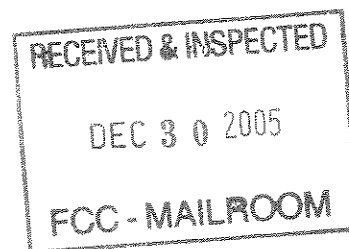


CGB-CC-0157



Office of the Secretary
Federal Communications Commission
Attention: CGB Room 3-B431
445 12th Street SW
Washington, DC 20554

Petition for Exemption from Closed Captioning Requirements

Introduction

Real Estate TV is an independent real estate home show that I started about a year ago in Columbus, GA. Our first few months we lost money, but during the last year we have slowly increased business and just now are beginning to be profitable. Adding Closed Captioning at this point would be devastating to our business because it would represent a 42% cost increase. This would use up almost all of the profits that we currently receive even with the most generous of estimates.

Real Estate TV is locally produced by Kevin Mellenberg (me) and features homes from various real estate companies. Unlike other real estate shows that are specific to one company, we gain nothing but profit. Name recognition does us no good because we don't do anything else but produce the program.

Each episode is 30 minutes long and the show airs once a week for two weeks. Thus we produce about two new shows per month. It airs at 5:30 pm on Saturdays on our local FOX affiliate (WXTX).

For the reasons set forth below, Real Estate TV hereby requests an undue burden exemption from the closed captioning rules for Real Estate TV, pursuant to § 79.1(f) of the Commission's rules.

Nature and Cost of Closed Captions

I was contacted by my FOX representative a few weeks ago about this Closed Captioning issue. I've looked into several options. The best estimate for adding closed captioning to my show that I have received is from Video Caption Corporation for \$190 per show (attached). I received an additional estimate at \$210 per episode (attached). My FOX representative got another estimate at \$337 per show (not attached). In each case I would have to ship the show out a week in advance in order to make this happen which would make the show less timely. This is a great concern among my customers.

Another option is to purchase equipment to do close captioning for my show at a cost of approximately \$6000 but I don't feel like that would be a wise purchase at this time. I would have to get a loan and the show has not demonstrated that it can consistently make that kind of profit.

I have also considered an alternative to Closed Captioning. The show is really self explanatory by looking at the pictures of the homes on the screen. In addition, each real estate agent's name, company and phone number appear on-screen during their entire ad. I also would be willing to put the basic details and price of the house on the screen if that would be sufficient for an exemption.

Impact on the Operation of the Program Provider

My cost to produce this show is as minimal as possible because I do all of the production myself. I have purchased some equipment (\$3475) and we travel some to take pictures. Even if we completely ignore those costs, our profit is minimal. The airtime costs me \$225 each week. I charge the realtors and advertisers for two weeks at a time. Each ad costs them \$25 for two weeks. For the entire year our average gross income was about \$600 per two weeks. Using that

figure, if you subtract out the \$450 for airtime (2 weeks at \$225 per week), my net on average for the last year was \$150 per two weeks (per episode). Even on our best two weeks my net would only be \$450 (\$900 minus \$450 for airtime). Using the lowest Closed Captioning estimate at \$190 per episode, that would take my profit on our best two weeks of the year to \$260 (42% decrease). On our average two week period we would have actually lost money (\$600 minus \$450 for airtime, minus \$190 for Closed Captioning equals -\$40). Essentially it would be almost a 50% increase in total cost to do business (current \$450 per two weeks, with closed captioning cost \$640). I have attached my full financial documents (weekly income statement, profit and loss statement, and airtime cost statement) so that you can look at each week and see what we grossed per two weeks.

I could conceivably add \$10-15 to each ad for my clients, but I have been struggling to get them to pay the \$25. I don't believe I can raise the cost by 50% and even merely maintain my current client base. I have yet to get a show completely full. I may even lose business if I raise my prices rather than make up any difference. Basically if I am forced to fully comply, and my alternative of adding basic information on the screen will not suffice, then I will have to cease to do business and I will have wasted a year of effort and thousands of dollars in getting this business started.

Financial Resources of the Program Provider

This is a part-time job and I do also have a full time job currently, but my family is dependent upon this income. My wife is a stay at home mom of three children and I have worked very hard to put us in a position where we can maintain that lifestyle. Losing this business at this point will force us further into debt and cause us to lose what we have worked so hard to begin.

Type of Operations of the Program Provider

This business is for-profit. Unlike a real estate television show done by a company like Coldwell Banker or Re/Max where there is the hidden benefit of name recognition and community awareness, we have nothing to gain in that way. We are not affiliated with that type of organization and are completely independent.

Other factors

Petitioner believes that the local, non-news exemption to the closed captioning rules also applies to Real Estate TV.¹ As noted above, the program is produced and distributed locally, and is of primarily local public interest. The episodes are not news, they do not have repeat value (the houses will be sold), and the electronic newsroom technique is not available. Notwithstanding the applicability of the exemption, we have filed this petition in an abundance of caution and for the purpose of establishing certainty.

