petitioners’ staff.

100 petitioners x 70% using “in-house” staff = 70 petitioners

70 petitioners x 10 hours/petition = 700 hours

The Commission estimates that the “in-house” staff that petitioners use to prepare these petitions earns a salary equivalent to a GS-14/Step 5 level (\$57.70/hour):

700 hours x \$57.70/hour for “in-house” staff = \$40,390.00

(ii) The Commission also estimates 30 percent of the petitions that the petitioners file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

100 petitioners x 30% using outside legal counsel = 30 petitioners

Petitioners that use outside legal counsel are likely to spend an average of 2 hours per petition to coordinate with their outside legal counsel to prepare and submit the petitions, including any possible reply comments and associated certifications.

30 petitioners x 2 hours/petition per outside legal counsel = 60 hours

The Commission estimates that the “in-house” staff that petitioners use to coordinate with their outside legal counsel to prepare these petitions earn a salary equivalent to a GS-14/Step 5 level (\$57.70/hour):

60 hours x \$57.70/hour for “in-house” staff = \$3,462.00

**Annual Burden Hours to Prepare Petitions:**

700 hours + 60 hours = **760 hours**

**Annual “In-House” Costs:**

\$40,390.00 + \$3,462.00 = **\$43,852.00**

(b) Filing of Responses: The Commission estimates that approximately half of the petitions filed are placed on Public Notice. The Commission estimates that there is an average of

one commenter filing a response or opposition to every petition placed on Public Notice. The Commission estimates that the average burden to complete all aspects of the response process, including the certification, is five (5) hours.

**Total Number of Respondents to Petitions: 50 commenters**

**Total Number of Responses:**

50 petitions placed on Public Notice x 1 response/petition = **50 responses**

The Commission estimates that 10 percent of commenters filing responses prepare the responses themselves. The remaining 90 percent of commenters hire outside legal counsel to prepare and file the response:

(i) 50 commenters x 10%/preparing their responses = 5 commenters

5 commenters x 5 hours/response preparation = 25 hours

The Commission estimates that the commenters use “in-house” staff earning the equivalent of a GS-14/Step 5 level (\$57.70/hour) to prepare the responses:

25 hours x \$57.70/hour “in-house” staff = \$1,442.50

(ii) 50 commenters x 90 percent using outside legal counsel to prepare responses = 45 commenters.

(A) Of those 45 commenters, it is the Commission’s observation that 90% of the responses prepared by outside legal counsel will be done at a pro-bono rate, and without any significant consultation between the commenter and the outside legal counsel.

45 commenters x 90% = 40.5 commenters (41 commenters rounded)

(B) The remaining 10 percent (5 rounded) commenters using outside legal counsel are likely to take 2 hours to coordinate the preparation of their response with the outside legal counsel:

5 comments x 2 hours to coordinate with outside legal counsel = 10 hours

The Commission estimates that the commenters use “in-house” legal and/or administrative staff earning the equivalent of a GS-14/Step 5 level (\$57.70/hour) to coordinate their responses with the outside legal counsel:

10 hours x \$57.70/hour for legal/administrative staff = \$577.00

**Annual Burden Hours to Prepare and File Responses to Petitions:**

25 hours + 10 hours = **35 hours**

**Annual “In-House” Costs:**

\$1,442.50 + \$577.00 = **\$2,019.50**

- (c) The Commission estimates that 25 percent of petitioners will file replies to oppositions by commenters. The burden hours for such replies are already encompassed in 12(1)(a). However, this will generate an **additional** 13 (rounded) responses annually.

**Total Number of Responses: 13 replies to oppositions**

**(2) *Complaints alleging violations of the Closed Captioning Rules***

- (a) Filing of Complaints: The Commission estimates that, for present and future purposes, of an estimated total 1,000 annual complaints, 500 will be filed with the VPDs and 500 with the Commission.<sup>12</sup> Of the 500 filed with the VPDs, the Commission estimates that approximately 20 percent will remain unresolved, and the complainants will then re-file their complaints with the Commission.<sup>13</sup>

**Annual Number of Respondents: 1,000 complainants**

1,000 annual complaints (responses)  
500 complaints to VPDs/year x 20% refiled with Commission = 100 refiled  
complaints/year (responses)

**Annual Number of Responses: 1,100 responses**

The Commission estimates that the average burden for each consumer to prepare and submit the complaint to the VPD or directly to the FCC would be 1 hour, except for complaints being re-filed with the Commission, which the Commission estimates will require approximately 2 hours per complaint.<sup>14</sup>

1,000 annual complaints x 1 hour/complaint = 1,000 hours  
100 complaints re-filed with Commission annually x 2 hours/complaint = 200 hours

**Annual Burden Hours: 1,200 hours**

**Annual “In-House” Costs: None**

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<sup>12</sup> These estimates include informal complaints regarding captioning quality pursuant to 47 C.F.R. § 79.1(j)(4) and informal complaints pursuant to 47 C.F.R. § 79.1(e)(11)(iii) regarding captioning provided by a broadcast station that utilizes ENT.

<sup>13</sup> Empirical data from the number of complaints filed with the Commission in 2010 and 2011 confirms the accuracy of the anticipated number of complaints estimated in July 2009.

<sup>14</sup> The estimates of the average burden for each consumer to prepare and submit the complaint directly to the FCC include complaints regarding captioning for a broadcast station that utilizes ENT to providing captioning pursuant to the procedures set forth in 47 C.F.R. § 79.1(e)(11)(i).

- (b) Responses to Complaints: The Commission assumes that VPDs will file a response to each complaint. The Commission estimates, for present and future purposes, that with 50 percent of the 1,000 annual complaints, received by VPDs either directly from the complainants or via forwarding by the Commission, VPDs will use “in-house” staff to respond to these complaints, and that with the other 50 percent VPDs will use outside legal counsel to prepare the responses. The Commission estimates, for present and future purposes, that the average burden for VPDs to prepare and submit an “in-house” response to each consumer complaint is 3 hours. The Commission further estimates that with the 50 percent where VPDs will use outside legal counsel to prepare the responses, VPDs will spend 1 hour to coordinate each response with outside legal counsel. Likewise, the Commission estimates, for present and future purposes, that for the estimated 100 complaints per year that will be re-filed with the Commission, VPDs will use outside legal counsel to prepare responses to these re-filed complaints, and will spend 1 hour to coordinate each response with outside legal counsel.

1,000 complaints x 50% complaint responses using “in-house” staff = 500 complaint responses using “in-house” staff  
1,000 complaints x 50% complaint responses using outside legal counsel = 500 complaint responses using outside legal counsel  
100 responses to complaints re-filed with the Commission

**Annual Number of Responses: 1,100 responses**

500 “in-house” responses x 3 hours/response = 1,500 hours  
500 outside legal counsel responses x 1 hour/response conferring with outside legal counsel on responses = 500 hours  
100 responses to re-filed complaints x 1 hour/response conferring with outside legal counsel = 100 hours

**Annual Burden Hours: 2,100 hours**

The Commission estimates, for present and future purposes, that VPDs will use “in-house” legal and/or administrative staff earning the equivalent salary of a GS-14/step 5 level (\$57.70/hour) to prepare responses to consumer complaints, and to confer with outside legal counsel on the responses that it will prepare to consumer complaints and complaints re-filed with the Commission:

500 responses using “in-house” staff x 3 hours/response x \$57.70/hour = \$86,550.00  
500 outside legal counsel responses to original complaints x 1 hour/response conferring with outside legal counsel x \$57.70/hour = \$28,850.00  
100 outside legal counsel responses to original complaints x 1 hour/response conferring with outside legal counsel x \$57.70/hour = \$5,770.00

**Annual “In-House” Costs: \$86,550.00 + \$28,850.00 + \$5,770.00 = \$ 121,170.00**

- (c) Re-filing of Misdirected Complaints: The Commission assumes, for present and future purposes, that 10 percent of the estimated 1,000 annual complaints will have to be re-filed by consumers because they were misdirected when first filed. The Commission estimates that the average burden for consumers to re-file such misdirected complaints will be approximately 15 minutes (0.25 hours) per complaint re-filed.

1,000 complaints x 10% re-filed = 100 re-filed complaints (responses)

The number of respondents is already encompassed in the number of respondents noted in (a). This is a layout of the burden hours it would require for consumers to re-file complaints that were originally misdirected.

