

CGB-CC-0150

Keeler Productions Inc
1900 Genesee Street Suite 302
Utica, NY 13502
315.266.0250

Reference: CGB-CC-0150

July 8, 2006

Amelia Brown, Disability Rights Office
Federal Communications Commission
445 12th Street, S. W.
Washington, D.C. 20554

PLEASE ACCEPT OUR PETITION FOR TEMPORARY EXEMPTION
FROM THE COMMISSION'S CLOSED CAPTION RULES.

WE ARE SUBMITTING TWO PETITIONS:

- I. FOR REVIEW BY THE FEDERAL COMMUNICATIONS
COMMISSION
- II. ONE, WITH FINANCIAL INFORMATION WITHHELD
DUE TO CONFIDENTIALITY, FOR REVIEW BY THE
GENERAL PUBLIC

PUBLIC COPY

July 2006

Keeler Productions Inc
1900 Genesee Street Suite 302
Utica, NY 13502
315.266.0250

Reference: CGB-CC-0150

May 31, 2006

Amelia Brown, Disability Rights Office
Federal Communications Commission
445 12th Street, S. W.
Washington, D.C. 20554

SUPPLEMENT TO PETITION FOR TEMPORARY EXEMPTION FROM COMMISSION'S CLOSED CAPTIONING RULES

INTRODUCTION.

Keeler Productions Inc. is an independent production company that produces three local television programs that serve the Utica/Rome, NY television market. "The Keeler Show", is a local news/entertainment magazine program that runs Monday through Friday. "Star Chef" is a cooking competition program that runs weekly and features local restaurants competing in a cooking competition and "CNY Open House" is a weekly real estate show.

After three years of existence, our television programs are beginning to turn a moderate profit; however, the cost of closed captioning would certainly hurt our chances of survival. Additionally, because our daily program is taped and mastered each morning, featuring topical news, and then delivered to the television station in time for an 8:00 o'clock a.m. deadline, we're almost forced to encode our programs "in house". The cost to outsource the ENCODING of the daily show would cost us more than \$500 per episode; thus, it would force our cancellation. Additionally, because our weekly programs are also topical, turn around would cost us an additional \$500 - \$600 per week for encoding. In a market the size of Utica, this would place us in a position where we would need to terminate our local

programming. Advertising revenues in this market could not support such an expense.

At this time, we feel we should be granted a temporary exemption for the calendar year 2006 for the following reasons:

- A. We have plans to begin encoding all of our programs with closed captioning by January 1, 2007. We are not asking for a permanent exemption. We fully intend to invest in this technology.
- B. The extension would allow us to adequately research and later purchase the proper equipment and software, allowing us to continue to provide our local programming to our community and still move to provide the closed captioning service by the end of the year. Had our local television station made us aware of this impending rule earlier than December of 2005, we would have made the proper adjustments, and met the deadline set forth by the FCC. Although, our ignorance of the ruling is most likely no excuse for the fact that we were unaware of this requirement, we are less likely than a broadcast television station to be made aware of rule changes.
- C. By attaining the ability to encode closed captioning "in house", we will not only be able to continue to provide our daily program to the community with topical news and information, but we will be in a position to offer our encoding service at an inexpensive cost to other small production companies, thus continuing to encourage locally originated programming for the community.
- D. Part 79.1 (f) Exemptions based on undue burden as a VIDEO PROGRAMMING PRODUCER
 - the nature and cost of the service
 - impact on the operation
 - Financial resources of the program owner

SUMMARY

OUR FUTURE PLANS

We have every intention of becoming fully capable to encode all of our programs, even our daily program, by the end of this year (and hopefully, well prior to that time). We are not asking for a permanent exemption. We believe the addition of closed captioning will open doors to new potential viewers who are currently excluded from fully enjoying our programs. We also feel that this could open sponsorship doors for clients to sponsor our closed captioning service. These two potential factors could help offset the costs of encoding equipment, software and labor.

