



PUBLIC NOTICE

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MEDIA BUREAU SEEKS COMMENT ON PLUTO TV'S PETITION FOR WAIVER OF IP CLOSED CAPTIONING REQUIREMENTS

MB Docket No. 11-154

Comments Due: July 26, 2019
Reply Comments Due: August 9, 2019

Pluto, Inc. (Pluto TV) has filed a petition¹ requesting that the Media Bureau grant a waiver of the Commission's rules requiring closed captioning of video programming delivered through Internet protocol (IP).² Pluto TV is a free service that aggregates third-party video content and allows users to stream that content over the Internet through the Pluto TV app, a web browser, or integration onto certain platforms. Pluto TV requests a one-year waiver of the Commission's IP closed captioning rules with respect to specific platforms for which it claims full compliance will soon be possible but is currently technically difficult. Pluto TV also requests a three-year waiver with respect to specific platforms for which it claims upgrading to fully compliant captioning poses greater technical challenges and will require significant financial and engineering resources.

In 2012, the Commission adopted rules under the authority of section 202 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) that require video programming owners, providers, and distributors to provide closed captioning on IP-delivered full-length video programming.³ In 2014, the Commission expanded the rules to require the closed captioning of IP-delivered video clips.⁴ Under these rules, video programming providers and distributors are required to enable the rendering or pass through of all required captions to the end user, maintaining the quality of the captions provided by the video programming owner and transmitting the captions in a format reasonably designed to reach the end user in that quality.⁵ Further, video programming providers and distributors that provide applications, plug ins, or devices in order to deliver video programming must comply with

¹ Petition for Waiver of Pluto, Inc., MB Docket No. 11-154 (filed May 15, 2019) (Petition), <https://ecfsapi.fcc.gov/file/10515140142576/5-15-19%20Pluto%20Petition%20For%20Waiver%20As%20Filed.pdf>.

² 47 CFR § 79.4. Pluto requests a waiver for good cause shown. 47 CFR § 1.3.

³ *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order, 27 FCC Rcd 787 (2012).

⁴ *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010; Closed Captioning of Internet Protocol-Delivered Video Clips*, Second Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 29 FCC Rcd 8687 (2014).

⁵ 47 CFR § 79.4(c)(2)(i). A "video programming distributor or video programming provider" is defined as "[a]ny person or entity that makes available directly to the end user video programming through a distribution method that uses Internet protocol." *Id.* § 79.4(a)(3).

the requirements of section 79.103(c) and (d) of the rules, which govern technical display capabilities for closed captioning and interconnection on covered apparatus.⁶

Pluto TV requests that the Commission temporarily waive its IP closed captioning rules with respect to Pluto TV's service on certain platforms upon which users can access Pluto TV's content. Pluto TV reports that more than 90 percent of its users can access its content with fully compliant captions on the most frequently used platforms.⁷ However, Pluto TV explains that there are certain platforms that will not be brought into compliance with the Commission's IP closed captioning rules in the near- or mid-term for various reasons, such as the platforms being dated and lacking core capabilities, the company focusing its resources on the most heavily-used platforms, and the platforms not making available certain software upgrades.⁸

Specifically, Pluto TV requests the Media Bureau grant a one-year waiver of the IP closed captioning rules with respect to the following platforms for which it claims it can reach full compliance, but needs more time to resolve technical issues to make captions available—Hisense⁹; Playstation 3 (PS3)¹⁰; Samsung Orsay (2013-2014)/Samsung Tizen (2015-2016)¹¹; Vizio Via/Vizio Via + Blink Browser¹²; and Vizio WatchFree.¹³ Pluto TV also requests a three-year waiver with respect to the following platforms for which it does not currently provide captions and for which providing captions is difficult due to compatibility problems as these products are no longer regularly updated—Vizio Via/Vizio Via + Presto Browser,¹⁴ and Xbox 360.¹⁵ We seek comment on Pluto TV's request.

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing

⁶ *Id.* § 79.4(c)(2)(i). *See also id.* § 79.103(c), (d).

⁷ Petition at 4. Pluto TV indicates that its users can access fully accessible captions on the following platforms: Amazon Fire TV, Android Mobile, Android TV, Apple iOS, Apple TV, MSN, NowTV, Roku TV, Samsung TV +, and web. *Id.*

⁸ *Id.* at 1. According to the Petition, "the Company learned of its noncompliant captions in January 2018," and "devised a plan to bring its content into compliance." *Id.* at 3.

⁹ Hisense is a manufacturer of smart TVs capable of downloading the Pluto TV app. Pluto TV does not currently provide captions on Hisense TVs, and it describes a technical "memory leak issue" that poses difficulties to providing captions. *Id.* at 5.

¹⁰ The PS3 is a Sony gaming system discontinued in 2016. Pluto TV does not currently provide captions on the PS3, though it does for the PlayStation 4 (PS4), and it claims that the older technical specifications and software present challenges to implementing fully compliant captions on the PS3. *Id.*

¹¹ Samsung Orsay and Tizen are operating systems used in older Samsung electronics. Pluto TV provides fully compliant captions only on Samsung's newer Tizen 2017/2018 operating systems. Pluto TV claims these older operating systems present engineering challenges, such as "video playback bugs" that cause captions to disappear intermittently. *Id.* at 6.

¹² The Vizio Via and Vizio Via + Blink Browser are proprietary to Vizio and exist only on Vizio televisions. Pluto TV currently offers basic captions on these Vizio systems that are not fully compliant. Pluto claims that there are "a few outstanding bugs that are being addressed and currently in engineering." *Id.*

¹³ Vizio WatchFree is a service provided through a collaboration between Vizio and Pluto TV in which users can access various television content through Pluto TV. Pluto TV currently offers basic captions for Vizio WatchFree.

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System (ECFS).¹⁶

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service Mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

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Filings are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554, telephone (202) 418-0270.

For further information, contact Maria Mullarkey, Maria.Mullarkey@fcc.gov or (202) 418-2120.

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Pluto TV claims that it needs additional time to reach fully compliant captions because Vizio has not yet provided support for digital styles of captions. *Id.*

¹⁴ The Presto Browser for Vizio televisions has been replaced by the Blink Browser, for which Pluto TV is currently seeking a one-year waiver. Pluto TV does not currently make captions available for Vizio Via + Presto Browser. Pluto TV claims that it faces similar technical issues with respect to the Presto Browser, but updates are more difficult because Vizio is no longer updating these older systems. *Id.* at 10-12.

¹⁵ Xbox 360 is a video game console made by Microsoft that has since been replaced by the newer Xbox One. Pluto TV does not currently provide captions for the Xbox 360, and it claims that it cannot implement fully compliant captions on this platform because Microsoft is no longer allowing updates to any Xbox 360 apps. *Id.*

¹⁶ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).