100 responses x 0.25 hours/response = 25 hours

**Annual Burden Hours: 25 hours**

**Annual “In-House” Costs: None**

(d) Recordkeeping in Support of Complaint Responses: The Commission estimates, for present and future purposes, that the average annual burden for VPDs to perform recordkeeping and to make information available upon request to the Commission will be 10 hours for each VPD.<sup>15</sup> The Commission believes that the VPDs can perform these activities “in-house:”

**Annual Number of Respondents: 9,804 VPDs**

**Annual Number of Responses: 9,804 sets of records kept (responses)**

9,804 VPDs x 10 hours/VPD = 98,040 hours

**Annual Burden Hours for VPDs to perform recordkeeping and to make closed captioning information available to viewers: 98,040 hours**

The Commission estimates, for present and future purposes, that VPDs will use clerical/administrative staff earning a salary equivalent to a GS-5/Step 5 level (\$18.69/hour) to perform recordkeeping and to make closed captioning information available to the Commission:

98,040 hours x \$18.69/hour = \$1,832,367.60

**Annual “In-House” Costs: \$1,832,367.60**

**(3) *Provision of contact information to viewers, subscribers, and FCC***

47 C.F.R. § 79.1(i) requires that VPDs make two kinds of contact information available to consumers: (1) contact information for the receipt and handling of immediate closed captioning concerns raised by consumers (*e.g.*, the captions suddenly disappear or become garbled); and (2) contact information for the receipt and handling of written closed captioning complaints. All VPDs must place this information in telephone directories, in billing statements, to the extent they issue billing statements, and on their Web sites, if they have a Web site, and must provide their contact information to the FCC for posting on the FCC’s Web site. In addition, VPDs are required to keep this information current, and update

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<sup>15</sup> The Commission considers all of these recordkeeping and information provision requirements to constitute one response per VPD or one set of records kept per VPD, with the 10 hours per response encompassing the burdens associated with fulfilling these requirements.

it within 10 business days for Web sites (including the Commission's Web site), by the next billing cycle for billing statements, and by the next publication of directories.

- (a) The Commission estimates, for present and future purposes, that of the 9,804 VPDs, 9,754 VPDs will place one contact information listing in four telephone directories annually. The Commission further estimates that the remaining 50 VPDs are national or regional providers serving multiple markets, and that they will only place contact information listings in directories in markets where they directly do business. While the actual number of directories per provider will depend on the provider's geographic reach, the Commission estimates that, on average, each of these 50 VPDs will place one contact information listing in 100 telephone directories annually.

**Annual Responses:** 9,754 VPDs x 4 listings/VPD/year = 39,016  
50 VPDs x 100 listings/VPD/year = 5,000  
**44,016 listings (responses)**

The Commission estimates, for present and future purposes, that 9,754 VPDs will spend approximately 1 hour each conferring with outside printing firms on how to compose the contact information to be placed in telephone directories. The Commission further estimates that the aforementioned 50 VPDs will spend approximately 10 hours each conferring with outside printing firms on how to compose the contact information to be placed in telephone directories.

**Annual Burden Hours:** 9,754 VPDs x 1 hour/VPD = 9,754  
50 VPDs x 10 hours/VPD = 500  
**10,254 hours**

The Commission estimates, for present and future purposes, that VPDs will use "in-house" legal and/or administrative staff earning the equivalent salary of a GS-13/step 5 level (\$48.83/hour) to confer with outside printing firms.

**Annual "In-House" Costs:** 9,754 VPDs x 1 hour/VPD x \$48.83/hour = \$476,287.82  
50 VPDs x 10 hours/VPD x \$48.83/hour = \$ 24,415.00  
**\$500,702.82**

- (b) Of the 5,557 subscription service providers, the Commission estimates, for present and future purposes, that 20 percent or 1,111 will have changed their contact information and that 5 percent or 278 will be new entrants. As a result, the Commission estimates that 1,389 subscription service providers will update or for the first time place contact information in billing statements, and that they will spend approximately 30 minutes (0.5 hours) doing so.<sup>16</sup>

**Number of Responses: 1,389 responses**

1,389 subscription service providers x 1 contact information placement or update/provider x 0.5 hours/contact information placement = **694.5 hours (695 hours rounded)**

<sup>16</sup> Though billing statements typically are issued once per month, the Commission considers this a one-time burden because, once contact information is placed in billing statements, it need only be replicated in subsequent billing statements.



**Annual Burden Hours = 695 hours**

The Commission estimates, for present and future purposes, that 1,389 subscription service providers will use “in-house” clerical/administrative staff earning equivalent to a GS-5/step 5 salary (\$18.69/hour) to place contact information in billing statements:

$$695 \text{ hours} \times \$18.69/\text{hour} = \mathbf{\$12,989.55}$$

**Total “In-House” Costs: \$12,989.55**

- (c) Of the 9,804 VPDs, the Commission estimates, for present and future purposes, that 20 percent or 1,961 will have changed their contact information and that 5 percent or 490 will be new entrants. As a result, the Commission estimates that 2,451 VPDs will update or place contact information on their Web sites.

**Annual Responses: 2,451 VPDs x 1 listing/VPD = 2,451 listings (responses)**

The Commission estimates, for present and future purposes, that 2,451 VPDs will spend approximately 30 minutes (0.5 hours) each providing contact information on their Web sites:

**Annual Burden Hours: 2,451 VPDs x 0.5 hours/VPD = 1,225.5 hours (1,226 hours rounded)**

The Commission estimates, for present and future purposes, that 2,451 VPDs will use “in-house” clerical/administrative staff earning equivalent to a GS-5/step 5 salary (\$18.69/hour) to provide contact information:

**Annual “In-House” Costs: 1,226 hours x \$18.69/hour = \$22,913.94**

- (d) Of the 9,804 VPDs, the Commission estimates, for present and future purposes, that 20 percent or 1,961 will have changed their contact information and that 5 percent or 490 will be new entrants. As a result, the Commission estimates that 2,451 VPDs will update or provide contact information to the FCC.

**Annual Responses: 2,451 VPDs x 1 filing/VPD = 2,451 filings (responses)**

The Commission estimates, for present and future purposes, that 2,451 VPDs will spend approximately 15 minutes (0.25 hours) each providing contact information to the FCC:

**Annual Burden Hours: 2,451 VPDs x 1 filing/VPD x 0.25 hours/filing = 612.75 hours (613 hours rounded)**

The Commission estimates, for present and future purposes, that 2,451 VPDs will use “in-house” clerical/administrative staff earning equivalent to a GS-5/step 5 salary (\$18.69/hour) to provide contact information:

**Annual “In-House” Costs: 613 hours x \$18.69/hour = \$11,456.97**

(4) ***Records of monitoring and maintenance activities***

47 C.F.R. § 79.1(c)(3) requires VPDs to maintain, for a minimum of two years, records of their monitoring and maintenance activities, including, without limitation, information about the VPD's monitoring and maintenance of equipment and signal transmissions to ensure the pass through and delivery of closed captioning to viewers, and technical equipment checks and other activities to ensure that captioning equipment and other related equipment are maintained in good working order.

- (a) The Commission estimates, for present and future purposes, that 9,754 VPDs will perform monitoring and maintenance activities approximately 12 times per year, resulting in approximately 12 records of their monitoring and maintenance activities per year. The Commission further estimates that 50 VPDs are national or regional providers serving multiple markets, and that they will perform monitoring and maintenance activities approximately 120 times a year, resulting in approximately 120 records of their monitoring and maintenance activities per year.

**Total Number of Responses:**

$$\begin{aligned} 9,754 \text{ VPDs} \times 12 \text{ records/VPD} &= 117,048 \text{ records} \\ 50 \text{ VPDs} \times 120 \text{ records/VPD} &= \underline{6,000 \text{ records}} \\ &= \mathbf{123,048 \text{ records annually}} \end{aligned}$$

The Commission estimates that the average burden to complete all aspects of each recordkeeping will require approximately 0.5 hours per record.

**Annual Burden Hours:** 123,048 annual records x 0.5 hour/record = **61,524 hours**

The Commission estimates that VPDs keeping records will prepare the records using "in-house" staff earning the equivalent of a GS-12/step 5 level (\$41.07)

**Annual "In-House" Costs:** 123,048 records x 0.5 hour/record x \$41.07 = **\$2,526,790.68**

(5) ***ENT Compliance***

47 C.F.R. § 79.1(e)(11)(iv) provides the method of ensuring compliance with the procedures set forth in 47 C.F.R. § 79.1(e)(11)(i) for the use of ENT to provide closed captions.

- (a) Initial Response to Pattern or Trend of Noncompliance: The Commission estimates that, for present and future purposes, it will identify approximately 6 patterns or trends of possible noncompliance by broadcast stations necessitating a response by the possibly non-compliant station.

**Total Number of Responses: 6 Responses**

The Commission estimates that the average burden to complete the initial response to a pattern or trend of noncompliance will require approximately 10 hours per response.