EXTENSION TO PROVIDE SERVICE BY YEAR'S END

The extension will allow us the time to adequately find the perfect system that will accurately encode our programming and still allow us to meet our daily deadlines on our most topical programs. Due to the fact that our programs include unscripted daily news segments that must be topical, and our profit margin in Utica, NY is somewhat limited, we must come up with an encoding system that will be inexpensive and can quickly and accurately encode our programming to meet our daily deadlines. This might include voice recognition software, or quite possibly a full-time employee who serves as a stenographer to quickly transcribe our programs each morning.

OFFER SERVICE TO OTHER PRODUCTION COMPANIES

We're very confident that we will be able to provide this service both to our viewers and also to independent video production companies locally at a nominal fee. This should assist in the flow of new and interesting local programming at a time when technology has made it possible for any person to develop and later broadcast their own locally originated television program.

CLOSED CAPTIONING CREATES UNDUE BURDEN

Part 79.1 (f) Exemptions based on undue burden as a
VIDEO PROGRAMMING PRODUCER

THE NATURE AND COST OF THE ENCODING SERVICE

Due to the topical nature of our programs and the daily deadlines we face, outsourcing, our only current solution to our problem, would be extremely expensive and Virtually impossible if we plan to continue the daily topical nature of the program, we must find the perfect way to encode our programs "in house"

IMPACT ON OUR OPERATION

If we are forced to offer the service of closed captioning before January 1, 2007, it will greatly impact our operation.

- We would be forced to outsource and the costs would mean employee layoffs
- We might be forced to enter the encoding process without the proper research. This could lead to inaccurate closed captioning
- One option as a last resort would be to fall back on the commercial aspect of our business and cancel all local programming

FINANCIAL RESOURCES OF PROGRAM OWNER

Over the last three years of operation, we have assumed a great deal of debt and have been burdened by a lack of revenue and cash flow. We have finally reached a point where Keeler Productions is making a moderate profit, which will be used to grow the business and hopefully within the year place us on a much stronger foundation. The expense of outsourcing for closed captioning would cripple our business. My only choice is to gradually, through the remainder of this year, research the encoding process and find the fastest and most cost effective means of meeting the obligation.

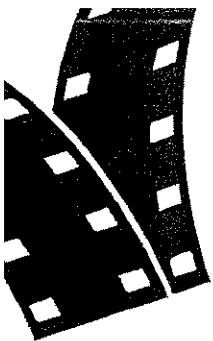
FINANCIAL SUPPORT

The following documentation is being provided to support our petition:

- VIDEO CAPTION CORPORATION QUOTE
MAY 18 - 2006

(PLEASE DO NOT POST THIS INFORMATION ON WEBSITE)

- TAX FORM FOR THE YEAR 2004
(2005 NOT FILED DUE TO EXTENSION)
- IRS DEBT RE-PAYMENT AGREEMENT JUNE 2006



VIDEO CAPTION CORPORATION

DATE: May 18, 2006
TO: Bill Keeler / Keeler Productions
FROM: Justin K. Macedonia / Video Caption Corporation
RE: Closed Captioning Proposal

Dear Bill:

It was a pleasure speaking with you and having the opportunity to discuss captioning your show. Video Caption Corporation very much appreciates the opportunity to submit this proposal to caption programming for Keeler Productions.

As we discussed, Video Caption Corporation is a full service captioning communications firm specializing in offline captioning services for broadcasters, corporations, independent producers, schools, libraries, churches, and government agencies.

We would propose to close caption your show at the discounted rates set forth below.
Reduced rates reflect discount for volume.

<u>Program Titles</u>	<u># Shows / Length</u>
The Keeler Show	5 per week / 30 minutes

Pricing

<i>Roll-up Captioning – 3 Day Turnaround</i>	\$185 / 30 minutes
<i>Roll-up Captioning – 2 Day Turnaround</i>	\$278 / 30 minutes
<i>Roll-up Captioning – 1 Day Turnaround</i>	\$370 / 30 minutes
<i>Roll-up Captioning – Same Day Turnaround</i>	\$555 / 30 minutes
<i>Transcription</i>	Included
<i>Encoding</i>	Included

Bill, we will always do our very best to make this process as easy and affordable as we can. If you have any questions or concerns, please do not hesitate to contact me at any time. I will call you in a few days to follow up. I am certain we can develop a partnership that is mutually beneficial.

Thank you for your time and your consideration of our proposal. We look forward to working with you.