Conclusion

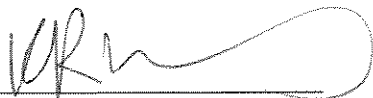
As shown by this Petition and its attachments, the Commission should grant a waiver of the closed captioning requirements in this case, because requiring closed captioning would create an undue burden. The costs of captioning would be excessively high and would have a significant impact on Petitioner's operations. The Petitioner's type of operations and financial resources are different in kind and magnitude from a mainstream programming provider. Because of the significant difficulty and expense of providing closed captions, a waiver under §

¹ This exemption is self-implementing, and therefore Petitioner notes its applicability without expecting or requesting FCC action on it.

79.1(f) is warranted. If more information is needed, please contact me at the address provided below.

Respectfully submitted,

Real Estate TV
By: Kevin Mellenberg

A handwritten signature in black ink, appearing to read 'KM', with a long, sweeping horizontal flourish extending to the right.

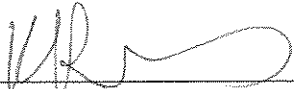
Kevin Mellenberg, Owner
Real Estate TV
1001 Ruth Creek Court
Columbus, GA 31909
(706) 570-7904
(706) 317-2924

Dated: December 28, 2005

Exhibits checklist:

1. Declaration:

I, Kevin Mellenberg, am the Owner of Real Estate TV, and I have reviewed the Petition for Exemption for Closed Captioning Requirements filed on behalf of Real Estate TV in this matter, and, upon information and belief, believe the statements regarding our organization and Real Estate TV to be true and accurate.



Kevin Mellenberg, Owner

12/28/05

Date

2. Schedule

This show airs weekly from 5:30pm to 5:59pm Saturdays on WXTX, FOX-54, Columbus, GA except where the show is pre-empted for national FOX broadcasts.

3. Financial documentation:

Purchaser	1-Jan	8-Jan	22-Jan	5-Feb	19-Feb	5-Mar	19-Mar	2-Apr	16-Apr	30-Apr	14-May	28-May	4-Jun	9-Jul	16-Jul	6-Aug	20-Aug	3-Sep	17-Sep	1-Oct	22-Oct	5-Nov	19-Nov	3-Dec	Total	Paid
Wade Casaway	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Billy Roper	0	75	75	75	75	75	100	100	100	75	75	75	37.5	0	25	25	50	50	50	25	25	75	75	75	1000	75
Jorothy Napier	0	75	75	75	100	100	100	100	100	100	75	75	75	0	50	50	75	100	75	75	75	75	75	75	1813	1000
Ken Lowe	10	0	0	25	50	50	50	50	50	25	25	25	12.5	0	65	40	40	40	40	40	15	15	15	15	322.5	1437.5
Jan Gaylor	30	25	25	25	25	25	15	15	40	40	40	40	20	65	25	25	40	40	40	40	40	15	15	15	675	675
erry Santiago	0	0	0	0	0	0	0	0	0	0	0	0	0	0	25	25	25	25	25	25	25	25	25	25	25	25
usan Whitehead	0	25	0	0	0	0	0	0	0	0	0	0	0	0	25	25	25	25	25	25	25	25	25	25	75	75
Vanda Brown	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Chris Allison	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
'ammy Pierce	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mike Foley	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
immy Nicholson	0	100	100	100	100	100	100	100	100	100	75	75	75	0	50	50	75	100	100	100	100	100	100	100	100	100
Jurris Green	0	25	25	25	25	25	0	0	0	0	0	0	0	0	25	25	25	25	25	25	25	25	25	25	25	25
'y Smith	10	25	25	25	25	25	0	0	0	0	0	0	0	0	25	25	25	25	25	25	25	25	25	25	25	25
'arry Garrett	10	25	25	25	25	25	0	0	0	0	0	0	0	0	25	25	25	25	25	25	25	25	25	25	25	25
'ammy Pitts	20	25	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
unnette Stroud	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
isa Duly	20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
oseAnne Erickso	0	140	105	35	125	125	135	125	70	50	50	50	35	60	210	120	100	120	245	225	120	100	205	175	2625	2145
Jindy Robinson	0	70	0	25	0	0	25	25	25	25	25	25	17.5	0	35	60	75	25	245	225	50	100	205	382.5	382.5	
Ricki Lynn Cook	0	35	35	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
lulle Boswell	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ludy Dean	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Jan Fisher	0	50	50	50	50	50	35	35	35	25	25	25	25	70	25	25	25	25	25	25	25	25	25	25	215	215
Rock Edmonds	0	25	25	25	25	25	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PI Inspections	0	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25
Jennis Youngs	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Jinda Boyd	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Rodney Milner	0	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25
Billy Harralson	0	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25
Jurt Harrell	0	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75
lanice Orenshaw	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Al Smith	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Kenny Livingston	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ikki Traywick	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Angela Cantrell	0	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25	25
David Orr	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Greg Colvin	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Jana Cartrey	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Juvelle Frost	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Fern Van Patten	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Kelly Barton	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Epperly-Rich	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3i-City Heating & Air	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Stone Furniture	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
Durly Wurks	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
Mortgage America	0	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60
Nolin Fence	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Stumpman	0	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
TOTALS	100	645	615	560	660	810	900	795	700	670	355	355	270	525	695	630	715	660	780	700	707.5	590	595	550	14343	12988