(i) The Commission estimates that 50 percent of the responses will be prepared “in-house” using the broadcast station’s staff.

6 responses x 50% using “in-house” staff = 3 responses

3 responses x 10 hours/response = 30 hours

The Commission estimates that the “in-house” staff that broadcast stations use to prepare these responses earn a salary equivalent to a GS-14/Step 5 level (\$57.70/hour):

30 hours x \$57.70 = \$1,731

(ii) The Commission estimates that 50 percent of the responses will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

6 responses x 50% using outside legal counsel = 3 responses

Broadcast stations that use outside legal counsel are likely to spend an average of 2 hours per response to coordinate with their outside legal counsel to prepare and submit the responses.

3 responses x 2 hours/response = 6 hours

The Commission estimates that the “in-house” staff broadcast stations use to prepare these responses earn a salary equivalent to a GS-14/Step 5 level (\$57.70/hour):

6 hours x \$57.70/hour for “in-house” staff = \$346.20

**Annual Burden Hours to Prepare Initial Response:**

30 hours + 6 hours = **36 hours**

**Annual “In-House” Costs:**

\$1,731 + \$346.20 = **\$2,077.20**

(b) Corrective Action Plan: The Commission estimates that, for present and future purposes, it will identify approximately 2 further patterns or trends of possible noncompliance following the initial response to a pattern or trend of noncompliance necessitating a report to the Commission on the results of its corrective action plan and spot checks of its ENT performance.

**Total Number of Responses: 2 Responses**

The Commission estimates that the average burden to complete the initial response to a pattern or trend of noncompliance will require approximately 50 hours per response.

(i) The Commission estimates that 50 percent of the responses will be prepared “in-house” using the broadcast station’s staff.

2 responses x 50% using “in-house” staff = 1 response

1 response x 50 hours/response = 50 hours

The Commission estimates that the “in-house” staff that broadcast stations use to prepare these responses earn a salary equivalent to a GS-14/Step 5 level (\$57.70/hour):

50 hours x \$57.70 = \$2,885.00

(ii) The Commission estimates that 50 percent of the responses will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

2 responses x 50% using outside legal counsel = 1 response

Broadcast stations that use outside legal counsel are likely to spend an average of 10 hours per response to coordinate with their outside legal counsel to prepare and submit the responses.

1 response x 10 hours/response = 10 hours

The Commission estimates that the “in-house” staff broadcast stations use to prepare these responses earn a salary equivalent to a GS-14/Step 5 level (\$57.70/hour):

10 hours x \$57.70/hour for “in-house” staff = \$577.00

**Annual Burden Hours to Prepare Initial Response:**

50 hours + 10 hours = **60 hours**

**Annual “In-House” Costs:**

\$2,885.00 + \$577.00 = \$3,462.00

**(6) ENT Progress Report**

47 C.F.R. § 79.1(e)(11)(v) requires broadcast stations that adhere to the procedures set forth in 47 C.F.R. § 79.1(e)(11)(i) for the use of ENT to provide closed captions to prepare and submit to the Commission a one-time report on their experiences with such procedures and the extent to which they have been successful in providing full and equal access to live programming. Broadcast stations must prepare the report in consultation with individuals who rely on captions to watch television and organizations representing such individuals, and the National Association of Broadcasters (NAB) may prepare the report on behalf of the affected broadcasters. The Commission notes that preparation of the ENT Progress Report is not an annual requirement and will be prepared only once.

(a) **Consultations:** The Commission estimates that the NAB will consult with consumer organizations, individual consumers, and broadcasters to prepare one ENT Progress Report.

(i) NAB's consultations with Consumer Organizations. The Commission estimates that one organization, the NAB, will consult with approximately 5 organizations representing individuals who rely on captions to watch television.

**Total Number of Consultations between Broadcasters and Consumer Organizations: 5 Consultations**

The Commission estimates that the average burden to complete all aspects of each consultation may require 10 hours per consultation.

**Annualized One-time Burden Hours for Consultations between the NAB and Consumer Organizations (all within the first year):<sup>17</sup>**

5 consultations x 10 hours/consultation = **50 hours**

The Commission estimates that the NAB will use "in-house" staff to complete all aspects of each consultation, earning a salary equivalent to a GS-14/Step 5 level (\$57.70):

50 hours x \$57.70/hour = \$2,885.00

**One-time "In-House" Costs: \$2,885.00**

(ii) NAB's Consultations with Individual Consumers. The Commission estimates that one organization, the NAB, will consult with approximately 20 individual consumers who rely on captions to watch television.

**Total Number of Consultations with Individual Consumers: 20 Consultations**

The Commission estimates that the average burden to complete all aspects of each consultation may require 2 hours per consultation.

**Annualized One-time Burden Hours for NAB's Consultation with Individual Consumers (all within the first year):<sup>18</sup>**

20 consultations x 2 hours/consultation = **40 hours**

The Commission estimates that the NAB will use "in-house" staff to complete all aspects of each consultation, earning a salary equivalent to a GS-14/Step 5 level (\$57.70):

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<sup>17</sup> The Commission considers this a one-time burden because 47 C.F.R. § 79.1(e)(11)(v) requires broadcast stations to prepare and submit only one ENT Progress Report no later than one year after the effective date of 47 C.F.R. § 79.1(e)(11).

<sup>18</sup> The Commission considers this a one-time burden. See n.17, *supra*.

$$40 \text{ hours} \times \$57.70/\text{hour} = \mathbf{\$2,308.00}$$

(iii) Consultations between the NAB and Broadcasters. The Commission estimates that the NAB will consult with approximately 700 broadcast stations that use ENT to caption television news.

**Total Number of Consultations between NAB and Broadcast Stations:  
1,400**

The Commission estimates that the average burden to complete all aspects of each consultation may require 1 hour per consultation.

**One-time Burden Hours for Consultations between NAB and Broadcast Stations (all within one year):<sup>19</sup>**

$$1400 \text{ consultations} \times 1 \text{ hour/consultation} = \mathbf{1,400 \text{ hours}}$$

The Commission estimates that the NAB will use “in-house” staff to complete all aspects of each of 700 consultations, earning a salary equivalent to a GS-14/Step 5 level (\$57.70):

$$700 \text{ hours} \times \$57.70 = \$40,390.00$$

In addition, the Commission estimates that the each of 700 broadcast stations with which NAB consults will use “in-house” staff to complete all aspects of each 1-hour consultation per station, earning a salary equivalent to a GS-14/Step 5 level (\$57.70):

$$700 \text{ hours} \times \$57.70 = \$40,390.00$$

**One-time Burden Hours for Consultations:**

$$50 \text{ hours} + 40 \text{ hours} + 700 \text{ hours} + 700 = \mathbf{1,490 \text{ hours}}$$

**One-time “In-House” Costs:**

$$\$2,885.00 + \$2,308.00 + \$40,390.00 + \$40,390.00 = \mathbf{\$85,973.00}$$

(b) Preparation of Final Report: The Commission estimates that one organization, the NAB, will prepare one ENT Progress Report. The Commission estimates that the average burden to complete all aspects of the ENT Progress Report may require 200 hours.

(i) The Commission estimates that 50% of the preparation time of the final report, that is **100 hours**, will be completed “in-house” using NAB staff.

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<sup>19</sup> The Commission considers this a one-time burden. See n.17, *supra*.

The Commission estimates that the “in-house” staff that the NAB uses to prepare the final report earns a salary equivalent to a GS-14/Step 5 level (\$57.70/hour):

100 hours x \$57.70/hour for “in-house” staff = \$5,770.00

(ii) The Commission estimates that 50% of the preparation time of the final report will be completed using outside legal counsel, *e.g.*, attorneys in private law firms.

In addition to preparation time, the NAB is likely to spend **40 hours** to coordinate with their outside legal counsel to prepare the final report.

The Commission estimates that the “in-house” staff broadcast stations use to coordinate with outside counsel earn a salary equivalent to a GS-14/Step 5 level (\$57.70/hour):

40 hours x \$57.70/hour for “in-house” staff = \$2,308.00

**One-time Burden Hours for Preparation of Final Report:**<sup>20</sup>

100 hours + 40 hours = **140 hours**

**One-time “In-House” Costs:**

**\$5,770.00 + \$2,308.00 = \$8,078.00**

**(7) Caption Quality Certification**

47 C.F.R. § 79.1(j)(1) requires VPDs to exercise best efforts to obtain a certification from each video programmer from which the distributor obtains programming stating (i) that the video programmer’s programming satisfies the caption quality standards of 47 C.F.R. § 79.1(j)(2); (ii) that in the ordinary course of business, the video programmer has adopted and follows the Best Practices set forth in 47 C.F.R. § 79.1(k)(1); or (iii) that the video programmer is exempt from the closed captioning rules under one or more properly attained exemptions.