Contact Information

I am available if you have any questions about this proposal. Please contact me anytime.

Telephone: (800) 705-1203

Facsimile: (845) 868-1188

Email: jkmacedonia@vicaps.com

Website: www.vicaps.com

Justin K. Macedonia
Video Caption Corporation

Keeler Productions Inc
1900 Genesee St Suite 302
Utica, NY 13502
315.266.0250

December 28, 2005

Commission's Secretary, Office of the Secretary
Federal Communications Commission
Attention: CGB Room 3-B431
9300 East Hampton Drive
Capitol Heights, MD 20743

**RE: REQUEST FOR TEMPORARY EXEMPTION FROM
COMMISSION'S CLOSED CAPTIONING RULES**

Keeler Productions Inc is a small production company in Utica, New York that airs local television programs in both Utica and Syracuse, NY. We currently produce a one-hour entertainment/public affairs program, a real estate show, a cooking show and a program called "Health Smart" which focuses on health in Central New York.

Three weeks ago, we were notified by our local television stations that we would be required to encode our programs with closed captioning. Although we have attempted to comply, due to financial and time restraint issues, we have fallen short.

We are seeking a one year exemption and plan to not only encode our own programs before the end of 2006, but we plan to invest in the technology so that we can offer affordable encoding services to other production companies like our own.

At this time, we feel we should receive the exemption for the following reasons:

Part 79.1 Section F

Compliance would impose an undue burden to Keeler Productions for the following reasons:

1. In order to offer the service we will need to invest in a new DVC PRO deck (which allows encoding) Total cost: \$10,000

2. We will need to invest in encoding and dictation software
Total cost more than \$6000
3. We will be adding an employee who will serve as a closed captioning specialist to dub, dictate and encode our more than 5 hours (per week) of real time programming. The added expense will be more that \$20,000 annually.

Part 79.1 Section D (12)

Channels producing revenues of under \$3,000,000:

1. Additionally, after investigating the issue earlier in 2005, we were under the impression that the stations we currently air on were exempt from the closed captioning rule.

We felt this afforded us the time and money to budget for this added expense in 2006. It wasn't until we were informed by our local tv stations three weeks ago, that their interpretation of the new rule did not afford them exemption. Each of the television stations that we air on do not gross \$3,000,000 or more; however, the station's interpretation of the rule is that they are measured as a cluster of stations that they either own or are in advertising agreements with, and together the group exceeds the \$3,000,000 limit.

2. It's our contention that the Commission clearly states that this exemption is based on the individual "channel's" gross revenue and thus, the channel would be exempt, placing our company in a position of exemption by default.

Please note that if we are afforded permanent exemption, based on Part 79.1 Section D (12), we still plan to add the closed captioning feature before the end of 2006 because it's our belief that the inclusion of this population of potential viewers could actually benefit us greatly in the long run. It is also the "right thing to do".

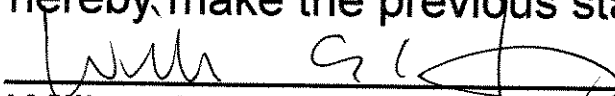
Please consider our request for temporary exemption
from January 1, 2006 through December 31, 2006.

We may be reached at:

Keeler Productions Inc.
ATTN: William Keeler Productions
1900 Genesee Street Suite 302
Utica, NY 13502
315.266.0250
FAX: 315.266.0290

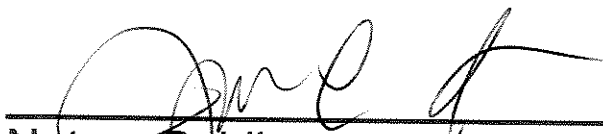
Affidavit

I, William Keeler, General Manager of Keeler
Productions Inc 1900 Genesee St Suite 302 Utica, NY
13502, by my signature affixed to this document, do
hereby make the previous statements are fact,



William Keeler Productions General Manager

The foregoing was subscribed and sworn to before
me, a Notary Public, of the State of New York, County
of Oneida, this 10th day of July, 2006.



Notary Public

Joanne L Iman
Notary Public State of New York
Qualified in Herkimer County
Reg # 01IM6121140
My Commission Expires 01/10/09