Profit and Loss Statement

<u>Paid to</u>	<u>2004</u>	<u>2005</u>
TV and VCR combo	95	
Airtime	2250	8575
Find-a-Home	150	
Ledger (Newspaper)	206	51.5
MLS	200	100
CD Burner	50	
Website	50	10
Production Studio	300	800
Homes and Land		125
Editing Computer and Deck		3475
2004 Expenses:	3301	13136.5
2004 Income:	2160	12987.5
2004 Net Loss:	-1141	-149

Air Dates

	Balance
Jan. 1 – paid by check in November (paid in Nov. through Jan. 1)	0.00
Jan. 8 – pre-empted show in December (make good)	0.00
Jan. 15 – show ran with bad color in December (make good)	0.00
Jan. 22 – Free show due to all the problems in December	0.00
Jan. 29 – 225.00	-225.00
PAYMENT 2/2..... 675.00	+450.00
Feb. 5 – 225.00	+225.00
Feb. 12 – 100.00	+125.00
Feb. 19 – 225.00	-100.00
Feb. 26 – 225.00	-325.00
Mar. 5 – 225.00	-550.00
Mar. 12 – 225.00	-775.00
PAYMENT 3/15..... 675.00	-100.00
Mar. 19 – 225.00	-325.00
Mar. 26 – 225.00	-550.00
Apr. 3 – 225.00	-775.00
Apr. 10 – 225.00	-1000.00
Apr. 17 – 225.00	-1225.00
PAYMENT 4/21..... 500.00	-725.00
Apr. 24 – 225.00	-950.00
May 1 – 225.00	-1175.00
May 8 – Pre-empted	-1175.00
May 15 – 225.00	-1400.00
PAYMENT 5/17..... 800.00	-600.00
May 22 – 225.00	-825.00
May 29 – 225.00	-1050.00
June 4 – 225.00	-1275.00
June 11 – Pre-empted	-1275.00
June 18 – Pre-empted	-1275.00
PAYMENT 6/20..... 850.00	-425.00
June 25 – 225.00	-650.00
July 2 – Did not run (not scheduled by AE)	-650.00
July 9 – 225.00	-875.00
July 16 – 225.00 (show ran 10 minutes late)	-1100.00
July 23 – Pre-empted	-1100.00
PAYMENT 7/25..... 875.00	-225.00
July 30 – Free show (due to all the errors, lateness and pre-empted)	-225.00
August 6 – 225.00	-450.00
August 13 – 225.00	-675.00
August 20 – 225.00	-900.00
August 27 – 225.00	-1125.00
September 3 – 225.00	-1350.00
September 10 – 225.00	-1575.00
PAYMENT 9/13..... 1125.00	-450.00
September 17 – 225.00	-675.00

September 24 – 225.00	-900.00
October 1 – 225.00	-1125.00
October 8 – 0.00 (5AM)	-1125.00
October 15 – 150.00 (1PM)	-1275.00
PAYMENT 10/20.... 1275.00	0.00
October 22 – 225.00	-225.00
October 29 – 225.00	-450.00
November 5 – 225.00	-675.00
November 12 – 225.00	-900.00
November 19 – 225.00	-1125.00
November 26 – 225.00	-1350.00
PAYMENT 11/28.... 1350.00	0.00
December 3 – 225.00	-225.00
December 10 – 225.00	-450.00

Other: letters from companies providing estimates for closed captioning costs.

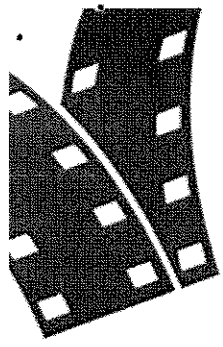
Letter #1:

Hello, Kevin.

Thanks for contacting VanKirk Media. Our normal charge for roll-up captioning for a half-hour show is \$210. Pop-on is \$240. If you need tape work such as mastering the caption file onto the master, there is an additional charge. Feel free to contact us should you have any additional questions. Here's hoping your holidays are great. Thanks again.

Sincerely,
Jim Hooghkirk
VanKirk Media
818.381.1661
714.992.4590

DC: 1984544-1



VIDEO CAPTION CORPORATION

Date: 12/22/2005

TO: Kevin Mellenberg / Real Estate TV

FROM: Justin K. Macedonia / Video Caption Corporation

RE: Closed Captioning Proposal

Dear Kevin:

It was a pleasure speaking with you and having the opportunity to discuss close captioning your shows. Video Caption Corporation very much appreciates the opportunity to submit this proposal to caption programming for Real Estate TV.

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

VCC is proposing to close caption the following programs at the discounted rates set forth below. **Reduced rates reflect discounts for volume.**

<u>Program Titles</u>	<u># Shows / Length</u>
Bi-Weekly Show	26 half-hour shows
Total number of shows	26

Pricing

Captioning Rate Breakdown:

Roll-up Captioning.....\$275 / 30 minutes

Reduced Rates for Real Estate TV:

Roll-up Captioning.....\$190 / 30 minutes

Caption Encoding.....Included

Kevin, 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 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