(a) Broadcast Stations:

(i) Best efforts to obtain certifications and informing video programmers that they must make certifications widely available.

The Commission estimates that, for present and future purposes, approximately 1,388 broadcast stations will be required to exercise best efforts to obtain certifications from their video programmer providers.

**Total Number of Respondents: 1,388 Respondents**

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<sup>20</sup> The Commission considers this a one-time burden. *See* n.17, *supra*.

The Commission estimates that the average burden to exercise best efforts to obtain certifications and inform video programmers in writing that they must make certifications widely available may require 10 hours per broadcast station.

1,388 broadcast stations x 10 hours/station = 13,880 hours

**Annual Burden Hours: 13,880 hours**

The Commission estimates, for present and future purposes, that broadcast stations will use “in-house” staff earning the equivalent salary of a GS-12/Step 5 level (\$41.07) to complete all aspects of each certification process.

**Annual “In-House” Costs:** 1,388 broadcast stations x 10 hours/station x \$41.07 = **\$570,051.60**

(ii) Reporting non-certifying video programmers to the Commission.

The Commission estimates that, for present and future purposes, approximately 1,388 broadcast stations will be required to report to the Commission on average 2 video programmers that fail to make certifications widely available.

1,388 broadcast stations x 2 video programmers that fail to make certifications widely available = **2,776 responses**

The Commission estimates, for present and future purposes, that broadcast stations will use “in-house” staff to make 50 percent of the reports to the Commission regarding video programmers that fail to make certifications widely available and that broadcast stations will use outside counsel to make the other 50 percent of the reports. The Commission estimates, for present and future purposes, that the average burden for broadcast stations to prepare and submit an “in-house” report to the Commission is 1 hour. The Commission further estimates that with the 50 percent of reports where broadcast stations will use outside legal counsel to prepare the reports, broadcast stations will spend 0.5 hours conferring with outside legal counsel regarding each report.

2,776 responses x 50% responses using “in-house” staff = 1,388 reports using “in-house” staff

2,776 responses x 50% responses using outside legal counsel = 1,388 reports using outside legal counsel

1,388 “in-house” responses x 1 hour/response = 1,388 hours

1,388 outside legal counsel responses x 0.5 hours/response conferring with outside legal counsel on responses = 694 hours

**Annual Burden Hours: 1,388 hours + 694 hours = 2,082 hours**

The Commission estimates, for present and future purposes, that broadcast stations will use “in-house” legal and/or administrative staff earning the equivalent salary of a GS-12/step 5 level (\$41.07) to prepare and submit reports



regarding video programmers that fail to make certifications widely available and to confer with outside legal counsel on the responses that it will prepare.

1,388 responses using “in-house” staff x 1 hour/response x \$41.07/hour = \$570,051.60

1,388 outside legal counsel responses x 0.5 hours/response conferring with outside legal counsel x \$41.07/hour = \$28,502.58

**Annual “In-House” Costs: \$570,051.60 + \$28,502.58 = \$598,554.18**

(b) MVPDs:

(i) Best efforts to obtain certifications and informing video programmers that they must make certifications widely available.

The Commission estimates that, for present and future purposes, approximately 396 MVPDs will be required to exercise best efforts to obtain certifications from their video programmer providers.

**Total Number of Respondents: 396 Respondents**

The Commission estimates that the average burden to exercise best efforts to obtain certifications and inform video programmers in writing that they must make certifications widely available may require 25 hours per MVPD.

396 MVPDs x 25 hours/MVPD = 9,900 hours

**Annual Burden Hours: 9,900 hours**

The Commission estimates, for present and future purposes, that MVPDs will use “in-house” staff earning the equivalent salary of a GS-12/Step 5 level (\$41.07) to complete all aspects of each certification process.

**Annual “In-House” Costs: 396 MVPDs x 25 hours/MVPD x \$41.07 = \$406,593.00**

(ii) Reporting non-certifying video programmers to the Commission.

The Commission estimates that, for present and future purposes, approximately 396 MVPDs will be required to report to the Commission on average 10 video programmers that fail to make certifications widely available.

396 MVPDs x 10 video programmers = **3,960 responses**

The Commission estimates, for present and future purposes, that MVPDs will use “in-house” staff to make 50 percent of the reports to the Commission regarding video programmers that fail to make certifications widely available and that broadcast stations will use outside counsel to make the other 50 percent of the reports. The Commission estimates, for present and future purposes, that

the average burden for MVPDs to prepare and submit an “in-house” report to the Commission is 1 hour. The Commission further estimates that with the 50 percent of reports where MVPDs will use outside legal counsel to prepare the reports, MVPDs will spend 0.5 hours conferring with outside legal counsel regarding each report.

3,960 responses x 50% responses using “in-house” staff = 1,980 reports using “in-house” staff  
3,960 responses x 50% responses using outside legal counsel = 1,980 reports using outside legal counsel

1,980 “in-house” responses x 1 hour/response = 1,980 hours  
1,980 outside legal counsel responses x 0.5 hours/response conferring with outside legal counsel on responses = 990 hours

**Annual Burden Hours: 1,980 hours + 990 hours = 2,970 hours**

The Commission estimates, for present and future purposes, that MVPDs will use “in-house” legal and/or administrative staff earning the equivalent salary of a GS-12/step 5 level (\$41.07) to prepare and submit reports regarding video programmers that fail to make certifications widely available and to confer with outside legal counsel on the responses that it will prepare.

1,980 responses using “in-house” staff x 0.5 hours/response x \$41.07/hour = \$40,659.30  
1,980 outside legal counsel responses x 0.5 hours/response conferring with outside legal counsel x \$41.07/hour = \$40,659.30

**Annual “In-House” Costs: \$40,659.30 + \$40,659.30 = \$81,318.60**

- (c) Video Programmers: The Commission estimates that, for present and future purposes, approximately 969 Video Programmers will be required to provide widely available certifications to their VPDs.

**Total Number of Respondents: 969 Respondents**

The Commission estimates that the average burden to provide widely available certifications to VPDs may require 5 hours per Video Programmer.

969 Video Programmers x 5 hours/Video Programmer = 4,845 hours

**Annual Burden Hours: 4,845 hours**

The Commission estimates, for present and future purposes, that Video Programmers will use “in-house” staff earning the equivalent salary of a GS-12/Step 5 level (\$41.07) to complete all aspects of each certification process.

**Annual “In-House” Costs: 969 Video Programmers x 5 hours/Video Programmer x \$41.07 = \$198,984.15**

**(8) Video Programmer Agreements with Captioning Vendors**

(a) New and Renewed Agreements between Video Programmers and Captioning Vendors:

47 C.F.R. § 79.1(k)(1)(i) requires video programmers adopting Best Practices to include the following in new or renewed agreements with captioning vendors: (1) Performance requirements comparable to those described in 47 C.F.R. § 79.1(k)(2), (k)(3), and (k)(4); (2) a means of verifying compliance with such performance requirements; and (3) provisions designed to ensure that captioning vendors' employees and contractors who provide caption services have received appropriate training and that there is oversight of individual captioners' performance.

(i) Video Programmers. The Commission estimates that, for present and future purposes, approximately 870 Video Programmers will be required to enter into new or renewed agreements with captioning vendors as required by 47 C.F.R. § 79.1(k)(1)(i).

**Total Number of Respondents: 870 Respondents**

The Commission estimates that each of the 870 Video Programmers will have to enter into new or renewed agreements with approximately 2 captioning vendors, on average.

870 Video Programmers x 2 new or renewed agreements = 1,740 new or renewed agreements

**Annual Number of Responses: 1,740 Responses**

The Commission estimates, for present and future purposes, that for 50 percent of the 1,740 annual new or renewed contracts, Video Programmers will use "in-house" legal staff to prepare these new or renewed contracts and that for the other 50 percent Video Programmers will use outside legal counsel to prepare these new or renewed contracts. The Commission estimates, for present and future purposes, that the average burden for Video Programmers to prepare a new or renewed agreement "in-house" is 10 hours. The Commission further estimates that with the 50 percent of new or renewed agreements where Video Programmers use outside legal counsel to prepare the responses, Video Programmers will spend an hour to coordinate each new or renewed agreement with outside legal counsel.

1,740 responses x 50% using "in-house" staff = 870 new or renewed agreements using "in-house" staff

1,740 responses x 50% using outside legal counsel = 870 new or renewed agreements using outside legal counsel

870 "in-house" responses x 10 hours/response = 8,700 hours

870 outside legal counsel responses x 1 hour conferring with outside legal counsel on responses = 870 hours

**Annual Burden Hours: 8,700 hours + 870 hours = 9,570 hours**

The Commission estimates, for present and future purposes, that Video Programmers will use “in-house” legal staff earning the equivalent salary of a GS-14/step 5 level (\$57.70/hour) to prepare new or renewed agreements with captioning vendors, and to confer with outside legal counsel on the new or renewed agreements.

870 “in-house” responses x 10 hours/response x \$57.70/hour = \$501,990.00  
870 outside legal counsel responses x 1 hour/response conferring with outside legal counsel x \$57.70/hour = \$50,199.00

**Annual “In-House” Costs: \$501,990.00 + \$50,199.00 = \$552,189.00**

(ii) Captioning vendors. The Commission estimates that, for present and future purposes, approximately 2 captioning vendors per Video Programmer, on average, will be required to enter into new or renewed agreements with each Video Programmer as required by 47 C.F.R. § 79.1(k)(1)(i).

870 Video Programmers x 2 new or renewed agreements = 1,740 new or renewed agreements

**Annual Number of Responses: 1,740 Responses**

The Commission estimates, for present and future purposes, that for 50 percent of the 1,740 annual new or renewed contracts, captioning vendors will use “in-house” legal staff to prepare these new or renewed contracts and that for the other 50 percent captioning vendors will use outside legal counsel to prepare these new or renewed contracts. The Commission estimates, for present and future purposes, that the average burden for captioning vendors to prepare a new or renewed agreement “in-house” is 10 hours. The Commission further estimates that with the 50 percent of new or renewed agreements where captioning vendors use outside legal counsel to prepare the responses, captioning vendors will spend an hour to coordinate each new or renewed agreement with outside legal counsel.

1,740 responses x 50% using “in-house” staff = 870 new or renewed agreements using “in-house” staff

1,740 responses x 50% using outside legal counsel = 870 new or renewed agreements using outside legal counsel

870 “in-house” responses x 10 hours/response = 8,700 hours

870 outside legal counsel responses x 1 hour conferring with outside legal counsel on responses = 870 hours

**Annual Burden Hours: 8,700 hours + 870 hours = 9,570 hours**

The Commission estimates, for present and future purposes, that captioning vendors will use “in-house” legal staff earning the equivalent salary of a GS-14/step 5 level (\$57.70/hour) to prepare new or renewed agreements with

Video Programmers, and to confer with outside legal counsel on the new or renewed agreements.

870 “in-house” responses x 10 hours/response x \$57.70/hour = \$501,990.00  
870 outside legal counsel responses x 1 hour/response conferring with outside legal counsel x \$57.70/hour = \$50,199.00

**Annual “In-House” Costs:** \$501,990.00 + \$50,199.00 = **\$552,189.00**

- (b) Video Programmer Staff Contacts: The Commission estimates that, for present and future purposes, approximately 870 Video Programmers will provide to captioning vendors appropriate staff contacts who can assist in resolving captioning issues and make such contact information readily available in master control or other centralized location.

**Total Number of Respondents: 870 Respondents**

The Commission estimates that, for present and future purposes, each Video Programmer will make contact information for staff to assist in resolving captioning issues available at one centralized location for each captioning vendor that provides them with captioning services.

870 Respondents x 1 provision of contact information = **870 provisions of contact information annually** (responses)

The Commission estimates that the average burden to complete all aspects of each provision of contact information may require 1 hour.

**Annual Burden Hours:** 870 provisions of contact information x 1 hour/provision of contact information = **870 hours**

The Commission estimates, for present and future purposes, that Video Programmers will use “in-house” staff earning the equivalent of a GS-12/step 5 level (\$41.07) to make appropriate staff contact information available,

**Annual “In-House” Costs:** 870 provisions of contact information x 1 hour/provision of contact information x \$41.07 = **\$35,730.90**

- (c) Video Programmer Log of Reported Captioning Issues: The Commission estimates that, for present and future purposes, approximately 870 Video Programmers will adopt Best Practices and therefore be required to maintain a log of reported captioning issues.

**Total Number of Respondents: 870**

The Commission estimates that, for present and future purposes, each respondent will maintain one log of reported captioning issues.

**Total Number of Responses:** 870 complaint logs kept (responses)

The Commission estimates that, for present and future purposes, the average burden to complete all aspects of the log of reported captioning issues, including collecting reports

of captioning issues and entering the required information into the log, may require 120 hours.

**Annual Burden Hours:** 870 responses x 120 hours = **104,400 hours**

The Commission estimates that, for present and future purposes, the Video Programmers will use “in-house” staff earning a salary equivalent to a GS-5/step 5 level (\$18.69/hour) to perform all aspects of maintaining the log of reported captioning issues, including collecting reports of captioning issues and entering the required information into the log.

**Annual “In-House” Costs:** 870 responses x 120 hours x \$18.69/hour = **\$1,951,236.00**

- (d) Video Programmer Procedures for Troubleshooting Consumer Captioning Complaints: The Commission estimates that, for present and future purposes, approximately 870 Video Programmers will adopt Best Practices and therefore be required to develop procedures for troubleshooting consumer captioning complaints within the distribution chain.

**Total Number of Respondents:** 870

The Commission estimates that, for present and future purposes, each respondent will develop one set of procedures for troubleshooting consumer captioning complaints.

**Total Number of Responses:** 870 sets of troubleshooting procedures (responses)

The Commission estimates that, for present purposes, the average burden to complete all aspects of the development of procedures for troubleshooting consumer captioning complaints, may require 20 hours the first year, and for future purposes, 5 hours each year thereafter to review and update the procedures.

**Annualized Burden Hours:** 870 responses x 20 hours = **17,400 hours (all within the first year)**

**Annualized Burden Hours:** 870 responses x 5 hours = **4,350 hours (each year thereafter)**

**Annual Burden Hours:** 17,400 hours + 4,350 hours + 4,350 = 26,100/ 3 = **8,700 hours**

The Commission estimates that, for present and future purposes, the Video Programmers will use “in-house” staff earning a salary equivalent to a GS-14/step 5 level (\$57.70/hour) to complete all aspects of the development of procedures for troubleshooting consumer captioning complaints.

**Annual “In-House” Costs:** 8,700 hours x \$57.70/hour = **\$501,990.00**

**(9) *Real-Time (Live) Captioning Vendors’ Best Practices***

- (a) Evaluations and Audits: The Commission estimates that, for present and future purposes, approximately 900 real-time captioning vendors will be required to establish

minimum acceptable standards and perform frequent and regular evaluations and audits to ensure they are maintained.

**Total Number of Respondents: 900**

(i) Establishing minimum acceptable standards.

The Commission estimates that, for present and future purposes, each real-time captioning vendor will establish 1 set of minimum acceptable standards.

**Total Number of Responses: 900**

The Commission estimates that, for present purposes, the average burden to complete all aspects of the development of minimum acceptable standards may require 20 hours the first year, and for future purposes, 5 hours each year thereafter to review and update the procedures.

**Annualized Burden Hours:** 900 responses x 20 hours = **18,000 hours (all within the first year)**

**Annualized Burden Hours:** 900 x 5 hours = **4,500 hours (each year thereafter)**

Annual Burden: 18,000 hours + 4,500 hours + 4,500 hours = 27,000/ 3 = 9,000 hours

The Commission estimates that, for present and future purposes, real-time captioning vendors will use “in-house” staff earning a salary equivalent to a GS-14/step 5 level (\$57.70/hour) to complete all aspects of the development of minimum acceptable standards.

**Annual “In-House” Costs:** 9,000 hours x \$57.70/hour = **\$519,300.00**

(ii) Frequent and regular evaluations and audits.

The Commission estimates that, for present and future purposes, each real-time captioning vendor will perform on average 25 evaluations and audits annually.

**Total Number of Responses:** 900 respondents x 25 evaluations and audits = **22,500**

The Commission estimates that, for present and future purposes, the average burden to complete all aspects of the evaluations and audits, may require 5 hours.

**Annual Burden Hours:** 22,500 responses x 5 hours = **112,500 hours**

The Commission estimates that, for present and future purposes, real-time captioning vendors will use “in-house” staff earning a salary equivalent to a GS-

12/step 5 level (\$41.07/hour) to complete all aspects of the evaluations and audits.

**Annual “In-House” Costs:** 22,500 responses x 5 hours x \$41.07/hour =  
**\$4,620,375.00**

- (b) Review of Discrepancy Reports: The Commission estimates that, for present and future purposes, approximately 900 real-time captioning vendors will be required to regularly review discrepancy reports in order to correct issues and avoid future issues.

**Total Number of Respondents:** 900

The Commission estimates, for present and future purposes, that each real-time captioning vendor will review 500 discrepancy reports annually.

**Total Number of Responses:** 900 real-time captioning vendors x 500 discrepancy reports = **450,000 responses**

The Commission estimates, for present and future purposes, that the average burden to complete all aspects of the regular review of discrepancy reports may require 0.5 hours.

**Annual Burden Hours:** 450,000 responses x 0.5 hours = **225,000 hours**

The Commission estimates that, for present and future purposes, real-time captioning vendors will use “in-house” staff earning a salary equivalent to a GS-12/step 5 level (\$41.07/hour) to complete all aspects of the regular review of discrepancy reports.

**Annual “In-House” Costs:** 450,000 responses x 0.5 hours/response x \$41.07 =  
**\$9,240,750.00**

**(10) *Real-Time Captioners’ Best Practices***

- (a) Filing of Discrepancy Reports: The Commission estimates that, for present and future purposes, approximately 9,000 real-time captioners will be required to file thorough discrepancy reports with captioning vendors in a timely manner.

**Total Number of Respondents:** 9,000

The Commission estimates that, for present and future purposes, each real-time captioner will file 50 discrepancy reports annually.

**Total Number of Responses:** 9,000 real-time captioners x 50 discrepancy reports =  
**450,000 responses**

The Commission estimates, for present and future purposes, that the average burden to complete all aspects of the filing of discrepancy reports with captioning vendors may require 1 hour.

**Annual Burden Hours:** 450,000 responses x 1 hour = **450,000 hours**



The Commission estimates that, for present and future purposes, real-time captioners will use “in-house” staff earning a salary equivalent to a GS-7/step 5 level (\$23.15/hour) to complete all aspects of the filing of discrepancy reports.

**Annual “In-House” Costs:** 450,000 responses x 1 hour/response x \$23.15 =  
**\$10,417,500.00**

**(11) *Offline (Prerecorded) Captioning Vendors’ Best Practices***

(a) Manual of Style: The Commission estimates that, for present and future purposes, approximately 900 offline captioning vendors will be required to create or designate a manual of style to be applied in an effort to achieve uniformity in presentation.

**Total Number of Respondents: 900**

The Commission estimates that, for present and future purposes, 5 respondents will create a manual of style and 895 respondents will designate a manual of style.

**Total Number of Responses: 5**

The Commission estimates that, for present purposes, the average burden to complete all aspects of the creation of a manual of style, may require 25 hours for the first year, and for future purposes, may require 10 hours each subsequent year to update the manual of style.

**Annualized Burden Hours:** 5 respondents x 1 creation of manual (responses) x 25 hours =  
**125 hours (all within the first year)**

**Annualized Burden Hours:** 5 respondents x 1 creation of manual (responses) x 10 hours =  
**50 hours (each year thereafter)**

**Annual Burden Hours:** 125 hours + 50 hours + 50 hours = 225/3 = 75 hours

**Total Number of Responses: 895**

The Commission estimates that, for present and future purposes, the average burden to complete all aspects of the designation of a manual of style may require 1 hour. This is a one-time requirement which is being annualized over a three year time period.

**Annualized Burden Hours (one time):** 895 respondents x 1 designation of manual (responses) x 1 hour/3 years = **298 hours (rounded)**

The Commission estimates that, for present and future purposes, offline captioning vendors will use “in-house” staff earning a salary equivalent to a GS-14/step 5 level (\$57.70/hour) to complete all aspects of the creation or designation of a manual of style.

**Annual “In-House” Costs:**  
75 hours x \$57.70/hour = **\$ 4,327.50**

298 hours x \$57.70/hour = **\$17,194.60**  
**\$21,522.10**

(b) Evaluations: The Commission estimates, for present and future purposes, that approximately 900 offline captioning vendors will be required to employ frequent and regular evaluations to ensure standards are maintained.

The Commission estimates that, for present and future purposes, each offline captioning vendor will perform an average of 25 evaluations annually.

**Total Number of Responses:** 900 respondents x 25 evaluations = **22,500**

The Commission estimates that, for present and future purposes, the average burden to complete all aspects of the evaluations may require 5 hours.

**Annual Burden Hours:** 22,500 responses x 5 hours = **112,500 hours**

The Commission estimates that, for present and future purposes, real-time captioning vendors will use “in-house” staff earning a salary equivalent to a GS-12/step 5 level (\$41.07/hour) to complete all aspects of the evaluations.

**Annual “In-House” Costs:** 22,500 responses x 5 hours x \$41.07/hour = **\$4,620,375.00**

**FINAL INFORMATION COLLECTION REQUIREMENTS:**

**Total Number of Respondents:** 22,565

**Total Annual Number of Responses:** 1,149,437

**Total Annual Burden Hours:** 1,254,358 hours

**Total Annual “In-House” Costs:** \$40,062,511.79

INFORMATION COLLECTION REQUIREMENTS

Existing (Final) Information Collection Requirements:	Number of Respondents	Number of Responses	Estimated Hourly Burden	Annual Burden Hours	Annual “In-House” Costs
<b>(1) petitions for individual exemption</b>					
(1)(a)(i) petitioners using “in-house” staff	Already inc. under (7)(c)	70	10	700 hours	\$40,390.00
(1)(a)(ii) petitioners using outside legal counsel	Already inc. under (7)(c)	30	2	60 hours	\$3,462.00

(1)(b)(i) Commenter responses to petitions using "in-house" staff	5	5	5	25 hours	\$1,442.50
(1)(b)(ii)(A) Commenter responses to petitions using pro-bono outside legal counsel	41	41	0	0 hours	n/a
(1)(b)(ii)(B) Commenter responses to petitions using paid outside legal counsel	5	5	2	10 hours	\$577.00
(1)(c) Petitioners filing replies to oppositions by commenters	Already inc. under (1)(a)	13	0 (burdens already included under estimates for (1))	0 hours (burdens already included under estimates for (1))	0 (burdens already included under estimates for (1))

<b>(2) Complaints alleging violations of the Closed Captioning Rules:</b>					
(2)(a) Viewers filing complaints	1,000	1,100	1-2	1,200 hours	n/a
(2)(b) VPD responses to complaints	Already inc. under (2)(d)	1,100	1-3	2,100 hours	\$121,170.00
(2)(c) Re-filing of misdirected complaints	Already inc. under (2)(a)	100	0.25	25 hours	n/a
(2)(d) Recordkeeping in support of complaint responses	9,804	9,804	10	98,040 hours	\$1,832,367.60

<b>(3) Provision of contact information to viewers, subscribers, and FCC</b>					
(3)(a) VPDs provide contact information in telephone directories	Already inc. under (2)(d)	44,016	1-10	10,254 hours	\$500,702.82
(3)(b) VPDs provide updated or new contact information in billing statements	Already inc. under (2)(d)	1,389	0.5	695 hours	\$12,989.55
(3)(c) VPDs place updated or new contact information on their Web sites	Already inc. under (2)(d)	2,451	0.5	1,226 hours	\$22,913.94
(3)(d) VPDs provide updated or new contact information to FCC	Already inc. under (2)(d)	2,451	0.25	613 hours	\$11,456.97
<b>(4) Record of monitoring and maintenance activities</b>					
(4)(a) VPDs create and maintain records of monitoring and maintenance activities	Already inc. under (2)(d)	123,048	0.5	61,524 hours	\$2,526,790.68
<b>(5) ENT Compliance</b>					
(5)(a)(i) Broadcast station response to initial pattern or trend of noncompliance using "in-house" staff	Already inc. under (2)(d)	3	10	30 hours	\$1,731.00
(5)(a)(ii) Broadcast station response to initial pattern or trend of noncompliance using outside legal counsel	Already inc. under (2)(d)	3	2	6 hours	\$346.20
(5)(b)(i) Broadcast station corrective action plan using "in-house" staff	Already inc. under (2)(d)	1	50	50 hours	\$2,885.00
(5)(b)(ii) Broadcast station corrective action plan using outside legal counsel	Already inc. under (2)(d)	1	10	10 hours	\$577.00

<b>(6) ENT Progress Report</b>					
(6)(a)(i) Consultations between broadcasters and consumer organizations	1	5	10	50 hours	\$2,885.00
(6)(a)(ii) Broadcasters' consultations with individual consumers	Already inc. under (6)(a)(i)	20	2	40 hours	\$2,308.00
(6)(a)(iii) Consultations between broadcasters and the NAB	Already inc. under (2)(d) and (6)(a)(i)	1,400	1	1,400 hours	\$80,780.00
(6)(b)(i) Preparation of final report using "in-house" staff	Already inc. under (6)(a)	1	100	100 hours	\$5,770.00
(6)(b)(ii) Preparation of final report using outside legal counsel	Already inc. under (6)(a)	1	40	40 hours	\$2,308.00
<b>(7) Caption Quality Certification</b>					
(7)(a)(i) Broadcast stations obtaining certifications from video programming providers	Already inc. under (2)(d)	1,388	10	13,880 hours	\$570,051.60
(7)(a)(ii) Broadcast stations reporting non-certifying video programmers	Already inc. under (2)(d)	2,776	0.5 -1	2,082 hours	\$598,554.18
(7)(b)(i) MVPDs obtaining certifications from video programming providers	Already inc. under (2)(d)	396	25	9,900 hours	\$406,593.00
(7)(b)(ii) MVPDs reporting non-certifying video programmers	Already inc. under (2)(d)	3,960	0.5	2,970 hours	\$81,318.60
(7)(c) Video programmers providing certifications to VPDs	969	969	5	4,845 hours	\$198,984.15
<b>(8) Video Programmer Agreements with Captioning Vendors</b>					
(8)(a)(i) Video Programmers new and renewed agreements with captioning vendors	Already inc. under (7)(c)	1,740	1-10	9,570 hours	\$552,189.00
(8)(a)(ii) Captioning vendors new and renewed agreements with Video Programmers	1,740	1,740	1-10	9,570 hours	\$552,189.00

(8)(b) Availability of appropriate staff contacts by Video Programmers	Already inc. under (7)(c)	870	1	870 hours	\$35,730.90
(8)(c) Video Programmer log of reported captioning issues	Already inc. under (7)(c)	870	120	104,400 hours	\$1,951,236.00
(8)(d) Video Programmer procedures for troubleshooting consumer captioning complaints	Already inc. under (7)(c)	870	5-20	8,700 Hours	\$501,990.00
<b>(9) Real-Time (Live) Captioning Vendors' Best Practices</b>					
(9)(a)(i) Real-time captioning vendors' establishment of minimal acceptable standards	Already inc. under (8)(a)(ii)	900	5-20	9,000 hours	\$519,300.00
(9)(a)(ii) Real-time captioning vendors' frequent and regular evaluations and audits	Already inc. under (8)(a)(ii)	22,500	5	112,500 hours	\$4,620,375.00
(9)(b) Real-time captioning vendors' review of discrepancy reports`	Already inc. under (8)(a)(ii)	450,000	0.5	225,000 hours	\$9,240,750.00
<b>(10) Real-Time Captioners' Best Practices</b>					
(10)(a) Real-time captioners' filing of discrepancy reports	9,000	450,000	1	450,000 hours	\$10,417,500.00
<b>(11) Offline (Prerecorded) Captioning Vendors' Best Practices</b>					
(11)(a) Offline captioning vendors' creation or designation of manual of style	Already inc. under (8)(a)(ii)	900	1-25	373 Hours	\$21,522.10
(11)(b) Offline captioning vendors' evaluations	Already inc. under (8)(a)(ii)	22,500	5	112,500	\$4,620,375.00
<b>TOTALS</b>	<b>22,565</b>	<b>1,149,437</b>	<b>0.25 – 120 hours</b>	<b>1,254,358</b>	<b>\$40,062,511.79</b>

13. The following represents the Commission's estimate of annual cost burdens to respondents resulting from respondents' consultation time with outside legal counsel:

**(A) Filing of Individual Exemption Petitions**

In Section 12(1)(a)(ii) above, the Commission estimates that 30% of 100 annual individual exemption petitions will be filed by outside legal counsel, who will prepare the petitions for exemption, reply comments and associated certifications. The Commission further estimates that these assignments may require 10 hours per petition, and that outside legal counsel will charge \$300.00 per hour for legal services:

30 petitions x 10 hours/petition = 300 hours

300 hours x \$300.00/hour legal services = \$90,000.00

**Total Annual Cost: \$90,000.00**

**(B) Responses to Individual Exemption Petitions**

In Section 12(1)(b)(ii) above, the Commission estimates that 90 percent of 100 annual oppositions to individual exemption petitions will be prepared using outside legal counsel. Of the resulting 90 oppositions to be prepared by outside legal counsel, the Commission estimates that 100 percent will be prepared on a *pro bono* (without cost to the respondent) basis.

**Total Annual Cost: \$0**

**(C) Responses to Consumer Complaints Alleging Violation of Closed Captioning Rules**

In Section 12(2)(b) above, the Commission estimates that with 50 percent of the estimated 1,000 annual complaints, VPDs will use outside legal counsel to prepare responses to the complaints. The Commission further estimates that outside legal counsel will spend 3 hours per response and charge \$300.00 per hour for legal services.

500 responses x 3 hours/response = 1,500 hours

1,500 hours x \$300.00/hour outside legal services = \$450,000.00

**Total Annual Cost: \$450,000.00**

**(D) Responses to Re-filed Complaints Submitted to the Commission**

In Section 12(2)(a) above, the Commission estimates that 20 percent of 500 complaints originally filed with VPDs will be re-filed with the Commission. In Section 12(2)(b), the Commission assumes that of the resulting 100 complaints per year that will be re-filed with the Commission, VPDs will use outside legal counsel to prepare responses to all of these re-filed complaints. The Commission further estimates that outside legal counsel will require 4 hours to prepare, submit and serve responses to each complaint re-filed with the FCC, and will charge \$300.00 per hour for legal services.

100 responses x 4 hours/response = 400 hours

400 hours x \$300.00/hour “outside” legal fee = \$120,000.00

**Total Annual Cost: \$120,000.00**

**(E) Placing Contact Information in Telephone Directories**

In Section 12(3)(a) above, the Commission estimates that each of 9,754 VPDs will hire an outside printing firm to place complaints-related contact information into 4 telephone directories annually, and each of 50 VPDs will hire an outside printing firm to place complaints-related contact information into 100 telephone directories annually. The Commission further estimates that each outside printing firm will charge a flat rate of \$756 per year, per listing, to place the required contact information in telephone directories.<sup>21</sup>

9,754 VPDs x 4 annual listings/VPD x \$756/annual listing = \$29,496,096.00

50 VPDs x 100 annual listings/VPD x \$756/annual listing = \$3,780,000.00

\$33,276,096.00

**Total Annual Cost: \$33,276,096.00**

**(F) ENT Compliance**

In Section 12(5)(a)(ii), the Commission estimates that broadcast stations will use outside legal counsel for an average of 50% of the 5 of initial responses (2.5 rounded to 3) to a pattern or trend of noncompliance with 47 C.F.R. § 79.1(e)(11). The Commission further estimates that outside legal counsel will require 10 hours per response to prepare these initial responses, and will charge \$300.00 per hour for legal services.

3 responses (on average) x 10 hours x \$300.00/hour “outside” legal fee = \$9,000.00

In Section 12(A)(5)(b)(ii), the Commission estimates that broadcast stations will use outside legal counsel for an average of 50% of 2 corrective action plans in response to a further pattern or trend of noncompliance with 47 C.F.R. § 79.1(e)(11). The Commission further estimates that outside counsel will require 50 hours per response to prepare the responses, and will charge \$300.00 per hour for legal services.

1 response (on average) x 50 hours x \$300.00/hour “outside” legal fee = \$15,000.00

**Total Annual Cost: \$9,000.00 + \$15,000.00 = \$24,000.00**

**(G) Preparation of Final ENT Progress Report**

In Section 12(6)(b)(ii), the Commission estimates that the NAB will use outside legal counsel for 50% of the preparations of the final ENT Progress Report. The Commission further estimates that outside legal counsel will require 100 hours to prepare its portion of the final report, and will charge \$300.00 per hour for legal services.

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<sup>21</sup> Because outside printing firms charge an annual flat rate, there is no hourly burden associated with this cost.



1 report x 100 hours x \$300.00/hour “outside” legal fee = \$30,000.00

**One-time Total Cost: \$30,000.00**

**(H) Reporting Non-Certifying Video Programmers to the Commission**

In Section 12(7)(a)(ii), the Commission estimates that broadcast stations will use outside legal counsel for 50% of the reports to the Commission regarding video programmers that fail to make certifications widely available. The Commission further estimates that outside legal counsel will require 1 hour to prepare and submit the report, and will charge \$300.00 per hour for legal services.

1,388 reports x 1 hour x \$300.00/hour “outside” legal fee = \$416,400.00

In Section 12(7)(b)(ii), the Commission estimates that MVPDs will use outside legal counsel for 50% of the reports to the Commission regarding video programmers that fail to make certifications widely available. The Commission further estimates that outside legal counsel will require 1 hour to prepare and submit the report, and will charge \$300.00 per hour for legal services.

1,980 reports x 1 hour x \$300.00/hour “outside” legal fee = \$594,000.00

**Total Annual Cost = \$416,400.00 + \$594,000.00 = \$1,010,400.00**

**(I) Video Programmer Agreements with Captioning Vendors**

In Section 12(8)(a)(i), the Commission estimates that Video Programmers that adopt Best Practices will use outside legal counsel for 50% of the new or renewed agreements entered into with captioning vendors. The Commission further estimates that outside legal counsel will require 10 hours to prepare the new or renewed contracts and will charge \$300.00 per hour for legal services.

870 new or renewed contracts x 10 hours x \$300.00/hour “outside” legal fee = \$2,610,000.00

In Section 12(8)(a)(ii), the Commission estimates that captioning vendors will use outside legal counsel for 50% of the new or renewed agreements entered into with Video Programmers that adopt best practices. The Commission further estimates that outside legal counsel will require 10 hours to prepare the new or renewed contracts and will charge \$300.00 per hour for legal services.

870 new or renewed contracts x 10 hours x \$300.00/hour “outside” legal fee = \$2,610,000.00

**Total Annual Cost = \$2,610,000.00 + \$2,610,000.00 = \$5,220,000.00**

(a) Total capital and/or start-up costs: None

(b) Total operation and maintenance costs:

$$\begin{aligned} & \$90,000.00 + \$450,000.00 + \$120,000.00 + \$33,276,096.00 + \$24,000.00 + \$30,000.00^{22} + \\ & \$1,010,400.00 + \$5,220,000.00 = \mathbf{\$40,220,496.00} \end{aligned}$$

(c) Total Annual Costs: **\$40,220,496.00**

14. Estimates of annualized costs to the Federal government are as follows:

**(i) Processing Individual Exemption Petitions**

Petitioners submit approximately 100 petitions for individual exemption from the closed captioning rules to the Commission annually, and the Commission estimates that a response will be filed for each. The Commission uses attorneys at the GS-14/Step 5 level (\$57.70/hour) to review these petitions and the comments/responses. The Commission estimates that its attorneys spend 15 hours to review each of these petitions and their associated records (*i.e.*, including responses/opposition, replies, and any other filings associated with the petition):

$$100 \text{ petitions} \times 15 \text{ hours} \times \$57.70/\text{hour} = \mathbf{\$86,550.00}$$

**(ii) Processing Complaints and re-filed VPD Complaints Submitted to the FCC**

(a) Viewers submit approximately 500 complaints annually directly to the Commission, and re-file with the Commission approximately 20 percent of the approximately 500 complaints originally filed with VPDs.<sup>23</sup> The Commission uses clerical staff at the GS-12/5 level (\$41.07/hour) to forward these estimated 600 complaints to VPDs. This requires approximately 15 minutes (0.25 hours) per complaint to complete:

$$600 \text{ complaints} \times \$41.07/\text{hour} \times 0.25 \text{ hours/complaint} = \mathbf{\$6,160.50}$$

(b) The Commission uses clerical staff at the GS-12/Step 5 level (\$41.07/hour) to process and review each complaint, which the Commission estimates requires 5 hours per complaint:

$$600 \text{ complaints} \times \$41.07/\text{hour} \times 5 \text{ hours/complaint} = \mathbf{\$123,210.00}$$

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<sup>22</sup> The Commission considers this a one-time cost because 47 C.F.R. § 79.1(e)(11)(v) requires broadcast stations to prepare and submit only one ENT Progress Report, no later than one year after the effective date of 47 C.F.R. § 79.1(e)(11).

<sup>23</sup> See *supra* Section 12(2)(a). These estimates include informal complaints regarding captioning quality pursuant to 47 C.F.R. § 79.1(j)(4) and informal complaints pursuant to 47 C.F.R. § 79.1(e)(11)(iii) regarding captioning provided by a broadcast station that utilizes ENT. The Commission estimates that the processing of complaints remains unchanged, because the Commission was previously requesting the information that sections 79.1(j)(4) and 79.1(e)(11)(iii) now require.

**(iii) Posting and Updating Contact Information, and Public Notice Releases**

The Commission uses paraprofessional staff at the GS-13/5 level (\$48.83) to post for new entrants, and to update as necessary, VPDs' contact information to the FCC Web site. The Commission estimates that of the 2,451 VPDs that update or provide new contact information to the Commission each year,<sup>24</sup> 30 percent will post it directly to the FCC Web site and that 70 percent or 1,716 VPDs will provide the contact information in a form that requires the Commission to reenter the information on the FCC Web site. The Commission estimates that it takes staff approximately 0.25 hours per posting to update the contact information.

1,716 Web site postings x 0.25 hours/posting x \$48.83/hour = **\$20,948.07**

**(iv) Handling of Contact Information Inquiries in the Consumer Center**

Because the Commission's Consumer Center already handles telephone inquiries as part of its day-to-day operations, and the volume of calls due to contact information inquiries is marginal, if not negligible, the Commission concludes that the handling of contact information inquiries does not measurably add any burdens to Commission staff.

**(v) Processing ENT Compliance**

(a) The Commission estimates that it will receive 5 initial responses to a pattern or trend of noncompliance with 47 C.F.R. § 79.1(e)(11) annually. The Commission uses attorneys at the GS-14/Step 5 level (\$57.70/hour) to review the initial responses. The Commission estimates that its attorneys will spend approximately 5 hours reviewing initial responses.

5 initial responses x 5 hours x \$57.70 = **\$1,442.50**

(b) The Commission estimates that it will receive 2 corrective action plans in response to a further pattern or trend of noncompliance with 47 C.F.R. § 79.1(e)(11) annually. The Commission uses attorneys at the GS-14/Step 5 level (\$57.70/hour) to review the corrective action plans. The Commission estimates that its attorneys will spend approximately 10 hours reviewing corrective action plans.

2 corrective action plans x 10 hours x \$57.70 = **\$1,154.00**

**(vi) Processing Final ENT Progress Report**

Broadcast stations that adhere to the procedures set forth in 47 C.F.R. § 79.1(e)(11) must prepare and submit to the Commission a report on their experiences following such procedures and the extent to which they have been successful in providing full and equally access to live programming. Because this is a one-time requirement, the Commission estimates that it will receive 1 ENT Progress Report from broadcast stations. The Commission will use attorneys at the GS-14/Step 5 level (\$57.70/hour) to review the ENT Progress Report. The Commission estimates that its attorneys will spend approximately 20 hours reviewing the ENT Progress Report.

1 report x 20 hours x \$57.70 = **\$1,154.00**

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**(vii) Processing Information on Video Programmers that Do Not Provide Certification**

VPDs must report to the Commission, for the purpose of being placed in a publicly available database, the identity of any video programmer that does not certify that (i) its programming satisfies the caption quality standards of 47 C.F.R. § 79.1(j)(2); (ii) in the ordinary course of business, it has adopted and follows the Best Practices set forth in 47 C.F.R. § 79.1(k)(1); or (iii) it is exempt from the closed captioning rules under one or more properly attained exemptions. The Commission estimates that it will receive approximately 2,776 reports of non-certifying video programmers annually. The Commission uses attorneys at the GS-14/Step 5 level (\$57.50/hour) to review these reports and make them publicly available. The Commission estimates that its attorneys spend approximately 30 minutes (0.5 hours) to review each of these reports and make them publicly available.

2,776 reports x 0.5 hours x \$57.70/hour = **\$80,087.60**

**Total Cost to the Federal Government:**

**\$86,550.00 + \$6,160.50 + \$123,210.00 + \$20,948.07 + \$1,442.50 + \$1,154.00 + \$1,154.00 + \$80,087.60 = \$320,706.67**

15. The Commission has program changes to this information collection. These program changes are due to the adoption of the information collection requirements that are contained in the Commission's *Closed Captioning Quality Report and Order*. Therefore, the program changes are as follows: +11,710 respondents, +1,086,862 responses, +1,139,410 hours and + \$6,284,400.00 to the annual cost burden.

The Commission also had adjustments to this information collection. These adjustments were due to the Commission reevaluating the burden and cost for various existing information collection requirements. These adjustments are as follows: -1,754 to the number of respondents, -4,849 to the number of annual responses, -15,847 to the annual burden hours and -\$1,569,720.00 to the annual cost burden.

16. The results of these information collections are not planned to be published.
17. The Commission intends to display the expiration date for OMB approval of the information collection.
18. There are no exceptions to the Certification Statement.

**B. Collections of Information Employing Statistical Methods**

The Commission does not anticipate that the collection of information will employ statistical methods.